

LEGISLATIVE COUNCIL BRIEF

Residential Properties (First-hand Sales) Bill

INTRODUCTION

At the meeting of the Executive Council on 13 March 2012, the Council ADVISED and the Chief Executive ORDERED that the Residential Properties (First-hand Sales) Bill (the Bill), at Annex A, should be introduced into the Legislative Council.

JUSTIFICATIONS

2. The purchase of a residential property is a major undertaking for most Hong Kong people. In most of the cases of the sale of first-hand residential properties, the vendors (i.e. real estate developers) and individual purchasers are not on an equal footing. The former are always in a much stronger position vis-a-vis the latter in terms of resources and bargaining power. Not only do vendors hold first-hand residential properties in bulk, they also possess and control the release of information relating to those properties and their sales arrangements. To further enhance the transparency and fairness of the sales arrangements and transactions of first-hand residential properties, the Chief Executive announced in the 2010-11 Policy Address that a Steering Committee would be set up to discuss specific issues on regulating the sale of first-hand residential properties by legislation. The Steering Committee¹ was set up in October 2010. It completed its work and submitted recommendations on how to regulate the sales of first-hand residential properties in a report to the Secretary for Transport and Housing in October 2011. Most of the recommendations are built on the existing requirements under the Lands Department's Consent Scheme (the Consent Scheme)² and the guidelines

¹ The Steering Committee and its Subcommittees comprised representatives from the Consumer Council, the Estate Agents Authority, the Hong Kong Institute of Architects, the Hong Kong Institute of Surveyors, the Law Society of Hong Kong, the Real Estate Developers Association of Hong Kong, Legislative Council Members and other professionals.

² Since 1961, new Government leases normally include a provision which restricts any assignment or letting of uncompleted properties prior to the issue of the Certificate of Compliance unless the prior written consent of the Director of Lands is obtained. The consent of the Director of Lands, if given, is granted at his or her discretion acting in the capacity of the landlord, and is subject to the rules of an administrative scheme referred to as the "Consent Scheme". The primary objective of the Consent Scheme is to protect the interests of purchasers of the uncompleted properties by ensuring that the developer has the technical and financial resources to complete the development. Over the years, the Consent Scheme has taken on additional functions in respect of consumer protection and promoting fair practices in the sale of uncompleted properties. Recently, consumer protection has been further strengthened through the Consent Scheme to ensure transparency in property sales and transaction prices.

issued by the Real Estate Developers Association of Hong Kong (REDA)³. Having considered the recommendations made by the Steering Committee, the Transport and Housing Bureau (THB) consulted the public on the legislative proposals in the form of draft legislation from 29 November 2011 to 28 January 2012. The legislative proposals are primarily based on those recommendations.

3. The 959 submissions which THB received during the public consultation exercise confirmed that there was widespread support for regulating the sales of first-hand residential properties by legislation, and that the legislative proposals as set out in the draft legislation were generally acceptable to the public and relevant stakeholders, with the exception of REDA. The report on the public consultation exercise at **Annex B** summarized the views made in the submissions and THB's responses.

LEGISLATIVE PROPOSALS

4. The Bill provides a framework to regulate the sale of first-hand residential properties. The key legislative proposals as set out in the Bill, which have taken into account comments received during the public consultation exercise as appropriate, are summarized in paragraphs 5 to 22 below.

(a) Saleable Area

5. We propose that property size and property price per square foot/metre may only be quoted on the basis of saleable area (SA) in sales brochures, price lists and advertisements. In this regard, we have considered the views received in this aspect during the public consultation exercise. Details are at **Annex C**.

(b) Sales Brochure

6. We propose that a vendor of a first-hand residential property must make public the bilingual sales brochure at least seven days before the date

³ REDA is the key trade association in the real estate and property sector. Since 2001, REDA has established a self-regulatory regime asking its members to comply with the guidelines issued by REDA when putting up first-hand uncompleted residential properties for sale.

of sale except under various specified circumstances⁴. Sales brochures must set out prescribed information in a prescribed sequence, must not contain any promotional material or artist impression picture or graphic, and must have the expressions “Sales Brochure” and “售樓說明書” printed not smaller than the prescribed minimum font size as its title on the cover.

(c) Price List

7. We propose that a vendor must make public the price list at least three days before the date of sale except under various specified circumstances⁵. To enable prospective purchasers to get a fuller picture of the prices of a considerable number of properties in a development through price lists, the minimum number of properties to be covered in each price list will be provided in the proposed legislation. Even though a vendor is not obliged to offer to sell all the residential properties covered in a price list, if a vendor sells such a residential property, the vendor must do so at the price set out in the price list. Once a price list is issued, adjustments to the prices can only be made through issuing a revised price list, and the residential property concerned cannot be sold unless the revised price list has been made public at least three days ahead. All these requirements will help enhance price transparency.

8. REDA took the view that requiring each price list to cover a minimum number of residential properties for sale would effectively be forcing the owners to offer all those residential properties for sale. REDA considered this an infringement of the owners’ rights to use or dispose of the residential properties they own under the Basic Law. We do not agree with REDA’s comments. The proposed legislation does not require that vendors must offer for sale all the residential properties covered in the price lists. Also, there is a requirement under the proposed legislation that vendors should make public certain key information on sales arrangements

⁴ If residential properties are sold on an “en bloc” basis under a single transaction, the vendor need not comply with the requirements on sales brochure, as well as those on price list (including the issuance of price list and the minimum number of units to be disclosed) and show flats. But when such a property is subsequently put on sale to a purchaser, the property is to be regarded as a first-hand residential property, to which the aforementioned requirements will apply. We also propose that if a residential property is sold to the existing tenant, the existing tenant may agree that the requirements on sales brochure do not apply.

⁵ If residential properties are sold on an “en bloc” basis under a single transaction, the vendor need not comply with the requirements on price list (including the issuance of price list and the minimum number of units to be disclosed), as well as those on sales brochure and show flats. But when such a property is subsequently put on sale to a purchaser, the property is to be regarded as a first-hand residential property, to which the aforementioned requirements will apply. We also propose that if a residential property is sold to the existing tenant, the requirements on price list do not apply.

including the number of residential properties to be offered for sale at any specific time and what they are. This enables vendors to tell the public without ambiguity how many and which of those residential properties shown on a price list it will offer for sale.

9. There has been a suggestion that, to further minimize the possibility of vendors deploying the tactics of selling residential properties in small batches, every residential property covered in a price list must be offered to be sold. We do not support this proposal as this will impose an excessive burden and restrictions on the vendors that they must offer to sell their properties at specified quantities prescribed by the Government. In fact, our proposal is already more stringent than the existing practice⁶ and has been thoroughly discussed at the Steering Committee. It strikes a balance between enhancing consumer protection and allowing vendors to continue to take business decisions in the light of changing market situations.

10. We propose that reservation of properties (i.e. an expression of intent to purchase a property on a “subject-to-contract” basis) will be allowed on or after the issuance of price lists if it does not involve the reservation of a particular residential property. That said, a general reservation without specifying a particular residential property is still prohibited if it is made before the issuance of price lists. Detailed considerations are at **Annex D**.

(d) Show Flats for Uncompleted Developments and Viewing of Property in Completed Developments

11. We propose that:

- (a) The proposed legislation does not make it a mandatory requirement for a vendor to provide show flats⁷. That said, we propose that if a show flat is provided, its set-up must comply with the requirements as prescribed in the proposed legislation. In particular, there must first be an unmodified show flat before a modified show flat of the same property can be provided.

⁶ At present, the Consent Scheme and REDA’s guidelines set the minimum number of properties to be covered in the first price list of each batch of sale only. Developers are free to determine the number of batches of sale and the properties to be covered in a batch of sale. And there is no requirement on the minimum number of properties to be covered in the subsequent price lists of a batch of sale. Also, there is no requirement that developers must offer for sale all the properties covered in the price lists.

⁷ Our considerations are that it will be an undue burden to small and medium sized developers if we make it a mandatory requirement to provide show flats, given the difficulties in identifying suitable venues to set up show flats and the cost involved.

Visitors will be allowed to take measurements in all show flats, and be allowed to take photos and make videos in unmodified show flats; and

- (b) A residential property in a completed development or a completed phase of development⁸ may not be sold unless arrangements have been made for the prospective purchaser to view the particular property he/she wishes to purchase. If it is not reasonably practicable to view that particular property, the vendor must arrange a comparable property for viewing before the residential property in question may be sold. If it is also not reasonably practicable to arrange a comparable property for viewing, the vendor is required to obtain a written agreement from the prospective purchaser agreeing not to view a comparable property before the residential property in question may be sold.

(e) Sales Arrangements and Related Matters

12. We propose that a vendor must make public various kinds of key information relating to logistics arrangements, such as the date and time when the residential properties are offered for sale, the sales venue(s), the number of residential properties to be offered for sale and what they are, and the method to be used to determine the order of priority of prospective purchasers at least three days before the date of sale.

(f) Conveyancing Procedures and Related Matters

13. We suggest that the proposed legislation will stipulate various mandatory provisions for inclusion in the Preliminary Agreement for Sale and Purchase (PASP) and Agreement for Sale and Purchase (ASP). Those mandatory provisions in the PASP and ASP will prevail over any inconsistent provision therein. As a separate but related issue, there have been suggestions that a cooling-off period be introduced for further consumer protection. Our views are set out at **Annex E**.

⁸ A completed development (other than New Territories Exempted Houses) means a development in respect of which an occupation permit (OP) has been issued. A completed phase of development (other than New Territories Exempted Houses) means a phase of development in respect of which phase an OP has been issued. In the case of New Territories Exempted Houses, a completed development means a development in respect of which a no-objection letter, a certificate of compliance or consent to assign has been issued by the Director of Lands.

(g) Disclosure of Transactions

14. We propose that a vendor must use a standardized “Register” to disclose key transaction information. In order to provide timely information to prospective purchasers, we propose that transaction information must be disclosed within 24 hours after the PASP is entered into, and within one working day after the ASP is entered into. If the purchaser does not proceed to sign the ASP within three working days, such fact must be stated in the Register on the fourth working day after the date on which the PASP is entered into. If the ASP is terminated, the date of termination must be stated in the Register within one working day after that date. Apart from the particulars of the residential property, a vendor must also disclose in the Register whether the purchaser is a related party of the vendor⁹.

(h) Advertisements

15. We propose that, in advertisements that purport to promote the sale of any first-hand residential property, there must be a statement reminding prospective purchasers to refer to the sales brochure. In addition, it is an offence to publish or cause to be published an advertisement containing information that is false or misleading in a material particular. Specific defences are available where a contravention took place by an issue or a reproduction, retransmission or live broadcast of the advertisement.

(i) Misrepresentation and Dissemination of False or Misleading Information

16. We propose to make the act of misrepresentation, and the act of dissemination of false or misleading information, an offence under the proposed legislation. On misrepresentation, we propose that it will be an offence for a person to make “fraudulent misrepresentation” or “reckless misrepresentation” for the purpose of inducing others to purchase any first-hand residential property. On dissemination of false or misleading information, we propose that it will be an offence for a person to disclose,

⁹ A person is a “related party” to a corporate vendor if the person is (i) a director of the vendor or a parent, spouse or child of such a director; (ii) a manager of the vendor; (iii) a private company of which such a director, parent, spouse, child or manager is a director or shareholder; (iv) an associate corporation or holding company of the vendor; (v) a director of such an associate corporate or holding company, or a parent, spouse or child of such a director; or (vi) a manager of such an associate corporation or holding company. A person is a “related party” to an individual vendor if the person is (i) a parent, spouse or child of the vendor; or (ii) a private company of which such a parent, spouse or child is a director or shareholder.

circulate or disseminate information that is likely to induce another person to purchase any first-hand residential property if the information is false or misleading as to a material fact or is false or misleading through the omission of a material fact. Specific defence provisions are available where a contravention takes place by an issue or a reproduction, retransmission or live broadcast of the information.

17. There are comments that the meaning of “misleading information” should be clearly defined in the legislation or else a person may inadvertently commit such an offence. We do not consider this necessary. “Misleading” simply means causing somebody to have a wrong idea or impression about something. The concept is clear. In drafting the provisions concerning the prohibition of “false or misleading information”, we have made reference to existing Ordinances such as the Securities and Futures Ordinance (Cap. 571) and the Estate Agents Ordinance (Cap. 511). Where the concept of “misleading” appears in these Ordinances in similar context, the word “misleading” is not defined. Whether a piece of information is “misleading” should depend on the actual context. It will also be impossible to give an exhaustive list of what information will be constituted as “misleading”, and trying to do so will only create loopholes. According to the current drafting of the Bill, the prosecution will need to prove that the person knows that, or is reckless as to whether, the information is false or misleading as to a material fact. On the above basis, we consider a general prohibition provision without specifying the meaning of “misleading” is appropriate.

(j) Application of the Bill

18. The proposed legislation will apply to **all** first-hand completed and uncompleted residential properties¹⁰. However, it will not apply if –

- (a) 95% or more of the residential properties of the development or the relevant phase of the development have been leased out for 36 months;
- (b) the development is a New Territories Exempted House, i.e. the development is situated in the New Territories comprising only

¹⁰ This refers to a residential property in respect of which no agreement for sale and purchase and no assignment have ever been entered into and made. Any agreement for sale and purchase entered into between a company and an associate corporation or holding company of the company is to be disregarded for this purpose. This is to avoid the circumstances in which a vendor enters into an agreement for sale and purchase in respect of a first-hand residential property with one of its related companies so as to bring the property outside the scope of the legislation. There is a similar stipulation regarding assignments.

- one building the building works of which are exempted from the Buildings Ordinance (Cap. 123)¹¹; and
- (c) the development is constructed by the Housing Authority (HA).

The justifications for including first-hand completed residential properties and the exclusion arrangements on (a) and (b) above are at **Annex F**. On (c) above, we consider that subsidized housing developments that are constructed by HA, namely, the new and residual Home Ownership Scheme (HOS) flats, should be excluded from the scope of the legislation, having regard to the fact that HOS flats are subsidized flats and that HA has to follow set parameters to dispose of these flats (in terms of determining the target group, setting of sale price and determining flat selection priorities among eligible applicants, etc.) which are completely different from normal market practice. HA has observed the administrative regulatory measures applicable to the sale of uncompleted first-hand residential properties in the sale of surplus HOS flats in the past. Even though HA will not be covered by the proposed legislation, it will sell HOS flats in accordance with the requirements under the proposed legislation in future as far as practicable.

19. REDA commented that regulating the sale of first-hand completed residential properties would contravene the protection of the right of private ownership and disposal of property stipulated in the Basic Law. We do not agree with REDA's comments. We consider the proposal to regulate the sale of first-hand completed residential properties is likely to be seen as pursuing the legitimate aim of protecting purchasers' interests and the means of regulation are not disproportionate to that aim. Being a Government which respects the protection of human rights and is firmly committed to uphold the rule of the law, we will ensure that any legislation we propose will conform with the Basic Law.

20. We propose to regulate the sales of first-hand completed and uncompleted residential properties as categorically set out in paragraphs 5 to 17 above. In view of the genuine operational difficulties that will arise with regard to the Urban Renewal Authority's "Flat-for-flat" Scheme (FFF Scheme) in complying with those requirements as set out in paragraphs 6 to 14 above (which are primarily on sales practices), we propose to exclude the FFF scheme from the ambit of the regulation of sales practices as set out in those paragraphs. This is further explained in **Annex G**.

¹¹ The main features of a New territories Exempted House are that the building must neither contain more than three storeys nor exceed a height of 8.23 metres (27 ft.), and the maximum roofed-over area of the house must not normally exceed 65.03 sq. metres (700 sq.ft.).

(k) Defence and Penalty Proposals

21. The proposed legislation provides for defence provisions as appropriate, including that of due diligence, for offences under the legislation. On the penalty proposal, three categories of penalties for offences under the proposed legislation are proposed -

- (a) For offences that are minor and regulatory in nature, such as failure to provide building plans for free public inspection: these will be punishable with fines only, i.e. a fine at level 6 (\$100,000);
- (b) For offences which may directly affect and potentially bring financial loss to prospective purchasers, such as the failure to provide mandatory information in the sales brochure: these will be subject to more severe penalties, such as heavier fines and imprisonment, i.e. a fine of \$500,000¹² to \$1,000,000; and
- (c) For offences of a serious nature, such as misrepresentation and dissemination of false or misleading information, the maximum penalty will be a heavy fine plus imprisonment, i.e. \$1,000,000 plus imprisonment up to 3 years on summary conviction and \$5,000,000 plus imprisonment up to 7 years on conviction on indictment.

We further propose that if a company or a body corporate commits an offence under the proposed legislation, and if the commission of the offence is aided, abetted, counselled, procured or induced by an officer of the company or a body corporate or of its holding company, or the offence is committed with the consent or connivance of, or is attributable to any recklessness on the part of, an officer of the company or of a holding company of the company or a body corporate, then such officer (i.e. director, manager and secretary of a company or body corporate) will also have committed the offence and be punished accordingly.

¹² There are two instances in the Bill when there will be fine plus imprisonment term. The first one is the requirement on provision of accurate information in sales brochure as at the date on which it is printed. The second one is about failure to comply with a specified requirement imposed by clause 68 (which is on the investigation powers of the enforcement authority for suspected contravention) without reasonable excuse concerning the investigation undertaken by the enforcement authority.

(I) Enforcement Authority

22. To facilitate early implementation of the legislation and to maximize the use of public resources, we propose that an enforcement authority be set up under the Housing Branch of the Transport and Housing Bureau. The enforcement authority will be tasked to supervise compliance with the proposed legislation, undertake investigations as appropriate, issue practice guidelines, maintain data and statistics; and carry out public education. It will engage an agency to set up an electronic database which provides information on the sales of first-hand residential developments. The Government will keep open the option of replacing the enforcement authority with a statutory body (for performing these functions) at an appropriate time.

THE BILL

23. The key provisions of the Bill are as follows –

- (a) **Part 1** contains preliminary provisions. Clause 1 provides for the short title and commencement. Clauses 2 to 8 define or otherwise explain the meaning of various expressions used in the Bill. Clause 10 specifies the residential properties to which this Bill applies.
- (b) **Part 2** contains provisions that regulate sales practices in relation to residential properties to which this Bill applies. It is divided into 9 Divisions.
- (c) **Division 1 of Part 2** contains preliminary provisions. Clauses 12 and 13 define or otherwise explain the meaning of various expressions used in Part 2. Clause 14 provides that Divisions 2 to 8 of Part 2 apply if there is a sale of a residential property to which this Bill applies.
- (d) **Division 2 of Part 2** deals with sales brochures. Clause 15 requires the vendor to prepare a publication entitled “Sales Brochure” in English and “售樓說明書” in Chinese. Clauses 17 to 22 (as read with Schedule 1) set out the detailed requirements for a sales brochure. Clause 23 requires the vendor to make copies of the sales brochure available for collection and inspection during a period, and on a date, prescribed in the clause.

- (e) **Division 3 of Part 2** deals with price lists. Clause 26 requires the vendor to prepare a document setting out the prices of the residential properties. Clauses 27 and 28 set out the detailed requirements for a price list. Clause 29 requires the vendor to make copies of the relevant price list available for collection or inspection during a period, and on a date, prescribed in the clause. Clause 30 provides for a restriction on a vendor from seeking an expression of intent on the residential properties. Clause 31 requires that a residential property may only be sold at the price set out in the latest relevant price list.
- (f) **Division 4 of Part 2** deals with show flats for an uncompleted development or an uncompleted phase (in the case of a phased development). Clauses 32 and 33 define or otherwise explain the meaning of “unmodified show flat” and “modified show flat” used in Division 4. Clause 34 provides that if the vendor wishes to set up a show flat, the vendor must first set up an unmodified show flat and may then set up a modified show flat. Clauses 35 to 37 set out the detailed requirements for a show flat.
- (g) **Division 5 of Part 2** deals with making the residential property in a completed development, or in a completed phase (in the case of a phased development), available for viewing. Clause 40 provides for the requirement for viewing. Clause 41 sets out the detailed requirements for a comparable residential property that is to be made available for viewing under clause 40.
- (h) **Division 6 of Part 2** deals with making information on sales arrangements, and other information, available for inspection.
- (i) **Division 7 of Part 2** deals with the PASP, and the ASP. Clause 48 provides that only a preliminary deposit of 5% of the purchase price is payable by the purchaser on entering into a PASP. Clause 49 provides for the situations in which the purchaser executes or does not execute the ASP after entering into the PASP. Clause 50 prohibits the owner from entering into a PASP, or an ASP, unless it contains the provisions set out in Schedule 4 (for the PASP) or in Schedules 5 to 7 (for the ASP).
- (j) **Division 8 of Part 2** deals with the register of transactions. Clause 51 requires the vendor to keep one register of transactions. Clause 52 sets out the detailed requirements for a register of transactions. Clause 53 requires the vendor to make the register

of transactions available for inspection on a date prescribed in the clause.

- (k) **Division 9 of Part 2** sets out the exceptions, and the additional requirements, to Divisions 2 to 8.
- (l) **Part 3** contains provisions that regulate advertisements promoting the sale of any residential property to which this Bill applies. Under clause 60, it is an offence to publish such an advertisement that contains false or misleading information. Clauses 61 to 64 set out detailed requirements for such an advertisement.
- (m) **Part 4** provides for offences in connection with misrepresentations and with dissemination of false and misleading information. Under clause 65, it is an offence to make a fraudulent or reckless misrepresentation for the purpose of inducing another person to purchase any residential property to which this Bill applies. Under clause 66, it is an offence to disseminate false or misleading information that is likely to induce another person to purchase any residential property to which this Bill applies.
- (n) **Part 5** contains defence provisions in relation to an offence under this Bill. It also contains supplementary provisions on offences.
- (o) **Part 6** contains administrative and miscellaneous provisions. This Part is divided into 3 Divisions. Division 1 contains provisions on the appointment of a public officer as the enforcement authority for the purposes of this Bill, and the related provisions. Division 2 provides for the investigation in relation to contraventions under this Bill.

OTHER OPTIONS

24. There is no other option. There is a general public view that the existing administrative measures and practices, namely the Consent Scheme and REDA's guidelines, are insufficient and that consumer protection in respect of the sale of all types of first-hand residential properties should be enhanced through regulation by legislation.

LEGISLATIVE TIMETABLE

25. The legislative timetable will be –

Publication in the Gazette	16 March 2012
First Reading and commencement of Second Reading Debate	21 March 2012
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSALS

26. The economic, financial, civil service and sustainability implications of the legislative proposals are set out at **Annex H**. The proposals are in conformity with the Basic Law, including the provisions concerning human rights. It has no productivity, environment or competition implications.

PUBLIC CONSULTATION

27. THB conducted a public consultation exercise on the legislative proposals from 29 November 2011 to 28 January 2012. We invited views by post, fax, e-mail and e-forum. As part of the public consultation exercise, we attended meetings with various stakeholders including the Consumer Council, the Hong Kong Housing Society, the Hong Kong Institute of Architects, the Hong Kong Institute of Surveyors, the Law Society of Hong Kong, REDA and various estate agency associations. We also briefed the LegCo Panel on Housing and arranged two public forums to listen to the views of the public. In addition, we attended the Housing Panel's special meeting to listen to the views of deputations. We received 959 submissions during the public consultation period.

PUBLICITY

28. A press release will be issued today (13 March 2012). A spokesman will be available to answer enquiries.

ENQUIRIES

29. Any enquiries on this brief may be addressed to Mrs Hedy Chu, Principal Assistant Secretary for Transport and Housing, at telephone number 2761 5209.

Transport and Housing Bureau
13 March 2012

Residential Properties (First-hand Sales) Bill

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A BILL

To

Regulate the provision of sales brochures and price lists and the use of show flats in connection with the sale of residential properties in respect of which neither an agreement for sale and purchase nor an assignment has ever been entered into and made, to regulate the viewing of such properties before sale, to regulate the publication of sale arrangements and the execution of agreements for sale and purchase in connection with such properties, to provide for registers of transactions in connection with such properties, to regulate advertisements promoting the sale of such properties, to provide for offences in connection with misrepresentations and dissemination of false or misleading information, and to provide for incidental and connected matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

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

2. Interpretation

- (1) In this Ordinance—

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

associate corporation (有聯繫法團), in relation to a company or specified body, means—

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

Authority (監督) means the public officer appointed under section 74(1)(a) to be the authority for the purposes of this Ordinance;

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

authorized person (認可人士)—

- (a) in relation to a specified NT development, means a person who supervises the construction of the development; or
- (b) in relation to any other development or a phase of any other development, means an authorized person who is appointed under section 4(1)(a) or (2) of the Buildings Ordinance (Cap. 123) as a co-ordinator of building works for the development or the phase;

building (建築物)—see section 3;

building contractor (承建商)—

- (a) in relation to a specified NT development, means a person who is appointed by the owner of the land to construct the development; or
- (b) in relation to any other development or a phase of any other development, means a registered building contractor who is appointed under section 9(1) or (3) of the Buildings Ordinance (Cap. 123) to carry out building works for the development or the phase;

certificate of compliance (合格證明書), in relation to a development or a phase of a development, means a document certifying that all positive obligations imposed under the land grant on the grantee of the land on which the development or phase is situated, and the grantee's successors and assignees, have been complied with to the satisfaction of the Director of Lands;

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

completed development (已落成發展項目)—see section 4;

completed development pending compliance (尚待符合條件的已落成發展項目)—see section 4;

completed phase (已落成期數)—see section 4;

completed phase pending compliance (尚待符合條件的已落成期數)—see section 4;

deed of mutual covenant (公契), in relation to a residential property, means a document that defines the rights, interests and obligations of the owners of any of the following among those owners themselves—

- (a) the development of which the residential property forms part;
- (b) the building of which the residential property forms part;
- (c) the part of a building of which part the residential property forms part;

development (發展項目)—see section 3;

floor area (樓面面積)—see section 8;

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

house (獨立屋) means a building that contains only one residential property;

material date (關鍵日期)—

(a) in relation to an uncompleted development or an uncompleted phase—

(i) where, under the land grant, the consent of the Director of Lands is required to be given for any sale and purchase of residential properties in the development or the phase, means the date on which the conditions of the land grant are complied with in respect of the development or the phase; or

(ii) where, under the land grant, the consent of the Director of Lands is not required to be given for any sale and purchase of residential properties in the development or the phase, means—

(A) in the case of a specified NT development, the date on which the development is completed in all respects in compliance with the conditions subject to which the certificate of exemption is issued; or

(B) in any other case, the date on which the development or the phase is completed in all respects in compliance with the approved building plans; or

(b) in relation to a completed development pending compliance or a completed phase pending compliance, means the date on which the conditions of the land grant are complied with in respect of the development or the phase;

multi-unit building (多單位建築物) means a building that contains more than one residential property;

no-objection letter (不反對通知書), in relation to a building, means a letter confirming that the Director of Lands has no objection to the building being occupied;

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

owner (擁有人), in relation to a residential property, means the legal or beneficial owner of the residential property;

phase (期數)—see section 3;

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

- (a) a document prepared for the development or the phase under section 26(1) or (2); or
- (b) where such a document has been revised under section 26(4), the document as last revised;

proprietor (經營人)—

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

Register of Transactions (成交紀錄冊), in relation to a development or a phase of a development, means the register of transactions kept for the development or the phase under section 51(1) or (2);

residential property (住宅物業)—see section 6;

saleable area (實用面積)—see section 8;

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

- (a) the publication prepared for the development or the phase under section 15(1) or (2); or
- (b) where the publication has been revised under section 16(2)(a), the publication as last revised;

Secretary (局長) means the Secretary for Transport and Housing;

specified body (指明團體) means a body corporate incorporated or established under an Ordinance;

specified NT development (指明新界發展項目)—see section 5;

specified residential property (指明住宅物業) means any residential property to which this Ordinance applies by virtue of section 10;

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

uncompleted development (未落成發展項目)—see section 4;

uncompleted phase (未落成期數)—see section 4;

vendor (賣方)—see section 7;

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

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

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

3. Interpretation: development, phase and building

(1) In this Ordinance—

development (發展項目) means—

- (a) a collection of 2 or more buildings where the construction of those buildings can be regarded as one single real estate development project by reason of the engineering, structural or architectural connection between the buildings; or
- (b) in any other case, a building.

- (2) In determining whether the construction of 2 or more buildings can be regarded as one single real estate development project for the purposes of subsection (1), the following may be taken into account—

- (a) the building plans approved by the Building Authority for the purposes of section 14(1) of the Buildings

Ordinance (Cap. 123) in respect of building works for those buildings;

- (b) the master lay-out plan submitted to the Director of Lands in compliance with the land grant;
- (c) the master lay-out plan approved by the Town Planning Board for the purposes of section 4A of the Town Planning Ordinance (Cap. 131) in respect of building works for those buildings.

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

(4) In this Ordinance, a reference to a development or building includes, where the context permits, a development or building (as the case may be) to be constructed.

4. Interpretation: completed, uncompleted development and phase etc.

(1) In this Ordinance—

(a) a development is a completed development if—

(i) in the case of a specified NT development—

(A) a no-objection letter has been issued by the Director of Lands in respect of every building in the development; or

(B) a certificate of compliance or consent to assign has been issued by the Director of Lands in respect of the development; or

(ii) in any other case, an occupation permit has been issued in respect of every building in the development;

(b) a development is an uncompleted development if it is not a completed development;

- (c) a phase of a development is a completed phase of the development if an occupation permit has been issued in respect of every building in the phase; and
- (d) a phase of a development is an uncompleted phase of the development if it is not a completed phase of the development.

(2) In this Ordinance—

(a) a development is a completed development pending compliance if—

(i) the development is a completed development as defined by subsection (1)(a)(ii);

(ii) under the land grant, the consent of the Director of Lands is required to be given for any sale and purchase of residential properties in the development that takes place before the conditions of the land grant have been complied with in respect of the development; and

(iii) those conditions have not been complied with; and

(b) a phase of a development is a completed phase pending compliance if—

(i) the phase is a completed phase;

(ii) under the land grant, the consent of the Director of Lands is required to be given for any sale and purchase of residential properties in the phase that takes place before the conditions of the land grant have been complied with in respect of the phase; and

(iii) those conditions have not been complied with.

5. Interpretation: specified NT development

In this Ordinance, a development is a specified NT development if a certificate of exemption has been issued under section 5(a) of the Buildings Ordinance (Application to the New Territories)

Ordinance (Cap. 121) in respect of building works for every building in the development.

6. Interpretation: residential property

(1) In this Ordinance—

residential property (住宅物業), in relation to a development or a phase of a development, means any real property in the development or the phase constituting a separate unit used, or intended to be used, solely or principally for human habitation without contravening the land grant and the occupation permit (if any).

(2) In this Ordinance, a reference to a residential property includes, where the context permits, a residential property to be constructed.

7. Interpretation: vendor

(1) A reference to the vendor in Part 2 or Schedule 1 or 8 in relation to a sale by the owner of a residential property in a development or in a phase of a development, or in Part 3 in relation to any residential property in a development or in a phase of a development, is a reference to the owner of the residential property.

(2) However, where that owner engages a person to co-ordinate and supervise the process of designing, planning, constructing, fitting out, completing and marketing the development or phase, subsections (3) and (4) apply.

(3) A reference to the vendor, in Part 2 or Schedule 1 or 8 in relation to such a sale, is—

- (a) subject to paragraphs (b), (c) and (d), a reference to both that owner and the person so engaged;
- (b) in the case of a provision creating an offence, section 52(1)(g) or (2)(e), or section 2(2)(a) of Schedule 1, a reference to each of the following—
 - (i) that owner;

(ii) the person so engaged;

(c) in the case of section 28(8), section 3(2), (3) or (4) of Schedule 1, or section 1(1)(h) or (i) of Schedule 8, a reference to either of the following—

(i) that owner;

(ii) the person so engaged; or

(d) in the case of section 34(2) or (3), 38(1) or (2), 42(1) or 46(1), a reference to both or either of the following—

(i) that owner;

(ii) the person so engaged.

(4) A reference to the vendor, in Part 3 in relation to such residential property, is—

(a) subject to paragraphs (b) and (c), a reference to both that owner and the person so engaged;

(b) in the case of section 63(3)(a), a reference to each of the following—

(i) that owner;

(ii) the person so engaged; or

(c) in the case of section 61(1), a reference to either of the following—

(i) that owner;

(ii) the person so engaged.

8. Interpretation: saleable area and related expressions

(1) In this Ordinance—

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

(a) means the floor area of the residential property;

(b) includes the floor area of every one of the following to the extent that it forms part of the residential property—

(i) a balcony;

- (ii) a utility platform;
 - (iii) a verandah; and
- (c) excludes the area of every one of the items specified in Part 1 of Schedule 2 to the extent that it forms part of the residential property.
- (2) For the purposes of this Ordinance, the floor area of a residential property—
 - (a) subject to subsection (4), is to be measured from the exterior of the enclosing walls of the residential property;
 - (b) includes the area of the internal partitions and columns within the residential property; and
 - (c) excludes the area of any common part outside the enclosing walls of the residential property.
- (3) For the purposes of this Ordinance, the floor area of a balcony, utility platform or verandah—
 - (a) subject to subsections (4) and (5), is to be measured from the exterior of the enclosing walls of the balcony, utility platform or verandah;
 - (b) includes the area of the internal partitions and columns within the balcony, utility platform or verandah; and
 - (c) excludes—
 - (i) the area of any common part outside the enclosing walls of the balcony, utility platform or verandah; and
 - (ii) the area covered by any enclosing wall that abuts onto the residential property.
- (4) If any enclosing wall separates a residential property, balcony, utility platform or verandah from an adjoining residential property, balcony, utility platform or verandah, the measurement is to be taken from the middle of the wall.

- (5) If a balcony, utility platform or verandah is enclosed by a wall that is not a solid wall, the floor area is to be measured from the external boundary of the balcony, utility platform or verandah.
 - (6) For the purposes of this Ordinance, the area of an item specified in Part 1 of Schedule 2 is to be calculated in accordance with Part 2 of that Schedule.
- 9. **Interpretation provisions not applicable to Schedules 4 to 7**
 Unless otherwise expressly provided, sections 2(1), 3, 4, 5, 6, 7 and 8 do not apply to Schedules 4, 5, 6 and 7.
- 10. **Application of this Ordinance**
 - (1) This Ordinance applies to any residential property in a development situated in Hong Kong in respect of which property—
 - (a) no agreement for sale and purchase has ever been entered into; and
 - (b) no assignment has ever been made.
 - (2) Despite subsection (1), this Ordinance does not apply in any of the 3 situations specified in subsections (3), (5) and (6).
 - (3) The first situation is that—
 - (a) where the development is not divided into 2 or more phases—
 - (i) the development is a completed development; and
 - (ii) at least 95% of the number of the residential properties in the development are qualified residential properties; or
 - (b) where the development is divided into 2 or more phases—
 - (i) the phase of which the residential property forms part is a completed phase; and

- (ii) at least 95% of the number of the residential properties in that phase are qualified residential properties.

(4) In subsection (3)——

- (a) a reference to a qualified residential property is a reference to a residential property that has been held under lease (other than a Government lease) for a continuous period of at least 36 months, or for several periods that in the aggregate equal at least 36 months, since—
 - (i) in the case of a specified NT development—
 - (A) the issue of a no-objection letter by the Director of Lands in respect of the building comprised in the development; or
 - (B) the issue of a certificate of compliance or a consent to assign by the Director of Lands in respect of the development; or
 - (ii) in the case of any other development or a phase of a development, the issue of the occupation permit; and
- (b) a reference to the number of residential properties in a development or a phase of a development is, in the case of a development other than a specified NT development, a reference to the number of residential properties as set out in the occupation permit.

(5) The second situation is that——

- (a) the development is one as defined by section 3(1)(b); and
- (b) a certificate of exemption is issued under section 5(a) of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121) in respect of building works for the building comprised in the development.

- (6) The third situation is that the development is constructed by the Hong Kong Housing Authority.

11. Provision supplementary to section 10(1): agreement or assignment to be disregarded

- (1) For the purposes of section 10(1)——
 - (a) an agreement for sale and purchase in respect of a residential property as described in any of the 3 situations specified in subsections (2), (3) and (4) is not to be regarded as having been entered into in respect of the residential property; and
 - (b) an assignment of a residential property as described in the situation specified in subsection (5) is not to be regarded as having been made in respect of the residential property.
- (2) The first situation for subsection (1)(a) is that the agreement for sale and purchase has been terminated or has been declared void by the court.
- (3) The second situation for subsection (1)(a) is that the agreement for sale and purchase is entered into between——
 - (a) a company or a specified body; and
 - (b) an associate corporation, or a holding company, of the company or specified body.
- (4) The third situation for subsection (1)(a) is that——
 - (a) where the development consists of multi-unit buildings but not houses, the agreement for sale and purchase is the single agreement for sale and purchase under which all the residential properties in a multi-unit building (being specified residential properties) are sold by the owner to the same person; ,
 - (b) where the development consists of houses but not multi-unit buildings, the agreement for sale and purchase is the single agreement for sale and purchase under which all

the residential properties in the development (being specified residential properties) are sold by the owner to the same person; or

- (c) where the development consists of multi-unit buildings as well as houses, the agreement for sale and purchase is the single agreement for sale and purchase under which all the residential properties in a multi-unit building (being specified residential properties), or all the residential properties in those houses (being specified residential properties), or both, are sold by the owner to the same person.
- (5) The situation for subsection (1)(b) is that the assignment is made by a company or a specified body to an associate corporation, or a holding company, of the company or specified body.
- (6) Subsection (2), (3) or (4) applies whether the agreement for sale and purchase mentioned in that subsection is entered into, terminated or declared void (as the case may be) before, on or after the commencement of this section. Subsection (5) applies whether the assignment mentioned in that subsection is made before, on or after the commencement of this section.
- (7) For the purposes of subsection (4), the fact that the residential properties are sold with other properties in the development is not relevant.
- (8) If the development is divided into 2 or more phases, a reference in subsection (4) or (7) to a development is a reference to a phase of the development of which the residential property forms part.

Part 2

Sales Practices in Relation to Specified Residential Property

Division 1—Preliminary

12. Interpretation of Part 2

In this Part—

projected height (預計高度), in relation to a residential property, means the height of the residential property as calculated by deducting the thickness of the floor slab of the residential property as specified in relation to the residential property in the sales brochure for the development from the floor-to-floor height of the residential property as so specified;

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

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

13. Interpretation of Part 2: sale of residential property

- (1) For the purposes of this Part, there is a sale by the owner of a residential property if—
 - (a) the residential property is sold by the owner to any other person; or
 - (b) the residential property is offered by the owner to be sold to any other person.
- (2) For the purposes of this Part, a residential property is offered by a person to be sold to any other person if—

- (a) the person offers to sell the residential property to any other person; or
 - (b) the person invites any other person to offer to purchase the residential property from that person.
- (3) For the purposes of this Part, a sale by the owner of a residential property does not include—
- (a) an undertaking by the Urban Renewal Authority to an eligible person, whether or not in consideration of a payment of money by the person, to offer to sell to the person any residential property with a stipulated saleable area, located at one of the stipulated floors in a development stipulated by the Urban Renewal Authority, at the stipulated price per square foot or per square metre of that stipulated saleable area; or
 - (b) an act by the Urban Renewal Authority to ascertain whether or not an eligible person intends to accept such an undertaking.
- (4) In this section—

eligible person (合資格人士) means a person whose property is acquired by the Urban Renewal Authority for the implementation of its redevelopment project.

14. Application of Part 2

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

- (a) a specified residential property in a completed development; or
 - (b) for a development divided into 2 or more phases, a specified residential property in a completed phase of the development.
- (4) This section is subject to Division 9.

Division 2—Sales Brochure

15. Sales brochure to be prepared by vendor

- (1) Subject to subsection (2), the vendor must prepare for the purposes of section 23 a publication for the development that is entitled “Sales Brochure” in English and “售樓說明書” in Chinese.
- (2) If the development is divided into 2 or more phases, the vendor must prepare for the purposes of section 23 a publication for each phase that is entitled “Sales Brochure” in English and “售樓說明書” in Chinese.
- (3) If subsection (1) or (2) is contravened, the vendor commits an offence and is liable to a fine of \$1,000,000.

16. Provision supplementary to section 15

- (1) No person except the vendor may prepare any publication for the development that is entitled “Sales Brochure” in English and “售樓說明書” in Chinese.
- (2) If there is any change to the specified information set out in the sales brochure for the development in compliance with Part 1 of Schedule 1, the vendor—
 - (a) must, as soon as practicable after the change, revise the sales brochure to reflect the change; and
 - (b) must, within 3 working days after the date of the revision, notify in writing each of the entities specified in Schedule 3 of the revision.

- (3) A revision under subsection (2)(a) must be done in such a way that the sales brochure will set out the specified information, as revised, in compliance with Part 1 of Schedule 1.
- (4) Subsection (2) does not apply to a completed development.
- (5) A person who contravenes subsection (1) commits an offence and is liable to a fine of \$1,000,000.
- (6) If subsection (2) or (3) is contravened, the vendor commits an offence and is liable to a fine at level 6.
- (7) In this section—

specified information (指明資料) means the information specified in section 18(2)(b) or (c).

17. Title of sales brochure

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

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

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

Note—

The Authority is empowered under section 76 to issue guidelines providing guidance on the operation of this section.

- (2) The sales brochure for the development must then set out the following information in compliance with Part 1 of Schedule 1—
 - (a) information on the development;
 - (b) information on the vendor and the others involved in the development;
 - (c) the relationship between the parties involved in the development;
 - (d) information on the design of the development;
 - (e) information on the property management;
 - (f) a location plan of the development;
 - (g) an aerial photograph of the development;
 - (h) either of the following plans relating to the development—
 - (i) the outline zoning plan or development permission area plan, whether in draft or approved form, prepared under the Town Planning Ordinance (Cap. 131);
 - (ii) a plan that, by virtue of section 25(7) of the Urban Renewal Authority Ordinance (Cap. 563), is deemed to be a draft plan prepared by the Town Planning Board for the purposes of the Town Planning Ordinance (Cap. 131);
 - (i) a layout plan of the development;
 - (j) floor plans of the residential properties in the development;
 - (k) the area of the residential properties in the development;
 - (l) floor plans of the parking spaces in the development;
 - (m) a summary of the preliminary agreement for sale and purchase;
 - (n) a summary of—

- (i) for an uncompleted development, the latest draft of every deed of mutual covenant in respect of the specified residential property as at the date on which the sales brochure is printed; or
- (ii) for a completed development, either or both of the following as applicable—
 - (A) every deed of mutual covenant in respect of the specified residential property that has been executed;
 - (B) the latest draft of every deed of mutual covenant in respect of the specified residential property as at the date on which the sales brochure is printed;
- (o) a summary of the land grant;
- (p) information on—
 - (i) any facilities that are required under the land grant to be constructed and provided for the Government, or for public use;
 - (ii) any facilities or open space that is required under the land grant to be managed, operated or maintained for public use at the expense of the owners of the residential properties in the development; or
 - (iii) any part of the land (on which the development is situated) that is dedicated to the public for the purposes of regulation 22(1) of the Building (Planning) Regulations (Cap. 123 sub. leg. F).
- (3) The sales brochure for the development must then set out the information required by Part 2 of Schedule 1.
- (4) The information specified in subsection (2) must be set out in the sales brochure in the order in which the information is so specified.

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

19. Contents of sales brochure: further information

- (1) If—
 - (a) the Building Authority has exercised the power under section 42(1) of the Buildings Ordinance (Cap. 123) in permitting modification of regulation 23(3)(a) of the Building (Planning) Regulations (Cap. 123 sub. leg. F) in relation to a building in the development;
 - (b) the Building Authority has given permission for the purposes of regulation 22(1)(b) or (2)(b) of those Regulations in relation to a building in the development; or
 - (c) the Building Authority has exercised the power under regulation 23(3)(b) of those Regulations in disregarding any floor space in determining the gross floor area of a building in the development for the purposes of regulations 20, 21 and 22 of those Regulations,
- the sales brochure for the development must, in compliance with Part 3 of Schedule 1, set out the information that has been submitted to the Building Authority in the application

made for the purposes of that section 42(1) or that regulation 22(1)(b) or (2)(b) or 23(3)(b).

(2) The sales brochure for the development—

- (a) may set out a plan showing all elevations of the development; and
- (b) in setting out the plan, must comply with Part 3 of Schedule 1.

(3) If the information specified in subsection (1) or (2) is set out in the sales brochure, it must be set out after the information required by section 18.

(4) The sales brochure for the development—

- (a) may set out any information that is authorized to be set out in the sales brochure under Part 4 of Schedule 1; and
- (b) in setting out any such information, must comply with Part 4 of Schedule 1.

(5) The sales brochure for the development must set out the address of the website designated by the vendor for the development for the purposes of this Part. That address must be set out in such a manner that it is reasonably visible to any person reading the sales brochure.

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

20. Contents of sales brochure: other requirements for information

- (1) The sales brochure for the development must state the date on which it is printed.
- (2) The information set out in the sales brochure for the development must be accurate in every material respect as at the date on which it is printed.
- (3) The sales brochure for the development must state that there may be future changes to the development and the surrounding areas.

(4) If subsection (1) is contravened, the vendor commits an offence and is liable to a fine of \$500,000.

(5) If subsection (2) is contravened, the vendor commits an offence and is liable to a fine of \$500,000 and to imprisonment for 12 months.

(6) If subsection (3) is contravened, the vendor commits an offence and is liable to a fine at level 6.

21. Sales brochure must not set out other information

(1) The sales brochure for the development must not set out any information other than the information required or authorized by this Ordinance.

(2) If subsection (1) is contravened, the vendor commits an offence and is liable to a fine of \$500,000.

22. Sales brochure to be printed bilingually

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

(2) For the English text, the size of a letter or number—

- (a) must not be smaller than the size of the same letter or number in 10 point Times New Roman typeface; or
- (b) in the case of an explanatory note or remark for the main text of the sales brochure, must not be smaller than the size of the same letter or number in 8 point Times New Roman typeface.

(3) For the Chinese text, the size of a character or number—

- (a) must not be smaller than the size of the same character or number in 10 point “新細明體” typeface; or
- (b) in the case of an explanatory note or remark for the main text of the sales brochure, must not be smaller than the size of the same character or number in 8 point “新細明體” typeface.

- (4) Subsections (2) and (3) do not apply to letters, characters or numbers that appear in a plan, diagram or map.
- (5) If subsection (1) is contravened, the vendor commits an offence and is liable to a fine of \$500,000.
- (6) If subsection (2) or (3) is contravened, the vendor commits an offence and is liable to a fine at level 6.

23. Sales brochure to be made available to general public

- (1) During a period of at least 7 days before a date of the sale mentioned in section 14(1), the vendor must make hard copies of the sales brochure for the development available for collection by the general public free of charge.
- (2) On a date of the sale mentioned in section 14(1), the vendor must make hard copies of the sales brochure for the development available for collection by the general public free of charge at the place where the sale is to take place.
- (3) During a period of at least 7 days before a date of the sale mentioned in section 14(1), and on such a date, the vendor must make a copy of the sales brochure for the development available for inspection on the website designated by the vendor for the development for the purposes of this Part.
- (4) On the first day on which the vendor makes a copy of the sales brochure for the development available for the purposes of subsection (1), the vendor—
 - (a) must provide a hard copy of the sales brochure for the development to each of the entities specified in Schedule 3; and
 - (b) must provide an electronic copy of the sales brochure for the development to the following for the purpose of the electronic database established under section 77(1)—
 - (i) if a public officer or person is delegated under section 77(2) with the power to establish and maintain that database, the public officer or person;

- (ii) if no public officer or person is so delegated, the Authority.

- (5) A person must not make available to the general public copies of any publication for the development that is entitled “Sales Brochure” in English, or “售樓說明書” in Chinese, except copies of the sales brochure for the development.
- (6) If subsection (1) or (2) is contravened, the vendor commits an offence and is liable to a fine of \$1,000,000.
- (7) If subsection (3) or (4) is contravened, the vendor commits an offence and is liable to a fine at level 6.
- (8) A person who contravenes subsection (5) commits an offence and is liable for a fine of \$1,000,000.

24. Application of sections 16 to 23 in case of phased development

- (1) If the development is divided into 2 or more phases, sections 16, 17, 18, 19, 20, 21, 22 and 23 apply to the sales brochure for the phase of which the specified residential property forms part as if, subject to subsection (2), a reference in those sections to the development were a reference to that phase.
- (2) Subsection (1) does not apply to a reference in section 18(2)(f), (h) and (i) to the development.

25. Application of Schedule 1

Parts 1, 2, 3 and 4 of Schedule 1 are subject to Part 5 of that Schedule.

Division 3—Price List

26. Price list to be prepared by vendor

- (1) Subject to subsection (2), the vendor must prepare for the purposes of section 29 a document setting out the price of each specified residential property in the development.
- (2) If the development is divided into 2 or more phases, the vendor must prepare for the purposes of section 29 a

document setting out the price of each specified residential property in each phase.

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

27. Number of properties to be covered in price list

- (1) If there are 30 or fewer residential properties in the development, a price list for the development must set out the prices of all the specified residential properties in the development.
- (2) Subject to subsection (3), if there are more than 30 but less than 100 residential properties in the development, each price list for the development must set out the prices of at least 30 specified residential properties in the development.
- (3) A price list is to be regarded as having complied with subsection (2) if—
 - (a) the prices of less than 30 specified residential properties in the development have never been set out in any price list for the development; and
 - (b) the price list sets out the prices of all those specified residential properties that have never been so set out.

- (4) Subject to subsections (5) and (6), if there are 100 or more residential properties in the development—
 - (a) the first price list for the development must set out the prices of at least whichever is the greater of the following—
 - (i) 20% of the number of residential properties in the development;
 - (ii) 50 specified residential properties; and
 - (b) each subsequent price list for the development must set out the prices of at least 10% of the number of residential properties in the development.
- (5) A price list is to be regarded as having complied with subsection (4)(a) if—
 - (a) the prices of less than 50 specified residential properties in the development have never been set out in any price list for the development; and
 - (b) the price list sets out the prices of all those specified residential properties that have never been so set out.
- (6) A price list is to be regarded as having complied with subsection (4)(b) if—
 - (a) the number of specified residential properties in the development the prices of which have never been set out in any price list for the development is less than 10% of the number of residential properties in the development; and
 - (b) the price list sets out the prices of all those specified residential properties that have never been so set out.
- (7) In subsections (1), (2), (3), (4), (5) and (6), a reference to the number of residential properties in a development is, in the case of a development other than a specified NT development, a reference to the number of residential properties as set out in the approved building plans.
- (8) If the development is divided into 2 or more phases—

- (a) subsections (1), (2), (3), (4), (5) and (6) apply to a price list for a phase of the development as if a reference in those subsections to the development were a reference to that phase; and
 - (b) subsection (7) applies to the number of specified residential properties in a phase of the development as if a reference in that subsection to the development were a reference to that phase.
- (9) If subsection (1), (2) or (4) is contravened, the vendor commits an offence and is liable to a fine of \$1,000,000.
- (10) The Secretary may, by notice published in the Gazette—
- (a) amend subsection (4)(a)(i) by substituting another percentage for the percentage specified in that subsection;
 - (b) amend both subsections (4)(a)(ii) and (5)(a) by substituting another number for the number specified in each of those subsections; or
 - (c) amend both subsections (4)(b) and (6)(a) by substituting another percentage for the percentage specified in each of those subsections.
- (11) For the purposes of subsection (10)(b) and (c)—
- (a) the number substituted for the number specified in subsection (4)(a)(ii) and the number substituted for that specified in subsection (5)(a) must be the same; and
 - (b) the percentage substituted for the percentage specified in subsection (4)(b) and the percentage substituted for that specified in subsection (6)(a) must be the same.

28. Contents of price list

- (1) A price list for the development—
- (a) must set out the name and location of the development;
 - (b) must state its order among all the price lists for the development in terms of the date of preparation; and

- (c) must set out the total number of specified residential properties in the development.
- (2) In setting out the price of a specified residential property, a price list for the development must also set out the following information in relation to the residential property in the form specified by the Authority—
- (a) a description of the residential property;
 - (b) the saleable area of the residential property;
 - (c) the price of the residential property per square foot of the saleable area, and that price per square metre of the saleable area;
 - (d) the floor area of every one of the following to the extent that it forms part of the residential property—
 - (i) a balcony;
 - (ii) a utility platform;
 - (iii) a verandah;
 - (e) the area of every one of the items specified in Part 1 of Schedule 2 to the extent that it forms part of the residential property.
- (3) A price list for the development—
- (a) must set out the saleable area under subsection (2)(b), the floor area under subsection (2)(d), and the area under subsection (2)(e), in both square feet and square metres; and
 - (b) must state—
 - (i) that the saleable area under subsection (2)(b), and the floor area under subsection (2)(d), are calculated in accordance with section 8; and
 - (ii) that the area under subsection (2)(e) is calculated in accordance with Part 2 of Schedule 2.
- (4) A price list for the development—

- (a) must set out the contents of sections 48(1) and 49(1) and (2); and
- (b) must state that a prospective purchaser is advised to refer to the sales brochure for the development for any information on the development.
- (5) A price list for the development must set out—
 - (a) the terms of payment;
 - (b) the basis on which any discount on the price is available; and
 - (c) any gift, or any financial advantage or benefit, to be made available in connection with the purchase of a specified residential property in the development.
- (6) A price list for the development—
 - (a) must state who is liable to pay the solicitors' fees in connection with the sale and purchase of a specified residential property in the development; and
 - (b) must set out any charges that are payable by a purchaser for execution of any document in relation to the sale and purchase of a specified residential property in the development.
- (7) A price list for the development must set out the address of the website designated by the vendor for the development for the purposes of this Part. That address must be set out in such a manner that it is reasonably visible to any person reading the price list.
- (8) If the vendor has appointed an estate agent to act in the sale of any specified residential property in the development, a price list for the development—
 - (a) must set out the name of the estate agent; and
 - (b) must state that a person may appoint that estate agent or another estate agent to act in the purchase of any specified residential property in the development but need not do so.

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

29. Price list to be made available to general public

- (1) During a period of at least 3 days before a date of the sale mentioned in section 14(1), the vendor must make hard copies of the relevant price list available for collection by the general public free of charge.
- (2) On a date of the sale mentioned in section 14(1), the vendor must make hard copies of the relevant price list available for collection by the general public free of charge at the place where the sale is to take place.
- (3) During a period of at least 3 days before a date of the sale mentioned in section 14(1), and on such a date, the vendor must make a copy of the relevant price list available for inspection on the website designated by the vendor for the development for the purposes of this Part.
- (4) On the first day on which the vendor makes a copy of a relevant price list available for the purposes of subsection (1), the vendor—

- (a) must provide a hard copy of the relevant price list to each of the entities specified in Schedule 3; and
- (b) must provide an electronic copy of the relevant price list to the following for the purpose of the electronic database established under section 77(1)—
 - (i) if a public officer or person is delegated under section 77(2) with the power to establish and maintain that database, the public officer or person;
 - (ii) if no public officer or person is so delegated, the Authority.
- (5) If subsection (1) or (2) is contravened, the vendor commits an offence and is liable to a fine of \$1,000,000.
- (6) If subsection (3) or (4) is contravened, the vendor commits an offence and is liable to a fine at level 6.

30. No expression of intent before price list made available

- (1) Before the vendor makes copies of the relevant price list available under section 29(3), the vendor—
 - (a) must not seek any general or specific expression of intent from any other person on the specified residential properties the prices of which are set out in the relevant price list; and
 - (b) must reject such a general or specific expression of intent.
- (2) After the vendor makes copies of the relevant price list available under section 29(3) but before a date of the sale mentioned in section 14(1), the vendor—
 - (a) must not seek any specific expression of intent from any other person on the specified residential properties the prices of which are set out in the relevant price list; and
 - (b) must reject such a specific expression of intent.
- (3) If subsection (1) or (2) is contravened, the vendor commits an offence and is liable to a fine of \$500,000.

- (4) In this section—

general expression of intent (無明確選擇購樓意向), in relation to specified residential properties, means an expression of intent (whether or not accompanied by a payment of money) to purchase any of those specified residential properties (without being specific about any particular residential property) on the basis that subject to an agreement being made, the expression does not bind the maker;

specific expression of intent (有明確選擇購樓意向), in relation to specified residential properties, means an expression of intent (whether or not accompanied by a payment of money) to purchase—

- (a) a particular residential property among those specified residential properties; or
- (b) every one of those specified residential properties, on the basis that subject to an agreement being made, the expression does not bind the maker.

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

- (1) This section applies if there is a sale by the owner of a specified residential property as defined by section 13(1)(a).
- (2) The owner may only sell the specified residential property—
 - (a) at the price of that property, as set out in the relevant price list copies of which have been made available under section 29(1), (2) and (3); or
 - (b) where the relevant price list has been revised under section 26(4) to reflect a change of the price of that property, at that price as last revised, as set out in the relevant price list copies of which have been made available under section 29(1), (2) and (3).
- (3) If subsection (2) is contravened, the owner commits an offence and is liable to a fine of \$1,000,000.

Division 4—Show Flats for Uncompleted Development or Phase

32. Interpretation of Division 4: unmodified show flat

- (1) For the purposes of this Division, a show flat of a residential property is an unmodified show flat of the residential property if—
 - (a) any bay windows, air-conditioning plant rooms, balconies, utility platforms and verandahs in the show flat are the same as those in the residential property as depicted in the sales brochure for the development;
 - (b) the dimensions of the show flat, and of any bay windows, air-conditioning plant rooms, balconies, utility platforms and verandahs in the show flat, are the same as those specified in relation to the residential property in that sales brochure;
 - (c) the show flat is provided with a ceiling in such a way that the floor-to-ceiling height of the show flat does not exceed the corresponding projected height of the residential property;
 - (d) the internal partitions in the show flat are the same as those specified in relation to the residential property in that sales brochure; and
 - (e) the fittings, finishes and appliances in the show flat are the same as those in the residential property as depicted in that sales brochure.
- (2) Even though any fitting, finish or appliance in the show flat is different from that in the residential property as depicted in the sales brochure for the development, subsection (1)(e) is to be regarded as being satisfied if—
 - (a) a notice stating the difference is displayed in the show flat; and

- (b) the quality of the fitting, finish or appliance in the show flat is comparable to the quality of that in the residential property as depicted in that sales brochure.
 - (3) A notice under subsection (2)(a) must be displayed in such a manner that the notice is reasonably visible to any person entering the show flat.

33. Interpretation of Division 4: modified show flat

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

- (a) any bay windows, air-conditioning plant rooms, balconies, utility platforms and verandahs in the show flat are the same as those in the residential property as depicted in the sales brochure for the development;
- (b) the dimensions of the show flat, and of any bay windows, air-conditioning plant rooms, balconies, utility platforms and verandahs in the show flat, are the same as those specified in relation to the residential property in that sales brochure; and
- (c) the show flat is provided with a ceiling in such a way that the floor-to-ceiling height of the show flat does not exceed the corresponding projected height of the residential property.

34. Setting up of show flat

- (1) The vendor is not required to set up any show flat.
- (2) If the vendor is to set up—
 - (a) in the case of section 14(2)(a), a show flat of a residential property in the uncompleted development; or
 - (b) in the case of section 14(2)(b), a show flat of a residential property in the uncompleted phase,the vendor must first set up an unmodified show flat of the residential property.

- (3) If the vendor has set up an unmodified show flat of a residential property under subsection (2), the vendor may also set up a modified show flat of the residential property.
- (4) If the vendor has set up a show flat under this section, the show flat must not be made available for viewing by prospective purchasers, or by the general public, before the vendor has made copies of the sales brochure for the development or the phase available under section 23(1).
- (5) If subsection (2) or (4) is contravened, the vendor commits an offence and is liable to a fine of \$500,000.

35. Requirements for unmodified and modified show flats

- (1) This section applies to an unmodified or modified show flat of a residential property set up under section 34(2) or (3).
- (2) The vendor must provide any balcony, utility platform or verandah in the show flat with boundary walls or parapets.
- (3) The vendor must display in the show flat in accordance with subsection (6) a plan of the show flat that shows the dimensions of—
 - (a) the show flat; and
 - (b) the internal partitions, and any bay windows, air-conditioning plant rooms, balconies, utility platforms and verandahs, in the show flat.
- (4) If a passageway or door is provided through an enclosing or boundary wall of the show flat as a means of escape for the purposes of regulation 41(1) of the Building (Planning) Regulations (Cap. 123 sub. leg. F), the vendor—
 - (a) must display in the show flat in accordance with subsection (6) a notice stating that there is no such passageway or door in the residential property; and
 - (b) must provide a solid line on the floor showing the position and thickness of the enclosing or boundary wall.

- (5) If the floor-to-ceiling height of the show flat is less than the corresponding projected height of the residential property, the vendor must display in the show flat in accordance with subsection (6) a notice stating the difference between those heights.
- (6) A plan under subsection (3), or a notice under subsection (4) or (5), must be displayed in such a manner that the plan or notice is reasonably visible to any person entering the show flat.
- (7) If subsection (2), (3) or (4) is contravened, the vendor commits an offence and is liable to a fine of \$500,000.
- (8) If subsection (5) is contravened, the vendor commits an offence and is liable to a fine at level 6.

36. Additional requirements for unmodified show flat

- (1) This section applies to an unmodified show flat of a residential property set up under section 34(2).
- (2) The vendor must provide enclosing walls and boundary walls for, and internal partitions and doors in, the show flat in the same way as they will be provided in the residential property as depicted in the sales brochure for the development.
- (3) If subsection (2) is contravened, the vendor commits an offence and is liable to a fine of \$500,000.

37. Additional requirements for modified show flat

- (1) This section applies to a modified show flat of a residential property set up under section 34(3).
- (2) Subject to subsection (3), the vendor must provide enclosing walls and boundary walls for, and internal partitions and doors in, the show flat in the same way as they will be provided in the residential property as depicted in the sales brochure for the development.
- (3) The vendor is not required to provide an internal partition or a door in the show flat if, by virtue of section 41(3) of the

Buildings Ordinance (Cap. 123), the partition or the door may be removed from the residential property without the approval of the Building Authority.

- (4) If the vendor does not provide an internal partition in the show flat by virtue of subsection (3), the vendor—
 - (a) must mark a solid line on the floor of the show flat showing the position and thickness of the partition; and
 - (b) must display in the show flat in accordance with subsection (6) a plan of the residential property showing the layout, orientation and thickness of all the internal partitions in the residential property.
- (5) The vendor must display in the show flat in accordance with subsection (6) a notice—
 - (a) setting out which (if any) of the fittings, finishes and appliances in the show flat are those to be included in the residential property as depicted in the sales brochure for the development; and
 - (b) stating that any other fittings, finishes and appliances in the show flat will not be included in the residential property.
- (6) A plan under subsection (4)(b), or a notice under subsection (5), must be displayed in such a manner that the plan or notice is reasonably visible to any person entering the show flat.
- (7) If subsection (2) or (4) is contravened, the vendor commits an offence and is liable to a fine of \$500,000.
- (8) If subsection (5) is contravened, the vendor commits an offence and is liable to a fine at level 6.

38. Measurements and photographs to be taken in show flat

- (1) If the vendor has set up an unmodified show flat of a residential property under section 34(2), the vendor must not restrict any person who views the show flat from taking

measurements, or taking photographs or making video recordings, of the show flat.

- (2) If the vendor has set up a modified show flat of a residential property under section 34(3), the vendor must not restrict any person who views the show flat from taking measurements of the show flat.
- (3) Subsections (1) and (2) do not apply to any restriction that is reasonable in the circumstances for ensuring the safety of the persons viewing the show flat.
- (4) If subsection (1) or (2) is contravened, the vendor commits an offence and is liable to a fine at level 6.

39. Application of sections 32, 33, 35, 36 and 37 in case of phased development

If the vendor sets up, in the case of section 14(2)(b), a show flat of a residential property in an uncompleted phase of the development, sections 32, 33, 35, 36 and 37 apply to the show flat as if a reference in those sections to the development were a reference to the uncompleted phase.

Division 5—Viewing of Property in Completed Development or Phase

40. Viewing before sale

- (1) Before the specified residential property is sold to a person, the vendor must make the residential property available for viewing by the person.
- (2) Subsection (1) does not require the vendor to make the specified residential property available for viewing by the person—
 - (a) if it is not reasonably practicable for the specified residential property to be viewed by the person; and
 - (b) if—

- (i) the vendor has made a comparable residential property in the completed development (in the case of section 14(3)(a)) or completed phase (in the case of section 14(3)(b)) available for viewing by the person; or
 - (ii) it is not reasonably practicable for any such comparable residential property to be viewed by the person, and the person agrees in writing that the vendor is not required to make such a comparable residential property available for viewing by the person before the specified residential property is sold to the person.
- (3) If subsection (1) is contravened, the vendor of the specified residential property commits an offence and is liable to a fine of \$500,000.

41. Requirements for comparable residential property for viewing

- (1) This section applies if, before the specified residential property is sold to a person, the vendor makes a comparable residential property available for viewing by the person for the purposes of section 40(2)(b)(i).
- (2) The vendor must display in the comparable residential property in accordance with subsection (4)—
 - (a) a plan of the comparable residential property that shows the dimensions of—
 - (i) the comparable residential property; and
 - (ii) the internal partitions, and any bay windows, air conditioning plant rooms, balconies, utility platforms and verandahs, in the comparable residential property; and
 - (b) a plan of the specified residential property that shows the dimensions of—
 - (i) the specified residential property; and

- (ii) the internal partitions, and any bay windows, air conditioning plant rooms, balconies, utility platforms and verandahs, in the specified residential property.
- (3) The vendor must display in the comparable residential property in accordance with subsection (4) a notice—
- (a) setting out which (if any) of the fittings, finishes and appliances in the comparable residential property are those included in the specified residential property as depicted in the sales brochure for the development or the phase; and
 - (b) stating that any other fittings, finishes and appliances in the comparable residential property are not included in the specified residential property.
- (4) A plan under subsection (2), or a notice under subsection (3), must be displayed in such a manner that the plan or notice is reasonably visible to any person entering the comparable residential property.
- (5) If subsection (2) or (3) is contravened, the vendor commits an offence and is liable to a fine at level 6.

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

- (1) The vendor must not restrict any person who views a residential property for the purposes of section 40(1) or (2)(b)(i) from taking measurements, or taking photographs or making video recordings, of the residential property.
- (2) Subsection (1) does not apply to any restriction that is reasonable in the circumstances for ensuring the safety of the persons viewing the residential property.
- (3) If subsection (1) is contravened, the vendor commits an offence and is liable to a fine at level 6.

Division 6—Sales Arrangements and Other Information

43. Sales arrangements to be made available on website

- (1) During a period of at least 3 days before a date of the sale mentioned in section 14(1), and on such a date, the vendor must make the following information available for inspection on the website designated by the vendor for the development for the purpose of this Part in accordance with subsection (2)—
 - (a) the date and time when, and the place where, the specified residential property will be offered to be sold;
 - (b) the number of specified residential properties in the development that will be offered to be sold at that date, time and place;
 - (c) a description of the specified residential properties mentioned in paragraph (b);
 - (d) the method to be used to determine the order of priority in which each of the persons interested in buying any of those specified residential properties may select the residential property that the person wishes to purchase;
 - (e) the method to be used, in any case where 2 or more persons are interested in purchasing a particular specified residential property, to determine the order of priority in which each of those persons may proceed with the purchase.
- (2) The information must be published under subsection (1) in such a manner that the information is reasonably visible to any person browsing the website.
- (3) The specified residential property must not be sold, or offered to be sold, before the date and time published under subsection (1)(a).
- (4) If subsection (1) or (3) is contravened, the vendor commits an offence and is liable to a fine of \$500,000.

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

- (1) On a date of the sale mentioned in section 14(1), the vendor must make the following available for inspection by the general public free of charge at the place where the sale is to take place—
 - (a) a copy of either of the following plans relating to the development—
 - (i) the outline zoning plan or development permission area plan, whether in draft or approved form, prepared under the Town Planning Ordinance (Cap. 131);
 - (ii) a plan that, by virtue of section 25(7) of the Urban Renewal Authority Ordinance (Cap. 563), is deemed to be a draft plan prepared by the Town Planning Board for the purposes of the Town Planning Ordinance (Cap. 131);
 - (b) a copy of the approved building plans for the development;
 - (c) a copy of—
 - (i) for an uncompleted development, the latest draft of every deed of mutual covenant in respect of the specified residential property as at that date; or
 - (ii) for a completed development, either or both of the following as applicable—
 - (A) every deed of mutual covenant in respect of the specified residential property that has been executed;
 - (B) the latest draft of every deed of mutual covenant in respect of the specified residential property as at that date;
 - (d) a copy of the land grant;
 - (e) the aerial photograph of the development as set out in the sales brochure for the development.

- (2) For the purposes of subsection (1)(e), the aerial photograph—
 - (a) must be at a scale within the range of 1:700 to 1:800; and
 - (b) is not required to comply with section 7(3)(a) of Schedule 1.
- (3) Subsection (1)(b) does not apply in the case of a specified NT development.
- (4) If subsection (1) is contravened, the vendor commits an offence and is liable to a fine at level 6.

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

- (1) On a date of the sale mentioned in section 14(1), the vendor must make the following available for inspection on the website designated by the vendor for the development for the purposes of this Part—
 - (a) a copy of—
 - (i) for an uncompleted development, the latest draft of every deed of mutual covenant in respect of the specified residential property as at that date; or
 - (ii) for a completed development, either or both of the following as applicable—
 - (A) every deed of mutual covenant in respect of the specified residential property that has been executed;
 - (B) the latest draft of every deed of mutual covenant in respect of the specified residential property as at that date;
 - (b) the aerial photograph of the development as set out in the sales brochure for the development.
- (2) For the purposes of subsection (1)(b), the aerial photograph is not required to comply with section 7(3)(a) of Schedule 1.

- (3) If subsection (1) is contravened, the vendor commits an offence and is liable to a fine at level 6.

46. Floor plan of specified residential property

- (1) If the vendor makes available for collection or inspection by the general public a floor plan of the specified residential property—
 - (a) the floor plan must have the scale to which it is drawn marked on that plan; and
 - (b) any furniture shown on the floor plan must be drawn to that scale, and the dimensions of such furniture must be shown on that plan.
- (2) Subsection (1) does not apply to a floor plan of the specified residential property that is made available in the sales brochure.
- (3) If subsection (1) is contravened, the vendor commits an offence and is liable to a fine at level 6.

47. Application of sections 43 to 45 in case of phased development

- (1) If the development is divided into 2 or more phases—
 - (a) section 43 applies as if a reference in that section to the development were a reference to the phase of which the specified residential property forms part; and
 - (b) sections 44 and 45 apply as if—
 - (i) a reference in sections 44(1)(c)(i) and 45(1)(a)(i) to an uncompleted development were a reference to an uncompleted phase;
 - (ii) a reference in sections 44(1)(c)(ii) and 45(1)(a)(ii) to a completed development were a reference to a completed phase; and
 - (iii) subject to subsection (2), a reference in sections 44 and 45 to the development were a reference to the

phase of which the specified residential property forms part.

- (2) Subsection (1)(b)(iii) does not apply to a reference in section 44(1)(a) to the development.

Division 7—Preliminary Agreement and Agreement

48. Deposit on entering into preliminary agreement

- (1) A preliminary deposit of 5% of the purchase price is payable by a person to the owner on entering into a preliminary agreement for sale and purchase in respect of the specified residential property with the owner.
- (2) If there is any conflict or inconsistency between subsection (1) and a provision of a preliminary agreement for sale and purchase, subsection (1) prevails over the provision to the extent of the conflict or inconsistency.
- (3) The Secretary may, by notice published in the Gazette, amend subsection (1) by substituting another percentage for the percentage specified in that subsection.

49. Execution of agreement for sale and purchase

- (1) If a person executes an agreement for sale and purchase in respect of the specified residential property within 3 working days after the date on which the person enters into the preliminary agreement for sale and purchase, the owner must execute the agreement for sale and purchase within 6 working days after that date.
- (2) If a person does not execute an agreement for sale and purchase in respect of the specified residential property within 3 working days after the date on which the person enters into the preliminary agreement for sale and purchase—
 - (a) the preliminary agreement is terminated;
 - (b) the preliminary deposit is forfeited; and

- (c) the owner does not have any further claim against the person for the failure.
- (3) For the purposes of subsection (2)(c), any right of the owner under common law rules or equitable principles to make further claims against the person for the failure is abrogated.
- (4) If subsection (1) is contravened, the owner commits an offence and is liable to a fine of \$1,000,000.

50. Owner must not enter into preliminary agreement or agreement without certain provisions

- (1) The owner must not enter into a preliminary agreement for sale and purchase in respect of the specified residential property with any person unless that preliminary agreement contains the provisions set out in Schedule 4—
 - (a) with additional information inserted in accordance with the instructions specified in those provisions as printed in italics; and
 - (b) with deletions made in accordance with the instructions specified in those provisions as marked with an asterisk (*).
- (2) The owner must not enter into an agreement for sale and purchase in respect of the specified residential property with any person unless that agreement contains the provisions set out in Schedule 5, 6 or 7 (as applicable in accordance with subsection (3))—
 - (a) with additional information inserted in accordance with the instructions specified in those provisions as printed in italics; and
 - (b) with deletions made in accordance with the instructions specified in those provisions as marked with an asterisk (*), a gamma (γ), a beta (β), a theta (θ), a pi (π), an omega (Ω) or a psi (Ψ).
- (3) For the purposes of subsection (2), an agreement for sale and purchase—

- (a) must contain the provisions set out in Schedule 5 in either of the following situations—
 - (i) the development is an uncompleted development;
 - (ii) for a development divided into 2 or more phases, the phase of which the specified residential property forms part is an uncompleted phase;
 - (b) must contain the provisions set out in Schedule 6 in either of the following situations—
 - (i) the development is a completed development pending compliance;
 - (ii) for a development divided into 2 or more phases, the phase of which the specified residential property forms part is a completed phase pending compliance; or
 - (c) must contain the provisions set out in Schedule 7 in either of the following situations—
 - (i) the development is a completed development but is not a completed development pending compliance;
 - (ii) for a development divided into 2 or more phases, the phase of which the specified residential property forms part is a completed phase but is not a completed phase pending compliance.
- (4) For the purposes of this section, a preliminary agreement for sale and purchase, or an agreement for sale and purchase, is to be regarded as having contained the provisions set out in Schedule 4, 5, 6 or 7 (as applicable) if—
- (a) in the case of a preliminary agreement for sale and purchase, or an agreement for sale and purchase, in English, the preliminary agreement or the agreement contains the provisions set out in Part 1 of that Schedule;
 - (b) in the case of a preliminary agreement for sale and purchase, or an agreement for sale and purchase, in Chinese, the preliminary agreement or the agreement

- contains the provisions set out in Part 2 of that Schedule; or
 - (c) in the case of a preliminary agreement for sale and purchase, or an agreement for sale and purchase, in English and Chinese, the preliminary agreement or the agreement contains the provisions set out in Parts 1 and 2 of that Schedule.
- (5) If subsection (1) or (2) is contravened, the owner commits an offence and is liable to a fine of \$500,000.
- (6) Subsection (1) or (2) is not to be regarded as having been contravened only because—
- (a) the clause number of a provision set out in Schedule 4, 5, 6 or 7 has been reassigned when the provision is incorporated into a preliminary agreement for sale and purchase or an agreement for sale and purchase; or
 - (b) a cross reference to that provision in another provision in that preliminary agreement or that agreement has been revised accordingly.
- (7) Subject to section 48(2), a contravention of subsection (1) or (2) does not affect the validity or enforceability of the preliminary agreement for sale and purchase or the agreement for sale and purchase.
- (8) Where a preliminary agreement for sale and purchase, or an agreement for sale and purchase, contains a provision set out in Schedule 4, 5, 6 or 7 in compliance with subsection (1) or (2), the provision prevails over any other provision of the preliminary agreement or the agreement that is inconsistent with it.

Division 8—Register of Transactions

51. Register of Transactions to be kept by vendor

- (1) Subject to subsection (2), the vendor must keep one register of transactions for the development.

- (2) If the development is divided into 2 or more phases, the vendor must keep one register of transactions for each phase.
- (3) If subsection (1) or (2) is contravened, the vendor commits an offence and is liable to a fine of \$500,000.

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

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

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

- (iii) a private company of which such a director, parent, spouse, child or manager is a director or shareholder;
- (iv) an associate corporation or holding company of that vendor;
- (v) a director of such an associate corporation or holding company, or a parent, spouse or child of such a director; or
- (vi) a manager of such an associate corporation or holding company; or
- (b) where that vendor is an individual, the person is—
 - (i) a parent, spouse or child of that vendor; or
 - (ii) a private company of which such a parent, spouse or child is a director or shareholder.

(8) In this section—

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

private company (私人公司) has the meaning given by section 29(1) of the Companies Ordinance (Cap. 32).

- (9) In this section, a reference to a preliminary agreement for sale and purchase, or an agreement for sale and purchase, of a specified residential property includes a preliminary agreement for sale and purchase, or an agreement for sale and purchase, of both a specified residential property and a parking space.

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

- (1) On a date of the sale mentioned in section 14(1), the vendor must make the Register of Transactions for the development available for inspection by the general public free of charge at the place where the sale is to take place.
- (2) During the period specified in subsection (3), the vendor must make an electronic copy of the Register of Transactions

available for inspection on the website designated by the vendor for the development for the purposes of this Part.

- (3) The period is one that begins on the date on which the Register of Transactions is first made available under subsection (1) and ends on the first date on which the first assignment of each specified residential property in the development has been registered in the Land Registry.
- (4) As soon as practicable after the vendor has made an entry into the Register of Transactions for the development under section 52(2), (3), (4) or (5), the vendor must provide an electronic copy of that Register of Transactions to the following for the purpose of the electronic database established under section 77(1)—
 - (a) if a public officer or person is delegated under section 77(2) with the power to establish and maintain that database, the public officer or person;
 - (b) if no public officer or person is so delegated, the Authority.
- (5) If subsection (1) is contravened, the vendor commits an offence and is liable to a fine of \$500,000.
- (6) If subsection (2) or (4) is contravened, the vendor commits an offence and is liable to a fine at level 6.

54. Application of sections 52 and 53 in case of phased development

If the development is divided into 2 or more phases, sections 52 and 53 apply to a Register of Transactions for the phase of which the specified residential property forms part as if a reference in those sections to the development were a reference to that phase.

Division 9—Exceptions and Additional Requirements

55. Exception: all residential properties in development or phase sold under single agreement etc.

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

- (5) The following are specified for the purposes of subsection (4)—
 - (a) all the residential properties in a multi-unit building in a development consisting of multi-unit buildings as well as houses (being specified residential properties);
 - (b) all the residential properties in the houses in such a development (being specified residential properties).
- (6) In the first, second or third situation, the fact that the residential properties are sold, or offered to be sold, with other properties in the development is not relevant. Subsection (1) does not operate to disapply Divisions 2, 3, 4, 5, 6 and 7 in the case of those other properties.
- (7) If the development is divided into 2 or more phases, a reference in this section to a development is a reference to a phase of the development.

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

- (1) Divisions 3, 4, 5 and 6 do not apply in the situation specified in subsection (2).
- (2) The situation is that the specified residential property is sold by the owner, or is offered by the owner to be sold, to any other person—
 - (a) who is the tenant of that property; and
 - (b) who, as at the date of the property being sold or offered to be sold (as the case may be), has been the tenant of that property for a continuous period of at least one year.
- (3) Division 2 does not apply in the situation specified in subsection (2) if that other person agrees in writing that the Division does not apply.
- (4) In the situation specified in subsection (2), the vendor must, as soon as practicable after the property is offered to be sold to that other person, provide that other person with a single

document (*vendor's information form*) printed within the previous 3 months.

- (5) The vendor's information form must set out the information required by Schedule 8.
- (6) The vendor's information form must state the date on which the document is printed.
- (7) The information set out in the vendor's information form must be accurate as at the date on which that form is printed.
- (8) If subsection (4), (5), (6) or (7) is contravened, the vendor commits an offence and is liable to a fine of \$500,000.

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

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

58. Additional requirement: unsold property in completed development

(1) If—

- (a) a specified residential property in a completed development, or a completed phase of a development, is offered by the owner to be sold to a person; and
- (b) the specified residential property has been offered to be sold to any other person when the development or the phase was an uncompleted development or phase,

the vendor must, as soon as practicable after the offer mentioned in paragraph (a) is made, provide the person with a single document (*vendor's information form*) printed within the previous 3 months.

- (2) The vendor's information form must set out the information required by Schedule 8.

- (3) The vendor's information form must state the date on which the document is printed.
- (4) The information set out in the vendor's information form must be accurate as at the date on which that form is printed.
- (5) The requirements under subsection (1), (2), (3) and (4) are in addition to any other requirements that apply by virtue of Division 2, 3, 5, 6, 7 or 8.
- (6) If subsection (1), (2), (3) or (4) is contravened, the vendor commits an offence and is liable to a fine of \$500,000.

Part 3

Advertisement of Specified Residential Property

59. **Application of Part 3**

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

60. **Advertisement must not contain false or misleading information**

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

61. **General requirements for advertisement**

- (1) If the information set out in an advertisement is provided by the vendor of the specified residential property, the advertisement must state that fact.
- (2) In the case of an advertisement purporting to promote the sale of any specified residential property in an uncompleted development or a completed development pending compliance, the advertisement must state a date that is, to the

best of the vendor's knowledge, the estimated material date for the development.

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

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

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

62. **Advertisement must contain statement about sales brochure**

- (1) This section applies if the sales brochure for the development, or the sales brochure for the phase of which the specified residential property forms part, has been made available under section 23(1) at the time when the advertisement is published.
- (2) An advertisement comprising moving visual images—

- (a) if the advertisement is solely or principally in English, must contain the statement specified in subsection (5);
- (b) if the advertisement is solely or principally in Chinese, must contain the statement specified in subsection (6); or
- (c) if the advertisement is in both English and Chinese and does not fall within paragraph (a) or (b), must contain the statements specified in subsections (5) and (6).
- (3) An advertisement comprising solely sound broadcasting—
 - (a) if the advertisement is solely or principally in English, must contain the statement specified in subsection (5); or
 - (b) if the advertisement is solely or principally in Cantonese, Putonghua or other Chinese dialect, must contain the statement in that language or dialect specified in subsection (6).
- (4) Any other advertisement must contain a notice to the effect that a prospective purchaser is advised to refer to the sales brochure for any information on the development or the phase.
- (5) The statement specified for the purposes of subsections (2)(a) and (c) and (3)(a) is—
“Please refer to the sales brochure for details.”.
- (6) The statement specified for the purposes of subsections (2)(b) and (c) and (3)(b) is—
“詳情請參閱售樓說明書。”.
- (7) If subsection (2), (3) or (4) is contravened, a person who publishes the advertisement, or causes the advertisement to be published, commits an offence and is liable to a fine at level 6.

63. Additional requirements for printed advertisement

- (1) This section applies to—
 - (a) an advertisement in a newspaper;

- (b) an advertisement by the display of posters, notices, signs, labels, showcards or goods; or
- (c) an advertisement by the distribution of circulars, brochures, catalogues or any other materials.
- (2) An advertisement must state—
 - (a) the district in which the development is situated, as stated in a plan relating to the development and specified in subsection (8);
 - (b) the name of the street at which the development is situated; and
 - (c) the street number allocated by the Commissioner of Rating and Valuation for the purpose of distinguishing the development.
- (3) An advertisement must state the names of the following—
 - (a) the vendor, and if a vendor is a company, every holding company of that vendor;
 - (b) the authorized person for the development, and the firm or company of which an authorized person for the development is a proprietor, director or employee in his or her professional capacity;
 - (c) the building contractor for the development;
 - (d) the firm of solicitors acting for the owner in relation to the sale of residential properties in the development;
 - (e) any authorized institution that has made a loan, or has undertaken to provide finance, for the construction of the development;
 - (f) any other person who has made a loan for the construction of the development.
- (4) An advertisement must state the address of the website designated or to be designated by the vendor for the development for the purposes of Part 2.
- (5) An advertisement must state the date on which it is printed.

- (6) If an advertisement contains a picture, image, drawing or sketch showing an artist's impression of the development or its surrounding area, the advertisement must contain a statement specified in section 64.
- (7) For a statement contained in an advertisement for the purposes of subsection (2), (4) or (6)—
 - (a) if the size of the advertisement is not larger than 1 039 square centimetres—
 - (i) in the case of an English statement, the size of the letters or numbers must not be smaller than the size of the same letters or numbers in 10 point Times New Roman typeface; or
 - (ii) in the case of a Chinese statement, the size of the characters or numbers must not be smaller than the size of the same characters or numbers in 10 point “新細明體” typeface;
 - (b) if the size of the advertisement is larger than 1 039 square centimetres but is not larger than 2 077 square centimetres—
 - (i) in the case of an English statement, the size of the letters or numbers must not be smaller than the size of the same letters or numbers in 12 point Times New Roman typeface; or
 - (ii) in the case of a Chinese statement, the size of the characters or numbers must not be smaller than the size of the same characters or numbers in 12 point “新細明體” typeface;
 - (c) if the size of the advertisement is larger than 2 077 square centimetres but is not larger than 4 155 square centimetres—
 - (i) in the case of an English statement, the size of the letters or numbers must not be smaller than the size of the same letters or numbers in 16 point Times New Roman typeface; or

- (ii) in the case of a Chinese statement, the size of the characters or numbers must not be smaller than the size of the same characters or numbers in 16 point “新細明體” typeface; or
 - (d) if the size of the advertisement is larger than 4 155 square centimetres, the letters, characters and numbers must occupy at least 3% of the area of the advertisement.
- (8) The plan specified for the purposes of subsection (2)(a) is—
 - (a) the outline zoning plan or development permission area plan, whether in draft or approved form, prepared under the Town Planning Ordinance (Cap. 131); or
 - (b) a plan that, by virtue of section 25(7) of the Urban Renewal Authority Ordinance (Cap. 563), is deemed to be a draft plan prepared by the Town Planning Board for the purposes of the Town Planning Ordinance (Cap. 131).
- (9) In the case of an advertisement purporting to promote the sale of any specified residential property in a phase of a development, subsections (2)(b) and (c), (3), (4) and (6) apply to the advertisement as if a reference in those sections to the development were a reference to that phase.
- (10) If subsection (2) is contravened, a person who publishes the advertisement, or causes the advertisement to be published, commits an offence and is liable to a fine of \$500,000.
- (11) If subsection (3), (4), (5), (6) or (7) is contravened, a person who publishes the advertisement, or causes the advertisement to be published, commits an offence and is liable to a fine at level 6.

64. Provision supplementary to section 63(6)

The statement specified for the purposes of section 63(6) is—

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

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

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

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

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

Part 4

Misrepresentation, and Dissemination of False or Misleading Information etc.

65. Misrepresentation

- (1) A person commits an offence if the person makes a fraudulent misrepresentation or reckless misrepresentation for the purpose of inducing another person to purchase any specified residential property.
- (2) A person who commits an offence under subsection (1) is liable—
 - (a) on conviction on indictment to a fine of \$5,000,000 and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine of \$1,000,000 and to imprisonment for 3 years.
- (3) This section does not affect, limit or diminish any right conferred on a person, or any liability that a person may incur, under common law rules or equitable principles or under any other Ordinance.
- (4) For the purposes of this section, a person makes a fraudulent misrepresentation—
 - (a) if the person makes a statement that, when it is made, is to the person's knowledge false, misleading or deceptive;
 - (b) if the person makes a promise that, when it is made—
 - (i) is to the person's knowledge incapable of being fulfilled; or
 - (ii) the person has no intention of fulfilling; or
 - (c) if—
 - (i) the person makes a statement; and

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

66. Dissemination of false or misleading information

- (1) A person commits an offence—
 - (a) if the person disseminates, or authorizes or is concerned in the dissemination of, information that is likely to induce another person to purchase any specified residential property; and
 - (b) if—
 - (i) the information is false or misleading as to a material fact, and the person knows that, or is reckless as to whether, the information is false or misleading as to the material fact; or
 - (ii) the information is false or misleading through the omission of a material fact, and the person knows that, or is reckless as to whether, the information is false or misleading through the omission of the material fact.

- (2) A person who commits an offence under subsection (1) is liable—
 - (a) on conviction on indictment to a fine of \$5,000,000 and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine of \$1,000,000 and to imprisonment for 3 years.
- (3) In this section—
disseminate (傳布) includes circulate or disclose.

Part 5

Defence Provisions, and Other Supplementary Provisions on Offences

Division 1—Defence of Reasonable Precautions and Due Diligence

67. Defence

If a person is charged with an offence under Part 2 or 3 (other than section 60), it is a defence to prove that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by that person.

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

68. Application and Interpretation of Division 2

- (1) This Division applies in either of the 2 situations specified in subsections (2) and (3).
- (2) The first situation is where—
 - (a) a person is charged with an offence under section 66(1) for disseminating, or authorizing or being concerned in the dissemination, of false or misleading information; and
 - (b) the contravention took place by reason only of—
 - (i) an issue or reproduction of the information;
 - (ii) a re-transmission of the information; or
 - (iii) a live broadcast of the information.
- (3) The second situation is where—

- (a) a person is charged with an offence under section 60 for publishing or causing to be published an advertisement containing information that is false or misleading in a material particular; and
 - (b) the contravention took place by reason only of—
 - (i) an issue or reproduction of the advertisement;
 - (ii) a re-transmission of the advertisement; or
 - (iii) a live broadcast of the advertisement.
- (4) In this Division, a reference to issuing materials (including information or advertisement)—
- (a) includes publishing, circulating, distributing or otherwise disseminating materials or their contents, whether—
 - (i) by any visit in person;
 - (ii) in a newspaper, magazine, journal or other publication;
 - (iii) by the display of posters or notices;
 - (iv) by means of circulars, brochures, pamphlets or handbills;
 - (v) by an exhibition of photographs or cinematograph films;
 - (vi) by any information system or other electronic device; or
 - (vii) by any other means, whether mechanically, electronically, magnetically, optically, manually or by any other medium, or by way of production or transmission of light, image or sound or any other medium; and
 - (b) also includes causing or authorizing materials to be issued.

69. Defence: issue or reproduction of information or advertisement

- (1) In the case of section 68(2)(b)(i) or (3)(b)(i), it is a defence to prove that—
 - (a) the issue or reproduction of the information or advertisement took place in the ordinary course of a business (whether or not carried on by the person charged with the offence), the principal purpose of which was issuing or reproducing materials provided by others;
 - (b) the person specified in subsection (2) did not devise the contents of the information or advertisement, either in whole or in part;
 - (c) the person specified in subsection (2) did not select, add to, modify or otherwise exercise control over the contents of the information or advertisement for the purpose of the issue or reproduction; and
 - (d) at the time of the issue or reproduction, the person charged with the offence did not know—
 - (i) for section 68(2)(b)(i), that the information was false or misleading as to a material fact or was false or misleading through the omission of a material fact; or
 - (ii) for section 68(3)(b)(i), that the information contained in the advertisement was false or misleading in a material particular.
- (2) The person specified for the purposes of subsection (1)(b) and (c) is—
 - (a) if the business was carried on by the person charged with the offence, that person or any officer, employee or agent of that person; or
 - (b) if the business was not carried on by the person charged with the offence, that person.

70. Defence: re-transmission of information or advertisement

- (1) In the case of section 68(2)(b)(ii) or (3)(b)(ii), it is a defence to prove that—
 - (a) the re-transmission of the information or advertisement took place in the ordinary course of a business (whether or not carried on by the person charged with the offence), the normal conduct of which involved the re-transmission of information to other persons within an information system or from one information system to another information system (wherever situated), whether directly or by facilitating the establishment of links between such other persons and third parties;
 - (b) the person specified in subsection (2) did not devise the contents of the information or advertisement, either in whole or in part;
 - (c) the person specified in subsection (2) did not select, add to, modify or otherwise exercise control over the contents of the information or advertisement for the purposes of the re-transmission;
 - (d) the re-transmission of the information or advertisement—
 - (i) was accompanied by a message to the effect specified in subsection (3); or
 - (ii) was effected following acknowledgment by the persons to whom it was re-transmitted of their understanding of the matter specified in subsection (3); and
 - (e) at the time of the re-transmission—
 - (i) the person charged with the offence did not know—
 - (A) for section 68(2)(b)(ii), that the information was false or misleading as to a material fact

- or was false or misleading through the omission of a material fact; or
- (B) for section 68(3)(b)(ii), that the information contained in the advertisement was false or misleading in a material particular; or
- (ii) the person charged with the offence knew that the information was so false or misleading, but—
 - (A) where the business was carried on by the person charged with the offence, in the circumstances of the case that person could not reasonably be expected to prevent the re-transmission; or
 - (B) where the business was not carried on by the person charged with the offence, in the circumstances of the case that person has taken all reasonable steps to bring the fact that the information was so false or misleading to the attention of a person in a position to take steps to cause the re-transmission to be prevented (even if the re-transmission in fact took place).
- (2) The person specified for the purposes of subsection (1)(b) and (c) is—
 - (a) if the business was carried on by the person charged with the offence, that person or any officer, employee or agent of that person; or
 - (b) if the business was not carried on by the person charged with the offence, that person.
- (3) The effect or matter specified for the purposes of subsection (1)(d) is that—
 - (a) if the business was carried on by the person charged with the offence, that person or any officer, employee or agent of that person—

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

71. **Defence: live broadcast of information or advertisement**

- (1) In the case of section 68(2)(b)(iii) or (3)(b)(iii), it is a defence to prove that—
 - (a) the broadcast of the information or advertisement took place in the ordinary course of the business of a broadcaster (whether or not the person charged with the offence was the broadcaster);
 - (b) the person specified in subsection (2) did not devise the contents of the information or advertisement, either in whole or in part;
 - (c) the person specified in subsection (2) did not select, add to, modify or otherwise exercise control over the contents of the information or advertisement for the purposes of the broadcast;
 - (d) either—

- (i) where the person charged with the offence was the broadcaster, that person acted in accordance with the terms and conditions of the broadcasting licence (if any) held by that person, and with the broadcasting guidelines applicable to that person as a broadcaster, in relation to the broadcast; or
- (ii) where the person charged with the offence was not the broadcaster, that person believed and had reasonable grounds to believe that another person who was the broadcaster acted in accordance with the terms and conditions of the broadcasting licence (if any), and with the broadcasting guidelines applicable to that other person as a broadcaster, in relation to the broadcast; and
- (e) at the time of the broadcast—
 - (i) the person charged with the offence did not know—
 - (A) for section 68(2)(b)(iii), that the information was false or misleading as to a material fact or was false or misleading through the omission of a material fact; or
 - (B) for section 68(3)(b)(iii), that the information contained in the advertisement was false or misleading in a material particular; or
 - (ii) the person charged with the offence knew that the information was so false or misleading, but—
 - (A) where the person charged with the offence was the broadcaster, in the circumstances of the case that person could not reasonably be expected to prevent the broadcast; or
 - (B) where the person charged with the offence was not the broadcaster, in the circumstances of the case that person has taken all reasonable steps to bring the fact that the

- information was so false or misleading to the attention of a person in a position to take steps to cause the broadcast to be prevented (even if the broadcast in fact took place).
- (2) The person specified for the purposes of subsection (1)(b) or (c) is—
 - (a) if the person charged with the offence was the broadcaster, that person or any officer, employee or agent of that person; or
 - (b) if the person charged with the offence was not the broadcaster, that person.
 - (3) In this section—

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

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

Division 3—Other Supplementary Provisions on Offences

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

- (1) This section applies if—
 - (a) a company or specified body commits an offence under this Ordinance; and
 - (b) it is proved that—
 - (i) the commission of the offence was aided, abetted, counselled, procured or induced—
 - (A) by an officer of the company or specified body, or of a holding company of the company or specified body; or

- (B) by a person purporting to act as such an officer; or
 - (ii) the offence was committed with the consent or connivance of, or was attributable to any recklessness on the part of, such an officer or a person purporting to act as such an officer.
- (2) The officer or the person purporting so to act, as well as the company or specified body—
- (a) commits the offence; and
 - (b) is liable to be proceeded against and punished accordingly.
- (3) In this section—
officer (高級人員)—
- (a) in relation to a company, means—
 - (i) a director or secretary of the company; or
 - (ii) a manager of the company, as defined by section 2(1) of the Companies Ordinance (Cap. 32); or
 - (b) in relation to a specified body—
 - (i) means a director, secretary or manager of the specified body; and
 - (ii) includes any person who occupies the position of director, secretary or manager (by whatever name called) in the specified body.

73. Time limit for prosecution

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

Part 6

Administrative and Miscellaneous Provisions

Division 1—Administration

74. Appointment of Authority

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

75. Functions of Authority

The functions of the Authority are—

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

76. Authority may issue guidelines

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

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

77. Electronic database for information about residential properties

- (1) The Authority may establish and maintain an electronic database of—
 - (a) information and statistics on the residential property market in Hong Kong; and
 - (b) information and statistics on any development situated in Hong Kong (other than a development that falls within section 10(3), (5) or (6)).
- (2) The Authority may delegate, in writing, to a public officer, or any person whom the Authority thinks fit, the power given to the Authority under subsection (1).

78. Directions by Secretary for Transport and Housing

- (1) The Secretary may give directions to the Authority or a public officer appointed under section 74(1)(b), either generally or in a particular case, with respect to the performance of the functions, or the exercise of the powers, of the Authority or public officer (as the case may be).
- (2) If a direction is given to the Authority or a public officer under subsection (1), the Authority or public officer must comply with the direction.

Division 2—Investigation by Authority

79. Investigation powers for suspected contravention

- (1) If the Authority has reasonable cause to believe that a person may have contravened a provision of this Ordinance, the Authority, or a public officer appointed under section 74(1)(b), may exercise the powers under this section for the purpose of investigating the contravention or the question whether or not there has been such a contravention.
- (2) The Authority or public officer may, in writing, require a person specified in subsection (3)—
 - (a) to produce, within the time and at the place specified in the requirement, any record or document specified in the requirement—
 - (i) that is or may be relevant to any matter under investigation; and
 - (ii) that is in the person's possession;
 - (b) to attend before the Authority or officer at the time and place specified in the requirement, and answer any question relating to any matter under investigation that the Authority or officer may raise with the person;
 - (c) to respond to any written question relating to any matter under investigation that the Authority or officer may raise with the person; or

- (d) to give the Authority or officer any assistance in connection with the investigation that the person is reasonably able to give.
- (3) The person specified for the purposes of subsection (2) is—
 - (a) a person whom the Authority has reasonable cause to believe may have contravened a provision of this Ordinance; or
 - (b) a person whom the Authority or officer has reasonable cause to believe—
 - (i) to be in possession of any record or document that contains, or that is likely to contain, information relevant to any matter under investigation; or
 - (ii) to be otherwise in possession of such information.
- (4) If a person produces a record or document in compliance with a requirement imposed under subsection (2)(a), the Authority or officer may require the person to give an explanation or further particulars in respect of the record or document.
- (5) If a person gives any answer, response, explanation or particulars in compliance with a requirement imposed under subsection (2) or (4), the Authority or officer may, in writing, require the person to verify within the time specified in the requirement, the answer, response, explanation or particulars by a statutory declaration.
- (6) If, for the reason that the information concerned is not within the person's knowledge or possession, a person does not give any answer, response, explanation or particulars in compliance with a requirement imposed under subsection (2) or (4), the Authority or officer may, in writing, require the person to verify, within the time specified in the requirement, that reason and fact by a statutory declaration.
- (7) The Authority or a public officer appointed under section 74(1)(b) may not require an authorized institution to produce any record or document, or disclose any information, relating

to the affairs of a customer of the institution under this section unless—

- (a) the customer is a person whom the Authority or public officer has reasonable cause to believe may be able to give information relevant to the investigation; and
- (b) the Authority or public officer is satisfied, and certifies in writing that the Authority or officer is satisfied, that the production or disclosure is necessary for the purpose of the investigation.

80. Offences relating to section 79

- (1) A person commits an offence if the person, without reasonable excuse, fails to comply with a specified requirement imposed on the person.
- (2) A person commits an offence if the person, with intent to defraud, fails to comply with a specified requirement imposed on the person.
- (3) A person commits an offence if—
 - (a) in purported compliance with a specified requirement imposed on the person, the person produces any record or document, or gives an answer or response, or gives any explanation or particulars, that are false or misleading in a material respect; and
 - (b) the person knows that, or is reckless as to whether, the record or document, or the answer or response, or the explanation or particulars, are false or misleading in a material respect.
- (4) A person commits an offence if, in purported compliance with a specified requirement imposed on the person, the person, with intent to defraud, produces any record or document, or gives an answer or response, or gives any explanation or particulars, that are false or misleading in a material respect.
- (5) A person commits an offence if, being an officer or employee of a company, the person, with intent to defraud—

- (a) causes or allows the company to fail to comply with a specified requirement imposed on the company; or
 - (b) causes or allows the company, in purported compliance with a specified requirement imposed on the company, to produce any record or document, or give an answer or response, or give any explanation or particulars, that are false or misleading in a material respect.
- (6) A person is not excused from complying with a specified requirement imposed on the person only on the ground that to do so might tend to incriminate the person.
- (7) A person who commits an offence under subsection (1) is liable to a fine of \$500,000 and to imprisonment for 6 months.
- (8) A person who commits an offence under subsection (2), (3), (4) or (5) is liable—
- (a) on conviction on indictment to a fine of \$5,000,000 and to imprisonment for 7 years; or
 - (b) on summary conviction to a fine of \$1,000,000 and to imprisonment for 3 years.
- (9) In this section—
specified requirement (指明要求) means a requirement imposed under section 79.

81. Confidentiality of matter or information obtained in investigation

- (1) Except in the performance of any function under this Ordinance, the Authority or a public officer appointed under section 74(1)(b) must maintain confidentiality in respect of any matter or information produced or given for the purpose of an investigation under section 79.
- (2) Subsection (1) does not prevent—
- (a) the disclosure of information that has already been made available to the public;

- (b) the disclosure of information for the purpose of any criminal proceedings in Hong Kong or an investigation conducted with a view to bringing any such proceedings;
- (c) the disclosure of information in connection with any judicial or other proceedings to which the Authority is a party; or
- (d) the disclosure of information in accordance with an order of a court, magistrate or tribunal, or in accordance with a law or a requirement made under a law.

82. Use of incriminating evidence in proceedings

- (1) If the Authority, or a public officer appointed under section 74(1)(b), requires a person to give an answer or response to any question, or to give an explanation or further particulars, under section 79, the Authority or officer must ensure that the person has first been informed or reminded of the limitations imposed by subsection (2) on the admissibility in evidence of—
- (a) the requirement; and
 - (b) the question and the answer or response, or the explanation or particulars.
- (2) Despite anything in this Part, if—
- (a) the Authority, or a public officer appointed under section 74(1)(b), requires a person to give an answer or response to any question, or to give an explanation or further particulars, under section 79; and
 - (b) the answer or response, or the explanation or particulars, might tend to incriminate the person, and the person so claims before giving the answer or response or giving the explanation or particulars,
- the requirement, as well as the question and the answer or response, or the explanation or particulars, are not admissible in evidence against the person in criminal proceedings in a court of law other than those specified in subsection (3).

- (3) The criminal proceedings are those in which the person is charged with an offence under section 80(1), (2), (3), (4) or (5), or under Part V of the Crimes Ordinance (Cap. 200), or for perjury, in respect of the answer or response, or the explanation or particulars.

Division 3—Other Miscellaneous Provisions

83. Amendment of Schedules

The Secretary may, by notice published in the Gazette, amend Schedule 1, 2, 3, 4, 5, 6, 7 or 8.

Schedule 1 [ss. 7, 16, 18,
19, 25, 44, 45 &
83]

Information in Sales Brochure

Part 1

Detailed Requirements for Specific Information Required to be Set Out (See Section 18(2))

1. Information on the development

- (1) The sales brochure must set out the information specified in section 18(2)(a) in compliance with this section.
- (2) The sales brochure must state—
 - (a) the name of the street at which the development is situated; and
 - (b) the street number allocated by the Commissioner of Rating and Valuation for the purpose of distinguishing the development.
- (3) If the development consists of one or more multi-unit buildings, the sales brochure must state—
 - (a) the total number of storeys of each multi-unit building;
 - (b) the floor numbering in each multi-unit building as provided in the approved building plans for the development;
 - (c) the omitted floor numbers in each multi-unit building in which the floor numbering is not in consecutive order; and
 - (d) the refuge floors (if any) of each multi-unit building.

- (4) If the development consists of houses, the sales brochure must state—
- (a) the total number of houses;
 - (b) the house numbering as provided in the approved building plans for the development; and
 - (c) (where the house numbering is not in consecutive order) the omitted house numbers.
- (5) If the development is an uncompleted development, the sales brochure—
- (a) must state the estimated material date for the development, as provided by the authorized person for the development;
 - (b) must state that the estimated material date is subject to any extension of time that is permitted under the agreement for sale and purchase; and
 - (c) must state that for the purpose of the agreement for sale and purchase—
 - (i) where, under the land grant, the consent of the Director of Lands is required to be given for the sale and purchase, without limiting any other means by which the completion of the development may be proved, the issue of a certificate of compliance or consent to assign by the Director of Lands is conclusive evidence that the development has been completed or is deemed to be completed (as the case may be); or
 - (ii) where, under the land grant, the consent of the Director of Lands is not required to be given for the sale and purchase—
 - (A) in the case of a specified NT development, the development is deemed to be completed on the date on which a letter is issued by the Director of Lands confirming that the

- Director of Lands has no objection to every building in the development being occupied; or
- (B) in any other case, the development is deemed to be completed on the date on which an occupation permit for every building in the development is issued.
- (6) If the development is a completed development pending compliance, the sales brochure—
- (a) must state the estimated material date for the development, as provided by the authorized person for the development;
 - (b) must state that the estimated material date is subject to any extension of time that is permitted under the agreement for sale and purchase; and
 - (c) must state that for the purpose of the agreement for sale and purchase, without limiting any other means by which the completion of the development may be proved, the issue of a certificate of compliance or consent to assign by the Director of Lands is conclusive evidence that the development has been completed or is deemed to be completed (as the case may be).
- 2. Information on vendor and others involved in the development**
- (1) The sales brochure must set out the information specified in section 18(2)(b) in compliance with this section.
- (2) The sales brochure must state the names of the following—
- (a) the vendor, and if a vendor is a company, every holding company of that vendor;
 - (b) the authorized person for the development, and the firm or company of which an authorized person for the development is a proprietor, director or employee in his or her professional capacity;

- (c) the building contractor for the development;
- (d) the firm of solicitors acting for the owner in relation to the sale of residential properties in the development;
- (e) any authorized institution that has made a loan, or has undertaken to provide finance, for the construction of the development;
- (f) any other person who has made a loan for the construction of the development.

3. Relationship between parties involved in the development

- (1) The sales brochure must set out the information specified in section 18(2)(c) in compliance with this section.
- (2) The sales brochure must state each of the following facts (if they exist)—
 - (a) the vendor or a building contractor for the development is a natural person, and that vendor or contractor is an immediate family member of an authorized person for the development;
 - (b) the vendor or a building contractor for the development is a company, and a director or the secretary of that vendor or contractor (or a holding company of that vendor) is an immediate family member of such an authorized person;
 - (c) the vendor or a building contractor for the development is a natural person, and that vendor or contractor is an immediate family member of an associate of such an authorized person;
 - (d) the vendor or a building contractor for the development is a company, and a director or the secretary of that vendor or contractor (or a holding company of that vendor) is an immediate family member of an associate of such an authorized person;

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

- (a) the vendor, a holding company of the vendor, or a building contractor for the development, is a private company, and an authorized person for the development, or an associate of such an authorized person, holds at least 10% of the issued shares in that vendor, holding company or contractor;
- (b) the vendor, a holding company of the vendor, or a building contractor for the development, is a listed company, and such an authorized person, or such an associate, holds at least 1% of the issued shares in that vendor, holding company or contractor;
- (c) the vendor or a building contractor for the development is a company, and such an authorized person, or such an associate, is an employee, director or secretary of that vendor or contractor or of a holding company of that vendor;
- (d) the vendor, a holding company of the vendor, or a building contractor for the development, is a private company, and a proprietor of a firm of solicitors acting for the owner in relation to the sale of residential properties in the development holds at least 10% of the issued shares in that vendor, holding company or contractor;
- (e) the vendor, a holding company of the vendor, or a building contractor for the development, is a listed company, and a proprietor of such a firm of solicitors holds at least 1% of the issued shares in that vendor, holding company or contractor;
- (f) the vendor or a building contractor for the development is a company, and a proprietor of such a firm of solicitors is an employee, director or secretary of that vendor or contractor or of a holding company of that vendor;
- (g) the vendor or a building contractor for the development is a company, and the company of which an authorized

- person for the development is a director or employee in his or her professional capacity is an associate corporation of that vendor or contractor or of a holding company of that vendor;
 - (h) the vendor or a building contractor for the development is a company, and that contractor is an associate corporation of that vendor or of a holding company of that vendor.
- (5) For the purposes of subsection (4)—
- (a) the sales brochure must also—
 - (i) in the case of subsection (4)(a), (b) or (c), state the name of the authorized person; or
 - (ii) in the case of subsection (4)(d), (e) or (f), state the name of the firm of solicitors; and
 - (b) the sales brochure is not required, in the case of subsection (4)(a), (b), (d) or (e), to state the percentage or amount of share holding.
- (6) In this section—
- associate* (有聯繫人士), in relation to an authorized person, means—
- (a) a proprietor of the firm of which the authorized person is a proprietor in his or her professional capacity; or
 - (b) a director of the company of which the authorized person is a director in his or her professional capacity;
- listed company* (上市公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 32);
- private company* (私人公司) has the meaning given by section 29(1) of the Companies Ordinance (Cap. 32).
- (7) For the purposes of this section, a person is an immediate family member of another person if he or she is a spouse, parent, child, sibling, grandparent or grandchild of that other person.

4. Information on design of the development

- (1) The sales brochure must set out the information specified in section 18(2)(d) in compliance with this section.
- (2) The sales brochure must state—
 - (a) for a completed development, whether there are any non-structural prefabricated external walls, or any curtain walls, forming part of the enclosing walls; or
 - (b) for an uncompleted development, whether there will be any such non-structural prefabricated external walls or curtain walls.
- (3) If there are or will be (as applicable) non-structural prefabricated external walls forming part of the enclosing walls, the sales brochure must state—
 - (a) the range of thickness of the non-structural prefabricated external walls of each block; and
 - (b) the total area of the non-structural prefabricated external walls of each residential property.
- (4) If there are or will be (as applicable) curtain walls forming part of the enclosing walls, the sales brochure must state—
 - (a) the range of thickness of the curtain walls of each building; and
 - (b) the total area of the curtain walls of each residential property.

5. Information on property management

- (1) The sales brochure must set out the information specified in section 18(2)(e) in compliance with this section.
- (2) The sales brochure must state the identity of—
 - (a) for an uncompleted development, the person appointed as the manager of the development under the latest draft deed of mutual covenant; or

- (b) for a completed development, the person appointed as the manager of the development under—
 - (i) the deed of mutual covenant that has been executed; or
 - (ii) the latest draft deed of mutual covenant as at the date on which the sales brochure is printed.

6. Location plan of the development

- (1) The sales brochure must set out the information specified in section 18(2)(f) in compliance with this section.
- (2) The location plan—
 - (a) must be at least 16 centimetres in length and 16 centimetres in width—
 - (i) with the size of the letters or numbers of the legends in English for that plan not smaller than the size of the same letters or numbers in 10 point Times New Roman typeface; and
 - (ii) with the size of the characters or numbers of the legends in Chinese for that plan not smaller than the size of the same characters or numbers in 10 point “新細明體” typeface; and
 - (b) must show—
 - (i) the location of the development;
 - (ii) the name of every street that is situated within 250 metres from the boundary of the development; and
 - (iii) every building, facility or structure (if any) specified in subsection (4) that is situated within 250 metres from the boundary of the development.
- (3) The location plan must have the scale to which it is drawn marked on that plan.
- (4) The building, facility or structure is one the principal use of which is the following—

- (a) a crematorium;
- (b) a columbarium;
- (c) a mortuary;
- (d) a slaughterhouse;
- (e) a bus depot;
- (f) a railway depot;
- (g) a ventilation shaft for the Mass Transit Railway;
- (h) a library;
- (i) a museum;
- (j) a barrack;
- (k) a cargo working area;
- (l) a petrol filling station;
- (m) a LPG filling station;
- (n) an oil depot;
- (o) an aviation fuel depot;
- (p) a marine fuel depot;
- (q) sewage treatment works and facilities;
- (r) landfills (including ex-landfills);
- (s) a landfill gas flaring plant;
- (t) a power plant (including electricity sub-stations);
- (u) a pylon;
- (v) a correctional institution (including a prison);
- (w) an addiction treatment centre;
- (x) a helicopter landing pad;
- (y) a clinic;
- (z) a fire station;
- (za) an ambulance depot;
- (zb) a funeral parlour;

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

7. Aerial photograph of the development

- (1) The sales brochure must set out the information specified in section 18(2)(g) in compliance with this section.
- (2) The aerial photograph of the development must be the latest one as at the date on which the sales brochure is printed, as taken by the Survey and Mapping Office of the Lands Department at a flying height below 7 000 feet.
- (3) The aerial photograph of the development—
 - (a) must be at least 16 centimetres in length and 16 centimetres in width; and

- (b) must show the development and the surrounding area within 250 metres from the boundary of the development.

8. Outline zoning plan etc. relating to the development

- (1) The sales brochure must set out the information specified in section 18(2)(h) in compliance with this section.
- (2) The outline zoning plan or development permission area plan, or the plan deemed to be a draft plan—
 - (a) must be at least 16 centimetres in length and 16 centimetres in width—
 - (i) with the size of the letters or numbers of the legends in English for that plan not smaller than the size of the same letters or numbers in 10 point Times New Roman typeface; and
 - (ii) with the size of the characters or numbers of the legends in Chinese for that plan not smaller than the size of the same characters or numbers in 10 point “新細明體” typeface; and
 - (b) must show the existing and proposed uses of all land situated within 500 metres from the boundary of the development.

9. Layout plan of the development

- (1) The sales brochure must set out the information specified in section 18(2)(i) in compliance with this section.
- (2) The layout plan—
 - (a) must have the scale to which it is drawn marked on that plan;
 - (b) must show the location and layouts of the buildings, the open areas, the facilities, and the undeveloped land (with the intended use), within the boundary of the development; and

- (c) if any of the buildings or facilities are not yet completed, must state the estimated date of completion of these buildings or facilities, as provided by the authorized person for the development.

10. Floor plans of residential properties in the development

- (1) The sales brochure must set out the information specified in section 18(2)(j) in compliance with this section.
- (2) Each of the floor plans of the residential properties in the development—
 - (a) must be drawn to a scale of at least 1:200 and have that scale marked on the plans;
 - (b) must state the following as provided in the approved building plans for the development—
 - (i) the thickness of the floor slabs (excluding plaster) of each residential property;
 - (ii) the floor-to-floor height of each residential property;
 - (c) must state the following—
 - (i) the external dimensions of each residential property;
 - (ii) the internal dimensions of each residential property;
 - (iii) the thickness of the internal partitions of each residential property;
 - (iv) the external dimensions of individual compartments in each residential property; and
 - (d) must state that the internal areas of the residential properties on the upper floors will generally be slightly larger than those on the lower floors because of the reducing thickness of the structural walls on the upper floors.

- (3) For the purposes of subsection (2)(c), if any information required by that subsection is provided in the approved building plans for the development, a floor plan must state the information as so provided.

11. Area of residential properties in the development

- (1) The sales brochure must set out the information specified in section 18(2)(k) in compliance with this section.
- (2) The sales brochure must set out the following information in relation to each residential property in the development in the form specified by the Authority—
- (a) the saleable area of the residential property;
 - (b) the floor area of every one of the following to the extent that it forms part of the residential property—
 - (i) a balcony;
 - (ii) a utility platform;
 - (iii) a verandah;
 - (c) the area of every one of the items specified in Part 1 of Schedule 2 to the extent that it forms part of the residential property.
- (3) The sales brochure must state—
- (a) that the saleable area under subsection (2)(a), and the floor area under subsection (2)(b), are calculated in accordance with section 8; and
 - (b) that the area under subsection (2)(c) is calculated in accordance with Part 2 of Schedule 2.
- (4) An area under subsection (2) must be set out in square feet and in square metres.

12. Floor plans of parking spaces in the development

- (1) The sales brochure must set out the information specified in section 18(2)(l) in compliance with this section.

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

13. Summary of preliminary agreement for sale and purchase

- (1) The sales brochure must set out the information specified in section 18(2)(m) in compliance with this section.
- (2) The sales brochure must contain a summary of the provisions of the preliminary agreement for sale and purchase that deal with the following matters—
- (a) that a preliminary deposit of 5% is payable on the signing of that preliminary agreement;
 - (b) that the preliminary deposit paid by the purchaser on the signing of that preliminary agreement will be held by a firm of solicitors acting for the owner, as stakeholders;
 - (c) that if the purchaser fails to execute the agreement for sale and purchase within 3 working days after the date on which the purchaser signs that preliminary agreement—
 - (i) that preliminary agreement is terminated;
 - (ii) the preliminary deposit is forfeited; and
 - (iii) the owner does not have any further claim against the purchaser for the failure.

14. Summary of deed of mutual covenant

- (1) The sales brochure must set out the information specified in section 18(2)(n) in compliance with this section.

- (2) The sales brochure must contain a summary of the provisions of the draft deed of mutual covenant or the deed of mutual covenant, as applicable, that deal with the following matters—
- (a) the common parts of the development;
 - (b) the number of undivided shares assigned to each residential property in the development;
 - (c) the term of years for which the manager of the development is appointed;
 - (d) the basis on which the management expenses are shared among the owners of the residential properties in the development;
 - (e) the basis on which the management fee deposit is fixed;
 - (f) the area (if any) in the development retained by the owner for that owner's own use.

15. Summary of land grant

- (1) The sales brochure must set out the information specified in section 18(2)(o) in compliance with this section.
- (2) The sales brochure must contain a summary of the provisions of the land grant concerning the following—
 - (a) the lot number of the land on which the development is situated;
 - (b) the term of years under the lease;
 - (c) the user restrictions applicable to that land;
 - (d) the facilities that are required to be constructed and provided for the Government, or for public use;
 - (e) the grantee's obligations to lay, form or landscape any areas, or to construct or maintain any structures, within or outside that land;
 - (f) the lease conditions that are onerous to a purchaser.

16. Information on public facilities and public open spaces

- (1) The sales brochure must set out the information specified in section 18(2)(p) in compliance with this section.
- (2) The sales brochure—
 - (a) must contain a description of any facilities that are required under the land grant to be constructed and provided for the Government, or for public use;
 - (b) must contain a description of any facilities that are required under the land grant to be managed, operated or maintained for public use at the expense of the owners of the residential properties in the development;
 - (c) must set out the size of any open space that is required under the land grant to be managed, operated or maintained for public use at the expense of the owners of the residential properties in the development; and
 - (d) must contain a description of any part of the land (on which the development is situated) that is dedicated to the public for the purposes of regulation 22(1) of the Building (Planning) Regulations (Cap. 123 sub. leg. F).
- (3) The sales brochure must set out a plan—
 - (a) that shows the location of those facilities and open spaces, and those parts of the land, mentioned in subsection (2) as far as it is practicable to do so; and
 - (b) that has those facilities and open spaces, and those parts of the land, coloured or shaded in the same colour, format or pattern (as applicable) as in the land grant or the deed of dedication (as the case may be).
- (4) The sales brochure must, in relation to any of those facilities and open spaces, and those parts of the land, mentioned in subsection (2) that are for public use, state that the general public has the right to use the facilities or open spaces, or the parts of the land, in accordance with the land grant or the deed of dedication (as the case may be).

- (5) The sales brochure must, in relation to any of those facilities and open spaces mentioned in subsection (2)(b) or (c), state—
- (a) that the facilities or open spaces are required to be managed, operated or maintained at the expense of the owners of the residential properties in the development; and
 - (b) that those owners are required to meet a proportion of the expense of managing, operating or maintaining the facilities or open spaces through the management expenses apportioned to the residential properties concerned.
- (6) The sales brochure must set out the provisions of the land grant and the deed of dedication, and of every deed of mutual covenant in respect of the specified residential property, that concern those facilities and open spaces, and those parts of the land, mentioned in subsection (2).

Part 2

Additional Information Required to be Set Out (See Section 18(3))

17. Warning to purchasers

- (1) The sales brochure must recommend the purchaser to instruct a separate firm of solicitors (other than that acting for the owner) to act for the purchaser in relation to the transaction.
- (2) The sales brochure must state—
- (a) that if the purchaser instructs such separate firm of solicitors to act for the purchaser in relation to the transaction, that firm will be able to give independent advice to the purchaser;
 - (b) that if the purchaser instructs the firm of solicitors acting for the owner to act for the purchaser as well, and a

conflict of interest arises between the owner and the purchaser—

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

18. Cross-section plan of building in the development

The sales brochure must, in relation to every building in the development, set out a plan showing—

- (a) a cross-section of the building in relation to every street adjacent to the building; and
- (b) the level of every such street in relation to a known datum and to the level of the lowest residential floor of the building.

19. Information on common facilities in the development

- (1) The sales brochure must set out the area, in both square feet and square metres, of every one of the following (if any)—
- (a) a residents' clubhouse (including any recreational facilities for residents' use);
 - (b) a communal garden or play area for residents' use on the roof, or on any floor between the roof and the lowest residential floor, of a building in the development (whether known as a communal sky garden or otherwise);
 - (c) a communal garden or play area for residents' use below the lowest residential floor of a building in the

development (whether known as a covered and landscaped play area or otherwise).

- (2) The sales brochure must state whether or not every one of the facilities specified in subsection (1)(a), (b) and (c) is covered.

20. Inspection of plans and deed of mutual covenant

- (1) The sales brochure must state the address of the website on which a copy of a plan specified in section 18(2)(h)(i) or (ii) relating to the development is available.

- (2) The sales brochure must state—

- (a) that a copy of the following is available for inspection at the place at which the specified residential property is offered to be sold—

- (i) for an uncompleted development, the latest draft of every deed of mutual covenant in respect of the specified residential property as at the date on which the specified residential property is offered to be sold; or

- (ii) for a completed development, either or both of the following as applicable—

- (A) every deed of mutual covenant in respect of the specified residential property that has been executed;

- (B) the latest draft of every deed of mutual covenant in respect of the specified residential property as at the date on which the specified residential property is offered to be sold; and

- (b) that the inspection is free of charge.

21. Fittings, finishes and appliances

- (1) The sales brochure must, in relation to each item in the development specified in column 1 of the following table, set

out the description specified opposite to it in column 2 of the table.

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

Table

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

Column 1 Item	Column 2 Description
(d) Bathroom	(i) Type of wall, floor and ceiling finishes. (ii) Whether the wall finishes run up to the ceiling.
(e) Kitchen	(i) Type of wall, floor, ceiling and cooking bench finishes. (ii) Whether the wall finishes run up to the ceiling.
3. Interior fittings	
(a) Doors	Material, finishes and accessories.
(b) Bathroom	(i) Type and material of fittings and equipment. (ii) Type and material of water supply system. (iii) Type and material of bathing facilities (including shower or bath tub, if applicable). (iv) Size of bath tub, if applicable.
(c) Kitchen	(i) Material of sink unit. (ii) Material of water supply system. (iii) Material and finishes of kitchen cabinet. (iv) Type of all other fittings and equipment.
(d) Bedroom	Type and material of fittings (including built-in wardrobe).

Column 1 Item	Column 2 Description
(e) Telephone	Location and number of connection points.
(f) Aerials	Location and number of connection points.
(g) Electrical installations	(i) Electrical fittings (including safety devices). (ii) Whether conduits are concealed or exposed. (iii) Location and number of power points and air-conditioner points.
(h) Gas supply	Type, system and location.
(i) Washing machine connection point	Location and design.
(j) Water supply	(i) Material of water pipes. (ii) Whether water pipes are concealed or exposed. (iii) Whether hot water is available.
4. Miscellaneous	
(a) Lifts	(i) Brand name and model number. (ii) Number and floors served by them.
(b) Letter box	Material.
(c) Refuse collection	(i) Means of refuse collection. (ii) Location of refuse room.
(d) Water meter, electricity meter	(i) Location. (ii) Whether they are separate or

Column 1 Item	Column 2 Description
and gas meter	communal meters for residential properties.
5. Security facilities	Security system and equipment (including details of built-in provisions and their locations).
6. Appliances	Brand name and model number.
22. Service agreements	
The sales brochure must set out information on any agreement with a utility company for providing utility service for the specified residential property.	
23. Government rent	
The sales brochure must state the date up to which the owner is liable for the Government rent payable for the specified residential property.	
24. Miscellaneous payments by purchaser	
(1) The sales brochure—	
(a) must state that, on the delivery of the vacant possession of the specified residential property to the purchaser, the purchaser is liable to reimburse the owner for the deposits for water, electricity and gas; and	
(b) must state whether, on that delivery, the purchaser is also liable to pay to the owner a debris removal fee.	
(2) Subsection (1) applies even though the amount of the deposits or fee is yet to be ascertained at the date on which the sales brochure is printed.	

- 25. Defect liability warranty period**
The sales brochure must state the duration of the period during which the vendor is liable to make good any defect in the specified residential property, as provided in the agreement for sale and purchase.
- 26. Maintenance of slopes**
- (1) If the land grant requires the owners of the residential properties in the development to maintain any slope at their own cost, the sales brochure—
 - (a) must state the terms of the requirement;
 - (b) must state that each of the owners is obliged to contribute towards the costs of the maintenance work; and
 - (c) must set out a plan showing—
 - (i) the slope; and
 - (ii) any retaining wall or related structures constructed, or to be constructed, within or outside the land on which the development is situated; and
 - (d) must comply with subsection (3).
 - (2) If the owner has undertaken to maintain any slope in relation to the development at that owner's own cost, the sales brochure—
 - (a) must state the terms of the undertaking; and
 - (b) must set out a plan showing—
 - (i) the slope; and
 - (ii) any retaining wall or related structures constructed, or to be constructed, within or outside the land on which the development is situated.
 - (3) If, under the deed of mutual covenant, the manager of the development has the owners' authority to carry out the maintenance work, the sales brochure must state this fact.

27. Modification

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

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

Part 3

**Further Information to Follow Information Required to
be Set Out
(See Section 19(1) and (2))**

28. Information in application for concession on gross floor area of building

- (1) In setting out the information specified in section 19(1), the sales brochure must comply with this section.
- (2) The sales brochure must set out—
 - (a) information on those areas in relation to which the power is exercised or the permission is given;
 - (b) the environmental assessment of the building; and
 - (c) information on the estimated energy performance or consumption for the common parts of the development.

Note—

The Authority is empowered under section 76 to issue guidelines providing guidance on the operation of this section.

29. Elevation plan

- (1) In setting out the information specified in section 19(2)(a), the sales brochure must comply with this section.
- (2) The plan showing the elevations of the development must be in colour.

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

Part 4

**Other Further Information
(See Section 19(4))**

30. Previous aerial photograph

- (1) The sales brochure may, in addition to the latest aerial photograph of the development specified in section 18(2)(g), set out any previous aerial photograph of the development.
- (2) In setting out any previous aerial photograph of the development under subsection (1), the sales brochure must comply with subsection (3).
- (3) The sales brochure—
 - (a) must set out any previous aerial photograph of the development in that part of the sales brochure that sets out the latest aerial photograph of the development specified in section 18(2)(g); and
 - (b) must do so in compliance with section 7 of this Schedule as if the reference in that section to an aerial photograph of the development were a reference to the previous aerial photograph of the development.

31. Other common facilities

- (1) The sales brochure may, in addition to the information on the common facilities specified in section 19 of this Schedule, set out the information on any other facilities or area for common use.
- (2) In setting out the information, the sales brochure must comply with subsection (3).
- (3) The sales brochure—
 - (a) must set out the information in that part of the sales brochure that sets out the information on the common facilities specified in section 19 of this Schedule; and
 - (b) must do so in compliance with that section as if the reference in that section to those common facilities were a reference to those other facilities and area for common use.

Part 5**Application of Schedule 1****32. Application of this Schedule in case of phased development**

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

- (d) subject to subsection (2), a reference in those Parts to the development were a reference to the phase of which the specified residential property forms part.
- (2) Subsection (1)(d) does not apply to a reference in sections 6, 8 and 9 of this Schedule to the development.

33. Application of this Schedule in case of specified NT development

If the development is a specified NT development—

- (a) Part 1 of this Schedule applies as if the reference in sections 1(3)(b) and (4)(b) and 10(2)(b) of this Schedule to “as provided in the approved building plans for the development” were deleted; and
- (b) Part 3 of this Schedule applies as if section 29(3)(a) of this Schedule were deleted.

Schedule 2 [ss. 8, 28 & 83
& Sch. 1]

Items Specified for Purposes of Definition of *saleable area*

Part 1

1. an air-conditioning plant room
2. a bay window
3. a cockloft
4. a flat roof
5. a garden
6. a parking space
7. a roof
8. a stairhood
9. a terrace
10. a yard

Part 2

1. The area of a bay window—
 - (a) is to be measured from the exterior of the enclosing walls or glass windows of the bay window, and from the point on the floor level of the residential property that is directly underneath the point where the bay window meets the wall of the residential property; and
 - (b) excludes the area covered by that wall.
2. The area of a cockloft or stairhood—

- (a) is to be measured from the interior of the enclosing walls of the cockloft or stairhood; and
 - (b) includes the area of the internal partitions and columns within the cockloft or stairhood.
3. The area of a parking space is to be measured from the centre of its demarcating lines or (if applicable) the interior face of its enclosing walls.
4. The area of an air-conditioning plant room, flat roof, garden, roof, terrace or yard is to be measured from—
 - (a) the interior of the boundary lines; or
 - (b) if a boundary line is a wall, the interior of the wall.

Schedule 3 [ss. 16, 23, 29
& 83]

**Entities Specified for Purposes of Sections 16(2)(b),
23(4)(a) and 29(4)(a)**

1. The Authority
- _____

Schedule 4 [ss. 9, 50 & 83]

**Provisions Required to be Contained in Preliminary
Agreement for Sale and Purchase**

Part 1

1. In this Preliminary Agreement—
 - (a) “saleable area” has the meaning given by section 8 of the Residential Properties (First-hand Sales) Ordinance (of 2012);
 - (b) “working day” has the meaning given by section 2 of that Ordinance;
 - (c) the floor area of an item under clause 8(a) is calculated in accordance with section 8(3) of that Ordinance; and
 - (d) the area of an item under clause 8(b) is calculated in accordance with Part 2 of Schedule 2 to that Ordinance.
2. The purchase price of the Property is HK\$[insert amount], which shall be paid by the Purchaser to the Vendor in the manner as follows—

Preliminary deposit in the sum of HK\$[insert amount], which is equal to 5% of the purchase price shall be paid upon signing of this Preliminary Agreement.
3. The preliminary deposit payable by the Purchaser shall be held by the Vendor’s solicitors as stakeholder.
4. It is intended that this Preliminary Agreement is to be superseded by an Agreement for Sale and Purchase (“the Agreement”) to be executed—

- (a) by the Purchaser on or before *[insert date]* (i.e. the third working day after the date on which this Preliminary Agreement is signed); and
 - (b) by the Vendor on or before *[insert date]* (i.e. the sixth working day after the date on which this Preliminary Agreement is signed).
5. The ad valorem stamp duty, if any, payable on this Preliminary Agreement, the Agreement and the Assignment shall be borne by *the Vendor/the Purchaser.
6. The special stamp duty, if any, payable on this Preliminary Agreement, the Agreement and the Assignment shall be borne by *the Vendor/the Purchaser.
7. If the Purchaser fails to execute the Agreement within 3 working days after the date on which this Preliminary Agreement is signed—
 - (a) this Preliminary Agreement is terminated;
 - (b) the preliminary deposit paid by the Purchaser is forfeited to the Vendor; and
 - (c) the Vendor does not have any further claim against the Purchaser for the failure.
8. The measurements of the Property are as follows—
 - (a) the saleable area of the Property is *[insert figure]* square metres/*[insert figure]* square feet *[of which—]
 - *[[*insert figure*] square metres/*[insert figure]* square feet is the floor area of the balcony;
 - *[[*insert figure*] square metres/*[insert figure]* square feet is the floor area of the utility platform];
 - *[[*insert figure*] square metres/*[insert figure]* square feet is the floor area of the verandah]; and

- (b) other measurements are—
 - *[the area of the air-conditioning plant room is *[insert figure]* square metres/*[insert figure]* square feet];
 - *[the area of the bay window is *[insert figure]* square metres/*[insert figure]* square feet];
 - *[the area of the cockloft is *[insert figure]* square metres/*[insert figure]* square feet];
 - *[the area of the flat roof is *[insert figure]* square metres/*[insert figure]* square feet];
 - *[the area of the garden is *[insert figure]* square metres/*[insert figure]* square feet];
 - *[the area of the parking space is *[insert figure]* square metres/*[insert figure]* square feet];
 - *[the area of the roof is *[insert figure]* square metres/*[insert figure]* square feet];
 - *[the area of the stairhood is *[insert figure]* square metres/*[insert figure]* square feet];
 - *[the area of the terrace is *[insert figure]* square metres/*[insert figure]* square feet];
 - *[the area of the yard is *[insert figure]* square metres/*[insert figure]* square feet].
9. The sale and purchase of the Property includes the fittings, finishes and appliances as follows—
[insert fittings, finishes and appliances].
10. The Vendor shall not restrict the Purchaser's right to raise requisition or objection in respect of title.

11. The Purchaser has acknowledged receipt of a copy of a bilingual version of the “Warning to Purchasers” set out in clause 12 and fully understands its contents.
12. For the purposes of clause 11, the following is the “Warning to Purchasers”—
- (a) Before you execute the formal agreement for sale and purchase which you have to sign if you go on with your purchase you should instruct a solicitor to protect your interests and to ensure that your purchase is properly completed.
- 如你繼續進行購買本物業，你便須簽署正式買賣合約，在你簽立正式買賣合約之前，你應聘用律師，以保障你的權益，和確保妥善完成購買本物業。
- (b) You can instruct your own independent solicitor to act for you to conduct the purchase or you can instruct the Vendor’s solicitor to act for you as well as for the Vendor.
- 你可聘用你自己的獨立律師，以代表你進行購買本物業，你亦可聘用賣方的律師以同時代表你和賣方行事。
- (c) YOU ARE RECOMMENDED TO INSTRUCT YOUR OWN SOLICITOR, who will be able, at every stage of your purchase, to give you independent advice.
- 現建議你聘用你自己的律師，你自己聘用的律師能在你購買本物業的每個階段，向你提供獨立意見。
- (d) If you instruct the solicitor for the Vendor to act for you as well and if a conflict arises between you and the Vendor the solicitor may not be able to protect your interests and you will then have to instruct your own solicitor anyway, in which case the total fees you will have to pay may be higher than the fees which you would have had to pay if you had instructed your own solicitor in the first place.

倘若你聘用賣方的代表律師同時代表你行事，如你與賣方之間出現衝突，該律師未必能保障你的權益，屆時你始終需要聘用你自己的律師，在此情況下，你須支付的律師費總額，可能高於若你一開始便聘用你自己的律師的話會須支付的費用。

- (e) You are free to choose whichever option you prefer. Please think carefully before deciding whether to instruct your own independent solicitor, or the Vendor’s solicitor, to protect your interests.

你可自由選擇。請在決定聘用你自己的獨立律師或賣方的律師以保障你的權益之前，詳加考慮。

* Delete as appropriate.

Part 2

1. 在本臨時合約中 —
- (a) “實用面積”具有《一手住宅物業銷售條例》(2012 年第 號)第 8 條給予該詞的涵義；
- (b) “工作日”具有該條例第 2 條給予該詞的涵義；
- (c) 第 8(a)條所指的項目的樓面面積，按照該條例第 8(3)條計算；及
- (d) 第 8(b)條所指的項目的面積，按照該條例附表 2 第 2 部計算。
2. 本物業的售價為港幣[填上款額]元，並須由買方按以下方式付予賣方 —
- 為數港幣[填上款額]元(即售價的 5%)的臨時訂金，須於簽署本臨時合約時支付。

3. 買方須支付的臨時訂金，須由賣方律師作為保證金保存人而持有。
4. 按訂約雙方的意向，本臨時合約將會由一份買賣合約（“正式合約”）取代，正式合約須 —
 - (a) 由買方於[填上日期]（即本臨時合約的簽署日期之後的第三個工作日）或之前簽立；及
 - (b) 由賣方於[填上日期]（即本臨時合約的簽署日期之後的第六個工作日）或之前簽立。
5. 須就本臨時合約、正式合約及轉讓契支付的從價印花稅（如有的話），由*賣方／買方承擔。
6. 須就本臨時合約、正式合約及轉讓契支付的額外印花稅（如有的話），由*賣方／買方承擔。
7. 如買方沒有在本臨時合約的簽署日期之後的 3 個工作日內簽立正式合約 —
 - (a) 本臨時合約即告終止；
 - (b) 買方支付的臨時訂金，即被沒收歸於賣方；及
 - (c) 賣方不得就買方沒有簽立正式合約，而對買方提出進一步申索。
8. 本物業的量度尺寸如下 —
 - (a) 本物業的實用面積為[填上數字]平方米／[填上數字]平方呎
*[，其中 —]
*[填上數字]平方米／[填上數字]平方呎為露台的樓面面積]；

- *[[填上數字]平方米／[填上數字]平方呎為工作平台的樓面面積]；
 - *[[填上數字]平方米／[填上數字]平方呎為陽台的樓面面積]；及
 - (b) 其他量度尺寸為 —
 - *[空調機房的面積為[填上數字]平方米／[填上數字]平方呎]；
 - *[窗台的面積為[填上數字]平方米／[填上數字]平方呎]；
 - *[閣樓的面積為[填上數字]平方米／[填上數字]平方呎]；
 - *[平台的面積為[填上數字]平方米／[填上數字]平方呎]；
 - *[花園的面積為[填上數字]平方米／[填上數字]平方呎]；
 - *[停車位的面積為[填上數字]平方米／[填上數字]平方呎]；
 - *[天台的面積為[填上數字]平方米／[填上數字]平方呎]；
 - *[梯屋的面積為[填上數字]平方米／[填上數字]平方呎]；
 - *[前庭的面積為[填上數字]平方米／[填上數字]平方呎]；
 - *[庭院的面積為[填上數字]平方米／[填上數字]平方呎]。
9. 本物業買賣所包括的裝置、裝修物料及設備如下 —
[填上裝置、裝修物料及設備]。
 10. 賣方不得限制買方就業權提出要求或反對的權利。
 11. 買方已確認收到第 12 條所列出的“對買方的警告”的中英雙語文本，並完全明白其內容。
 12. 就第 11 條而言，“對買方的警告”內容如下 —

- (a) 如你繼續進行購買本物業，你便須簽署正式買賣合約，在你簽立正式買賣合約之前，你應聘用律師，以保障你的權益，和確保妥善完成購買本物業。

Before you execute the formal agreement for sale and purchase which you have to sign if you go on with your purchase you should instruct a solicitor to protect your interests and to ensure that your purchase is properly completed.

- (b) 你可聘用你自己的獨立律師，以代表你進行購買本物業，你亦可聘用賣方的律師以同時代表你和賣方行事。

You can instruct your own independent solicitor to act for you to conduct the purchase or you can instruct the Vendor's solicitor to act for you as well as for the Vendor.

- (c) 現建議你聘用你自己的律師，你自己聘用的律師能在你購買本物業的每個階段，向你提供獨立意見。

YOU ARE RECOMMENDED TO INSTRUCT YOUR OWN SOLICITOR, who will be able, at every stage of your purchase, to give you independent advice.

- (d) 倘若你聘用賣方的代表律師同時代表你行事，如你與賣方之間出現衝突，該律師未必能保障你的權益，屆時你始終需要聘用你自己的律師，在此情況下，你須支付的律師費總額，可能高於若你一開始便聘用你自己的律師的話會須支付的費用。

If you instruct the solicitor for the Vendor to act for you as well and if a conflict arises between you and the Vendor the solicitor may not be able to protect your interests and you will then have to instruct your own solicitor anyway, in which case the total fees you will have to pay may be higher than the fees which you would have had to pay if you had instructed your own solicitor in the first place.

- (e) 你可自由選擇。請在決定聘用你自己的獨立律師或賣方的律師以保障你的權益之前，詳加考慮。

You are free to choose whichever option you prefer. Please think carefully before deciding whether to instruct your own independent solicitor, or the Vendor's solicitor, to protect your interests.

- * 將不適用者刪去。

Schedule 5 [ss. 9, 50 & 83]

**Provisions Required to be Contained in Agreement for
Sale and Purchase (Uncompleted Development)**

Part 1

1. In this Agreement—
 - (a) “Authorized Person” means the authorized person of the ⁷Phase/Development within the meaning given by section 2 of the Residential Properties (First-hand Sales) Ordinance (of 2012);
 - *[(b) “Building Mortgage” means the *[insert description of the instrument]* dated *[insert date of instrument]* and registered in the Land Registry by Memorial No. *[insert memorial number]*;]
 - (c) “building plans”—
 - (i) means the plans prepared by the Authorized Person in respect of the ⁷Phase/Development and approved by the Building Authority; and
 - (ii) includes any approved amendments to the plans mentioned in paragraph (i);
 - (d) “business day” means a day—
 - (i) that is not a Saturday, Sunday or public holiday; and
 - (ii) on which banks are open for business in the Hong Kong Special Administrative Region;
 - (e) “Certificate of Compliance” means the certificate issued or to be issued by or on behalf of the Director of Lands to the effect that all the positive obligations of the Vendor under the Government Grant in relation to the land have been complied with;

- (f) “Construction Costs” means the aggregate of—
 - (i) any sum incurred or to be incurred in connection with any works done or to be done, and materials or goods supplied or to be supplied, in connection with the site formation on the land and the substructure and superstructure construction for the ⁷Phase/Development (including the communal ^{*}[and recreational] facilities as set out in clause 32), and the making of the ⁷Phase/Development fit to qualify for the issue of an Occupation Document ^{*}[and to comply with the Government Grant];
 - (ii) any sums needed to be incurred by the Vendor to install the fittings, finishes and appliances of the ⁷Phase/Development (including the fittings, finishes and appliances as set out in clause 31) and in making every unit in the ⁷Phase/Development ready for handover to purchasers on completion of the sale and purchase; and
 - (iii) any other sums (excluding Professional Fees) which in the reasonable opinion of the Authorized Person needed to be incurred to complete the ⁷Phase/Development to qualify for the issue of an Occupation Document and to comply with ^{*}[the Government Grant and] this Agreement;
- (g) “Development” means *[insert brief description of the development giving as much information as reasonably practicable so that a purchaser will have a general understanding as to the nature and composition of the development, the communal and recreational facilities (if any) provided in the development, and other special features (if any), etc.]* now being constructed or to be constructed on the land and intended to be known as “*[insert name of the development]*”;
- *[(h) “Exclusion Order”—

- (i) means the Exclusion Order dated [*insert date of instrument*] and registered in the Land Registry by Memorial No. [*insert memorial number*]; and
- (ii) includes any order amending that Exclusion Order;
- (i) “expiry date of the Building Covenant Period” means—
 - (i) the last day of the period within which the Development is required to be completed under the *Government Grant/Exclusion Order; or
 - (ii) if that period has been extended by the Government, the last day of the extended period;
- (j) “Government” means the Government of the Hong Kong Special Administrative Region;
- (k) “Government Grant” means [*insert description of the instrument*];
- (l) “land” means all that piece or parcel of land registered in the Land Registry as [*insert lot number*];
- (m) “Occupation Document”—
 - (i) where the Development is a Relevant NTEH Development, means the letter to be issued by the Director of Lands confirming that the Director of Lands has no objection to every building in the *Phase/Development being occupied; or
 - (ii) in any other case, means the occupation permit or temporary occupation permit to be issued by the Building Authority under section 21 of the Buildings Ordinance (Cap. 123) for every building in the *Phase/Development;
- (n) “office hours” means the period beginning at 10 a.m. of a day and ending at 4:30 p.m. of the same day;
- ^h[(o) “Phase” means Phase [*insert phase number*] of the Development comprising Blocks [*insert block numbers*];]

- (p) “Professional Fees” means any sums incurred or to be incurred by the Vendor for the employment of the Authorized Person and other professional persons or consultants in relation to completion of the *Phase/Development;
 - (q) “Relevant NTEH Development” means a specified NT development as defined in section 5 of the Residential Properties (First-hand Sales) Ordinance (of 2012) where, under the Government Grant, the consent of the Director of Lands is not required to be given for this sale and purchase; and
 - (r) “Vendor’s Solicitors” means Messrs. [*insert name of solicitors’ firm of the vendor*].
2. In this Agreement—
- (a) “saleable area” has the meaning given by section 8 of the Residential Properties (First-hand Sales) Ordinance (of 2012);
 - (b) the floor area of an item under clause 18(a) is calculated in accordance with section 8(3) of that Ordinance; and
 - (c) the area of an item under clause 18(b) is calculated in accordance with Part 2 of Schedule 2 to that Ordinance.
3. The purchase price is HK\$[*insert amount*], payable by the Purchaser to the Vendor’s Solicitors as stakeholders as follows—
- (a) the amount of HK\$[*insert amount*], being 5% of the purchase price has been paid as deposit on signing the agreement preliminary to this Agreement;
 - (b) [*insert payment terms in such a way that the operation of clause 15 will not be affected*].
4. The Vendor shall—
- (a) continue the construction of the Development with all due expedition;

- (b) comply with the requirements of the Building Authority (where applicable) and of any other relevant Government authority relating to the Development; and
- (c) complete the ^bPhase/Development in all respects in compliance with ^a[the conditions of the Government Grant and] ^a[the conditions subject to which a certificate of exemption is issued under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121) and] the building plans (if any) on or before the *[insert the estimated material date for the development, or the estimated material date for the phase (in the case of a phase of a phased development, other than the final phase of a phased development where, under the Government Grant, the consent of the Director of Lands is required to be given to the Vendor to enter into this Agreement), as provided by the Authorized Person — see sections 2(1) and 3(3) of the Residential Properties (First-hand Sales) Ordinance (of 2012) for the meanings of “material date” and “phased development”]* subject to such extensions of time as may be granted by the Authorized Person in accordance with clause 10.

5. Despite clause 4(c)——

- (a) if there is an expiry date of the Building Covenant Period, the Vendor shall complete the Development by the expiry date of the Building Covenant Period as required under the *Government Grant/Exclusion Order; or
- (b) if the land is subject to a Redevelopment Order, the Vendor shall complete the Development in all respects in accordance with the building plans (if any) by the expiry date of the period allowed by the Redevelopment Order.

If at any time it appears likely in the opinion of the Authorized Person that the Development will not be completed by the expiry date of the *Building Covenant Period/period allowed by the Redevelopment Order, the Vendor shall promptly apply for and obtain such extension of time for completing the Development as is

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

- 6. If the Vendor fails to apply for and obtain any necessary extension of time for completing the Development under clause 5 and fails to complete the Development by the expiry date of the *Building Covenant Period/period allowed by the Redevelopment Order or such extension period as may have been granted, the Purchaser is entitled, ^b[unless the completion of the sale and purchase in this Agreement has taken place], in addition to any other remedy that the Purchaser may have, to give the Vendor notice in writing to rescind this Agreement and upon service of such notice, this Agreement is rescinded, and the Vendor shall, within 7 days after the rescission, repay to the Purchaser all amounts paid by the Purchaser under this Agreement together with interest on those amounts at the rate of 2% per annum above the prime rate specified by The Hongkong and Shanghai Banking Corporation Limited from time to time from the date or dates on which such amounts were paid up to the date of repayment, the repayment of such amounts and interest to be in full and final settlement of all claims by the Purchaser against the Vendor under this Agreement.

- 7. Subject to clause 8, if the Vendor fails to complete the ^bPhase/Development by the date specified in clause 4(c) as extended by any extensions of time granted by the Authorized Person under clause 10, the Purchaser is at liberty, in addition to any other remedy that the Purchaser may have, by notice in writing to the Vendor to rescind this Agreement and upon service of such notice, this Agreement is rescinded, and the Vendor shall, within 7 days after the rescission, repay to the Purchaser all amounts paid by the Purchaser under this Agreement together with interest on those amounts at the rate of 2% per annum above the prime rate specified by The Hongkong and Shanghai Banking Corporation Limited from time to time from the date or dates on which such amounts

were paid up to the date of repayment, the repayment of such amounts and interest to be in full and final settlement of all claims by the Purchaser against the Vendor under this Agreement.

8. If the Purchaser does not rescind this Agreement under clause 7 within 28 days after the date specified in clause 4(c) or any extended date under clause 10, the Purchaser is deemed, without prejudice to the Purchaser's rights under clause 9, to have elected to wait for completion of the ⁰Phase/Development. In such event the Vendor shall pay to the Purchaser interest at the rate of 2% per annum above the prime rate specified by The Hongkong and Shanghai Banking Corporation Limited from time to time on all amounts paid under this Agreement from the date following the date specified in clause 4(c) or any extended date under clause 10 up to the date of completion of the ⁰Phase/Development. Such interest shall be paid or allowed as a credit to the Purchaser in respect of the purchase price on completion of the sale and purchase.
9. Despite clauses 7 and 8, if the ⁰Phase/Development is not completed within a period of 6 months from the date specified in clause 4(c) or any extended date under clause 10, the Purchaser is at liberty either to rescind this Agreement in which event the provisions of clause 7 relating to repayment and interest apply or to await the completion of the ⁰Phase/Development in which event the provisions of clause 8 relating to the payment of interest apply.
10. The Vendor is entitled to such extensions of time for completion of the ⁰Phase/Development beyond the date specified in clause 4(c) as granted by the Authorized Person and appear to the Authorized Person to be reasonable having regard to delays caused exclusively by any one or more of the following reasons—
- (a) strike or lock-out of workmen;
 - (b) riots or civil commotion;
 - (c) force majeure or Act of God;

- (d) fire or other accident beyond the Vendor's control;
- (e) war; or
- (f) inclement weather.

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

11. The Vendor shall within 14 days after the issue of any such extensions of time granted by the Authorized Person under clause 10 furnish the Purchaser with a copy of the relevant certificate of extension.
12. The Vendor shall apply in writing for ¹²[an Occupation Document]/¹³[a Certificate of Compliance or the consent of the Director of Lands to assign] in respect of the ⁰Phase/Development within 14 days after its having completed the ⁰Phase/Development as stipulated in clause 4(c).
13. For the purposes of clauses 4, 7, 8, 9, 10 and 12—
- (a) where, under the Government Grant, the consent of the Director of Lands is required to be given for this sale and purchase, the issue of a Certificate of Compliance or consent to assign by the Director of Lands is conclusive evidence that the ⁰Phase/Development has been completed or is deemed to be completed as the case may be and nothing in this Clause precludes the Vendor from proving that the Vendor has complied with clause 4(c) by any other means; or
 - (b) where, under the Government Grant, the consent of the Director of Lands is not required to be given for this sale and purchase, the ⁰Phase/Development is deemed to be completed on the date on which the Occupation Document is issued.

14. The Vendor shall notify the Purchaser in writing that the Vendor is in a position validly to assign the Property within one month after the issue of ²[the Occupation Document]/³[the Certificate of Compliance or the consent of the Director of Lands to assign, whichever first happens].
15. The sale and purchase shall be completed at the offices of the Vendor's Solicitors during office hours within 14 days after the date of the notification to the Purchaser that the Vendor is in a position validly to assign the Property to the Purchaser.
16. Subject to clause 19, the Vendor shall not restrict the Purchaser's right to raise requisition or objection in respect of title.
17. The Vendor warrants—
- (a) that the fittings, finishes and appliances as set out in clause 31 shall, on or before completion of the ⁶Phase/Development, be incorporated into the Property;
 - (b) that subject to clause 23, the Property will, on completion of the ⁶Phase/Development, be as shown on the plan attached to this Agreement and the measurements of the Property will be those as set out in clause 18; and
 - (c) that on completion of the Development the Vendor shall provide the communal ^{*}[and recreational] facilities as set out in clause 32.
18. The measurements of the Property are as follows—
- (a) the saleable area of the Property is *[insert figure]* square metres/*[insert figure]* square feet ^{*}[of which—]
 - ^{*}*[insert figure]* square metres/*[insert figure]* square feet is the floor area of the balcony;
 - ^{*}*[insert figure]* square metres/*[insert figure]* square feet is the floor area of the utility platform;

- ^{*}*[insert figure]* square metres/*[insert figure]* square feet is the floor area of the verandah; and
 - (b) other measurements are—
 - ^{*}*[the area of the air-conditioning plant room is insert figure] square metres/[insert figure] square feet;*
 - ^{*}*[the area of the bay window is insert figure] square metres/[insert figure] square feet;*
 - ^{*}*[the area of the cockloft is insert figure] square metres/[insert figure] square feet;*
 - ^{*}*[the area of the flat roof is insert figure] square metres/[insert figure] square feet;*
 - ^{*}*[the area of the garden is insert figure] square metres/[insert figure] square feet;*
 - ^{*}*[the area of the parking space is insert figure] square metres/[insert figure] square feet;*
 - ^{*}*[the area of the roof is insert figure] square metres/[insert figure] square feet;*
 - ^{*}*[the area of the stairhood is insert figure] square metres/[insert figure] square feet;*
 - ^{*}*[the area of the terrace is insert figure] square metres/[insert figure] square feet;*
 - ^{*}*[the area of the yard is insert figure] square metres/[insert figure] square feet.*
19. The Purchaser shall raise no objection if the Vendor's interest in the Property is an equitable interest and not a legal estate.
20. The ad valorem stamp duty, if any, payable on this Agreement and the Assignment shall be borne and paid by the ^{*}Purchaser/Vendor.

21. The special stamp duty, if any, payable on this Agreement and the Assignment shall be borne and paid by the *Purchaser/Vendor.
22. Time is in every respect of the essence of this Agreement.
23. Despite anything contained in this Agreement, the Vendor reserves the right to alter the building plans (if any) whenever the Vendor considers necessary Provided That the Vendor shall notify the Purchaser in writing of such alteration if the same affects in any way the Property within 14 days after its having been approved by the Building Authority. If, as a result of such alteration, the measurements of the Property or any part of the Property according to such amended plans differs from the measurements of the Property as set out in clause 18, then the purchase price shall be adjusted in proportion to the variation of the measurements of the parts of the Property affected Provided That if the increase or reduction in the measurements of the Property, or any part of the Property, exceeds 5% of the measurements of the Property as set out in clause 18, then the Purchaser is at liberty to rescind this Agreement, in which event all moneys paid by the Purchaser under this Agreement shall be returned to the Purchaser with interest on those moneys at the rate of 2% per annum above the prime rate specified by The Hongkong and Shanghai Banking Corporation Limited from time to time from the date or dates of payment to the date of repayment. The Purchaser shall exercise the right of rescission by notice in writing to the Vendor within 30 days after the Purchaser is notified in writing by the Vendor of the approval of such amended plans by the Building Authority, and if no such notice is received by the Vendor within such time, the Purchaser is deemed to have accepted such plans.
24. Subject as provided in this Clause, any part of the purchase price paid by the Purchaser to the Vendor's Solicitors shall be held by them as stakeholders pending completion of the sale and purchase and shall be applied and released in the following manner only—

- (a) first, towards payment of the Construction Costs and the Professional Fees to the Vendor from time to time in such amount or amounts as certified by the Authorized Person as having been expended or having become payable on the construction of the ⁷Phase/Development;
- (b) second, towards repayment of funds drawn under the Building Mortgage (if any) for payment of the Construction Costs and the Professional Fees and interest on the Construction Costs or Professional Fees;
- (c) third, in the event of the Vendor's Solicitors at any time holding as stakeholders a sufficient sum to cover the entire outstanding balance of the Construction Costs and the Professional Fees as certified by the Authorized Person from time to time and other sums referred to in sub-clause (b) above, towards payment of any other moneys secured by the Building Mortgage (if any); and
- (d) fourth, in the event of the Vendor's Solicitors at any time holding as stakeholders a sufficient sum to cover the total of the sums referred to in sub-clause (c) above, then the Vendor's Solicitors may release the excess amount to the Vendor.

Provided Always that—

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

25. Any notice required to be given under this Agreement—
- (a) is deemed to have been validly given to a party if—
 - (i) the notice is addressed to the party; and
 - (ii) the notice is sent by ordinary prepaid post to—
 - (A) the party's address stated in this Agreement; or
 - (B) the party's last known address (where a notification of change of address has previously been given to the other party or the other party's solicitors); and
 - (b) is deemed to have been served on the second business day after the date of posting.
26. The Vendor shall, at its own cost and as soon as reasonably practicable after receipt of a written notice served by the Purchaser within 6 months after the date of completion of the sale and purchase under clause 15, remedy any defects to the Property, or the fittings, finishes or appliances as set out in clause 31, caused otherwise than by the act or neglect of the Purchaser. The provisions of this Clause are without prejudice to any other rights or remedies that the Purchaser may have at common law or otherwise.
27. The Vendor undertakes with the Purchaser to use its best endeavours to enforce all defects and maintenance obligations under all contracts relating to the construction of the Development in so far as such defects relate to or affect the Property or the common areas or common parts and common facilities of the Development.
28. In the event of the winding-up (whether voluntary or otherwise) or dissolution of the Vendor, the benefit and rights of and in all warranties and guarantees under all contracts relating to the construction of the Development shall be assigned by the Vendor to the Owners' Corporation incorporated under the Building Management Ordinance (Cap. 344) or if no such corporation exists

- to the manager of the Development for the time being to be held in trust for the Purchaser and all other purchasers of units in the Development.
29. Clauses 17, 26, 27 and 28 will survive completion of the sale and purchase by the Assignment.
30. If any date stipulated for payment in this Agreement or the day on which completion of the sale and purchase is to take place as provided in this Agreement falls on a day that is not a business day or on a day on which Typhoon Signal No. 8 or above is hoisted or Black Rainstorm Warning Signal is issued at any time between the hours of 9 a.m. and 5 p.m., such date for payment or completion of the sale and purchase is automatically postponed to the immediately following day that is a business day and on which no Typhoon Signal No. 8 or above is hoisted or Black Rainstorm Warning Signal is issued at any time between the hours of 9 a.m. and 5 p.m.
31. The Vendor shall, on or before completion of the ⁶Phase/Development, incorporate into the Property the fittings, finishes and appliances as follows—
[insert fittings, finishes and appliances].
Provided Always that if the Vendor is prevented by force majeure or other reason beyond its control from obtaining such fittings, finishes and appliances, other fittings, finishes and appliances certified by the Authorized Person to be of comparable quality may be substituted.
32. The communal *[and recreational] facilities are as follows—
[insert communal and recreational facilities].

* Delete as appropriate.

γ Delete "Development" for phased development (within the meaning of the Residential Properties (First-hand Sales) Ordinance (of 2012)). Otherwise delete "Phase".

- β For phased development (within the meaning of the Residential Properties (First-hand Sales) Ordinance (of 2012)) only. Delete as appropriate.
- 0 Delete “Development” for phased development (within the meaning of the Residential Properties (First-hand Sales) Ordinance (of 2012)) except the final phase of a phased development where, under the Government Grant, the consent of the Director of Lands is required to be given for the Vendor to enter into this Agreement. Otherwise delete “Phase”.
- π Applicable where, under the Government Grant, the consent of the Director of Lands is required to be given for the Vendor to enter into this Agreement. Delete as appropriate.
- Ω Applicable where, under the Government Grant, the consent of the Director of Lands is not required to be given for the Vendor to enter into this Agreement. Delete as appropriate.
- Ψ Applicable only where the Development is a Relevant NTEH Development. Delete as appropriate.

Part 2

1. 在本合約中 —
- (a) “認可人士”指屬《一手住宅物業銷售條例》(2012 年第 號)第 2 條所指的認可人士的 ‘ 本期／本發展項目的認可人士；
- *[(b) “建築按揭”指日期為[填上文書的日期]並於土地註冊處以註冊摘要第[填上註冊摘要編號]號註冊的[填上文書的描述]；]
- (c) “建築圖則” —
- (i) 指由認可人士就 ‘ 本期／本發展項目擬備並經建築事務監督批准的圖則；及
- (ii) 包括對第(i)段所述的圖則的任何經批准修訂；
- (d) “辦公日”指符合以下說明的日子 —
- (i) 不屬星期六、星期日或公眾假期；及
- (ii) 銀行在該日於香港特別行政區開放營業；

- (e) “合格證明書”指已經或將會由地政總署署長或其代表發出的證明書，而該證明書表明關乎該土地的政府批地書下賣方的所有積極性責任，均已獲遵從；
- (f) “建築費用”指以下數額的總和 —
- (i) 任何已經或將會就已進行或將會進行的工程及已供應或將會供應的物料或貨品而招致的款項，而該款項關乎 ‘ 本期／本發展項目的土地的地盤平整及地基結構和上層結構的建造(包括第 32 條所列出的公用*[及康樂]設施)，以及令 ‘ 本期／本發展項目有適合取得獲發佔用文件的資格*[並符合政府批地書]；
- (ii) 賣方為以下事項而需招致的任何款項：安裝 ‘ 本期／本發展項目的裝置、裝修物料及設備(包括第 31 條所列出的裝置、裝修物料及設備)，以及令 ‘ 本期／本發展項目的每個單位處於可交付狀態，以便可以在買賣完成時交樓予一眾買方；及
- (iii) 按認可人士的合理意見認為是為以下事項而需招致的任何其他款項(不包括專業費用)：完成 ‘ 本期／本發展項目，使 ‘ 本期／本發展項目取得獲發佔用文件的資格並符合*[政府批地書及]本合約；
- (g) “本發展項目”指正在或將會在該土地上興建並擬名為“[填上本發展項目的名稱]”的[填上本發展項目的扼要描述，以在合理地切實可行的範圍內，盡量提供最多資料，使買方可以大體上了解本發展項目的性質及組成、本發展項目內提供的公用及康樂設施(如有的話)，及其他特點(如有的話)等]；
- *[(h) “豁除令” —
- (i) 指日期為[填上文書的日期]並於土地註冊處以註冊摘要第[填上註冊摘要編號]號註冊的豁除令；及
- (ii) 包括任何修改該豁除令的命令；]
- (i) “建築契諾屆滿日期”指 —

- (i) 須根據*政府批地書／豁除令完成本發展項目的限期的最後一日；或
- (ii) (如政府已延長該限期)經延長的限期的最後一日；
- (j) “政府”指香港特別行政區政府；
- (k) “政府批地書”指[填上文書的描述]；
- (l) “該土地”指在土地註冊處註冊為[填上地段編號]的整片或整幅土地；
- (m) “佔用文件”——
 - (i) (凡本發展項目屬有關新界豁免管制屋宇發展項目)指由地政總署署長發出的，確認地政總署署長不反對⁷本期／本發展項目中的每幢建築物被佔用的通知書；或
 - (ii) 在任何其他情況下，指由建築事務監督根據《建築物條例》(第 123 章)第 21 條就⁷本期／本發展項目中的每幢建築物發出的佔用許可證或臨時佔用許可證；
- (n) “辦公時間”指由上午 10 時起至同日下午 4 時 30 分為止的期間；
- ^b[(o) “本期”指包括第[填上座數]座的本發展項目的第[填上期數]期；]
- (p) “專業費用”指賣方已經或將會就完成⁷本期／本發展項目而僱用認可人士及其他專業人士或顧問而招致的任何款項；
- (q) “有關新界豁免管制屋宇發展項目”指《一手住宅物業銷售條例》(2012 年第 號)第 5 條所界定的指明新界發展項目，而根據政府批地書，進行本買賣不需獲地政總署署長同意；及
- (r) “賣方律師”指[填上賣方律師事務所的名稱]。

2. 在本合約中 ——

- (a) “實用面積”具有《一手住宅物業銷售條例》(2012 年第 號)第 8 條給予該詞的涵義；
 - (b) 第 18(a)條所指的項目的樓面面積，按照該條例第 8(3)條計算；及
 - (c) 第 18(b)條所指的項目的面積，按照該條例附表 2 第 2 部計算。
3. 售價為港幣[填上款額]元，須由買方支付予作為保證金保存人的賣方律師，付款方式如下 ——
- (a) 在簽署與本合約有關的臨時買賣合約時，已支付相等於售價的 5%的款項，即港幣[填上款額]元，作為訂金；
 - (b) [填上不影響第 15 條的施行的付款條款]。
4. 賣方須 ——
- (a) 繼續以應有速度，迅速建造本發展項目；
 - (b) 遵從建築事務監督(如適用的話)及任何其他相關政府當局的關乎本發展項目的規定或要求；及
 - (c) 於[填上認可人士提供的本發展項目的預計關鍵日期，或本期的預計關鍵日期(如屬分期發展項目的某一期，但分期發展項目的最後一期(即根據政府批地書，賣方訂立本合約需獲地政總署署長同意的期數)除外) —— “關鍵日期”及“分期發展項目”的涵義需參閱《一手住宅物業銷售條例》(2012 年第 號)第 2(1)及 3(3)條或之前，在各方面遵照⁷[政府批地書的條件及]⁹[根據《建築物條例》(新界適用)條例》(第 121 章)發出豁免證明書的條件及]建築圖則(如有的話)完成⁸本期／本發展項目。但如認可人士按照第 10 條批予延期，則屬例外。
5. 即使有第 4(c)條的規定 ——

- (a) 如有建築契諾屆滿日期，賣方須根據*政府批地書／豁除令的規定，於建築契諾屆滿日期或之前，完成本發展項目；或
- (b) 如有關土地受重新發展令所規限，賣方須於重新發展令容許的限期的屆滿日期或之前，在各方面按照建築圖則(如有的話)完成本發展項目。

如認可人士在任何時間認為，本發展項目相當可能不會於*建築契諾屆滿日期／重新發展令容許的限期的屆滿日期或之前完成，則賣方須即時申請及取得完成本發展項目所需的延期，並須就該項延期，向政府支付補價。賣方須將申請一事及批予延期的條款，分別於提出申請及獲批予延期後的 30 日內，以書面通知買方。

6. 如賣方沒有根據第 5 條申請及取得完成本發展項目所需的任何延期，亦沒有於*建築契諾屆滿日期／重新發展令容許的限期的屆滿日期或獲批予的延期的屆滿日期或之前，完成本發展項目，⁸[則除非本合約中的買賣已完成，否則]賣方除任何其他可用的補救方法外，有權藉向賣方發出書面通知，撤銷本合約，而該通知一經送達，本合約即告撤銷。賣方須於撤銷後的 7 日內，將買方根據本合約支付的所有款項，連同該等款項的利息，退還買方。利息由個別支付日期起計，直至退款日期為止，按香港上海滙豐銀行有限公司不時指明的最優惠利率加年利率 2% 計算。上述款項連同利息一經退還，即完全並最終解決買方在本合約之下對賣方的所有申索。
7. 除第 8 條另有規定外，如賣方於第 4(c)條指明的日期(如獲認可人士根據第 10 條批予延期，則於經延展的日期)或之前未能完成⁹本期／本發展項目，則買方除任何其他可用的補救方法外，可藉向賣方發出書面通知，撤銷本合約，而該通知一經送達，本合約即告撤銷。賣方須於撤銷後的 7 日內，將買方根據本合約支付的所有款項，連同該等款項的利息，退還買方。利息由個別支付日期起計，直至退款日期為止，按香港上海滙豐銀行有限公司不時指

明的最優惠利率加年利率 2% 計算。上述款項連同利息一經退還，即完全並最終解決買方在本合約之下對賣方的所有申索。

8. 如買方不在第 4(c)條指明的日期或第 10 條所指的任何經延展的日期後的 28 日內，根據第 7 條撤銷本合約，則在不削弱買方在第 9 條下的權利的情況下，買方即當作已選擇等待⁹本期／本發展項目完成。在此情況下，賣方須向買方支付買方根據本合約支付的所有款項的利息，利息由第 4(c)條指明的日期翌日或第 10 條所指的任何經延展的日期翌日起計，直至⁹本期／本發展項目完成的日期為止，按香港上海滙豐銀行有限公司不時指明的最優惠利率加年利率 2% 計算。該利息須於買賣完成時向買方支付，或容許買方作售價的抵免。
9. 即使有第 7 及 8 條的規定，如⁹本期／本發展項目未能在第 4(c)條指明的日期或第 10 條所指的任何經延展的日期起計的 6 個月內完成，則買方可撤銷本合約，而在該情況下，第 7 條中關於退還付款及利息的條文適用；買方亦可等待⁹本期／本發展項目完成，而在該情況下，第 8 條中關於支付利息的條文適用。
10. 賣方有權獲得認可人士批予該認可人士在顧及純粹由以下一個或多於一個原因所導致的延遲後認為合理的延期，以在第 4(c)條指明的日期之後，完成⁹本期／本發展項目 —
 - (a) 工人罷工或封閉工地；
 - (b) 暴動或內亂；
 - (c) 不可抗力或天災；
 - (d) 火警或其他賣方所不能控制的意外；
 - (e) 戰爭；或
 - (f) 惡劣天氣。

就本條而言，“惡劣天氣”指香港天文台在二十四小時(從午夜至午夜)內，錄得超過 20 毫米雨量，或在上午 8 時至下午 5 時之間，發出黑色暴雨警告訊號或懸掛 8 號或以上颱風訊號。

11. 賣方須於認可人士根據第 10 條批予延期後的 14 日內，向買方提供有關延期證明書的文本。
12. 賣方須於按照第 4(c)條的規定完成⁹本期／本發展項目後的 14 日內，以書面為⁹本期／本發展項目申請⁹[佔用文件]／⁹[合格證明書，或申請地政總署署長的轉讓同意]。
13. 就第 4、7、8、9、10 及 12 條而言 —
 - (a) (凡根據政府批地書，進行本買賣需獲地政總署署長同意)合格證明書或地政總署署長的轉讓同意的發出，即為證明⁹本期／本發展項目已完成或當作已完成(視屬何情況而定)的不可推翻的證據。本條並不阻止賣方以任何其他方式，證明賣方已符合第 4(c)條的規定；或
 - (b) (凡根據政府批地書，進行本買賣不需獲地政總署署長同意)⁹本期／本發展項目被當作在佔用文件發出的日期完成。
14. 賣方須在⁹[佔用文件]／⁹[合格證明書或地政總署署長的轉讓同意(以較先發生者為準)]發出後的一個月內，就賣方有能力有效地轉讓本物業一事，以書面通知買方。
15. 在賣方就其有能力將本物業有效地轉讓予買方一事向買方發出通知的日期後的 14 日內，買賣須於辦公時間內，在賣方律師的辦事處完成。
16. 除第 19 條另有規定外，賣方不得限制買方就業權提出要求或反對的權利。

17. 賣方保證 —

- (a) 在完成⁹本期／本發展項目之時或之前，第 31 條所列出的裝置、裝修物料及設備將裝設於本物業內；
- (b) 除第 23 條另有規定外，在完成⁹本期／本發展項目時，本物業將如附於本合約的圖則所示，而本物業的量度尺寸將為第 18 條所列出的量度尺寸；及
- (c) 在完成本發展項目時，賣方須提供第 32 條所列出的公用⁹[及康樂]設施。

18. 本物業的量度尺寸如下 —

- (a) 本物業的實用面積為[填上數字]平方米／[填上數字]平方呎^{*}[，其中 —]
^{*}[[填上數字]平方米／[填上數字]平方呎為露台的樓面面積]；
^{*}[[填上數字]平方米／[填上數字]平方呎為工作平台的樓面面積]；
^{*}[[填上數字]平方米／[填上數字]平方呎為陽台的樓面面積]；及
- (b) 其他量度尺寸為 —
^{*}[空調機房的面積為[填上數字]平方米／[填上數字]平方呎]；
^{*}[窗台的面積為[填上數字]平方米／[填上數字]平方呎]；
^{*}[閣樓的面積為[填上數字]平方米／[填上數字]平方呎]；
^{*}[平台的面積為[填上數字]平方米／[填上數字]平方呎]；
^{*}[花園的面積為[填上數字]平方米／[填上數字]平方呎]；
^{*}[停車位的面積為[填上數字]平方米／[填上數字]平方呎]；

- *[天台的面積為[填上數字]平方米/[填上數字]平方呎]；
*[梯屋的面積為[填上數字]平方米/[填上數字]平方呎]；
*[前庭的面積為[填上數字]平方米/[填上數字]平方呎]；
*[庭院的面積為[填上數字]平方米/[填上數字]平方呎]。
19. 如賣方在本物業的權益屬衡平法權益而非法定產業權，買方不得提出反對。
20. 就本合約及有關轉讓契須支付的從價印花稅(如有的話)，由* 買方/賣方承擔及支付。
21. 就本合約及有關轉讓契須支付的額外印花稅(如有的話)，由* 買方/賣方承擔及支付。
22. 就每一方面而言，時間為本合約的關鍵元素。
23. 即使本合約所載的任何內容另有規定，賣方保留權利，在每當賣方認為有需要時，可改動建築圖則(如有的話)。但如有關改動在任何方面對本物業造成影響，則賣方須在改動獲建築事務監督批准後的 14 日內，將該項改動，以書面通知買方。如由於該項改動，按照該經修訂圖則，本物業或其任何部分的量度尺寸有別於第 18 條所列出的本物業的量度尺寸，則售價須按本物業受影響部分的量度尺寸的變動，按比例作出調整。但如本物業或其任何部分的量度尺寸的增減，超過第 18 條所列出的本物業的量度尺寸的 5%，則買方可撤銷本合約，而在該情況下，買方根據本合約支付的所有款項，連同該等款項的利息，須退還買方，利息由個別支付日期起計，直至退款日期為止，按香港上海滙豐銀行有限公司不時指明的最優惠利率加年利率 2% 計算。買方須於接獲賣方就經修訂圖則獲建築事務監督批准而發出的書面通知後的 30 日內，

- 以書面通知賣方，以行使撤銷本合約的權利。如在上述時間內，賣方沒有接獲該通知，則買方當作已接受該等圖則。
24. 除本條另有規定外，在買賣完成前，由買方向賣方律師支付的售價任何部分，須由該律師作為保證金保存人而持有，並僅可按以下方式運用及發放 —
- (a) 第一，不時向賣方發放經認可人士證明為用於建造⁷ 本期/本發展項目已支用或須支付的款額，以支付建築費用及專業費用；
- (b) 第二，用於償還根據建築按揭(如有的話)支取以支付建築費用及專業費用的資金及其利息；
- (c) 第三，如賣方律師作為保證金保存人在任何時間所持的款項，足以支付不時經認可人士證明的建築費用及專業費用全部尚欠的餘額及上文(b)款所提述的其他款項，則用於支付以建築按揭(如有的話)為保證的任何其他款項；及
- (d) 第四，如賣方律師作為保證金保存人在任何時間所持的款項，足以支付上文(c)款所提述兩筆款項的總額，則賣方律師可向賣方發放剩餘款額。
- 但 —
- (i) 就上文(a)款所指的款項而言，賣方律師在任何時間向賣方發放的任何款項，均不得超逾經認可人士證明為當時已用於支付及/或變為須支付的建築費用及專業費用減去以下款額後的款額：賣方為支付建築費用及專業費用，而已在建築按揭(如有的話)中支取的款額；及
- (ii) 賣方在任何情況下，均不得按建築按揭(如有的話)支取已根據上文(a)款支付的建築費用及專業費用的任何部分。
25. 根據本合約須發出的通知 —
- (a) 如符合以下條件，即當作已有效地向某一方發出 —

- (i) 該通知寄給該一方；及
 - (ii) 該通知以一般預付郵遞方式寄往 —
 - (A) 在本合約中述明的該一方的地址；或
 - (B) (如先前曾有地址變更的通知向另一方或該另一方的律師發出)該一方最後為人所知的地址；及
 - (b) 當作於寄出日期後的第二個辦公日送達。
26. 凡本物業或第 31 條所列出的裝置、裝修物料或設備有欠妥之處，而該欠妥之處並非由買方行為或疏忽造成，則賣方在接獲買方在第 15 條所指的買賣成交日期後的 6 個月內送達的書面通知後，須於合理地切實可行的範圍內，盡快自費作出補救。本條的規定，並不削弱買方按普通法或其他法律可享有的任何其他權利或補救。
27. 賣方向買方承諾，如有關乎或影響本物業或本發展項目的公用地方或公用部分及公用設施的欠妥之處，則在該欠妥之處有此關連或影響的範圍內，賣方將盡力執行在所有與本發展項目的建造有關的合約下的關於該等欠妥之處及維修的所有責任。
28. 如賣方清盤(不論是否自發清盤)或解散，在所有關乎本發展項目的建造的合約下的所有保證條款及擔保的利益及權利，須由賣方轉讓予根據《建築物管理條例》(第 344 章)成立的業主立案法團；如沒有該法團存在，則須轉讓予本發展項目當其時的管理人，以信託形式，代買方及本發展項目所有其他單位的購樓人士持有。
29. 在以轉讓契完成買賣後，第 17、26、27 及 28 條維持有效。
30. 如任何本合約指定的付款日期或按本合約規定完成買賣的日期並非辦公日，或在上午 9 時至下午 5 時之間，懸掛 8 號或以上颱風

- 訊號或發出黑色暴雨警告訊號，則該付款日期或完成買賣日期自動順延至下一個緊接該日並在上午 9 時至下午 5 時之間沒有懸掛 8 號或以上颱風訊號或發出黑色暴雨警告訊號的辦公日。
31. 賣方須在⁶本期／本發展項目完成之時或之前，將下列裝置、裝修物料及設備，裝設於本物業內 —
[填上裝置、裝修物料及設備]。
但如賣方因不可抗力或其他非其所能控制的理由，而未能取得該等裝置、裝修物料及設備，則可用經認可人士證明為品質相若的其他裝置、裝修物料及設備代替。
32. 公用*[及康樂]設施如下 —
[填上公用及康樂設施]。
- * 將不適用者刪去。
- γ 如屬分期發展項目(《一手住宅物業銷售條例》(2012 年第 號)所指者)，刪去“本發展項目”，否則刪去“本期”。
- β 只適用於分期發展項目(《一手住宅物業銷售條例》(2012 年第 號)所指者)。將不適用者刪去。
- θ 如屬分期發展項目(《一手住宅物業銷售條例》(2012 年第 號)所指者)及除分期發展項目的最後一期(即根據政府批地書，賣方訂立本合約需獲地政總署署長同意的期數)外，刪去“本發展項目”，否則刪去“本期”。
- π 凡根據政府批地書，賣方訂立本合約需獲地政總署署長同意，即適用。將不適用者刪去。
- Ω 凡根據政府批地書，賣方訂立本合約不需獲地政總署署長同意，即適用。將不適用者刪去。
- ψ 只適用於屬有關新界豁免管制屋宇發展項目的發展項目。將不適用者刪去。

Schedule 6 [ss. 9, 50 & 83]

**Provisions Required to be Contained in Agreement for
Sale and Purchase (Completed Development Pending
Compliance)**

Part 1

1. In this Agreement—

- (a) “Authorized Person” means the authorized person of the ⁷Phase/Development within the meaning given by section 2 of the Residential Properties (First-hand Sales) Ordinance (of 2012);
- *[(b) “Building Mortgage” means the *[insert description of the instrument]* dated *[insert date of instrument]* and registered in the Land Registry by Memorial No. *[insert memorial number]*];
- (c) “building plans”——
 - (i) means the plans prepared by the Authorized Person in respect of the ⁷Phase/Development and approved by the Building Authority; and
 - (ii) includes any approved amendments to the plans mentioned in paragraph (i);
- (d) “business day” means a day—
 - (i) that is not a Saturday, Sunday or public holiday; and
 - (ii) on which banks are open for business in the Hong Kong Special Administrative Region;
- (e) “Certificate of Compliance” means the certificate issued or to be issued by or on behalf of the Director of Lands to the effect that all the positive obligations of the Vendor under the

Government Grant in relation to the land have been complied with;

- (f) “Construction Costs” means the aggregate of—
 - (i) any sum incurred or to be incurred in connection with any works done or to be done, and materials or goods supplied or to be supplied, in connection with the site formation on the land and the substructure and superstructure construction for the ⁷Phase/Development (including the communal ^{*}[and recreational] facilities as set out in clause 29), and the making of the ⁷Phase/Development fit to qualify for the issue of an Occupation Permit (where applicable) and to comply with the Government Grant;
 - (ii) any sums needed to be incurred by the Vendor to install the fittings, finishes and appliances of the ⁷Phase/Development (including the fittings, finishes and appliances as set out in clause 28) and in making every unit in the ⁷Phase/Development ready for handover to purchasers on completion of the sale and purchase; and
 - (iii) any other sums (excluding Professional Fees) which in the reasonable opinion of the Authorized Person needed to be incurred to complete the ⁷Phase/Development to qualify for the issue of an Occupation Permit (where applicable) and to comply with the Government Grant and this Agreement;
- (g) “Development” means *[insert brief description of the development giving as much information as reasonably practicable so that a purchaser will have a general understanding as to the nature and composition of the development, the communal and recreational facilities (if any) provided in the development, and other special features (if any), etc.]* now being constructed or to be constructed on the land and intended to be known as “*[insert name of the development]*”;

- (h) “Government” means the Government of the Hong Kong Special Administrative Region;
 - (i) “Government Grant” means *[insert description of the instrument]*;
 - (j) “land” means all that piece or parcel of land registered in the Land Registry as *[insert lot number]*;
 - (k) “Occupation Permit” means the occupation permit or temporary occupation permit to be issued by the Building Authority under section 21 of the Buildings Ordinance (Cap. 123) for every building in the ⁹Phase/Development;
 - (l) “office hours” means the period beginning at 10 a.m. of a day and ending at 4:30 p.m. of the same day;
 - ⁹[(m) “Phase” means Phase *[insert phase number]* of the Development comprising Blocks *[insert block numbers]*];
 - (n) “Professional Fees” means any sums incurred or to be incurred by the Vendor for the employment of the Authorized Person and other professional persons or consultants in relation to completion of the ⁹Phase/Development; and
 - (o) “Vendor’s Solicitors” means Messrs. *[insert name of solicitors’ firm of the vendor]*.
2. In this Agreement—
- (a) “saleable area” has the meaning given by section 8 of the Residential Properties (First-hand Sales) Ordinance (of 2012);
 - (b) the floor area of an item under clause 16(a) is calculated in accordance with section 8(3) of that Ordinance; and
 - (c) the area of an item under clause 16(b) is calculated in accordance with Part 2 of Schedule 2 to that Ordinance.
3. The purchase price is HK\$*[insert amount]*, payable by the Purchaser to the Vendor’s Solicitors as stakeholders as follows—

- (a) the amount of HK\$*[insert amount]*, being 5% of the purchase price has been paid as deposit on signing the agreement preliminary to this Agreement;
 - (b) *[insert payment terms in such a way that the operation of clause 13 will not be affected]*.
4. The Vendor shall—
- (a) continue the construction of the Development with all due expedition;
 - (b) comply with the requirements of the Building Authority (where applicable) and of any other relevant Government authority relating to the Development; and
 - (c) complete the ⁹Phase/Development in all respects in compliance with the conditions of the Government Grant and the building plans (if any) on or before the *[insert the estimated material date for the development, or the estimated material date for the phase (in the case of a phase of a phased development, other than the final phase of a phased development), as provided by the Authorized Person—see sections 2(1) and 3(3) of the Residential Properties (First-hand Sales) Ordinance (of 2012) for the meanings of “material date” and “phased development”]* subject to such extensions of time as may be granted by the Authorized Person in accordance with clause 8.
5. Subject to clause 6, if the Vendor fails to complete the ⁹Phase/Development by the date specified in clause 4(c) as extended by any extensions of time granted by the Authorized Person under clause 8, the Purchaser is at liberty, in addition to any other remedy that the Purchaser may have, by notice in writing to the Vendor to rescind this Agreement and upon service of such notice, this Agreement is rescinded, and the Vendor shall, within 7 days after the rescission, repay to the Purchaser all amounts paid by the Purchaser under this Agreement together with interest on those amounts at the rate of 2% per annum above the prime rate specified

- by The Hongkong and Shanghai Banking Corporation Limited from time to time from the date or dates on which such amounts were paid up to the date of repayment, the repayment of such amounts and interest to be in full and final settlement of all claims by the Purchaser against the Vendor under this Agreement.
6. If the Purchaser does not rescind this Agreement under clause 5 within 28 days after the date specified in clause 4(c) or any extended date under clause 8, the Purchaser is deemed, without prejudice to the Purchaser's rights under clause 7, to have elected to wait for completion of the ⁶Phase/Development. In such event the Vendor shall pay to the Purchaser interest at the rate of 2% per annum above the prime rate specified by The Hongkong and Shanghai Banking Corporation Limited from time to time on all amounts paid under this Agreement from the date following the date specified in clause 4(c) or any extended date under clause 8 up to the date of completion of the ⁶Phase/Development. Such interest shall be paid or allowed as a credit to the Purchaser in respect of the purchase price on completion of the sale and purchase.
7. Despite clauses 5 and 6, if the ⁶Phase/Development is not completed within a period of 6 months from the date specified in clause 4(c) or any extended date under clause 8, the Purchaser is at liberty either to rescind this Agreement in which event the provisions of clause 5 relating to repayment and interest apply or to await the completion of the ⁶Phase/Development in which event the provisions of clause 6 relating to the payment of interest apply.
8. The Vendor is entitled to such extensions of time for completion of the ⁶Phase/Development beyond the date specified in clause 4(c) as granted by the Authorized Person and appear to the Authorized Person to be reasonable having regard to delays caused exclusively by any one or more of the following reasons—
- (a) strike or lock-out of workmen;
 - (b) riots or civil commotion;

- (c) force majeure or Act of God;
 - (d) fire or other accident beyond the Vendor's control;
 - (e) war; or
 - (f) inclement weather.
- For the purpose of this Clause, "inclement weather" means rainfall in excess of 20 millimetres in a twenty-four hour period (mid-night to mid-night) as recorded at the Hong Kong Observatory, or the issue of a Black Rainstorm Warning Signal, or the hoisting of Typhoon Signal No. 8 or above, at any time between the hours of 8 a.m. and 5 p.m.
9. The Vendor shall within 14 days after the issue of any such extensions of time granted by the Authorized Person under clause 8 furnish the Purchaser with a copy of the relevant certificate of extension.
10. The Vendor shall apply in writing for a Certificate of Compliance or the consent of the Director of Lands to assign in respect of the ⁶Phase/Development within 14 days after its having completed the ⁶Phase/Development as stipulated in clause 4(c).
11. For the purpose of clauses 4, 5, 6, 7, 8 and 10, the issue of a Certificate of Compliance or consent to assign by the Director of Lands is conclusive evidence that the ⁶Phase/Development has been completed or is deemed to be completed as the case may be and nothing in this Clause precludes the Vendor from proving that the Vendor has complied with clause 4(c) by any other means.
12. The Vendor shall notify the Purchaser in writing that the Vendor is in a position validly to assign the Property within one month after the issue of the Certificate of Compliance or the consent of the Director of Lands to assign, whichever first happens.
13. The sale and purchase shall be completed at the offices of the Vendor's Solicitors during office hours within 14 days after the

- date of the notification to the Purchaser that the Vendor is in a position validly to assign the Property to the Purchaser.
14. Subject to clause 17, the Vendor shall not restrict the Purchaser's right to raise requisition or objection in respect of title.
15. The Vendor warrants—
- (a) that the fittings, finishes and appliances as set out in clause 28 shall, on or before completion of the ⁰Phase/Development, be incorporated into the Property;
 - (b) that the Property will, on completion of the ⁰Phase/Development, be as shown on the plan attached to this Agreement and the measurements of the Property will be those as set out in clause 16; and
 - (c) that on completion of the Development the Vendor shall provide the communal ^{*}[and recreational] facilities as set out in clause 29.
16. The measurements of the Property are as follows—
- (a) the saleable area of the Property is *[insert figure]* square metres/*[insert figure]* square feet ^{*}[of which—]
 - ^{*}[[*insert figure*] square metres/*[insert figure]* square feet is the floor area of the balcony];
 - ^{*}[[*insert figure*] square metres/*[insert figure]* square feet is the floor area of the utility platform];
 - ^{*}[[*insert figure*] square metres/*[insert figure]* square feet is the floor area of the verandah]; and
 - (b) other measurements are—
 - ^{*}[the area of the air-conditioning plant room is *[insert figure]* square metres/*[insert figure]* square feet];
 - ^{*}[the area of the bay window is *[insert figure]* square metres/*[insert figure]* square feet];

- ^{*}[the area of the cockloft is *[insert figure]* square metres/*[insert figure]* square feet];
 - ^{*}[the area of the flat roof is *[insert figure]* square metres/*[insert figure]* square feet];
 - ^{*}[the area of the garden is *[insert figure]* square metres/*[insert figure]* square feet];
 - ^{*}[the area of the parking space is *[insert figure]* square metres/*[insert figure]* square feet];
 - ^{*}[the area of the roof is *[insert figure]* square metres/*[insert figure]* square feet];
 - ^{*}[the area of the stairhood is *[insert figure]* square metres/*[insert figure]* square feet];
 - ^{*}[the area of the terrace is *[insert figure]* square metres/*[insert figure]* square feet];
 - ^{*}[the area of the yard is *[insert figure]* square metres/*[insert figure]* square feet].
17. The Purchaser shall raise no objection if the Vendor's interest in the Property is an equitable interest and not a legal estate.
18. The ad valorem stamp duty, if any, payable on this Agreement and the Assignment shall be borne and paid by the ^{*}Purchaser/Vendor.
19. The special stamp duty, if any, payable on this Agreement and the Assignment shall be borne and paid by the ^{*}Purchaser/Vendor.
20. Time is in every respect of the essence of this Agreement.
21. Subject as provided in this Clause, any part of the purchase price paid by the Purchaser to the Vendor's Solicitors shall be held by them as stakeholders pending completion of the sale and purchase and shall be applied and released in the following manner only—

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

Provided Always that—

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

- 22. Any notice required to be given under this Agreement—
 - (a) is deemed to have been validly given to a party if—
 - (i) the notice is addressed to the party; and
 - (ii) the notice is sent by ordinary prepaid post to—
 - (A) the party's address stated in this Agreement; or
 - (B) the party's last known address (where a notification of change of address has previously been given to the other party or the other party's solicitors); and
 - (b) is deemed to have been served on the second business day after the date of posting.
- 23. The Vendor shall, at its own cost and as soon as reasonably practicable after receipt of a written notice served by the Purchaser within 6 months after the date of completion of the sale and purchase under clause 13, remedy any defects to the Property, or the fittings, finishes or appliances as set out in clause 28, caused otherwise than by the act or neglect of the Purchaser. The provisions of this Clause are without prejudice to any other rights or remedies that the Purchaser may have at common law or otherwise.
- 24. The Vendor undertakes with the Purchaser to use its best endeavours to enforce all defects and maintenance obligations under all contracts relating to the construction of the Development in so far as such defects relate to or affect the Property or the common areas or common parts and common facilities of the Development.
- 25. In the event of the winding-up (whether voluntary or otherwise) or dissolution of the Vendor, the benefit and rights of and in all warranties and guarantees under all contracts relating to the construction of the Development shall be assigned by the Vendor to the Owners' Corporation incorporated under the Building Management Ordinance (Cap. 344) or if no such corporation exists

to the manager of the Development for the time being to be held in trust for the Purchaser and all other purchasers of units in the Development.

26. Clauses 15, 23, 24 and 25 will survive completion of the sale and purchase by the Assignment.

27. If any date stipulated for payment in this Agreement or the day on which completion of the sale and purchase is to take place as provided in this Agreement falls on a day that is not a business day or on a day on which Typhoon Signal No. 8 or above is hoisted or Black Rainstorm Warning Signal is issued at any time between the hours of 9 a.m. and 5 p.m., such date for payment or completion of the sale and purchase is automatically postponed to the immediately following day that is a business day and on which no Typhoon Signal No. 8 or above is hoisted or Black Rainstorm Warning Signal is issued at any time between the hours of 9 a.m. and 5 p.m.

28. The Vendor shall, on or before completion of the ⁹Phase/Development, incorporate into the Property the fittings, finishes and appliances as follows—

[insert fittings, finishes and appliances].

Provided Always that if the Vendor is prevented by force majeure or other reason beyond its control from obtaining such fittings, finishes and appliances, other fittings, finishes and appliances certified by the Authorized Person to be of comparable quality may be substituted.

29. The communal ^{*}[and recreational] facilities are as follows—
[insert communal and recreational facilities].

^{*} Delete as appropriate.

^y Delete “Development” for phased development (within the meaning of the Residential Properties (First-hand Sales) Ordinance (of 2012)). Otherwise delete “Phase”.

- ^β For phased development (within the meaning of the Residential Properties (First-hand Sales) Ordinance (of 2012)) only. Delete as appropriate.
- ^θ Delete “Development” for phased development (within the meaning of the Residential Properties (First-hand Sales) Ordinance (of 2012)) except the final phase. Otherwise delete “Phase”.

Part 2

1. 在本合約中 —

(a) “認可人士”指屬《一手住宅物業銷售條例》(2012 年第 號)第 2 條所指的認可人士的^y本期/本發展項目的認可人士；

^{*}[(b) “建築按揭”指日期為[填上文書的日期]並於土地註冊處以註冊摘要第[填上註冊摘要編號]號註冊的[填上文書的描述]；]

(c) “建築圖則” —

(i) 指由認可人士就^y本期/本發展項目擬備並經建築事務監督批准的圖則；及

(ii) 包括對第(i)段所述的圖則的任何經批准修訂；

(d) “辦公日”指符合以下說明的日子 —

(i) 不屬星期六、星期日或公眾假期；及

(ii) 銀行在該日於香港特別行政區開放營業；

(e) “合格證明書”指已經或將會由地政總署署長或其代表發出的證明書，而該證明書表明關乎該土地的政府批地書下賣方的所有積極性責任，均已獲遵從；

(f) “建築費用”指以下數額的總和 —

(i) 任何已經或將會就已進行或將會進行的工程及已供應或將會供應的物料或貨品而招致的款項，而該款項關乎^y本期/本發展項目的土地的地盤平整及地基結構和上層結構的建造(包括第 29 條所列出的公用^{*}[及康樂]設

- 施)，以及令^r本期／本發展項目有適合取得獲發佔用許可證的資格(如適用的話)並符合政府批地書；
- (ii) 賣方為以下事項而需招致的任何款項：安裝^r本期／本發展項目的裝置、裝修物料及設備(包括第 28 條所列出的裝置、裝修物料及設備)，以及令^r本期／本發展項目的每個單位處於可交付狀態，以便可以在買賣完成時交樓予一眾買方；及
- (iii) 按認可人士的合理意見認為是為以下事項而需招致的任何其他款項(不包括專業費用)：完成^r本期／本發展項目，使^r本期／本發展項目取得獲發佔用許可證的資格(如適用的話)並符合政府批地書及本合約；
- (g) “本發展項目”指正在或將會在該土地上興建並擬名為“[填上本發展項目的名稱]”的[填上本發展項目的扼要描述，以在合理地切實可行的範圍內，盡量提供最多資料，使買方可以大體上了解本發展項目的性質及組成、本發展項目內提供的公用及康樂設施(如有的話)，及其他特點(如有的話)等]；
- (h) “政府”指香港特別行政區政府；
- (i) “政府批地書”指[填上文書的描述]；
- (j) “該土地”指在土地註冊處註冊為[填上地段編號]的整片或整幅土地；
- (k) “佔用許可證”指由建築事務監督根據《建築物條例》(第 123 章)第 21 條，就^r本期／本發展項目中的每幢建築物發出的佔用許可證或臨時佔用許可證；
- (l) “辦公時間”指由上午 10 時起至同日下午 4 時 30 分為止的期間；
- ⁸(m) “本期”指包括第[填上座數]座的本發展項目的第[填上期數]期；]
- (n) “專業費用”指賣方已經或將會就完成^r本期／本發展項目而僱用認可人士及其他專業人士或顧問而招致的任何款項；及

- (o) “賣方律師”指[填上賣方律師事務所的名稱]。
2. 在本合約中 —
- (a) “實用面積”具有《一手住宅物業銷售條例》(2012 年第 號)第 8 條給予該詞的涵義；
- (b) 第 16(a)條所指的項目的樓面面積，按照該條例第 8(3)條計算；及
- (c) 第 16(b)條所指的項目的面積，按照該條例附表 2 第 2 部計算。
3. 售價為港幣[填上款額]元，須由買方支付予作為保證金保存人的賣方律師，付款方式如下 —
- (a) 在簽署與本合約有關的臨時買賣合約時，已支付相等於售價的 5%的款項，即港幣[填上款額]元，作為訂金；
- (b) [填上不影響第 13 條的施行的付款條款]。
4. 賣方須 —
- (a) 繼續以應有速度，迅速建造本發展項目；
- (b) 遵從建築事務監督(如適用的話)及任何其他相關政府當局的關乎本發展項目的規定或要求；及
- (c) 於[填上認可人士提供的本發展項目的預計關鍵日期，或本期的預計關鍵日期(如屬分期發展項目的某一期，但分期發展項目的最後一期除外) — “關鍵日期”及“分期發展項目”的涵義需參閱《一手住宅物業銷售條例》(2012 年第 號)第 2(1)及 3(3)條]或之前，在各方面遵照政府批地書的條件及建築圖則(如有的話)完成⁸本期／本發展項目。但如認可人士按照第 8 條批予延期，則屬例外。

5. 除第 6 條另有規定外，如賣方於第 4(c)條指明的日期(如獲認可人士根據第 8 條批予延期，則於經延展的日期)或之前未能完成⁰本期／本發展項目，則買方除任何其他可用的補救方法外，可藉向賣方發出書面通知，撤銷本合約，而該通知一經送達，本合約即告撤銷。賣方須於撤銷後的 7 日內，將買方根據本合約支付的所有款項，連同該等款項的利息，退還買方。利息由個別支付日期起計，直至退款日期為止，按香港上海滙豐銀行有限公司不時指明的最優惠利率加年利率 2%計算。上述款項連同利息一經退還，即完全並最終解決買方在本合約之下對賣方的所有申索。
6. 如買方不在第 4(c)條指明的日期或第 8 條所指的任何經延展的日期後的 28 日內，根據第 5 條撤銷本合約，則在不削弱買方在第 7 條下的權利的情況下，買方即當作已選擇等待⁰本期／本發展項目完成。在此情況下，賣方須向買方支付買方根據本合約支付的所有款項的利息，利息由第 4(c)條指明的日期翌日或第 8 條所指的任何經延展的日期翌日起計，直至⁰本期／本發展項目完成的日期為止，按香港上海滙豐銀行有限公司不時指明的最優惠利率加年利率 2%計算。該利息須於買賣完成時向買方支付，或容許買方作售價的抵免。
7. 即使有第 5 及 6 條的規定，如⁰本期／本發展項目未能在第 4(c)條指明的日期或第 8 條所指的任何經延展的日期起計的 6 個月內完成，則買方可撤銷本合約，而在該情況下，第 5 條中關於退還付款及利息的條文適用；買方亦可等待⁰本期／本發展項目完成，而在該情況下，第 6 條中關於支付利息的條文適用。
8. 賣方有權獲得認可人士批予該認可人士在顧及純粹由以下一個或多於一個原因所導致的延遲後認為合理的延期，以在第 4(c)條指明的日期之後，完成⁰本期／本發展項目——
- (a) 工人罷工或封閉工地；

- (b) 暴動或內亂；
- (c) 不可抗力或天災；
- (d) 火警或其他賣方所不能控制的意外；
- (e) 戰爭；或
- (f) 惡劣天氣。
- 就本條而言，“惡劣天氣”指香港天文台在二十四小時(從午夜至午夜)內，錄得超過 20 毫米雨量，或在上午 8 時至下午 5 時之間，發出黑色暴雨警告訊號或懸掛 8 號或以上颱風訊號。
9. 賣方須於認可人士根據第 8 條批予延期後的 14 日內，向買方提供有關延期證明書的文本。
10. 賣方須於按照第 4(c)條的規定完成⁰本期／本發展項目後的 14 日內，以書面為⁰本期／本發展項目申請合格證明書，或申請地政總署署長的轉讓同意。
11. 就第 4、5、6、7、8 及 10 條而言，合格證明書或地政總署署長的轉讓同意的發出，即為證明⁰本期／本發展項目已完成或當作已完成(視屬何情況而定)的不可推翻的證據。本條並不阻止賣方以任何其他方式，證明賣方已符合第 4(c)條的規定。
12. 賣方須在合格證明書或地政總署署長的轉讓同意(以較先發生者為準)發出後的一個月內，就賣方有能力有效地轉讓本物業一事，以書面通知買方。
13. 在賣方就其有能力將本物業有效地轉讓予買方一事向買方發出通知的日期後的 14 日內，買賣須於辦公時間內，在賣方律師的辦事處完成。

14. 除第 17 條另有規定外，賣方不得限制買方就業權提出要求或反對的權利。
15. 賣方保證 —
- (a) 在完成⁰本期／本發展項目之時或之前，第 28 條所列出的裝置、裝修物料及設備將裝設於本物業內；
- (b) 在完成⁰本期／本發展項目時，本物業將如附於本合約的圖則所示，而本物業的量度尺寸將為第 16 條所列出的量度尺寸；及
- (c) 在完成本發展項目時，賣方須提供第 29 條所列出的公用*[及康樂]設施。
16. 本物業的量度尺寸如下 —
- (a) 本物業的實用面積為[填上數字]平方米／[填上數字]平方呎
*[，其中 —]
*[[填上數字]平方米／[填上數字]平方呎為露台的樓面面積]；
*[[填上數字]平方米／[填上數字]平方呎為工作平台的樓面面積]；
*[[填上數字]平方米／[填上數字]平方呎為陽台的樓面面積]；及
- (b) 其他量度尺寸為 —
*[空調機房的面積為[填上數字]平方米／[填上數字]平方呎]；
*[窗台的面積為[填上數字]平方米／[填上數字]平方呎]；
*[閣樓的面積為[填上數字]平方米／[填上數字]平方呎]；
*[平台的面積為[填上數字]平方米／[填上數字]平方呎]；

- *[花園的面積為[填上數字]平方米／[填上數字]平方呎]；
*[停車位的面積為[填上數字]平方米／[填上數字]平方呎]；
*[天台的面積為[填上數字]平方米／[填上數字]平方呎]；
*[梯屋的面積為[填上數字]平方米／[填上數字]平方呎]；
*[前庭的面積為[填上數字]平方米／[填上數字]平方呎]；
*[庭院的面積為[填上數字]平方米／[填上數字]平方呎]。
17. 如賣方在本物業的權益屬衡平法權益而非法定產業權，買方不得提出反對。
18. 就本合約及有關轉讓契須支付的從價印花稅(如有的話)，由*買方／賣方承擔及支付。
19. 就本合約及有關轉讓契須支付的額外印花稅(如有的話)，由*買方／賣方承擔及支付。
20. 就每一方面而言，時間為本合約的關鍵元素。
21. 除本條另有規定外，在買賣完成前，由買方向賣方律師支付的售價任何部分，須由該律師作為保證金保存人而持有，並僅可按以下方式運用及發放 —
- (a) 第一，不時向賣方發放經認可人士證明為用於建造⁰本期／本發展項目已支用或須支付的款額，以支付建築費用及專業費用；
- (b) 第二，用於償還根據建築按揭(如有的話)支取以支付建築費用及專業費用的資金及其利息；
- (c) 第三，如賣方律師作為保證金保存人在任何時間所持的款項，足以支付不時經認可人士證明的建築費用及專業費用全

部尚欠的餘額及上文(b)款所提述的其他款項，則用於支付以建築按揭(如有的話)為保證的任何其他款項；及

- (d) 第四，如賣方律師作為保證金保存人在任何時間所持的款項，足以支付上文(c)款所提述兩筆款項的總額，則賣方律師可向賣方發放剩餘款額。

但 —

- (i) 就上文(a)款所指的款項而言，賣方律師在任何時間向賣方發放的任何款項，均不得超逾經認可人士證明為當時已用於支付及／或變為須支付的建築費用及專業費用減去以下款額後的款額：賣方為支付建築費用及專業費用而已在建築按揭(如有的話)中支取的款額；及
- (ii) 賣方在任何情況下，均不得按建築按揭(如有的話)支取已根據上文(a)款支付的建築費用及專業費用的任何部分。

22. 根據本合約須發出的通知 —

- (a) 如符合以下條件，即當作已有效地向某一方發出 —
- (i) 該通知寄給該一方；及
- (ii) 該通知以一般預付郵遞方式寄往 —
- (A) 在本合約中述明的該一方的地址；或
- (B) (如先前曾有地址變更的通知向另一方或該另一方的律師發出)該一方最後為人所知的地址；及
- (b) 當作於寄出日期後的第二個辦公日送達。

23. 凡本物業或第 28 條所列出的裝置、裝修物料或設備有欠妥之處，而該欠妥之處並非由買方行為或疏忽造成，則賣方在接獲買方在第 13 條所指的買賣成交日期後的 6 個月內送達的書面通知後，須於合理地切實可行的範圍內，盡快自費作出補救。本條的規定並不削弱買方按普通法或其他法律可享有的任何其他權利或補救。

24. 賣方向買方承諾，如有關乎或影響本物業或本發展項目的公用地方或公用部分及公用設施的欠妥之處，則在該欠妥之處有此關連或影響的範圍內，賣方將盡力執行在所有與本發展項目的建造有關的合約下的關於該等欠妥之處及維修的所有責任。

25. 如賣方清盤(不論是否自發清盤)或解散，在所有關乎本發展項目的建造的合約下的所有保證條款及擔保的利益及權利，須由賣方轉讓予根據《建築物管理條例》(第 344 章)成立的業主立案法團；如沒有該法團存在，則須轉讓予本發展項目當其時的管理人，以信託形式，代買方及本發展項目所有其他單位的購樓人士持有。

26. 在以轉讓契完成買賣後，第 15、23、24 及 25 條維持有效。

27. 如任何本合約指定的付款日期或按本合約規定完成買賣的日期並非辦公日，或在上午 9 時至下午 5 時之間，懸掛 8 號或以上颱風訊號或發出黑色暴雨警告訊號，則該付款日期或完成買賣日期自動順延至下一個緊接該日並在上午 9 時至下午 5 時之間沒有懸掛 8 號或以上颱風訊號或發出黑色暴雨警告訊號的辦公日。

28. 賣方須在⁰本期／本發展項目完成之時或之前，將下列裝置、裝修物料及設備裝設於本物業內 —
- [填上裝置、裝修物料及設備]。

但如賣方因不可抗力或其他非其所能控制的理由，而未能取得該等裝置、裝修物料及設備，則可用經認可人士證明為品質相若的其他裝置、裝修物料及設備代替。

29. 公用*[及康樂]設施如下 —
- [填上公用及康樂設施]。

- * 將不適用者刪去。
- γ 如屬分期發展項目(《一手住宅物業銷售條例》(2012 年第 號)所指者)，刪去“本發展項目”，否則刪去“本期”。
- β 只適用於分期發展項目(《一手住宅物業銷售條例》(2012 年第 號)所指者)，將不適用者刪去。
- θ 如屬分期發展項目(《一手住宅物業銷售條例》(2012 年第 號)所指者)及除最後一期外，刪去“本發展項目”，否則刪去“本期”。

Schedule 7 [ss. 9, 50 & 83]

Provisions Required to be Contained in Agreement for Sale and Purchase (Completed Development that is not Completed Development Pending Compliance)

Part 1

1. In this Agreement—
 - (a) “business day” means a day—
 - (i) that is not a Saturday, Sunday or public holiday; and
 - (ii) on which banks are open for business in the Hong Kong Special Administrative Region;
 - (b) “Development” means *[insert brief description of the development giving as much information as reasonably practicable so that a purchaser will have a general understanding as to the nature and composition of the development, the communal and recreational facilities (if any) provided in the development, and other special features (if any), etc.]* that has been constructed or in the course of being constructed on the land known as “*[insert name of the development]*”;
 - (c) “land” means all that piece or parcel of land registered in the Land Registry as *[insert lot number]*;
 - (d) “office hours” means the period beginning at 10 a.m. of a day and ending at 4:30 p.m. of the same day; and
 - (e) “Vendor’s Solicitors” means Messrs. *[insert name of solicitors’ firm of the vendor]*.
2. In this Agreement—

- (a) “saleable area” has the meaning given by section 8 of the Residential Properties (First-hand Sales) Ordinance (of 2012);
 - (b) the floor area of an item under clause 7(a) is calculated in accordance with section 8(3) of that Ordinance; and
 - (c) the area of an item under clause 7(b) is calculated in accordance with Part 2 of Schedule 2 to that Ordinance.
3. The purchase price is HK\$[insert amount], payable by the Purchaser to the Vendor’s Solicitors as stakeholders as follows—
 - (a) the amount of HK\$[insert amount], being 5% of the purchase price has been paid as deposit on signing the agreement preliminary to this Agreement;
 - (b) [insert payment terms in such a way that the operation of clause 4 will not be affected].
4. The sale and purchase shall be completed at the office of the Vendor’s Solicitors during office hours on or before [insert date].
5. Subject to clause 8, the Vendor shall not restrict the Purchaser’s right to raise requisition or objection in respect of title.
6. The Vendor warrants—
 - (a) that the fittings, finishes and appliances as set out in clause 18 will be incorporated into the Property;
 - (b) that the Property will be as shown on the plan attached to this Agreement and the measurements of the Property will be those set out in clause 7; and
 - (c) that the Vendor shall provide the communal *[and recreational] facilities as set out in clause 19.
7. The measurements of the Property are as follows—

- (a) the saleable area of the Property is [insert figure] square metres/[insert figure] square feet *[of which—]
 - *[[insert figure] square metres/[insert figure] square feet is the floor area of the balcony];
 - *[[insert figure] square metres/[insert figure] square feet is the floor area of the utility platform];
 - *[[insert figure] square metres/[insert figure] square feet is the floor area of the verandah]; and
 - (b) other measurements are—
 - *[the area of the air-conditioning plant room is [insert figure] square metres/[insert figure] square feet];
 - *[the area of the bay window is [insert figure] square metres/[insert figure] square feet];
 - *[the area of the cockloft is [insert figure] square metres/[insert figure] square feet];
 - *[the area of the flat roof is [insert figure] square metres/[insert figure] square feet];
 - *[the area of the garden is [insert figure] square metres/[insert figure] square feet];
 - *[the area of the parking space is [insert figure] square metres/[insert figure] square feet];
 - *[the area of the roof is [insert figure] square metres/[insert figure] square feet];
 - *[the area of the stairhood is [insert figure] square metres/[insert figure] square feet];
 - *[the area of the terrace is [insert figure] square metres/[insert figure] square feet];
 - *[the area of the yard is [insert figure] square metres/[insert figure] square feet].

8. The Purchaser shall raise no objection if the Vendor's interest in the Property is an equitable interest and not a legal estate.
9. The ad valorem stamp duty, if any, payable on this Agreement and the Assignment shall be borne and paid by the *Purchaser/Vendor.
10. The special stamp duty, if any, payable on this Agreement and the Assignment shall be borne and paid by the *Purchaser/Vendor.
11. Time is in every respect of the essence of this Agreement.
12. Any notice required to be given under this Agreement—
 - (a) is deemed to have been validly given to a party if—
 - (i) the notice is addressed to the party; and
 - (ii) the notice is sent by ordinary prepaid post to—
 - (A) the party's address stated in this Agreement; or
 - (B) the party's last known address (where a notification of change of address has previously been given to the other party or the other party's solicitors); and
 - (b) is deemed to have been served on the second business day after the date of posting.
13. The Vendor shall, at its own cost and as soon as reasonably practicable after receipt of a written notice served by the Purchaser within 6 months after the date of completion of the sale and purchase under clause 4, remedy any defects to the Property, or the fittings, finishes or appliances as set out in clause 18, caused otherwise than by the act or neglect of the Purchaser. The provisions of this Clause are without prejudice to any other rights or remedies that the Purchaser may have at common law or otherwise.
14. The Vendor undertakes with the Purchaser to use its best endeavours to enforce all defects and maintenance obligations

- under all contracts relating to the construction of the Development in so far as such defects relate to or affect the Property or the common areas or common parts and common facilities of the Development.
15. In the event of the winding-up (whether voluntary or otherwise) or dissolution of the Vendor, the benefit and rights of and in all warranties and guarantees under all contracts relating to the construction of the Development shall be assigned by the Vendor to the Owners' Corporation incorporated under the Building Management Ordinance (Cap. 344) or if no such corporation exists to the manager of the Development for the time being to be held in trust for the Purchaser and all other purchasers of units in the Development.
16. Clauses 6, 13, 14 and 15 will survive completion of the sale and purchase by the Assignment.
17. If any date stipulated for payment in this Agreement or the day on which completion of the sale and purchase is to take place as provided in this Agreement falls on a day that is not a business day or on a day on which Typhoon Signal No. 8 or above is hoisted or Black Rainstorm Warning Signal is issued at any time between the hours of 9 a.m. and 5 p.m., such date for payment or completion of the sale and purchase is automatically postponed to the immediately following day that is a business day and on which no Typhoon Signal No. 8 or above is hoisted or Black Rainstorm Warning Signal is issued at any time between the hours of 9 a.m. and 5 p.m.
18. The Vendor shall incorporate into the Property the fittings, finishes and appliances as follows—
[insert fittings, finishes and appliances].
19. The communal *[and recreational] facilities are as follows—
[insert communal and recreational facilities].

* Delete as appropriate.

Part 2

1. 在本合約中 —
 - (a) “辦公日”指符合以下說明的日子 —
 - (i) 不屬星期六、星期日或公眾假期；及
 - (ii) 銀行在該日於香港特別行政區開放營業；
 - (b) “本發展項目”指已在或正在該土地上興建並名為“[填上本發展項目的名稱]”的[填上本發展項目的扼要描述，以在合理地切實可行的範圍內，盡量提供最多資料，使買方可以大體上了解本發展項目的性質及組成、本發展項目內提供的公用及康樂設施(如有的話)，及其他特點(如有的話)等]；
 - (c) “該土地”指在土地註冊處註冊為[填上地段編號]的整片或整幅土地；
 - (d) “辦公時間”指由上午 10 時起至同日下午 4 時 30 分為止的期間；
 - (e) “賣方律師”指[填上賣方律師事務所的名稱]。
2. 在本合約中 —
 - (a) “實用面積”具有《一手住宅物業銷售條例》(2012 年第 號)第 8 條給予該詞的涵義；
 - (b) 第 7(a)條所指的項目的樓面面積，按照該條例第 8(3)條計算；及
 - (c) 第 7(b)條所指的項目的面積，按照該條例附表 2 第 2 部計算。
3. 售價為港幣[填上款額]元，須由買方支付予作為保證金保存人的賣方律師，付款方式如下 —

- (a) 在簽署與本合約有關的臨時買賣合約時，已支付相等於售價的 5%的款項，即港幣[填上款額]元，作為訂金；
 - (b) [填上不影響第 4 條的施行的付款條款]。
4. 買賣須在[填上日期]或之前，於辦公時間內，在賣方律師的辦事處完成。
5. 除第 8 條另有規定外，賣方不得限制買方就業權提出要求或反對的權利。
6. 賣方保證 —
 - (a) 第 18 條所列出的裝置、裝修物料及設備將會裝設於本物業內；
 - (b) 本物業將如附於本合約的圖則所示，而本物業的量度尺寸將為第 7 條所列出的量度尺寸；及
 - (c) 賣方須提供第 19 條所列出的公用*[及康樂]設施。
7. 本物業的量度尺寸如下 —
 - (a) 本物業的實用面積為[填上數字]平方米/[填上數字]平方呎*[，其中 —]
*[[填上數字]平方米/[填上數字]平方呎為露台的樓面面積]；
*[[填上數字]平方米/[填上數字]平方呎為工作平台的樓面面積]；
*[[填上數字]平方米/[填上數字]平方呎為陽台的樓面面積]；及
 - (b) 其他量度尺寸為 —

- *[空調機房的面積為[填上數字]平方米/[填上數字]平方呎]；
- *[窗台的面積為[填上數字]平方米/[填上數字]平方呎]；
- *[閣樓的面積為[填上數字]平方米/[填上數字]平方呎]；
- *[平台的面積為[填上數字]平方米/[填上數字]平方呎]；
- *[花園的面積為[填上數字]平方米/[填上數字]平方呎]；
- *[停車位的面積為[填上數字]平方米/[填上數字]平方呎]；
- *[天台的面積為[填上數字]平方米/[填上數字]平方呎]；
- *[梯屋的面積為[填上數字]平方米/[填上數字]平方呎]；
- *[前庭的面積為[填上數字]平方米/[填上數字]平方呎]；
- *[庭院的面積為[填上數字]平方米/[填上數字]平方呎]。
8. 如賣方在本物業的權益屬衡平法權益而非法定產業權，買方不得提出反對。
9. 就本合約及有關轉讓契須支付的從價印花稅(如有的話)，由* 買方／賣方承擔及支付。
10. 就本合約及有關轉讓契須支付的額外印花稅(如有的話)，由* 買方／賣方承擔及支付。
11. 就每一方面而言，時間為本合約的關鍵元素。
12. 根據本合約須發出的通知 —
- (a) 如符合以下條件，即當作已有效地向某一方發出 —
- (i) 該通知寄給該一方；及
- (ii) 該通知以一般預付郵遞方式寄往 —

- (A) 在本合約中述明的該一方的地址；或
- (B) (如先前曾有地址變更的通知向另一方或該另一方的律師發出)該一方最後為人所知的地址；及
- (b) 當作於寄出日期後的第二個辦公日送達。
13. 凡本物業或第 18 條所列出的裝置、裝修物料或設備有欠妥之處，而該欠妥之處並非由買方行為或疏忽造成，則賣方在接獲買方在第 4 條所指的買賣成交日期後的 6 個月內送達的書面通知後，須於合理地切實可行的範圍內，盡快自費作出補救。本條的規定，並不削弱買方按普通法或其他法律可享有的任何其他權利或補救。
14. 賣方向買方承諾，如有關乎或影響本物業或本發展項目的公用地方或公用部分及公用設施的欠妥之處，則在該欠妥之處有此關連或影響的範圍內，賣方將盡力執行在所有與本發展項目的建造有關的合約下的關於該等欠妥之處及維修的所有責任。
15. 如賣方清盤(不論是否自發清盤)或解散，在所有關乎本發展項目的建造的合約下的所有保證條款及擔保的利益及權利，須由賣方轉讓予根據《建築物管理條例》(第 344 章)成立的業主立案法團；如沒有該法團存在，則須轉讓予本發展項目當其時的管理人，以信託形式，代買方及本發展項目所有其他單位的購樓人士持有。
16. 在以轉讓契完成買賣後，第 6、13、14 及 15 條維持有效。
17. 如任何本合約指定的付款日期或按本合約規定完成買賣的日期並非辦公日，或在上午 9 時至下午 5 時之間，懸掛 8 號或以上颱風訊號或發出黑色暴雨警告訊號，則該付款日期或完成買賣日期自

動順延至下一個緊接該日並在上午 9 時至下午 5 時之間沒有懸掛 8 號或以上颱風訊號或發出黑色暴雨警告訊號的辦公日。

18. 賣方須將下列裝置、裝修物料及設備，裝設於本物業內 —
[填上裝置、裝修物料及設備]。

19. 公用*[及康樂]設施如下 —
[填上公用及康樂設施]。

* 將不適用者刪去。

Schedule 8

[ss. 7, 56, 58 & 83]

Vendor's Information Form

1. Information to be given in vendor's information form

- (1) A vendor's information form mentioned in section 56 or 58 must set out the following information—
 - (a) the saleable area of the specified residential property;
 - (b) the floor area of every one of the following to the extent that it forms part of the specified residential property—
 - (i) a balcony;
 - (ii) a utility platform;
 - (iii) a verandah;
 - (c) the availability of the following in the specified residential property—
 - (i) fresh water;
 - (ii) flushing water;
 - (iii) drainage;
 - (iv) gas;
 - (v) electricity;
 - (d) the amount of the management fee that is payable for the specified residential property;
 - (e) the amount of the Government rent (if any) that is payable for the specified residential property;
 - (f) the name of the owners' incorporation (if any);
 - (g) the name of the manager of the development;
 - (h) any notice received by the vendor from the Government or management office concerning sums required to be

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

- (i) any pending claim affecting the specified residential property that is known to the vendor;
- (j) a layout plan of the development;
- (k) a floor plan of the specified residential property.

(2) If—

- (a) the Building Authority has exercised the power under section 42(1) of the Buildings Ordinance (Cap. 123) in permitting modification of regulation 23(3)(a) of the Building (Planning) Regulations (Cap. 123 sub. leg. F) in relation to a building in the development;
- (b) the Building Authority has given permission for the purposes of regulation 22(1)(b) or (2)(b) of those Regulations in relation to a building in the development; or
- (c) the Building Authority has exercised the power under regulation 23(3)(b) of those Regulations in disregarding any floor space in determining the gross floor area of a building in the development for the purposes of regulations 20, 21 and 22 of those Regulations,

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

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

If the development is divided into 2 or more phases, section 1 of this Schedule applies to the vendor's information form as if a reference in section 1(1)(g) and (h) and (2) of this Schedule to the development were a reference to the phase of which the specified residential property forms part.

Explanatory Memorandum

The purposes of this Bill are those set out in the long title. The Bill is divided into 6 parts.

Part 1

2. Part 1 contains preliminary provisions. Clause 1 sets out the short title and provides for commencement. Clause 2 defines or otherwise explains the meaning of certain expressions used in the Bill. Clauses 3, 4, 5 and 6 define or otherwise explain the meaning of *development*, *phase*, *building* and *residential property*, as well as other related expressions, used in the Bill. Clause 7 defines or otherwise explains the meaning of *vendor* used in the Bill. Clause 8 (as read with Schedule 2) defines or otherwise explains the meaning of *saleable area*, and other related expressions, used in the Bill. Clause 10 specifies the residential properties to which the Bill applies (*specified residential properties*).

Part 2

3. Part 2 contains provisions that regulate sales practices in relation to specified residential properties. This Part is divided into 9 Divisions.
4. Division 1 contains preliminary provisions. Clause 12 defines or otherwise explains the meaning of certain expressions used in this Part. Clause 13 defines or otherwise explains the meaning of *sale of residential property* used in this Part. Clause 14 provides that the Divisions in this Part (except Divisions 1 and 9) apply if there is a sale of a specified residential property. That clause is subject to Division 9.
5. Division 2 deals with sales brochures. Clause 15 requires the vendor to prepare a publication for the development, or for the phase (in the case of a phased development), entitled "Sales Brochure" in English and "售樓說明書" in Chinese. Clauses 17 to 22 (as read with Schedule 1) set out the detailed requirements for a

sales brochure. Clause 23 requires the vendor to make copies of the sales brochures available for collection or inspection during a period of at least 7 days before the sale that triggers the application of Division 2, and on a date of the sale. Clause 24 provides for the application of clauses 16 to 23 in the case of a phased development.

6. Division 3 deals with price lists. Clause 26 requires the vendor to prepare a document setting out the price of each specified residential property in the development or in the phase (in the case of a phased development). Clauses 27 and 28 set out the detailed requirements for a price list. Clause 29 requires the vendor to make copies of the relevant price list available for collection or inspection during a period of at least 3 days before the sale that triggers the application of Division 3, and on a date of the sale. Clause 30 provides for a restriction on the vendor from seeking expressions of intent on the specified residential properties before or after copies of the relevant price lists having been made available for inspection on a website. Clause 31 requires that a specified residential property may only be sold at the price set out in the latest relevant price list.
7. Division 4 deals with show flats for an uncompleted development or for an uncompleted phase (in the case of a phased development). Clauses 32 and 33 define or otherwise explain the meaning of *unmodified show flat*, and *modified show flat*, used in this Division. Clause 34 provides that the vendor is not required to set up any show flat. But if the vendor is to set up a show flat of a residential property, the vendor must first set up an unmodified show flat of the residential property and may then set up a modified show flat of the residential property. Clauses 35 to 37 set out the detailed requirements for a show flat. Clause 38 prohibits the vendor from imposing restrictions on taking measurements, or taking photographs or making video recordings, of a show flat. Clause 39 provides for the application of clauses 32, 33, 35, 36 and 37 in the case of a phased development.
8. Division 5 deals with making the specified residential property in a completed development, or in a completed phase (in the case of a

- phased development), available for viewing. Clause 40 requires that before a specified residential property is sold to a person, the vendor must make the specified residential property available for viewing by the person. The vendor may make a comparable residential property available for viewing by the person if it is not reasonably practicable for the specified residential property to be viewed by the person. Clause 41 sets out the detailed requirements for a comparable residential property. Clause 42 prohibits the vendor from imposing restrictions on taking measurements, or taking photographs or making video recordings, of a comparable residential property.
9. Division 6 deals with making information on sales arrangements, and other information, available for inspection. Clause 43 requires the vendor to make information on sales arrangements available for inspection during a period of at least 3 days before the sale that triggers the application of Division 6, and on a date of the sale. Clauses 44 and 45 require the vendor to make copies of certain plans, the deed of mutual covenant (or a draft), the land grant, and an aerial photograph of the development, available for inspection on a date of the sale that triggers the application of Division 6. Clause 47 provides for the application of clauses 43 to 45 in the case of a phased development.
10. Division 7 deals with the preliminary agreement for sale and purchase, and the agreement for sale and purchase, of the specified residential property. Clause 48 provides that a preliminary deposit of 5% of the purchase price is payable by the purchaser on entering into the preliminary agreement. This prevails over any conflicting or inconsistent provision in a preliminary agreement. Clause 49 provides for the situation in which the purchaser executes or does not execute the agreement for sale and purchase after entering into the preliminary agreement. Clause 50 prohibits the owner of the specified residential property from entering into a preliminary agreement for sale and purchase, or an agreement for sale and purchase, unless it contains the provisions set out in Schedule 4 (for the preliminary agreement) or in Schedule 5, 6 or 7 (for the agreement).

11. Division 8 deals with the register of transactions. Clause 51 requires the vendor to keep one register of transactions for the development or for the phase (in the case of a phased development). Clause 52 sets out the detailed requirements for a register of transactions. Clause 53 requires the vendor to make the register of transactions available for inspection on a date of the sale that triggers the application of Division 8, and during a period specified in that clause. Clause 54 provides for the application of clauses 52 and 53 in the case of a phased development.
12. Division 9 sets out the exceptions, and the additional requirements, to Divisions 2 to 8. Clause 55 provides that Divisions 2 to 7 do not apply if all residential properties in a multi-unit building in a development, or all houses (each containing one residential property) in a development, are sold to the same person under a single agreement for sale and purchase. Clause 56 provides that Divisions 3 to 6 do not apply if there is a sale of the specified residential property to the sitting tenant (who has been a tenant of the property for a continuous period of at least one year). However, a vendor's information form (see Schedule 8) must be provided to the sitting tenant. Clause 57 provides that Division 3 does not apply if there is a sale of the specified residential property by auction or tender. Clause 58 provides for the situation in which the development is a completed development (or a completed phase of a development) and in which the specified residential property has been offered to be sold when the development is an uncompleted development (or an uncompleted phase of a development). In addition to any applicable requirements under Part 2, a vendor's information form (see Schedule 8) must also be provided to the person to whom the specified residential property is being offered to be sold.

Part 3

13. Part 3 contains provisions that regulate advertisements promoting the sale of any specified residential property. Under clause 60, it is an offence to publish such an advertisement that contains false or

misleading information (as to a material particular). Clauses 61 to 64 set out the detailed requirements for such an advertisement.

Part 4

14. Part 4 provides for offences in connection with misrepresentations and with dissemination of false or misleading information. Under clause 65, it is an offence to make a fraudulent or reckless misrepresentation for the purpose of inducing another person to purchase any specified residential property. Under clause 66, it is an offence to disseminate false or misleading information (as to a material fact or through the omission of a material fact) that is likely to induce another person to purchase any specified residential property.

Part 5

15. Part 5 contains defence provisions and other supplementary provisions on offences. This Part is divided into 3 Divisions.
16. Division 1 provides for a defence of reasonable precautions and due diligence in relation to an offence under Part 2 or 3 (other than clause 60).
17. Division 2 provides for a defence in relation to an offence to disseminate false or misleading information (clause 66) or an offence to publish an advertisement containing false or misleading information (clause 60). The defence is available if the contravention took place by reason only of an issue or reproduction of the information or advertisement, a re-transmission of the information or advertisement, or a live broadcast of the information or advertisement.
18. Division 3 provides for other supplementary provisions on offences.

Part 6

19. Part 6 contains administrative and miscellaneous provisions. This Part is divided into 3 Divisions.

20. Division 1 contains the administrative provisions. Clause 74 empowers the Secretary for Transport and Housing to appoint a public officer to be the authority for the purposes of the Bill (*Authority*) and to appoint other public officers to assist the Authority. Clauses 75 to 77 set out the functions and powers of the Authority. Clause 78 empowers the Secretary for Transport and Housing to give directions to the Authority, or a public officer appointed to assist the Authority, with respect to the performance of functions or the exercise of powers.
21. Division 2 provides for the investigation by the Authority, or by a public officer appointed to assist the Authority, in relation to contraventions of a provision of the Bill.
22. Division 3 contains a provision that empowers the Secretary for Transport and Housing to amend the Schedules.

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

BACKGROUND

To further enhance the transparency and fairness of the sales arrangements and transactions of first-hand residential properties, the Chief Executive announced in the 2010-11 Policy Address that a Steering Committee would be set up to discuss specific issues on regulating the sale of first-hand residential properties by legislation. The Steering Committee on the Regulation of the Sale of First-hand Residential Properties by Legislation (the Steering Committee) was set up in October 2010. It completed its work and submitted practicable recommendations on how to regulate the sales of first-hand residential properties in a report to the Secretary for Transport and Housing in October 2011. Having considered the recommendations made by the Steering Committee, the Transport and Housing Bureau (THB) published a consultation paper titled “Public Consultation on the Proposed Legislation to Regulate the Sale of First-Hand Residential Properties” on 29 November 2011 to invite public’s views on the Residential Properties (First-hand Sales) Bill as attached to the consultation paper. The legislative proposals are primarily based on those recommendations.

2. THB made available the consultation paper, which is bilingual, through hard copies at the 18 District Offices and soft copies uploaded onto the website of THB. Apart from welcoming views submitted by email, fax or post, THB established a dedicated e-forum to provide an interactive online platform for the general public to express their views on the provisions of the proposed legislation.

3. The consultation period ended on 28 January 2012. During the consultation period, we attended the Legislative Council Panel on Housing on 5 December 2011 and the Housing Panel’s special meeting on 5 January 2012 to listen to the views of the Panel members and deputations. We organized two public forums on 16 December 2011 and 4 January 2012 respectively for a direct dialogue with members of the public. We arranged meetings to brief relevant trade and professional organizations and listen to their views. A list of meetings and forums organized/attended by THB is at **Annex A**.

OUTCOME OF CONSULTATION

4. We received 959 submissions, by way of email, facsimile or post or via the designated e-forum. Respondents comprised members of the public, business, trade and professional organizations, and political parties (a list of respondents is at **Annex B**). Around 180 people attended the two public forums and 30 of them expressed views at the forums. A compendium of the submissions and records of the public forums are available at THB's webpage and the public enquiry service centres of 18 District Offices.

5. We received widespread support from members of public and stakeholders on the proposed legislation, and the legislative proposals were generally acceptable to the public and relevant stakeholders with the exception of the Real Estate Developers Association of Hong Kong (REDA). There is a clear consensus that the sale of first-hand residential properties should be regulated by legislation to enhance protection for flat purchasers, and that the proposed legislation should be enacted as soon as possible. While REDA indicated no in-principle objection to regulate the sales of first-hand residential properties, it qualified its statement of support that the proposed measures had to be reasonable and proportionate, the restrictions imposed should not be more than necessary to accomplish such legitimate purpose, and that it was unconstitutional to regulate the sales of first-hand completed residential properties.

6. The following paragraphs summarize the salient provisions in the draft legislation as set out in the consultation paper, respondents' views and the Administration's responses.

(a) Scope

Proposals for consultation

7. In the consultation paper, we recommended that the legislation should cover the sale of all first-hand uncompleted and completed residential properties, irrespective of whether they were projects developed under the old lease conditions, Consent Scheme projects or projects outside the Consent Scheme with an aim to increasing transparency and ensuring fairness of sales.

8. Taking into account that first-hand residential properties which are leased out for a reasonably long period after completion are akin to second-hand residential properties and as such their sales should not come under the same regulatory regime as first-hand residential properties, we proposed to grant exemption to residential properties where 95% or more of the residential properties of the development or a phase of the development had been leased out for 36 months. Also, we proposed to grant exemption to vendors selling just one first-hand single house (as in the case of New Territories Exempted Houses (NTEH)) as it might be too onerous to require such vendors to meet the requirements of the legislation such as the provision of the sales brochure and the price list, etc. In addition, we considered that subsidized housing developments that were constructed by the Housing Authority (HA), namely the new and residual Home Ownership Scheme (HOS) flats, should be exempted having regard to the fact that HOS flats were subsidized flats and that HA had to follow set parameters to dispose of those flats which were completely different from normal market practice.

Respondents' views

9. Some submissions commented on the scope of the proposed legislation. They were generally supportive that both uncompleted and completed residential properties should be regulated. However, REDA, an individual developer and a number of individual companies¹ held the view that as first-hand completed residential properties were no different from second-hand residential properties because prospective purchasers might inspect those residential properties in person, first-hand completed residential properties should not be regulated. Also, REDA considered that the requirements to be imposed on the sale of first-hand completed residential properties would put developers in a disadvantageous position when compared with purchasers who purchased first-hand completed residential properties from them and then resold the properties as second-hand residential properties which would not be subject to the proposed legislation. REDA commented that regulating the sale of first-hand completed residential properties contravened the protection of the right of private ownership and disposal of property stipulated in the Basic Law.

¹ About 20 submissions with the same contents on this were received from individual companies.

10. A few submissions mentioned that the proposed legislation should cover the sale of second-hand residential properties.

11. On the proposed exemptions for first-hand residential properties which vendors have leased out for a reasonably long period of time after completion, REDA commented that the proposed thresholds of 95% or more of the residential properties of a development or a phase of development having been leased out for a period of not less than 36 months should be lowered to 50% and no less than 6 months.

12. On the proposed exemption for subsidized housing developments constructed by HA, only about 10 submissions expressed the view that the sale of HOS flats should come under the legislation.

13. The Urban Renewal Authority (URA) expressed that its “Flat-for-flat” (FFF) Scheme cannot operate in the manner to which it had publicly committed with the Government’s endorsement if the FFF Scheme had to fully comply with all the provisions of the proposed legislation on regulation of sales practices at all stages. URA explained in its submission that it was under a statutory duty to implement the FFF Scheme for redevelopment projects that commence after the promulgation of the Government’s new Urban Renewal Strategy in February 2011. The FFF Scheme is to provide an alternative to cash compensation for owner-occupiers affected by URA’s redevelopment projects with a view to maintaining residents’ social network. Under the Scheme, URA will issue FFF Offers at new residential developments in-situ or new residential developments elsewhere to owner-occupies at the time when URA offers to acquire their residential units which are affected by URA’s redevelopment projects. Upon the owner-occupiers accepting the FFF Offers, URA will then enter into legally binding undertakings (Undertakings) with the owner-occupiers detailing the terms under which URA will undertake to offer to sell them FFF units of different size ranges within certain floor zones at a prescribed unit price, but not any specific units. URA will collect deposit payment from the owner-occupiers who accept the FFF offers. The FFF Offers and the Undertakings will take place at a very early stage of the residential developments concerned and it is not possible for URA to comply with the requirements on sales brochures, price lists and the disclosure of transactions as set out in the draft legislation when making the FFF Offers or Undertakings. Having said that, URA confirmed that its FFF Scheme in the respective redevelopment projects can fully comply with the those provisions once Pre-sale Consent by the Director of Lands is granted to the projects.

14. The Consumer Council (CC) commented that the proposed definition of first-hand residential properties, which is premised on whether an agreement for sale and purchase has ever been entered into, and the proposal to exempt en bloc sale under one single agreement for sale and purchase could allow loopholes for developers to circumvent the legislation.

Our response

15. We propose that both first-hand uncompleted and completed residential properties should be regulated because, from the perspective of enhancing consumer protection, we see little difference between the two. In most of the cases of the sale of first-hand residential properties, regardless of whether the properties are uncompleted or completed, the vendors (i.e. developers) and individual purchasers are not on an equal footing. The former is always in a much stronger position vis-à-vis the latter, given that vendors hold first-hand residential properties in bulk.

16. Also, it is quite common for the vendor to start selling residential properties during the construction period and continue to do so in respect of the remaining residential properties upon completion. To draw a line between first-hand uncompleted and completed residential properties in terms of legislative control is artificial and not defensible.

17. We consider it crucial that purchasers of first-hand residential properties have access to a full range of information for making informed decisions. While the availability of completed residential properties for viewing may help flat purchasers visualize the size, layout and orientation of a flat, there are other key pieces of information regarding a development which flat purchasers also require, such as price lists and transaction information. The fact that purchasers of first-hand completed residential properties may have the opportunity to view completed residential properties and the actual environment of the development does not justify exempting the sale of first-hand residential properties from the legislation.

18. On the other hand, second-hand residential properties are often owned by private individuals. As such, the vendor and the purchaser are generally on an equal footing in the sale of second-hand residential properties. We do not see strong justifications to require vendors of second-hand residential properties, who are private individuals, to fulfill detailed requirements of the legislation such as the provision of sales brochures and price lists.

19. Given the above, we consider that the sale of first-hand completed residential properties is more similar in nature to the sale of first-hand uncompleted residential properties than second-hand residential properties in terms of the practical need to regulate their sale.

20. We do not agree that the requirements to be imposed on the sale of first-hand completed residential properties will put developers in a disadvantageous position when compared with purchasers who purchase first-hand residential properties from them and then resold the properties as second-hand residential properties. As mentioned above, whether the vendors and the buyers are on an equal footing is one of the barometers we have taken into account in proposing that the draft legislation should cover both first-hand completed and uncompleted residential properties. Under this yardstick, for circumstances whereby purchasers buy first-hand uncompleted or completed residential properties from vendors on an “en bloc” basis, we have proposed to exempt the vendors from the requirements in respect of sales brochures, price lists and show flats, because the purchaser(s) in this case are most likely to be in an equally strong position as the vendors. However, when the residential properties so acquired are subsequently offered for sale to individual purchasers, all the requirements under the proposed legislation would have to be complied with.

21. Nor do we agree that the proposal to regulate also the sale of first-hand completed residential properties will contravene the Basic Law or is unconstitutional. We consider the proposal to regulate the sale of first-hand completed residential properties is likely to be seen as pursuing the legislative aim of protecting purchasers’ interests and the means of regulation are not disproportionate to that aim. Being a Government which respects the protection of human rights and is firmly committed to uphold the rule of the law, we will ensure that any legislation we propose will conform with the Basic Law.

22. For the proposed exemption for first-hand residential properties which vendors lease out for a reasonably long period rather than sell upon completion, we maintain the view that, to ensure that vendors will not simply withhold the sale of a development for a relatively short period of time in order to circumvent legislative control, it is appropriate to set the thresholds at 95% or more of the residential properties of a development or a phase of development having been leased out for a period of not less than 36 months.

23. The exemption for development projects constructed by HA is justifiable because HOS flats are subsidized flats and HA has to follow set parameters to dispose of these flats (in terms of determining the target group, setting of sale price and determining flat selection priorities among eligible applicants, etc.) which are completely different from normal market practice. In fact, HA has observed the administrative regulatory measures applicable to the sale of uncompleted first-hand residential properties in the sale of surplus HOS flats in the past. Even though the HA will not be covered by the proposed legislation, it will sell HOS flats in accordance with the requirements under the proposed legislation in future as far as practicable.

24. In light of the genuine technical difficulties for the FFF Scheme to comply with the proposed legislation and as such difficulties will cease to exist upon the issuance of the pre-sale consent for the residential developments concerned by the Lands Department, we will address this issue as we finalize the Bill.

25. We agree with CC's observation that the proposed definition of first-hand residential properties, which is premised on whether an agreement for sale and purchase has ever been entered into, and the proposal to exempt en bloc sale under one single agreement for sale and purchase, could allow loopholes for developers to circumvent the legislation. For example, a vendor may circumvent the legislation when it decants its development under two or more agreements for sale and purchase to related companies which then sell the residential properties as "second-hand flats" to the general public. We will address this issue as we finalize the Bill.

(b) Saleable Area

Proposals for consultation

26. To most, if not all, prospective purchasers, "property size" and "property price" are two crucial factors to be taken into account when making a flat purchase decision. To enable prospective purchasers to better compare property prices of different first-hand residential developments calculated on the same area basis, it is very important that such information is provided in a clear, accurate and consistent manner.

27. In the light of the fact that there is currently no commonly adopted definition of gross floor area (GFA), the Steering Committee proposed to adopt the saleable area (SA) which has a standardized definition² as the only basis to quote property size and property price per square foot/metre in the sales brochure, price lists and advertisements. We have reflected this recommendation in the proposed legislation.

Respondents' views

28. The proposal to adopt SA as the only basis to quote property size and property price per square foot/metre in the sales brochure, price lists and advertisements of first-hand residential properties was the most discussed topic in the submissions we received during the public consultation exercise. There were many views which expressed support for the proposal, as well as those which advocated that GFA for a property should continue to be used. There were also suggestions that there should be a transitional period ranging from one to two years before disallowing quoting property size and property price per square foot/metre in GFA in the sales brochure, price lists and advertisements of first-hand residential properties.

29. Various professional bodies, political parties and a few estate agency associations, including the CC, the Estate Agents Authority (EAA), the Hong Kong Institute of Architects (HKIA), the Hong Kong Institute of Surveyors (HKIS), the Civic Party, the Democratic Party, the New People's Party, the Green Sense and the Hong Kong Professionals and Senior Executives Association, indicated support for adopting SA as the only basis for quoting the property size and the property price per square foot/metre of first-hand residential properties in the sales brochures, price lists and advertisements. They considered that SA with a standard definition would provide an objective and useful benchmark for making comparison between different developments.

² The standardized definition of SA sets out the method to calculate SA, which only includes the area of the unit and any balcony, utility platform or verandah. This definition was worked out in consultation with the Hong Kong Institute of Surveyors, the Hong Kong Institute of Architects, the Law Society of Hong Kong, CC, REDA and the Estate Agents Authority, and had been in use since 10 October 2008 for residential projects granted pre-sale consent by the Lands Department on or after that date. It is also set out in REDA's guidelines for its members' compliance. In addition, Rating and Valuation Department has adopted this definition in measuring the SA of a residential property for developments completed as from 10 October 2008.

30. The reasons put forward by those who supported using both measurements in parallel, including REDA, were that (a) having both pieces of information available would enhance the comprehensiveness of property area and price information to flat purchasers; (b) SA alone did not duly reflect those common facilities within the residential development to which property owners would have access; (c) using only SA might create confusion in the property market where second-hand residential properties were at present priced on the basis on GFA for a property; (d) a switch from using “property price per square foot/metre in GFA” to “property price per square foot/metre in saleable area” would lead to a sudden and considerable apparent “increase” in property prices; and (e) it was technically possible to come up with a standardized definition of GFA for a property. REDA considered that disallowing GFA-related information constituted a restriction on the right to the freedom of expression which was guaranteed by the Basic Law and the Bill of Rights, was contrary to the principle of transparency of information, and discriminated against owners of first-hand residential properties since the restriction did not apply to owners of second-hand residential properties. Also, REDA suggested a definition of GFA for a property³.

Our response

31. We remain of the view that SA should be the only basis to quote property size and property price per square foot/metre in the sales brochures, price lists and advertisements of first-hand residential properties. The reason is that the measurement methodology to be prescribed in legislation has to be clearly defined. There is at present a standardized definition of SA per property, but not a commonly-adopted definition of GFA per property. Without such a commonly-adopted definition of GFA for a property, it is at present not possible to prescribe GFA in precise term in the proposed legislation. Our experience in working out a standardized definition of SA indicates that it will take a considerable time for all relevant stakeholders to agree on such a definition.

³ REDA’s suggested common definition of GFA per property is that only GFA of common areas which serve exclusively the residential part of the development are to be included and apportioned to residential units. Both accountable and non-accountable (or exempted) GFA are to be included, so long as they serve exclusively the residential part of the development.

32. Allowing the use of GFA per property, which currently does not have a standardized definition, for quoting property size and property price per square foot/metre will cause confusion rather than enhance the comprehensiveness of information to flat purchasers. As different vendors may include different items in the constituents of “apportioned share of common areas” in their calculation of GFA per property, it is currently not possible for a purchaser to carry out an apple-to-apple comparison of the size, price and “efficiency ratio” of residential properties bearing the same GFA in different residential property developments.

33. We wish to point out that we are not proposing to disallow the disclosure of information beyond the SA in the sales of first-hand residential properties. While property size and property price per square foot/metre will not be allowed to be quoted on the basis of GFA under the proposed legislation, vendors will be required to provide area information on common facilities (e.g. resident’s clubhouse) on an aggregate basis in the sales brochures. This will enable property purchasers to know holistically the types and sizes of common facilities in the development. As such, we do not agree with REDA’s view that there is a total and absolute ban on the disclosure of GFA-related information or there is an infringement on the freedom of expression.

34. It is a common misperception that residential properties in the second-hand market do not have readily available measurements in terms of SA per property. The fact is that, with effect from 10 October 2008 and 2 June 2010 respectively, vendors are required under the Consent Scheme to provide details of the property size on the basis of SA and property price on the same basis. When these properties are sold in the second-hand market, potential buyers will have such information. Also, information on SA of all assessed second-hand residential properties in Hong Kong (except village houses) is readily available from the Rating and Valuation Department, and it is a statutory requirement under the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation (Cap. 511C) that an estate agent must, where applicable, provide information on saleable area of a property, including a second-hand residential property, to prospective purchaser.

35. We note that, due to long-established market practices, it is a norm that sellers, buyers and estate agents cite property size and property price per square foot/metre in terms of GFA even though SA per property is readily available. We recognize that a certain change in mindset is needed to bring about the switch from GFA to SA. The proposed

legislation will only come into effect in around 12 months' time after the enactment of the law when the enforcement authority will come into operation. There will therefore be a reasonably long period of time for the market to gear up to using only SA to present property size and property price per square foot/metre for first-hand residential properties. We will step up public education between now and the implementation of the Bill to bring about the mindset change. Meanwhile, EAA is considering issuing a practice circular to stipulate the adoption of saleable area in the sale and purchase, and the leasing of second-hand residential properties. We consider that the change to the use of only SA in the first-hand residential properties will also bring about changes along this direction in the second-hand residential market.

(c) Sales Brochure

Proposals for consultation

36. Since the sales brochure is a very important source of property information which provides details on the residential properties to be sold, we proposed in the consultation paper that the vendor should make public the bilingual sales brochure at least seven calendar days before the commencement of sale, including hard copies at the sales office and soft copy uploaded onto the vendor's website. To help prospective purchasers to distinguish sales brochures from promotional booklets, any publication other than the sales brochure cannot be called a "Sales Brochure". The expression "Sales Brochure" and "售樓說明書" must be printed no smaller than the minimum font size as its title on the cover.

37. To enable prospective purchasers to obtain clear, accurate and comprehensive information, the proposed legislation requires sales brochure to contain the following key property information in the first part of the sales brochure in a specified order and meet specific minimum font size requirements :

1. notes to purchasers of first-hand residential properties;
2. information on the development, the vendor and the others involved in the development;
3. information on the design of the development and property management;
4. a location plan of the development which shows streets, buildings, facilities and structures that is situated within 250 metres from the boundary of the development;
5. the latest aerial photo of the development;

6. relevant statutory plans;
7. a master layout plan of the development;
8. floor plans;
9. area schedule of the residential properties⁴;
10. floor plans of car parking spaces;
11. a summary of the Preliminary Agreement for Sale and Purchase (PASP);
12. a summary of the Deed of Mutual Covenant;
13. a summary of the land grant conditions; and
14. information on Government, Institutional or Community Facilities, Public Open Space and Public Facilities.

38. Sales brochures must state the date on which it is printed. Also, the proposed legislation requires that sales brochure must not contain any promotional material or artist impression picture or graphic, and must not set out any information other than the information required under the legislation.

Respondents' views

39. This is a topic on which a significant number of submissions commented. There was no dispute among the views received that the sales brochure should contain comprehensive and accurate information. Some comments under this topic suggested that the amount of “inflated area” (the actual term used in the submissions was “發水比例”) of a development should be disclosed in sales brochures. There were suggestions in the submissions and at the public forums that information such as common facilities, property management and areas surrounding the development should be provided in sales brochures. HKIS supported the provision of aerial photo for the development site and its surrounding in the sales brochure.

Our response

40. We consider that the proposed requirements on sales brochures have addressed the various suggestions in the submissions. For example, regarding the suggestion that sales brochures should provide information on “inflated areas”, the proposed legislation has already included the requirement that information in the application for concession on GFA should be set out in sales brochures. Vendors are

⁴ Taking into account the fact that there is no commonly adopted definition of GFA, the proposed legislation specifies that the vendor should not quote information about the GFA per property or property price based on GFA in the sales brochure.

also required to provide in the sales brochures area information in respect of those communal facilities that are of interest to flat purchasers and where the relevant area information can be verified, i.e. “residents’ clubhouse”, “communal sky garden” and “covered and landscaped play area”. In addition, a location plan of the development is required to show the location of the development and every specified type of building, facility or structure situated within 250 metres from the boundary of the development.

(d) Price List

Proposals for consultation

41. To ensure sufficient transparency and to enable potential purchasers to obtain comprehensive information before making purchase decisions, vendors are required to make public the price list with a minimum number of residential properties to be included in the first and subsequent price lists at least three calendar days before the sale commences. The minimum number of residential properties to be included in the price lists depends on the size of the development, as shown in the table below.

Size of a development or a phase of development	Minimum number of residential properties to be disclosed in the 1 st price list	Minimum number of residential properties to be disclosed in each subsequent price list
30 residential properties or fewer	All	N/A
31 to 99 residential properties	At least 30 residential properties	At least 30 residential properties
100 residential properties or more	50 residential properties or 20% of the whole development or phase of development, whichever is higher	At least 10% of the whole development or phase of development

42. Under the proposed legislation, while developers are not obliged to offer to sell all the residential properties covered in a price list, when they sell such a residential property, they must do so at the price set out in the price list. Once a price list is issued, adjustments to the prices can only be made through issuing a revised price list and the residential property concerned cannot be sold unless the revised price list has been made public at least three days ahead. All these requirements help to enhance price transparency. Also, they strike a balance between enhancing market transparency and allowing a certain degree of flexibility for the vendor to respond to changing market conditions.

43. The proposed legislation also specifies the inclusion of essential information in price lists, such as special payment terms including all kinds of gifts, financial advantages and benefits in connection with the sale of the unit affecting the actual price of the unit. Regarding the floor area and unit price per square foot and per square metre of a residential property in the price list, they should only be quoted on the basis of SA but not GFA.

Respondents' views

44. Some submissions commented on this topic. Of those who supported setting a minimum number of residential properties to be disclosed in the price lists in achieving higher transparency, a few commented that a higher minimum number or percentage of residential properties should be set. Some were concerned that, notwithstanding the requirements on the minimum number of residential properties on each price list, vendors could still sell by small batches. In particular, the CC was of the view that every residential property on a price list must be offered to be sold to minimize sale by small batches. REDA took the view that requiring each price list to cover a minimum number of residential properties for sale would effectively be forcing the owners to offer all those residential properties for sale. REDA considered this an infringement of the owners' rights to use or dispose of the residential properties they own under the Basic Law.

45. In addition, REDA and an individual developer suggested that large size residential properties and those with special characteristics should not be subject to the same requirements on the minimum number of residential properties to be included in each price list of "ordinary" residential properties, as they were different from ordinary residential properties in multi-storey buildings. There was also the suggestion that price revisions and reductions should be allowed without having to wait for three days after the issuance of the revised price lists.

Our response

46. The proposed requirements on price list aim to enhance information transparency by setting the minimum number of residential properties for each and every price list and using the total number of residential properties in a development or a phase of development as the basis. It is an enhancement to the existing requirements on price lists under the Consent Scheme and REDA's guidelines⁵. By allowing adjustments to the prices through issuing revised price lists and requiring the residential properties concerned not to be sold earlier than three days after the issue of the revised price lists, the proposed requirements strike a balance between enhancing consumer protection and allowing vendors to take business decisions in the light of changing market conditions.

47. Requiring vendors to sell all residential properties on the price lists will impose an excessive burden and restrictions on the vendors that they must offer to sell their properties at specified quantities prescribed by the Government. As mentioned in paragraph 42 above, even though a vendor is not obliged to offer to sell all the residential properties covered in the price lists, if a vendor sells such a residential property, the vendor must do so at the price set out in the price list. Once the price list is issued, adjustments to the prices can only be made through issuing a revised price list, and the residential property concerned cannot be sold unless the revised price list has been made public at least three days ahead. All these requirements will help to enhance price transparency.

48. For first-hand large size residential properties or those with special characteristics, we consider that purchasers of those residential properties deserve the same level of protection as other flat purchasers.

⁵ At present, the Consent Scheme and REDA's guidelines set the minimum number of residential properties to be included in the first price list of each batch of sale only. Developers are free to determine the number of residential properties to be included in a batch of sale. And there is no requirement on the minimum number of residential properties to be included in the subsequent price lists of a batch of sale. Also, there is no requirement that developers must offer for sale all the residential properties covered in the price lists.

(e) Show Flats for Uncompleted Development or Phase

Proposals for consultation

49. We propose not to make it a mandatory requirement for vendors to provide show flats⁶ for uncompleted first-hand residential properties. That said, given that flat purchasers will rely heavily on show flats (if provided) to formulate a visual image of what the flats will look like upon completion, show flats should give an accurate depiction of the actual residential properties to be handed over to the purchasers.

50. The proposed legislation requires the provision of an unmodified show flat for any type/size of residential properties first before a modified show flat of that same type/size of residential properties can be shown. The requirements for show flats are clearly spelt out in the proposed legislation. These requirements include the size/dimensions, the fittings, finishes and appliances of all show flat(s) must be identical to those specified/described in the sales brochures; all bay windows, air-conditioning plant rooms, balconies, utility platforms and verandahs located inside the residential properties, if any, must be featured in the show flats; all doors, walls, including enclosing/boundary walls and internal partition walls must be shown in unmodified show flats; and there should be no additional fittings, finishes and appliance other than those stated in the sales brochure for unmodified show flats.

51. Also, it is proposed that visitors should be allowed to take measurements in show flats, and take photos and make videos in unmodified show flats.

Respondents' views

52. Some submissions commented on this topic. The views were that show flats should be an accurate depiction of the actual residential properties.

53. The CC, HKIA, HKIS and the Hong Kong Institute of Real Estate Administrators supported our proposal that no modified show flats should be provided without an unmodified show flat of the same type being provided first.

⁶ Our considerations are that it will be an undue burden to small and medium sized developers if we make it a mandatory requirement to provide show flats, given the difficulties in identifying the suitable venues to set up show flats and the cost involved.

Our response

54. We consider that the proposed requirements on show flats (if provided) and the proposed levels of penalties for offences relating to show flats for uncompleted developments or a phase of development should help give an accurate depiction of the actual residential properties to be handed over.

(f) Viewing of Property in Completed Development or Phase

Proposals for consultation

55. Given that viewing completed residential properties may help flat purchasers to further visualize the layout, orientation and the window view of a residential property, we proposed that, for first-hand completed residential properties, vendors should allow purchasers to view the particular completed residential property before the vendor can sell that residential property to the purchaser. Viewing of a comparable residential property should be arranged if it is not reasonably practicable to arrange viewing of that particular residential property. Should it be not reasonably practicable to arrange the viewing of a comparable residential property in place of the particular residential property, the vendor is required to obtain written consent from the purchaser to waive the requirement for the provision of a comparable residential property for viewing before the vendor can sell the residential property to the purchaser.

Respondents' views

56. There was a concern that, notwithstanding the requirement in the proposed legislation for vendors to arrange purchasers to view the completed residential properties which the purchasers intend to buy or comparable residential properties in the same development, vendors may impose undue restrictions or conditions to discourage purchasers from viewing the residential properties.

Our response

57. We consider that the proposed requirements that vendors should make available completed residential properties for viewing by prospective purchasers and other alternative arrangements, and the proposed levels of penalties for offences relating to contravening those requirements should provide effective protection to purchasers for viewing completed residential properties before purchase.

(g) Sales Arrangements

Proposals for consultation

58. To attain higher transparency on sales arrangements, the proposed legislation specifies that the vendor should make public various kinds of key information on logistical arrangements (e.g. the date and time for the commencement of sales, the sales venue(s), the number of residential properties to be offered for sale and what they were, and the method to be used to determine the order of priority of prospective purchasers) at least three calendar days before the sale commences. Such information should be provided on the vendor's website.

59. To ensure fairness to potential purchasers and for higher transparency, we proposed in the consultation paper that we set out in the legislation a specific cut-off date before which reservation of residential properties, whether or not payment of money was involved, must not be accepted. The two possible cut-off dates for consideration were (i) the issuance of price list; or (ii) the commencement of sale. While we have used the former for presentation purposes in the consultation paper, we made clear that we were open-minded on this issue and would like to hear the public's views on this before deciding the way forward.

Respondents' views

60. Of the small number of respondents that commented on the point on reservation of residential properties, there were slightly more than half of them who either supported or had no strong views on the concept of reservation. Among these respondents, there were slightly more respondents who favoured using issuance of price list as the cut-off date, including EAA and an estate agency firm. HKIS had no strong views on allowing reservation of residential properties after the issuance of price list so long as reservation of a particular residential property is not allowed since this will be equivalent to a sale. The CC and the Hong Kong Chamber of Professional Property Consultants Limited, however, considered that the date of the commencement of sale should be used. An estate agency association did not support allowing reservation of residential properties.

Our response

61. Taking into account that the public does not object to reservation of residential properties, that allowing reservation of residential properties only after the commencement of sale will render reservation meaningless, we are more inclined to adopt the option that reservation of residential properties may be allowed on or after the issuance of price lists provided that this would not become a sale in disguise. We will address this issue as we finalize the Bill.

(h) Conveyancing Procedures and Related Matters

Proposals for consultation

62. To enhance consumer protection in matters relating to conveyancing practices and procedures, we propose to require the signing of Agreement for Sale and Purchase (ASP) by the purchaser within three working days after the signing a PASP and by the vendor within six working days after the signing of a PASP. If a purchaser decides not to proceed with the signing of an ASP within three working days after the signing of the PASP, he may do so unilaterally and the cost of such a decision is proposed to be capped at 5% of the purchase price. The vendor however, must proceed to sign the ASP, except where the purchaser who signed the PASP chooses not to sign the ASP. The consultation paper also proposed certain major provisions to be included as mandatory provisions in the PASP and ASP. To safeguard the interests of potential purchasers, those mandatory provisions in the PASP and ASP will prevail over any inconsistent provisions therein.

Respondents' views

63. A few submissions commented on this topic. The views expressed included a lower forfeiture percentage and a longer cooling-off period. The CC also expressed similar views. REDA mentioned in its submission that currently under the Consent Scheme and REDA's guidelines, a purchaser is required to pay 10% of the purchase price as preliminary deposit and the proposal to change the amount of the preliminary deposit to 5% should be justified.

Our response

64. The proposals on conveyancing procedures and related matters have taken into account the particular characteristics of the residential property market in Hong Kong, including volatility of the market and the

exuberance of speculative activities. Also, they take into account the need to deter abuse by speculators or hasty purchase decision by prospective buyers. We consider the proposal of setting the forfeiture amount at 5% of the purchase price to be appropriate.

(i) Disclosure of Information on Transactions

Proposals for consultation

65. To ensure that prospective purchasers have easy access to sales performance data such as transaction volume and the transaction prices of the residential properties sold, we propose to require the vendor to provide timely information compiled in a standard format in a single Register for a single development or a single phase of the development which should be updated continuously and made available at the sales office and on the vendor's website. Vendors are required to disclose the relevant information within 24 hours upon the signing of a PASP, and within one working day after he enters into an ASP. For transaction which does not proceed beyond PASP, vendors should indicate on the fourth working day after the signing of the PASP that an ASP was not duly signed. The proposed legislation also requires vendors to disclose whether a transaction involves a director of the vendor, immediate family members⁷ of a director of the vendor, or a manager⁸ of the vendor. Vendors are required to maintain the Register until the Assignment of the last residential property in the development or in a phase of the development being offered for sale had been registered with the Land Registry.

Respondents' views

66. Some submissions were received on this topic with views expressed on the need to ensure transparency and that updated and accurate transaction information should be provided.

67. On the proposed timing for disclosing transaction information, REDA and the Hong Kong Professionals and Senior Executives Association considered the proposed deadlines too tight while the CC called for a real-time uploading of transaction information.

⁷ Immediate family members include a parent, spouse or child.

⁸ A 'manager' is as defined by section 2(1) of the Companies Ordinance (Cap 32).

Our response

68. The proposed requirements on the disclosure of transaction information are enhancements to the existing measures in the Consent Scheme and REDA's guidelines. They strike a balance between ensuring timely dissemination of updated and the provision of accurate transaction information in a user-friendly manner, and the practical need to give vendors reasonable lead time to make ready the transaction information. We do not recommend making adjustments to them.

(j) Exceptions and Additional Requirements

Proposals for consultation

69. As certain requirements on the sales brochures, price lists and show flats may not be applicable under particular circumstances, we recommended in the consultation paper granting specific exemptions to those properties. The proposed legislation provides for the following specific exclusions :

- (a) exclude vendors from the requirements in respect of the sales brochures, the price lists and show flats for first-hand uncompleted and completed residential properties sold on an "en bloc" basis under a single transaction because the purchaser(s) in this case are not general members of the public. However, the vendors will still be required to make public the transaction information. When the properties are subsequently offered for sale to individual flat purchasers, all the requirements under the proposed legislation must be observed;
- (b) for the sale of residential property to an existing tenant who has continuously rented the residential property for a reasonable period of time of at least one year, the vendor can be exempted from the requirement relating to the provision of the sales brochure upon the written agreement of the existing tenants concerned. The vendor however, will be required to provide a Vendor's Information Form (VIF) with essential and up-to-date information to the existing tenant who wishes to purchase the residential property. However, such transactions are still required to be disclosed; and

- (c) for residential properties which are first marketed when uncompleted but are left unsold after the issue of the occupation permit, vendors are required to make available the latest version of the sales brochure, plus a VIF, to prospective purchasers. All other requirements in respect of provision of price lists, show flats and disclosure of transaction information will apply.

Respondents' views

70. Regarding the exemption for en bloc sale under one single agreement for sale and purchase, the CC was concerned that the vendor might circumvent the legislation by first selling off a development to its subsidiaries using two or more agreements for sale and purchase so that the residential properties could then be sold again without having to comply with the proposed legislation.

Our response

71. As mentioned in paragraph 25 above, we will address this issue as we finalize the Bill.

(k) Advertisements

Proposals for consultation

72. In view of the fact that in recent years the promotional approaches adopted in the sale of first-hand residential properties are very innovative and often sell nebulous concepts like an idealistic lifestyle to be achieved by living in the new developments on sale, the proposed legislation ensures that potential purchasers will not be misled by the information presented in advertisements. The relevant measures include the requirement to state the vendor is the source of the information contained in the advertisements (if that is the case), and provide information on the anticipated completion date for uncompleted developments. Also, there are requirements on specific minimum font size for certain mandatory information in printed advertisements. For advertisements released on or after the sales brochure has been made available, the vendor is required to remind prospective purchasers to refer to the sales brochure. The proposed legislation also stipulates that the inclusion of any false or misleading information in a material particular is prohibited in all forms of advertisements. It will be an offence for any person to publish or cause to be published an advertisement containing

information that is false or misleading in a material particular and he knows that, or is reckless as to whether, the information is false or misleading as to a material particular. Specific defence provisions are provided where a contravention takes place by an issue or a reproduction, retransmission or live broadcast of the advertisement.

Respondents' views

73. Some submissions commented on this topic. The views were that there should be strict regulation on false or misleading information in advertisements. There was also the view that creativity should not be stifled. The Civic Party supported that developers should be held criminally liable for exaggeration and misrepresentation in advertisements on residential developments. The Hong Kong General Chamber of Commerce considered that there should be clear guidelines to clarify what constituted legally unacceptable behaviour. REDA considered that it would only be fair and reasonable that a higher threshold be imposed to criminalize the offences relating to false or misleading information in advertisements.

Our response

74. To ensure that potential purchasers are not misled by advertisements, there is a need to enhance control over the information presented in advertisements. “Creativity” and “misleading information” are two different things. We consider that the provisions on “advertisements” in the proposed legislation have struck an appropriate balance between protecting creativity and ensuring the provision of accurate information.

75. Under the proposed legislation, the prosecution will need to prove that a person knows, or is reckless as to whether the information is false or misleading as to a material particular. For further details, please see paragraph 78 below.

(1) Misrepresentation and Dissemination of False or Misleading Information

Proposals for consultation

76. To address the public concern about misrepresentation and the dissemination of misleading or false information in respect of property sales, the proposed legislation specifies that a person who makes a

fraudulent misrepresentation or a reckless misrepresentation for the purpose of inducing others to purchase any first-hand residential property commits an offence. It will also be an offence for any person to disseminate information that is likely to induce another person to purchase any first-hand residential property if he knows that, or is reckless as to whether, the information is false or misleading as to a material fact. Specific defence provisions are provided for false or misleading information which is disseminated by an issue or a reproduction, retransmission or live broadcast.

Respondents' views

77. Some submissions commented on this topic. Views received mostly supported that misrepresentation and dissemination of false or misleading information in property sales should be prohibited and criminalized. The Hong Kong Professionals and Senior Executives Association commented that there should be a clear definition of misrepresentation and dissemination of false or misleading information.

Our response

78. Misrepresentation and the dissemination of false or misleading information to induce purchasers to buy first-hand residential properties are serious offences on which heavy penalties should be imposed to prohibit such behavior. There have been comments that the meaning of “misleading information” should be clearly defined in the legislation or else the developers may inadvertently commit such an offence. We do not consider this necessary. Misleading simply means causing somebody to have a wrong idea or impression about something. The concept is clear. In drafting the provisions concerning the prohibition of “false or misleading information”, we have made reference to various existing ordinances such as the Securities and Futures Ordinance (Cap. 571) and the Estate Agents Ordinance (Cap. 511). Where the concept of “misleading” appears in these ordinances in similar context, the word “misleading” is not defined. Whether a piece of information is “misleading” should depend on the actual context. It will also be impossible to give an exhaustive list of what information might be construed as “misleading” and trying to do so will only create loopholes. According to the proposed legislation, the prosecution will need to prove that the person knows that, or is reckless as to whether the information is false or misleading as to a material fact. On the above basis, we consider a general prohibition provision without being too specific on the meaning of “misleading” is appropriate.

(m) Penalties, Defence Provisions and Prosecution Time Limit

Proposals for consultation

79. To achieve an effective deterrent effect, the proposed legislation sets out penalties at appropriate levels. The penalty for minor offences that are regulatory in nature will be subject to a fine at level 6 (i.e. \$100,000), the proposed penalty for offences that may directly affect and potentially bring financial loss to prospective purchasers will be a fine of \$500,000 to \$1,000,000, and the proposed penalties for serious offences will range from a fine of \$500,000 to \$5,000,000 plus imprisonment up to a maximum of 6 months to 7 years. Defence provisions including that of due diligence are provided in the proposed legislation where appropriate. Specific defence provisions are available for issue or a reproduction, retransmission or live broadcast.

80. If no prosecution time is proposed in the proposed legislation, section 26 of the Magistrates Ordinance (Cap. 227), which stipulates a time limit of six months from the time when the matter of a complaint or information arises, will apply to the summary offences in the legislation. There was a thorough discussion on the appropriate time limit for prosecuting offences summarily under the proposed legislation at the Steering Committee. The Steering Committee recommended that the time limit for prosecuting summary offences under the proposed legislation be set at three years from the commission of the offences.

Respondents' views

81. Some submissions commented on this topic. Of those who commented, some were of the view that stiff penalties including imprisonment are necessary, while some were concerned about criminal liability for certain offences. REDA considered that criminal penalty should only be imposed where there was an element of dishonesty or recklessness, all proposed offences had to be clearly defined, presumption of guilt and shifting of the burden of proof to the defence should be avoided, the Administration should compare the levels of penalty for similar offences in other legislation before determining any penalty. Also, REDA considered that all the offences under the proposed legislation should be summary offences, and there should not be any indictable offences. REDA further suggested that the "due diligence" defence should apply to all offences, rather than just Part 2 (sales practices, including sales brochures, price lists, show flats, sales

arrangements, agreements for sale and purchase, and disclosure of transaction information) and Part 3 (advertisements) of the proposed legislation. Beyond this, REDA also proposed lowering the level of penalties.

82. Regarding the proposed prosecution time limit, REDA and the Hong Kong Professionals and Senior Executives Association suggested using within one year from the date of discovery of the offences by the prosecutor and upon occupation of the residential property respectively as the time limit for prosecution under summary offences under the legislation.

Our response

83. The penalty proposals in the proposed legislation were made having regard to the recommendations of the Steering Committee. There was a consensus at the Steering Committee that the level of penalty should achieve a deterrent effect. Also, we have made reference to similar provisions in other ordinances in the laws of Hong Kong. We consider the proposed levels of penalties appropriate. According to the proposed legislation, it has to be proved that the person knows that, or is reckless as to whether the information is false or misleading as to a material fact. It will be contradictory to extend the “due diligence” defence provision to offences relating to misrepresentation or dissemination of false or misleading information.

84. We have taken into account the recommendations of the Steering Committee in proposing the prosecution time limit of three years from the commission of the offence.

(n) Liability of Company Officers for Offence Committed by Company

Proposals for consultation

85. We recommended that if a company commits an offence under the proposed legislation and if the commission of the offence is aided, abetted, counselled, procured or induced by an officer of the company or the offence is committed with the consent or connivance of, or is attributable to any recklessness on the part of, an officer of the company, such officer (i.e. director, manager and secretary of the corporation) should also be guilty of the offence and shall be liable to be punished accordingly.

Respondents' views

86. Some submissions commented on this topic. For those who expressed views on this subject, there were concerns that, instead of holding the directors of the vendor company and the directors of the holding company criminally liable, the legislation will only be able to catch the staff of the vendor company.

Our response

87. Under the proposed legislation, an “officer” may be held liable if a company commits an offence under the proposed legislation and if the commission of the offence is aided, abetted, counselled, procured or induced by an officer of the company or the offence is committed with the consent or connivance of, or is attributable to any recklessness on the part of, an officer of the company. The proposed legislation has defined that an “officer” means director, manager and secretary of the corporation. We will re-examine the definition of “officer” as we finalize the Bill.

(o) Enforcement Authority

Proposals for consultation

88. To effectively enforce the proposed legislation, we recommended establishing an enforcement authority under the Housing Branch of THB. The key functions of this authority are to supervise compliance with the proposed legislation, handle complaints and undertake investigations as appropriate, issue practice guidelines, maintain data and statistics and carry out public education. It will be vested with appropriate and necessary investigation powers under the legislation. The Government will keep open the option of replacing the enforcement authority with a statutory body (for performing these functions) at an appropriate time.

Respondents' views

89. Only a few submissions commented on this topic. The views were mainly on the need to ensure the effectiveness of the proposed enforcement authority. REDA considered that many of the offences under the proposed legislation were minor and regulatory in nature and the enforcement authority should not be conferred with wide investigation powers. Also, REDA considered that there should be an express requirement that the enforcement authority shall maintain

confidentiality in respect of all matters and information produced or given or otherwise furnished for the purposes of the investigation. The CC however considered that the power of the enforcement authority should be as wide and as comparable to those of other enforcement agencies. The CC and REDA considered that the enforcement authority should be transformed to an independent statutory body outside the Government at the earliest possible time.

Our response

90. We consider the proposed legislation has set out clearly the powers and functions of the enforcement authority and the proposed powers and functions are proportionate. We will consider REDA's comment on confidentiality as we finalize the Bill.

91. We expect to take around 12 months after the enactment of the legislation to set up the enforcement authority. During the 12 months time, we will critically examine the set-up, expertise and resources required in order that the enforcement authority can perform those functions effectively. The Government will keep open the option of replacing the enforcement authority with a statutory body (for performing these functions) at an appropriate time.

(p) Online Property Information Platform

Proposals for consultation

92. To achieve market transparency and facilitate easy access to information in the first-hand residential market, we recommended establishing an online centralized information platform providing comprehensive information regarding first-hand residential properties in Hong Kong. The enforcement agency is empowered under the proposed legislation to engage an agency to establish and maintain the database. Vendors are required to provide sales brochures, price lists and transaction information to the designated body which will develop and administer the platform. Failure by vendors to provide the requisite information to the designated body will constitute an offence.

Respondents' views

93. Those that commented on this topic supported the establishment of the online information platform.

Our response

94. We will consider the best modus operandi for the establishment of the online information platform.

(q) Others

Respondents' views

95. Some submissions commented on the practices/ethics of estate agents, with a few suggesting that there should be more stringent regulation of the behavior of estate agents in property sales.

96. There were a few comments that property sales should not be restricted to the estate agents appointed by vendors. The Hong Kong Chamber of Professional Property Consultants Limited gave similar views in its submission.

Our response

97. The proposed legislation required that vendors must state in the price list that a purchaser may appoint the estate agent appointed by the vendor or another estate agent to act for him in the purchase. The practice and conduct of estate agents are governed by the EAA and the Estate Agents Ordinance (Cap. 511). We have forwarded comments relating to estate agents to the EAA for reference.

CONCLUSION AND WAY FORWARD

98. The public consultation exercise has drawn a good response from various sectors of the community. The feedback received clearly showed widespread support for our proposals to regulate the sale of first-hand residential properties by legislation. Our responses to the feedback and comments are summarized in the paragraphs above. We will finalize the draft legislation as appropriate. Our target is to introduce the Bill into the Legislative Council in the first quarter of 2012.

**Transport and Housing Bureau
March 2012**

List of Meetings and Forums Organized/Attended by THB

Date	Organization/Event	Nature
6 December 2011	The Hong Kong Institute of Surveyors	Meeting
7 December 2011	The Hong Kong Institute of Architects	Meeting
9 December 2011	The Consumer Council	Meeting
13 December 2011	The Real Estate Developers Association of Hong Kong	Meeting
14 December 2011	The Law Society of Hong Kong	Meeting
15 December 2011	Major estate agency associations, estate agency firms arranged by the Estate Agents Authority	Meeting
16 December 2011	Public Forum for General Public	Forum
4 January 2012	Public Forum for General Public	Forum
19 January 2012	The Hong Kong Housing Society	Meeting

List of Respondents

Serial No.	Name
1	001
2	A Nicky
3	aa1047
4	Active Success Development Limited
5	Ada Won
6	afen
7	Agnes Leung
8	Alan Wong
9	ALBERT LEUNG
10	Alessi Tsim
11	Alex
12	alex chan
13	Alfaso Investment Limited
14	Alfred
15	allen cheung
16	Alvin Chan
17	Amy Pang
18	Andrew Wong
19	AndrewL
20	Andy Chan
21	Andy Cheung
22	Andy Wong
23	Andy Yeung 1
24	Andy Yeung 2
25	Angale Lee
26	angieyip
27	anguschoi
28	anita
29	Anita Leung
30	Annie
31	Anson
32	ansonho
33	Anthony 1
34	Anthony 2

Serial No.	Name
35	Anthony Chiu
36	Anthony Luk
37	Apple Pig Happy
38	Ariesli
39	atburns
40	Au Chun Lam
41	ayumiipp
42	barryccw
43	Becibeci
44	Ben Chan
45	Ben Chow
46	Benedict Leung
47	Benedict Ting
48	billy cheng
49	Bo Bo
50	BOAT
51	Brian
52	Brianchu
53	C. S. LAU
54	C S LAU
55	cally yau
56	Cammy
57	Candy 1
58	Candy 2
59	Carmen
60	Carolshek
61	Carrie Wong
62	Cass
63	Catherine 1
64	Catherine 2
65	Catherine Lee
66	CBMAN
67	CBS
68	Chak Hung Mandy Lee
69	Chan Jktnsd
70	Chan Ngai Hei
71	Chan Shing Kau

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72	Charles
73	Charles Li
74	Charleswong
75	Charlie
76	Cheer Result Limited
77	cheong ng
78	CherryMan
79	Cheung
80	Cheung Po Ling
81	Chi ching Chan
82	Chi Ming
83	CHI SHING
84	Chi Wai Law
85	Chiang Energy
86	Chiu Chiu
87	Chiu Dorothy Chiu
88	Chloe
89	Chocolate
90	Choi M
91	ChoiKeung Chan
92	Chris
93	Christopher Lee
94	Chu Ling Fung
95	Chu, Mr.
96	chun chun
97	chun heung yeung
98	Chun Ling LO
99	Chun Wong
100	Cindy
101	City Fung
102	Ck Cheng
103	ckyeung2006
104	CL Chang
105	claymore555
106	Colleen
107	Concern Group on the Latitude – Kai Tai Development
108	Connie

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109	Connie Chan
110	CONNIE TONG
111	conscience
112	Cora
113	Court Locwood
114	Cs Wong
115	cw chung
116	CW Law
117	Cyan Ho
118	D. Lu
119	Dabby Man 1
120	Dabby Man 2
121	Daniel Lau
122	danny ng
123	Dave loong
124	David 1
125	David 2
126	David 3
127	david hung
128	David Kong
129	davidvvvvv
130	dayday2
131	DayFan
132	DerekWong
133	Designing Hong Kong Limited
134	Deuce
135	Deuce Li
136	Dicky
137	Dilly
138	Discoverybay
139	DONYIP
140	Eddie Lau
141	Edward Kong
142	Edward Lui
143	Edwin Cheung
144	Elaine
145	Elaine Wong

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146	eldo
147	Elegant Land Limited
148	ellickeyho
149	Emilie Emilie Ho
150	Emily Lam
151	Emily Szeto
152	Emily Tam
153	emilycheung
154	endlicheri9
155	Eric Chiu
156	ericali
157	Estate Agents Authority
158	ester_tam
159	Eva Chau
160	Ever Champion Development Limited
161	Fai
162	Fai Fai Chan
163	Felix Huen
164	Fg Fg
165	Fion
166	fionatsang
167	Fong FongFong
168	Frank Tam
169	Frankie Ho
170	Frankie Law
171	Franky Lee
172	FU
173	Fu King Investment Limited
174	Fu Mary
175	Full Fair Limited
176	fung
177	G. Frank
178	gary gary
179	Gary LAM
180	Gary Or
181	Garyson Ng
182	gigi

Serial No.	Name
183	Gigi Chu
184	Gina
185	Globaland Development Limited
186	Gloria Ng
187	Godfrey Cheng
188	Grace Ip
189	Grace Rays Limited
190	Grand Creator Investment Limited
191	H. C. Choi
192	Ha ming Tang
193	haha
194	Ham TSang
195	Hau Nately
196	Hei A Cheung
197	Heidi
198	Heidi Wu
199	Helen Lee
200	Helenyiu
201	Henry Ho
202	Henry Yeung
203	henrytang
204	Hin
205	Hing Lun Ho
206	Hk C
207	Ho candy
208	ho doris
209	ho hip Law
210	ho joan
211	HO UN PING
212	Hoi Ching Luk
213	Hon Man Yiu
214	Hong Kong Conveyancing & Property Law Association Limited, The
215	Hong Kong General Chamber of Commerce
216	Hong Kong Housing Society
217	Hong Kong Institute of Estate Agents
218	Hong Kong Institute of Surveyors, The
219	H Y Lee

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220	Hui, Mr.
221	Ian Chow
222	Ingdrei T
223	inmanma
224	Irene Lee
225	Iris
226	irisman
227	Irvin Lei
228	Ivan Ivan
229	Ivan Too
230	Ivy
231	J Wong
232	jacko Wong
233	Jacky Lau
234	Jade Bird Development Limited
235	James Chim
236	JANESSA
237	Janet Tang
238	Janice
239	Janus888
240	Jason Yu King Fung
241	jellychung
242	Jennifer Shing
243	Jenny Chan
244	Jenny Chu
245	Jenny Lai
246	jerry
247	Jessica
248	Jessica Lau
249	Jessica Law
250	Jim Hung Kin
251	Jimmy Law
252	JL
253	Joan
254	Joe Shing
255	Joe Wong
256	Joey Fung

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257	John
258	John Lee
259	Johnny Cheung
260	JOHNNY LI
261	Josephine Mok
262	josephineli
263	Joyce 1
264	Joyce 2
265	JTJTJT
266	Julieta O 1
267	Julieta O 2
268	K. Ip
269	K. Wah Real Estates Co., Ltd.
270	K.C Pang
271	K.F.To
272	kk chan
273	ka ho choi
274	ka Lee
275	Ka Man Chan
276	Ka_yan0522
277	Kaaho
278	kafaiyeung1443
279	Kam Ping Leung
280	kam wing wan
281	Kandy
282	karen
283	Karman
284	Kasper Chan
285	Kate Shum
286	Kathfield Lo, Ms.
287	Kee Sum Leung
288	Keith
289	Keith Ng
290	Keithchui
291	Ken CK Chung
292	Ken Lam
293	Ken Lau

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294	Ken Pang
295	Ken W
296	Kenneth Chan
297	Kenneth Cheng
298	Kenneth Wan
299	Kenny
300	Kenny Fan
301	Kenny Yu
302	kennymok
303	keroro
304	Kiki
305	KiKi Cheung
306	Kilmer CHENG
307	Kin Wai Yip
308	King Chance Development Limited
309	King Shan Sum
310	Kingdom Investment Limited
311	km1205
312	Koey
313	Kok To Leung
314	Kong Fai
315	Ku, Ms
316	Kwan, Mr.
317	Kwan Chun Pui
318	Kwong Billyk
319	Kwun Chung Ip
320	KWWong
321	ky leung
322	LH Wong
323	lai chi ying
324	Lai Kim Tam
325	Lai Kwok Cehung
326	Lai Lai 姓氏 Lai
327	lai tat wong
328	Lam Jacky
329	Lam Jeff
330	Lam Kam Lung

Serial No.	Name
331	Lam SL
332	Law Sai Kui
333	Law Shen Chung, Charlie
334	Law Tsz Kan
335	Lawrence Wong
336	Lay Lam
337	lee
338	Lee, Mr
339	lei dorothy
340	Leo
341	Leung, Ms
342	Leung Edmond
343	leung garfield
344	leung leyland
345	Leung Yoko
346	leungks
347	Li, Ms
348	LI KING MAN
349	li lionel
350	Li On
351	ling chow
352	ling fung chu
353	LIP
354	Liu C.Y.
355	liu Chloe_car
356	LO Chun Ling
357	lo denny
358	lo kimz
359	louistsang
360	Lui, Mr.
361	luk super
362	M Jacky
363	MY Cheng
364	maggie lau
365	man fai lee
366	Man Wong
367	Man1818

Serial No.	Name
368	Manda
369	Mandy
370	Mandy Lee 1
371	Mandy Lee 2
372	Mango Mok
373	manna315
374	Marco Pun
375	Maria Chan
376	Mark Lai
377	Marquis
378	Martin C. Li
379	Masswell International Limited
380	mattf
381	mature44264
382	Maverick Tang
383	Max
384	May Choi
385	May Chung
386	may kwan cheung
387	May Wong
388	mcgrady_yui
389	Mega Sino Limited
390	Metro Club
391	Michael Chan
392	Michael Wong
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394	ming
395	Ming Csoi
396	ming kwok
397	Ming Ming
398	ming6252003 Tang
399	mju
400	Mogan
401	moneytsang
402	Moon
403	MR Chan
404	MR WONG

Serial No.	Name
405	Mui Kuo
406	Mun Mun
407	my123
408	NAM MA
409	Ng Billy
410	Ng Ka Chui, Isaac, Dr.
411	Ng Maggie
412	Nga Ting Lau
413	ngan ngan
414	Nicky Wong
415	Or Ming Leung
416	P PL
417	pak hung chan
418	Pako Cheung 1
419	Pako Cheung 2
420	Pat
421	Patrick Kwok
422	patrick wu
423	patrick_43
424	Paul Chin
425	Paul16249
426	Peter
427	peter chan
428	Peter Ho 1
429	Peter Ho 2
430	Peter Wong
431	Philip Kwok
432	Phoebe Cheung
433	Phoebe Ma
434	Pian Chan
435	Pip Chau
436	Po Yan Chan
437	Pollyleung1234
438	poon kam wa tony
439	Professional Commons, The
440	Queenie
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442	Rachel NG
443	Rachelwu
444	Rain Li
445	Ray18
446	Raymond Ng
447	raynor
448	Real Estate Developers Association of Hong Kong, The
449	Regina Chu
450	Renee
451	Ric T
452	Rich Treasure Investments Limited
453	Richard Stoneman
454	RichardTsang
455	rick cheung
456	Rick Cheung
457	Ricky
458	Ricky Chan
459	Ricky Cheung
460	Ricky Fong
461	Ricky Wong
462	Ricky Yiu
463	rickyleung1234
464	Robert M. Williams, Jr.
465	Roger Leung, Mr.
466	Roger Nissim
467	Rokujo Sakura
468	Ronald Fung
469	Ronly Mok
470	Roychow
471	Roystar Limited
472	RoyT
473	S. P. Leung
474	SA MA
475	Sam
476	Sam Lam
477	Sam-Lam
478	samso

Serial No.	Name
479	sandakan
480	sandylee
481	Sannia Chu
482	Sarah
483	Sh Mews
484	Shai Lao
485	Sharonyeung
486	Shinglung Lui
487	Shirley Lai
488	Shirley Lam
489	shoto715
490	Shudy Luk
491	Shuk Fan Choy
492	Sidak Investment Limited
493	Silver Palm Limited
494	Silver Target Limited
495	Simon
496	Simon Wong
497	Sin Sze Yuen
498	Sing
499	Siu moon Yuen
500	socheukyin
501	Sonny Yau
502	Sophie Suen
503	Stella
504	stella.to
505	stephencan
506	Steven Lam
507	Steven17365
508	Sticker Glass
509	suk chun yip
510	Sum
511	Sum Leung
512	Sunny
513	sunny ng
514	sunnymok
515	Susanna Tang

Serial No.	Name
516	Swire Properties Limited
517	Sze
518	T.C.HO
519	T.K. TAM, Mr.
520	T T
521	TT
522	TT Au
523	T/Y C
524	Tai Man Chan 1
525	Tai Man Chan 2
526	tallboy
527	Tamama
528	Tammy
529	Tattat Poon
530	TCLO
531	Terence
532	Terence Mok
533	Terence Yau 1
534	Terence Yau 2
535	Terry Lee
536	Terry Wong
537	Theresa Chin
538	Thomasli
539	ThomasT
540	Tim
541	Tina Tang
542	Tinawong
543	tine
544	To Kong
545	TO WONG
546	Tom Ming
547	Tomas
548	Tony
549	tony jaa
550	Tony Tong
551	TonyNg
552	Triumph One Limited

Serial No.	Name
553	Tsang, Mr
554	Tsang Daniel
555	Tsang Fan Wan
556	Tse, Ms.
557	Tseyan Chan
558	Tsz Kin Lam
559	turtler
560	Umbrella
561	Urban Renewal Authority
562	Venus Law
563	VICKI HA
564	vickylau
565	Victor Leung
566	Vincent Leu
567	Vincent Tang
568	Vincent Tse
569	Virginia
570	Vivian 1
571	Vivian 2
572	Vivian Hung
573	WM SIU, Mr
574	W Y Li
575	Wa Chan
576	Wai Ho Tsang 1
577	Wai Ho Tsang 2
578	wai man chung
579	wai yau
580	Waikeung Cheung
581	Walon
582	wan chi leung
583	We We
584	WendyWu
585	Wenny Yeung
586	William Tang
587	Wilsontang13470
588	wing chan
589	WING HONG CHUNG

Serial No.	Name
590	Wing Ip Tam
591	WING MAN
592	Wing Poon
593	Wing Shan Lau
594	Winna See
595	Winnie
596	Winnie Kwong
597	Wise Mate Limited
598	Wong
599	wong Claudia
600	Wong Clive
601	wong jess
602	Wong Peter
603	Wong See Hang
604	Wong Simon
605	Wong Wai Kuen
606	wong waiman
607	ww chan
608	wwywing
609	xinlam leung
610	Yani
611	yanneslaw
612	YF Chow
613	YM Yee
614	Yy Chun
615	yau chuen lai
616	Yau Pal
617	yck011522
618	Yeung Kim Lung
619	yeung siu fai
620	Yin Ming Ting
621	YIN YEE KWOK
622	yin zi siu
623	Yip, Mr
624	Yiu Yiu
625	YIUFAI
626	YL

Serial No.	Name
627	Yoyo YIU
628	YU
629	Yu Winnie
630	Yuen, Mr.
631	Yuen Tikky
632	yuen ting lei
633	Yuk chi Yeung
634	Yvonne
635	YY YY
636	Z HO
637	Z Jiang
638	zoe chen
639	Zoe Kong
640	一个小市民
641	一名土生土長的香港居民
642	一名香港市民 Winnie S M Ha
643	卜雅屏
644	三 李
645	小市民
646	小市民 CY NG
647	小市民李志強
648	小市民的心聲
649	小市民郭永健
650	小市民梁生
651	小市民梁橋星
652	小民張先生
653	小業主黃小姐
654	犬@K11
655	文 孔
656	公民黨
657	中原地產代理有限公司
658	中產 Ken
659	王珮芝
660	王頌怡
661	王粵斌
662	市民 Cindy
663	市民 HUNG

Serial No.	Name
664	市民 Ken NG
665	市民 WONG MING KEI
666	市民李詠施
667	市民陳濤
668	市民張家怡
669	市民黃穗儀
670	市民楊小姐
671	市民趙振雄
672	市民劉盈 1
673	市民劉盈 2
674	民主黨
675	地產代理從業員周小姐
676	地產代理從業員姚小姐
677	地產代理聯會
678	朱女仕
679	朱志華
680	朱燕萍
681	江美鈺
682	屹 黃
683	何小姐
684	何笙
685	何嘉玲
686	李小姐
687	李生
688	李先生
689	李杏芝
690	李明欣
691	杜小姐
692	吳先生
693	貝貝 ki
694	(沒有署名 1)
695	(沒有署名 2)
696	周小姐
697	林文達
698	林先生
699	林愛蓮
700	房屋署工料測量師協會

Serial No.	Name
701	明 陳
702	東區區議員楊位醒
703	物業管理從業員方先生
704	物業管理從業員張小姐
705	承業 譚
706	秉謙 顏
707	美怡
708	香港市民 1
709	香港市民 2
710	香港市民 3
711	香港市民李紹聰
712	香港市民姚先生
713	香港地產代理商總會
714	香港地產行政師學會
715	香港建築師學會
716	香港專業及資深行政人員協會
717	香港專業地產顧問商會
718	香港基層
719	帥榮 劉
720	美聯物業代理有限公司
721	容小姐
722	馬先生
723	馬漢章
724	夏希諾
725	消費者委員會
	Consumer Council
726	張大輝
727	張少芳
728	張偉樂
729	梁先生
730	梁慧玲
731	康 德
732	基層市民老瑤
733	陳小姐
734	陳主忠
735	陳先生 1
736	陳先生 2

Serial No.	Name
737	陳隆
738	陳詩敏
739	郭生
740	郭先生
741	等上車
742	黃先生
743	黃淑恩
744	智傑 林
745	換樓人
746	楊小姐 1
747	楊小姐 2
748	獅子女王 1
749	獅子女王 2
750	葉小姐
751	新民黨
752	趙 joes
753	趙先生
754	鄭文杰
755	鄭芷寧
756	鄧成志
757	管紹琪
758	鄭玉狄
759	鄭先生
760	劉家麟 1
761	劉家麟 2
762	劉偉雄
763	劉鎮發
764	歐陽先生
765	銷售從業人員
766	環保觸覺
767	顏章明
768	羅先生 1
769	羅先生 2
770	羅先生 3
771	羅喜忠
772	羅駿豪
773	譚家輝

Serial No.	Name
774	譚偉強
775	譚小姐 1
776	譚小姐 2
777	關佩琪
778	關偉傑先生
779	The sender requested anonymity 1
780	The sender requested anonymity 2
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Serial No.	Name
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Serial No.	Name
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Justifications for Using Only Saleable Area to Present Information on Property Size and Property Price Per Square Foot/Metre

We note that during the consultation exercise, there were many views which expressed support for using only saleable area (SA) to present property size and property price per square foot/metre for first-hand residential properties. On the other hand, there were also considerable views that gross floor area (GFA) for a property should also be allowed to be used.

2. The reasons put forward by those who supported using both measurements in parallel to present property size and property price per square foot/metre were that: (a) having both pieces of information available would enhance the comprehensiveness of property area and price information to prospective purchasers; (b) SA alone did not duly reflect those common facilities within the residential development to which property owners would have access; (c) using only SA might create confusion in the property market where most second-hand properties were at present priced on the basis on GFA for a property; (d) a switch from using “property price per square foot/metre in GFA” to “property price per square foot/metre in SA” will lead to a sudden and considerable apparent “increase” in property prices, and (e) it was technically possible to come up with a standardized definition of GFA for a property.

3. The reason we recommend using only SA to present property size and property price per square foot/metre for first-hand residential properties is that the measurement methodology to be prescribed in legislation has to be clearly defined. There is at present a standardized definition of SA¹, but not a commonly-adopted definition of GFA for a property. Without such a commonly-adopted definition of GFA, it is at present not possible to define GFA for a property in precise term in the draft legislation. Our experience in working out a standardized definition of SA indicates that it will take a considerable time for all relevant stakeholders to agree on a standardized definition on GFA for a property.

¹ The standardized definition of SA sets out the method to calculate SA, which only includes the area of the property and any balcony, utility platform or verandah. This definition was worked out in consultation with the Hong Kong Institute of Surveyors, the Hong Kong Institute of Architects, the Law Society of Hong Kong, the Consumer Council, REDA and the Estate Agents Authority, and had been in use since 10 October 2008 for residential projects granted pre-sale consent by the Lands Department on or after that date. It is also set out in REDA’s guidelines for its members’ compliance. In addition, Rating and Valuation Department has adopted this definition in measuring the SA of a residential property for developments completed as from 10 October 2008.

4. Allowing the use of GFA for a property, which currently does not have a standardized definition, for quoting property size and property price per square foot/metre will cause confusion rather than enhance the comprehensiveness of information to prospective purchasers. As different vendors may include different items in the constituents of “apportioned share of common areas” in their calculation of GFA for a property, it is not an apple-to-apple comparison of the size, price and “efficiency ratio” of properties bearing the same GFA in different residential property developments.

5. The Real Estate Development Association of Hong Kong (REDA) considered that disallowing GFA-related information constituted a restriction on the right to the freedom of expression which was guaranteed by the Basic Law and the Bill of Rights, was contrary to the principle of transparency of information, and discriminated against owners of first-hand residential properties since the restriction did not apply to owners of second-hand residential properties. In addition to the reasons set out in paragraphs 3 and 4, we wish to point out that we are not proposing to disallow the disclosure of information beyond the SA in the sales of first-hand residential properties. While property size and property price will not be allowed to be quoted on the basis of GFA under the proposed legislation, a vendor will be required to provide area information on common facilities (e.g. resident’s clubhouse) on an aggregate basis in the sales brochures. This will enable prospective purchasers to know holistically the types and sizes of common facilities in the development. As such, we do not agree with REDA’s view that there is a total and absolute ban on the disclosure of GFA-related information or there is an infringement on the freedom of expression.

6. It is a common misperception that properties in the second-hand market do not have readily available measurements in terms of SA. The fact is that, with effect from 10 October 2008 and 2 June 2010 respectively, vendors are required under the Lands Department’s Consent Scheme to provide details of the property size on the basis of SA, and property price on the same basis. When these properties are sold in the second-hand market, potential buyers will have such information. Also, information on SA of all assessed second-hand residential properties in Hong Kong (except village houses) is readily available from the Rating and Valuation Department, and it is a statutory requirement under the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation (Cap. 511C) that an estate agent must, where applicable, provide information on SA of a property, including a second-hand property, to a prospective purchaser.

7. We note that, due to long-established market practices, it is a norm that sellers, buyers and estate agents cite property size and property price per square foot/metre in terms of GFA even though SA for a property is readily available. A change in mindset is needed to bring about the switch from GFA to SA.

8. We will step up public education between now and the implementation of the Bill to bring about the mindset change. Assuming that the Bill will be enacted by June/July 2012, we will need about another 12 months to set up the enforcement authority to implement the legislation. There will therefore be a reasonably long period of time from now for the market to gear up to using only SA to present property size and property price per square foot/metre for first-hand residential properties. Meanwhile, the Estate Agents Authority is considering issuing a practice circular to stipulate the adoption of SA in the sale and purchase, and the leasing, of second-hand residential properties. We consider that the change to the use of only SA in the first-hand residential properties will also bring about changes along this direction in the second-hand residential market.

Reservation of Residential Properties

We have proposed in the consultation document that a specific cut-off date should be set out in the legislation before which reservations must not be accepted, whether or not payment of money is involved. Two options, namely, the date of the issuance of the price list and the date of commencement of sale were proposed as the cut-off date.

2. Only a small number of respondents commented on this point. Slightly more than half of them either supported or had no strong views on the concept of reservation. Among those who supported or had no strong views on the concept of reservation, there were slightly more who favoured using issuance of price list as the cut-off date. Also, there is a suggestion that the reservation of a particular property at a specified price should not be allowed at any time as this will be equivalent to a sale.

3. Taking into account that the public does not object to reservation of properties, that allowing reservation only after the commencement of sale will render reservation meaningless, and that the policy intent that a vendor should not be allowed to use “reservation” as a disguise to start any sale, we propose that reservation of residential properties may be allowed on or after the issuance of price lists provided that it does not involve the reservation of a particular residential property.

Cooling-off Period

There have been suggestions that a cooling-off period be introduced for further consumer protection. On the forfeiture amount, some suggested a low percentage for the sake of consumer protection, while some others favoured a high percentage in order to prevent abuse by speculators. Currently, a purchaser under the Consent Scheme may, after the signing of a Preliminary Agreement for Sale and Purchase (PASP), unilaterally decide not to proceed with the signing of the Agreement for Sale and Purchase (ASP) and the cost of such a decision is capped at a prescribed percentage of the purchase price (i.e. 10% at present). The vendor, on the other hand, must proceed with the signing of the ASP, except where the purchaser who signed a PASP chooses not to sign the ASP. We propose to adopt the same arrangement for the sales of first-hand residential properties under the proposed legislation, but to pitch the forfeiture level at 5% of the purchase price as recommended by the Steering Committee. Though not entirely the same as a cooling-off period, this arrangement will allow a purchaser to withdraw from a transaction but at a cost. Taking into account the particular characteristics of the residential property market in Hong Kong, including the volatility of the market and the exuberance of speculative activities and to deter hasty purchase decisions by prospective purchasers, we consider 5% of the purchase price is the appropriate level.

Justifications for Including First-hand Completed Residential Properties and Various Exclusions

We propose that the proposed legislation will apply to all first-hand residential properties, including first-hand completed residential properties. There are no major differences between the sale of uncompleted first-hand residential properties and that of completed first-hand residential properties, since first-hand residential properties are often sold as uncompleted properties first, and those that remain unsold will simply be sold as completed ones. To draw a line between the former and the latter types of properties in terms of legislative control is artificial and not defensible.

2. That said, we propose that the legislation will not apply to a first-hand residential property under three specific circumstances. The exemption for developments constructed by the Housing Authority has been explained in paragraph 18 in the Legislative Council Brief. The exemption arrangements for the remaining two specific circumstances are set out below.

(a) When 95% or more of the properties of the development or the relevant phase of the development have been leased out for 36 months

3. We consider that for first-hand residential properties which a vendor leases out for a reasonably long period rather than sells upon completion, such properties are akin to second-hand properties, and as such their sales should not come under the same regulatory regime as first-hand properties. We therefore propose to exclude a residential property from the scope of the legislation where 95% or more of the residential properties of the development or the relevant phase of the development have been leased out for a reasonably long period of time. On the duration of leasing out, we consider a period of 36 months is appropriate to ensure that a vendor will not simply withhold the sale of a development for a relatively short period of time in order to circumvent legislative control.

(b) New Territories Exempted House (NTEH)

4. Under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121), certain building works may be exempted from the Buildings Ordinance (Cap. 123). Having regard to the growing trend for the building of these exempted properties, and in view

of the fact that the prospective purchasers of these exempted properties are no longer confined to a specific sector in the community, it is not proposed to generally exclude these exempted properties from the scope of the legislation. That said, it is noted that there are instances where the vendors are private individuals selling exempted properties in just one building, as in the case of NTEHs. It may be too onerous to require such vendors to meet the requirements of the legislation such as the provision of the sales brochure and the price list, etc. We therefore propose to exclude a residential property in an NTEH from the scope of the legislation.

The Urban Renewal Authority's (URA) “Flat-for-flat” (FFF) Scheme

URA has proposed to us during the public consultation exercise that its FFF Scheme cannot operate in the manner to which it has publicly committed with the Administration's endorsement if the FFF Scheme has to comply with all the provisions of the proposed legislation on regulation of sales practices at all stages. The URA has confirmed that its FFF Scheme in the respective redevelopment projects can fully comply with those provisions once Pre-sale Consent by the Director of Lands is granted to the projects.

2. URA explained that it is under a statutory duty to implement the FFF Scheme for redevelopment projects that commence after the promulgation of the Government's new Urban Renewal Strategy on 24 February 2011. The FFF Scheme is to provide an alternative to cash compensation for owner-occupiers affected by URA's redevelopment projects with a view to maintaining residents' social network. Under the FFF Scheme, URA will issue FFF Offers at new residential developments in-situ or new residential developments elsewhere to owner-occupiers at the time when URA offers to acquire their properties which are affected by URA's redevelopment projects. Upon the owner-occupiers accepting the FFF Offers, URA will then enter into legally binding undertakings (Undertakings) with the owner-occupiers detailing the terms under which URA will undertake to offer to sell them FFF residential properties of different size ranges within certain floor zones at a prescribed property price, but not any specific properties. URA will collect deposit payment from the owner-occupiers who accept the FFF offer.

3. According to URA, the FFF Offers and the Undertakings may take place at a stage well before the relevant land grants, general building plans, deeds of mutual covenants, exact descriptions of the properties to be offered to the owner-occupiers and the exact property price are available. Therefore, it is not possible for URA to comply with the requirements on sales brochures, price lists and the disclosure of transactions as set out in the draft legislation for the implementation of the FFF Scheme. However, URA will be able to fully comply with the provisions in the draft legislation in the same way as other vendors when it is in a position to proceed with the sale of the properties to the owner-occupiers participating in the FFF Scheme upon the issue of the pre-sale consent to these new developments by the Director of Lands. URA will sign Preliminary Agreements for Sale and Purchase with the owners-occupiers participating in the FFF Scheme followed by the Agreements

for Sale and Purchase. The Offers and the Undertakings will cease to have further effect.

4. Part 2 of the Bill on sales practices will be triggered if there is a sale of a residential property, which includes an offer to sell a residential property to any other person, or an invitation to any other person to purchase a residential property. According to the URA, the FFF Offers and the Undertakings may be regarded as such an offer or invitation. We therefore propose to make clear in the Bill that a sale of a residential property, which includes an offer to sell a residential property to any other person, or an invitation to any other person to purchase a residential property, does not include the FFF Offers and the Undertakings.

Implications of the Proposal

Economic Implications

The legislation aims to further enhance the transparency and fairness of the sales arrangements and transactions of first-hand residential properties in Hong Kong, thereby conducive to the stable and healthy development of the property market.

Financial and Civil Service Implications

2. The Housing Branch of the Transport and Housing Bureau will need to set up an enforcement authority to enforce the proposed legislation, if passed. Since the proposed regulatory regime for the sale of first-hand residential properties is not premised on a licensing system and will not provide income-generating services, the enforcement authority will have to be funded by the Government. We have yet to work out the resource requirements for the enforcement authority. We will seek additional resources as necessary in accordance with the established resource allocation procedures in due course.

Sustainability Implications

3. The proposed legislation aims to strike a balance between strengthening consumer protection and allowing developers the flexibility to make business decisions. All developers will be subject to the same set of “dos” and “don’ts”, exemptions, and penalties. This is conducive to the development of a healthy and stable property market which is crucial to the sustainable development of Hong Kong as a whole.