

**For discussion on
28 June 2012**

CB(1)2207/11-12(05)

**Legislative Council Panel on Development
Policy relating to the Land Exchange Involving the Ocean Terminal Lot**

Purpose

This paper sets out information relating to the surrender and regrant (land exchange) involving the Ocean Terminal lot executed by the Lands Department (LandsD) and a company owned by the Wharf Holdings Limited (Wharf) on 12 June 2012, in response to a Member's request for discussion of the subject case in question, as accepted by the Chairman of the Panel.

Background

2. Non-renewable leases generally refer to those leases with no provision for renewal under the leases themselves. As a long-established practice, the Government, acting in the lessor capacity, may upon expiry of a non-renewable lease and at the sole discretion of the Government, extend such lease for a term of 50 years without payment of an additional premium, but an annual rent shall be charged from the date of extension equivalent to three per cent of the rateable value of the property at that date, adjusted in step with any changes in the rateable value thereafter. Similar arrangements have also been adopted for other special purpose leases, but there are some exceptions, such as :

- (a) leases for recreational purposes may not be extended for a term exceeding 15 years;
- (b) leases covered by franchises or operating licences should normally be extended for a term to be the same as that of the franchise or licence;

- (c) leases for petrol filling stations will not be extended; upon expiry of existing leases, petrol filling station sites will be re-tendered in the open market; and
- (d) leases for kerosene stores may not be extended; however, short term tenancies at full market rental may be offered to the existing owner for an initial term of three years.

3. During the currency of the existing leases, the Government, acting in the lessor capacity, may exercise its discretion in granting modifications to existing leases. In a modification case which does not involve any change to or realignment of the boundaries of the lot covered by the lease concerned and is effected by a modification letter, all the conditions contained in the lease, including the lease term and the rent, may generally remain unchanged, with the exception of the conditions being modified. If the modification is effected by surrender/regrant (land exchange), the new term may normally be 50 years from the date of regrant, subject to an annual rent equivalent to three per cent of the rateable value of the lot at the date, adjusted in step with changes in the rateable value thereafter, and payable from the date of regrant.

4. A Member also requests the Government to provide the relevant statistics on the leases executed by the Government. Since there are a great number of leases which are executed at different times, the Government does not compile statistics based on the term of leases (e.g. the number of leases having a term of 15 to 20 years and more than 20 years, etc.). As mentioned above, in accordance with the established arrangement, except leases which themselves have a renewable arrangement and special purpose leases, generally the Government in the landlord capacity may at its discretion grant or regrant leases for a term of 50 years. As for some special purpose leases, their lease term may be different. Lease renewal is not equivalent to in-situ land exchange. Lease renewal generally means that upon the expiry of an existing lease, the term of the lease is extended largely on the basis of original lease conditions; however, in-situ land exchange generally means that during the validity period of a lease, the owner surrenders the original lot and is re-granted land. LandsD will have

to check its records before providing the details of the cases involving in-situ land exchange in the past five years, but the relevant conditions of the land exchange (new lease) are registered at the Land Registry. In accordance with the established practice and as mentioned above, normally leases for petrol filling stations will not be extended upon expiry. If the sites are considered still suitable for petrol filling station purpose, they will normally be tendered.

The Ocean Terminal Lease

5. The Ocean Terminal lease (the Lease) was formally executed on 17 April 1968 for a period of 25 years from 17 June 1966 on which the Ocean Terminal was brought into use, subject to the payment of an annual rent of \$100,000. The Lease provided an option for renewal exercisable by Wharf for a period of 21 years till 16 June 2012 and the renewal option was exercised by Wharf upon payment of a lump sum of \$400M on 21 November 1991.

6. Since June 2003, Wharf had expressed the view that it had an entitlement, upon expiry of the Lease in June 2012, to a renewal of the Lease for 50 years at nil premium. Wharf's view was not accepted by LandsD which made its position clear to Wharf. Despite that, Wharf formally submitted an application to LandsD in November 2008 applying for renewal of the Lease for a term of 50 years at nil premium, and that application was formally rejected by LandsD in July 2010.

Land Exchange for 21 Years at Full Market Premium

7. In July 2008, Wharf submitted, on a basis without prejudice to its position that it had an entitlement to a renewal of the Lease for 50 years at nil premium as referred to in paragraph 6 above, to LandsD an application for the surrender of the Ocean Terminal lot which was Kowloon Permanent Pier No. 83 (KPP83 Lot) for the regrant of the KPP83 Lot together with a piece of adjoining Government land being used by Wharf for a spiral

vehicular ramp under a Short Term Tenancy (STT). This STT land was about 2,000 square metres (sq.m.) in area, and had been let to Wharf for an alternative vehicular access to the Ocean Terminal carpark for better traffic circulation and alleviation of the traffic congestion in the area.

8. In response, LandsD informed Wharf that it would process the land exchange application on a without prejudice basis (including but not limited to LandsD's view that Wharf had no entitlement to a renewal of the Lease upon its expiry for a term of 50 years at nil premium). There were without prejudice discussions between Wharf and the relevant Bureaux/Departments on the requirements to be reflected in the terms and conditions of the land exchange and other obligations of Wharf. The application and the comments of the relevant Bureaux/Departments were discussed at the District Lands Conference in late 2009 and early 2010 and, accordingly, LandsD drafted the basic terms and conditions for the land exchange on a without prejudice and subject to contract basis. The basic terms and conditions required, among others, Wharf to improve certain cruise terminal facilities at the Ocean Terminal.

9. Since July 2010, LandsD had engaged in without prejudice negotiations with Wharf on the detailed terms and conditions of the land exchange and on the full market premium to be paid by Wharf, with both sides reserving their respective (and different) positions on the question as to whether Wharf had an entitlement to a renewal of the Lease, upon its expiry, for a term of 50 years at nil premium. The negotiations were protracted. Wharf accepted LandsD's offer on 4 June 2012, which was close to the expiry of the Lease of the KPP83 Lot on 16 June 2012. The Conditions of Exchange were executed on 12 June 2012 and Wharf paid in full the full market premium of \$7,900M. In addition, Wharf will be required to pay an annual rent payable at 3% of the rateable value of the lot regranted under the land exchange. According to Wharf's estimate, the rateable value of the lot for the financial year from April 2012 to March 2013 is approximately \$491M.

10. Apart from the premium revenue and rent receivable by the Government in the land exchange, the Member mentioned above also enquires about the government expenditure involved, the area and floor area for government use as well as the related management model before and after the land exchange. The lot is used for a commercial ocean terminal and shall at the same time provide certain amount of gross floor area (GFA) for government accommodation. Before the land exchange, according to the lease conditions, the lessee shall provide an area on the ground and first floors not more than 1,000 sq.ft. (about 93 sq.m.) to the then Commerce and Industry Department (i.e. presently the Customs and Excise Department) for accommodating its Revenue Office. After the land exchange, the lessee shall provide a minimum net operational floor area of about 1,444 sq.m for government customs office, immigration hall and quarantine facilities. Either before or after the land exchange, the Government did not/will not pay Wharf any construction cost or rent or other fees for using the government accommodation. The area for government accommodation was/is managed by relevant government departments (e.g. the Customs and Excise Department) when cruise ships enter and leave Hong Kong. The above-mentioned Member also enquires whether there is public open space on the lot. According to the lease conditions before and after the land exchange, there was/is no public open space on the lot.

11. The new lease in the form of Conditions of Exchange has been registered at the Land Registry and is available for public search. The Lease governing the KPP83 Lot remains available at the Land Registry for public search. A full set of such leases will be provided through the Secretariat to Members for reference.

Salient Points of the Land Exchange

(a) Site Area

12. The land exchange involving the surrender of the KPP83 Lot to the Government during the term of the Lease of about 29,750 sq.m. in exchange for the regrant by the Government of the KPP83 Lot plus the STT land of

about 2,000 sq.m. as a single lot (new lot is known as Kowloon Inland Lot No. 11178) as shown in the plan at Annex.

(b) Gross Floor Area (GFA)

13. The total GFA of the building on the KPP83 Lot in the current plan is 61,130 sq.m., comprising 46,001 sq.m. of commercial GFA (including about 93 sq.m. for Government facilities use) and 15,129 sq.m. of GFA for carpark. Under the Conditions of Exchange, the maximum developable GFA is 85,672 sq.m. Out of this figure, 8,752 sq.m. are provided under a new four-storey extension building to be built by Wharf at the tip of the Ocean Terminal. Out of these 8,752 sq.m., about 3,000 sq.m. will be constructed by Wharf at its expenses and dedicated to government accommodation and cruise terminal facilities including immigration and customs offices, quarantine areas as well as baggage halls etc. Only the balance of about 5,752 sq.m. (out of 8,752 sq.m.) will be used for commercial purposes. Together with the 44,880 sq.m. of commercial GFA at the existing building (which will be reduced from 46,001 sq.m. to 44,880 sq.m. under the new 21-year lease term), Wharf may have a total of commercial GFA of about 50,632 sq.m. under the new 21-year lease term. This about 50,632 sq.m. figure represents about 59% of the maximum developable GFA of 85,672 sq.m. under the Conditions of Exchange. The remaining GFA of about 35,040 sq.m. (41%) are for carpark, ramp, and government accommodation and related cruise terminal facilities which do not attract the level of rents equivalent to that of commercial GFA. Furthermore, the Government will not pay Wharf any rent or other fees for using the government accommodation.

14. After the execution of the Conditions of Exchange, Wharf will build a four-storey extension at the tip of the Ocean Terminal as referred to in paragraph 13 above. Additional commercial and circulation floor space aside, the arrival and departure halls will be clearly segregated with more room for immigration and customs clearance. The baggage handling areas will be improved so will be the parking for tour coaches and loading/unloading for goods. Wharf also undertakes to minimize the disruptions to the berthing of cruise vessels at the Ocean Terminal during

the construction of the extension building. All these should bring about better service to cruise ships and passengers and help strengthen Hong Kong's position as a major cruise destination.

(c) A 21-year Lease

15. Notwithstanding Wharf's wish to have a lease term of 50 years for the regranted lot (as in the case of other lots used for commercial purposes), LandsD has only granted a 21-year term for the land exchange on a full market premium payable basis. In formulating this view, LandsD noted that the land exchange was not intended to provide for a usual commercial development but also for an enhanced cruise terminal operation with commercial facilities. A 50-year lease term would be too long, as the cruise industry is undergoing development and change. A 21-year lease term would not be an unviable investment option for Wharf.

16. Under the new lease of land exchange, the lot can be used for commercial ocean terminal. The arrangement is the same as that in the original lease, ensuring the operational viability and continuity of the development of the lot in its entirety.

(d) Full Market Premium

17. According to legal advice, the Government is acting in its landlord (lessor) capacity in the private law regime when dealing with a lease modification (including land exchange). It is not appropriate for the Government to disclose the details of its premium assessment as this would prejudice the Government's position acting in the lessor capacity. Further, it is not appropriate to discuss publicly the details of a particular case as this would involve divulging commercial and sensitive information. Valuers in LandsD are fully aware that they have to exercise professionalism in assessing premium, subject to the established applicable procedures to safeguard accuracy and confidentiality.

18. Premium assessment is done on the basis of the terms and conditions of the lease concerned. Members of the valuation team in

LandsD do not get involved in the formulation of the terms and conditions which is basically the job of the District Lands Conference and that of the District Lands Officer (DLO) and his Regional Assistant Director with legal input from Legal Advisory and Conveyancing Office (LACO) lawyers and having regard to the advice given by the relevant Government Bureaux/Departments. The valuers in LandsD work on the basis of the already formulated terms and conditions and the valuation team only focuses on premium assessment.

19. In the case of a land exchange, the premium is assessed based on the full market value of the Conditions of Exchange (new lease) after the land exchange less the full market value of existing lease (old lease) prior to the land exchange. Broadly speaking, the full market value of the new lease will reflect the development value of the site if it is viable to demolish the existing structure and rebuild a new one, or the development value of the new or additional GFA to be built taking into account the value of the GFA when constructed, the development costs, the finance costs and the return for the risk to be incurred during the development period. If redevelopment is not contemplated, the full market value will reflect the existing use value of the building. If a new extension is contemplated, the full market value will reflect the development value of the new GFA to be constructed and the existing use value of the existing GFA. The full market value of the old lease takes into account the residual lease term and may be negligible if the existing lease is very close to its expiry.

20. The development value of the new GFA takes into account the revenue to be generated from the completed GFA within the term of the lease, the cost of the development, the finance cost and the return to cover the risk etc. The existing use value of the existing GFA makes reference to other comparable developments, and having regard to the age of the building and any particular site conditions. Different types of uses are not equally valuable and their respective market values are assessed separately.

21. LandsD valuers make reference to market comparables, with adjustments made to the specific situations of the particular case under assessment. LandsD has a well established internal information system

with a database of property transaction and rental information and other research data to support its valuation tasks.

22. The premium assessment is normally determined by a Valuation Conference (VC) chaired by the Deputy Director of Lands/Specialists comprising a team of Estate Surveyors. The VC decision is recorded and is classified as “confidential” information although the premium figure will be disclosed to the lessee and will be in the public domain as referred to in paragraph 23 below.

23. The valuers in LandsD are civil servants subject to the civil service regulations and practices governing acceptance of advantages, declaration of conflict of interest and official secrecy code. The valuers are fully aware that the old and new leases and the premium figure assessed on the terms and conditions of the leases will be registered at the Land Registry and are available for public search.

24. In respect of the land exchange involving the Ocean Terminal lot, the Government had along maintained that Wharf would need to pay full market premium for the land exchange. The \$7,900M premium paid by Wharf for the land exchange was assessed on a full market value basis in a professional manner as described above.

25. There have been reports in the press that the \$7,900M premium was on the low side as this amounted to a monthly rental of only about \$35 per square foot (psf). It appears to us that this psf rental was derived from dividing the premium figure by the 21-year lease term and by the total maximum developable GFA under the Conditions of Exchange. This kind of simple calculation is not based on the professional assessment adopted by professional valuers at LandsD as described above. For example, this \$35 psf calculation assumes all the maximum developable GFA of 85,672 sq.m. will be used for shop purpose and does not reflect the fact that a substantial amount of the GFA are required to be used for carpark, ramp, government accommodation and cruise terminal facilities that would not command a rental comparable to that of a shopping arcade. Such a simple calculation also does not reflect the particulars of the development on the

site and other considerations relevant to a professional assessment of the premium involved. On the other hand, we note that there are practising professional estate valuers who have commented publicly that the \$7,900M premium figure for this land exchange is acceptable.

26. Obviously, the value of a 21-year lease is substantially lower than that of a normal 50-year commercial lease bearing in mind the rental income is receivable for 21 rather than 50 years. It should be noted that the rental for the new GFA would only be receivable upon its completion and occupation, and that about 41% of the maximum developable GFA are for carpark, ramp and government accommodation and related cruise terminal facilities (as described in paragraph 13 above). Furthermore, the valuers had to take into account the particulars of the development on this site such as the location, the linear layout of the development, the time required to construct the new GFA and the construction cost involved, the fact that the existing Ocean Terminal rests on pile structures which will need to be maintained during the next 21 years, and that the Ocean Terminal lot is surrounded by a number of private lots (including those of a neighbouring shop arcade) owned by a Wharf company, etc.

(e) Annual Rent

27. In addition to premium, Wharf will be required to pay an annual rent of 3% of the rateable value of the lot. According to Wharf's estimate, the rateable value of the lot for the financial year from April 2012 to March 2013 is about \$491M.

The Option of Open Tender

28. The Government had weighed the land exchange against the option of putting the KPP83 Lot to open tender and considered that the land exchange of a 21-year term was appropriate. This would remove the uncertainty in the continuous operation of the Ocean Terminal, which will remain the only cruise terminal before the commissioning of the first berth of the new terminal at Kai Tak in mid 2013. The land exchange would

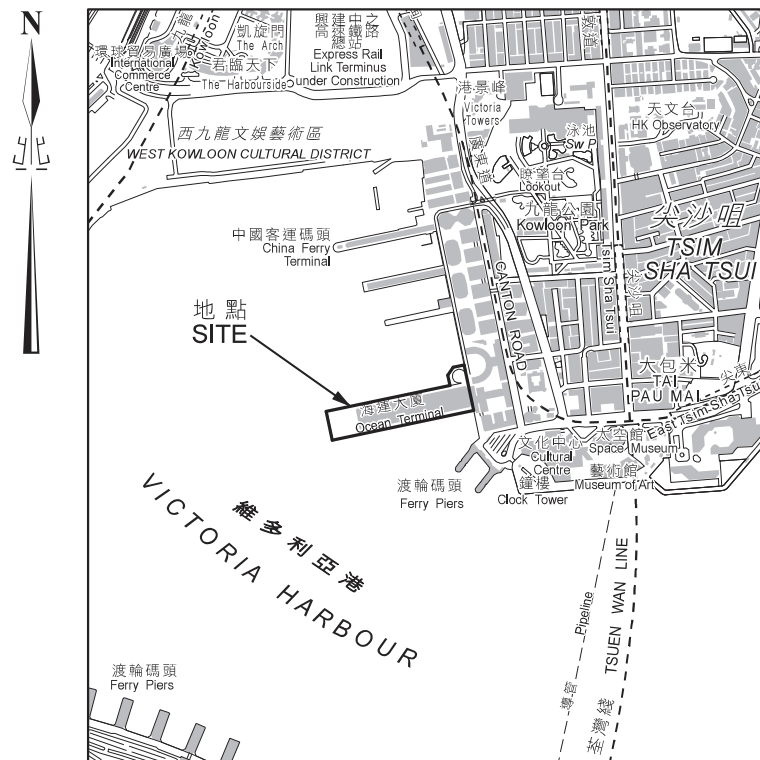
ensure that the Ocean Terminal will continue to operate as a cruise terminal and there would be no gaps in the provision of its service. Furthermore, Wharf will be required to improve certain cruise operation facilities at the Ocean Terminal. As we note from the feedback of the industry, the land exchange is generally within market expectations.

Advice Sought

29. Members are invited to note the contents of this paper.

Development Bureau
June 2012

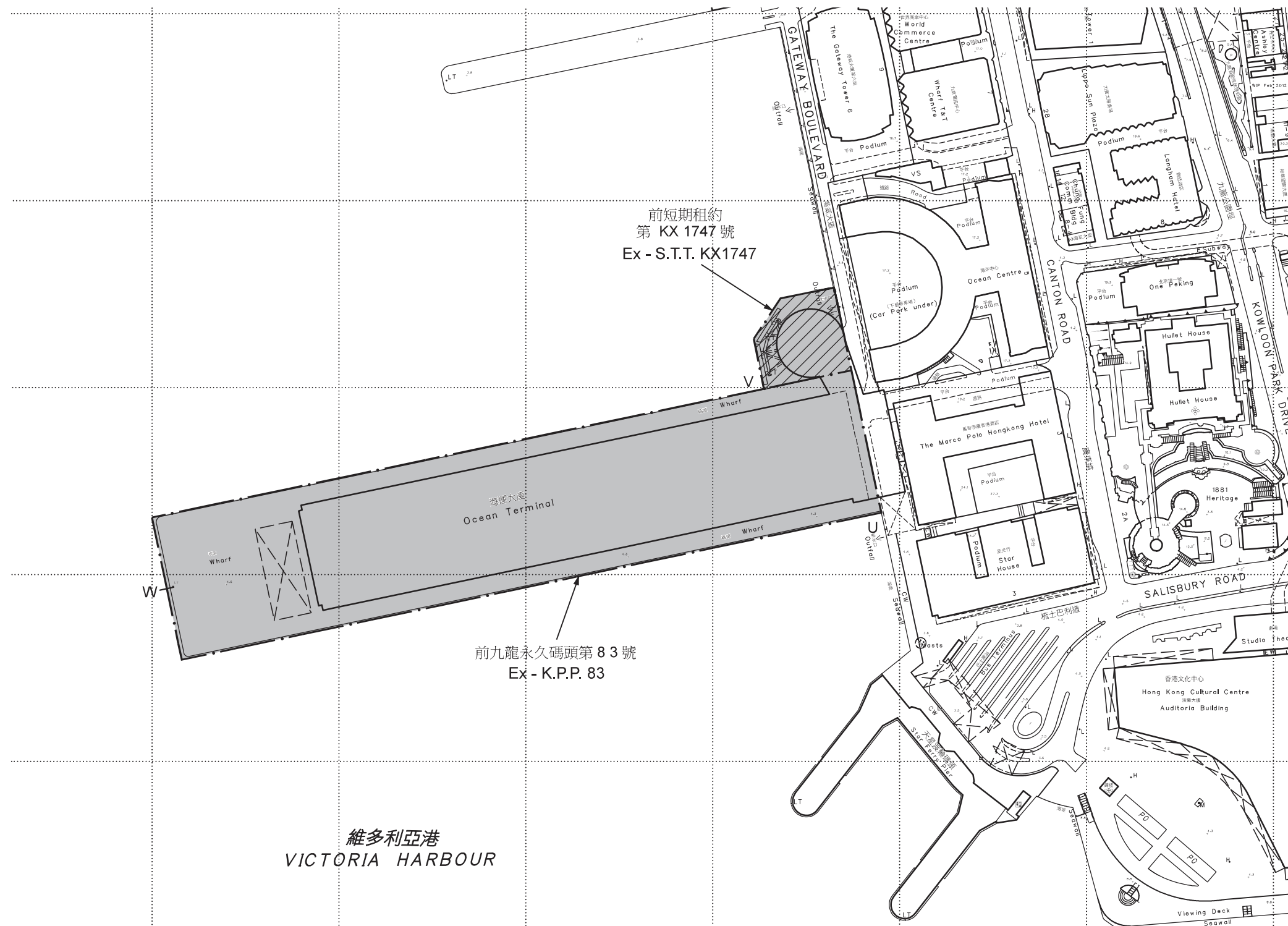
位置 LOCATION



比例 SCALE 1:20 000

U, V, W 海路進出點
SEA ACCESS

汽車坡道
VEHICULAR ACCESS RAMP



維多利亞港
VICTORIA HARBOUR

以灰色及灰色綴黑斜線標示的面積約為 31 750 平方米
COLOURED GREY AND GREY HATCHED BLACK AREA 31 750 SQUARE METRES (ABOUT)

比例尺 SCALE 1:2 500
米 metres 50 0 50 100 150 200 250 metres

只作識別用 FOR IDENTIFICATION PURPOSES ONLY

地政總署 九龍西區地政處
District Lands Office, Kowloon West
Lands Department

圖則由九龍測量處繪製
Plan Prepared by District Survey Office, Kowloon

© 香港特別行政區政府-版權所有 Copyright reserved - Hong Kong SAR Government

九龍內地段第11178號

KOWLOON INLAND LOT No. 11178

檔案編號 File No. DSO/K 1067/2004

測量圖編號 Survey Sheet No. 11-SW-4B, 4C, 4D

發展藍圖編號 Layout Plan No.

參考圖編號 Reference Plan. No.

圖則編號 PLAN No. KM8767b

日期 Date : 20/06/2012

E. N^o. 20166

CONDITIONS OF EXCHANGE

KIL No. 11178

OWNER

WHARF REALTY LIMITED

TERM

21 years commencing from 12.6.2012

The annual rent is 3% of the rateable value
from time to time of the lot subject to General
Condition No. 1 of C/E No. 20166

RENT

\$7,900,000,000.00

PREMIUM

Entered and Indexed

LACO REF.

DLO REF.

**PARTICULARS AND CONDITIONS
OF EXCHANGE**

The Land Registry Copy

PARTICULARS AND CONDITIONS for the GRANT by the Government of the Hong Kong Special Administrative Region (hereinafter referred to as "the Government") of the lot described in the First Schedule hereto and shown coloured pink and pink hatched black on Plan I annexed hereto for a term of twenty-one years commencing from the date of the Memorandum of Agreement annexed hereto at the rent specified in the said First Schedule and subject to the General and Special Conditions hereunder in exchange for the surrender of the OLD LOT described in the Second Schedule hereto and shown coloured blue on Plan II annexed hereto.

First Schedule

PARTICULARS OF THE LOT


Registry No.	Location	Site	Area in square metres	Rent	Premium
Kowloon Inland Lot No. 11178	Ocean Terminal, Tsimshatsui, Kowloon	As delineated and shown coloured pink and pink hatched black on Plan I annexed hereto	31,750 (about)	An annual rent of an amount equal to 3% of the rateable value from time to time of the lot, subject to General Condition No. 1 hereof	\$7,900,000,000.00

Second Schedule

OLD LOT TO BE SURRENDERED

Registry No.	Location	Area in square metres
Kowloon Permanent Pier No. 83	Ocean Terminal, Tsimshatsui, Kowloon	29,750.2 (about)

GENERAL CONDITIONS

- Rent
1. Rent as specified in the Particulars of the Lot shall commence and be payable from the date of this Agreement and until the expiry of the term hereby agreed to be granted, and shall be governed by the provisions of the Government Rent (Assessment and Collection) Ordinance, any regulations made thereunder and any amending legislation and also subject to a minimum rent of \$1 per annum (if demanded).
- Acknowledgement by Grantee
2. The Grantee hereby expressly acknowledges :
- (a) that the Government shall be under no liability whatsoever to the Grantee (which expression shall for the purpose of this Condition only include his successors, assigns, mortgagees, tenants or other occupiers of the lot whether lawful or otherwise) for any loss or damage howsoever arising in connection with or as a consequence of his grant of the lot and its subsequent development;
 - (b) that he has acquired the lot based on his site investigation (if any) or upon his own evaluation of land records and available geotechnical information whether obtained from Government sources or otherwise and has satisfied himself as to the state and condition of the lot in relation to the purposes for which the lot is to be developed or redeveloped;
 - (c) that he takes the lot, whether on, above or below the surface of the ground, in the state and condition as it exists on the date on which possession of the lot is deemed to be given in accordance with Special Condition No. (5) of these Conditions; and
 - (d) that he shall not be entitled to revoke, withdraw, cancel or resile in any way whatsoever from this Agreement nor be entitled in any way whatsoever to compensation or a reduction in the premium or any other compromise whatsoever should he subsequently determine that the lot is not fit for the purposes for which he acquired the lot.
- Exclusion of warranty
3. (a) The Government has given no warranty, express or implied, as to the suitability or fitness of the lot or any part thereof for development whether in accordance with these Conditions or otherwise. The Grantee for himself, his successors or assigns undertakes not to make any claim against the Government for any loss or damage whatsoever which he may suffer as a result of or arising from the state and condition of the lot making it either unfit for the purpose for which he acquired the lot or rendering it impossible to achieve the scale of development originally intended.
- (b) The Government in no way warrants the accuracy or correctness in any way whatsoever of any information made available or obtained, and in particular does not warrant that the lot is fit and suitable for any particular purpose.
- Indemnity by Grantee
4. The Grantee hereby indemnifies and shall keep indemnified the Government against all actions, proceedings, liabilities, demands, costs, expenses, losses (whether financial or otherwise) and claims whatsoever and howsoever arising from any breach of these Conditions or any damage or soil and groundwater contamination caused to adjacent or adjoining land or to the lot where such damage or soil and groundwater contamination has, in the opinion of the Director of Lands (hereinafter referred to as "the Director", and whose opinion shall be final and binding upon the Grantee), arisen out of any use of the lot, or any development or redevelopment of the lot or part thereof or out of any activities carried out on the lot or out of any other works carried out thereon by the Grantee whether or not such use, development or redevelopment, activities or works are in
- 

compliance with these Conditions or in breach thereof.

Setting out

5. (a) The Director shall, at such time as he thinks fit or upon the application of the Grantee, set out the lot on the ground and the Grantee or his authorized representative after such setting out when called upon by the Director will attend at the lot to inspect the survey marks delineating the lot on the ground and will be given a plan showing the positions and descriptions of each such mark. The Grantee shall not commence any operations for building on the lot until it shall have been so set out by the Director. The Grantee shall take or cause to be taken all proper care and precautions to safeguard the said survey marks from disturbance or removal. If, before commencing any operations for building on the lot, any of the said survey marks are disturbed or removed, the Grantee shall apply in writing to the Director for replacement by survey and shall pay on demand to the Government in advance the prescribed fee therefor.

Encroachment upon
Government land

(b) In the event that the Grantee is found to have encroached upon and to be occupying Government land the Director may in his absolute discretion either require the Grantee to demolish any building or part of any building standing on such Government land, to reinstate such Government land to his satisfaction and deliver vacant possession of the same to the Government or pay to the Government such sum as the Director in his absolute discretion shall determine as the premium in respect of such Government land. A certificate under the hand of the Director shall be conclusive as to the extent of any such encroachment and as to the amount of the premium payable in respect thereof. If the Grantee fails to demolish any building as required by the Director as above it shall be lawful for the Director to demolish such building and the Grantee shall pay on demand to the Government the amount certified by the Director as the cost of such demolition. In the event that the Director exercises his discretion to require the payment of premium as aforesaid, upon the payment of such premium the area of Government land encroached upon shall be deemed in all respects to be part of the lot and shall be included in the lease of the lot when issued.

Maintenance

6. (a) The Grantee shall throughout the tenancy having built or rebuilt (which word refers to redevelopment as contemplated in sub-clause (b) below) in accordance with these Conditions (as defined in General Condition No. 12) :

- (i) maintain all buildings in accordance with the approved design, disposition or height and any approved building plans without variation or modification thereto; and
- (ii) maintain all buildings erected or which may hereafter be erected in accordance with these Conditions or any subsequent contractual variation of them, in good and substantial repair and condition and in such repair and condition deliver up the same at the expiration or sooner determination of the tenancy.

(b) In the event of the demolition at any time during the tenancy of any building then standing on the lot or any part thereof the Grantee shall replace the same either by sound and substantial building or buildings of the same type and of no less gross floor area or by building or buildings of such type and value as shall be approved by the Director. In the event of demolition as aforesaid the Grantee shall within one calendar month of such demolition apply to the Director for consent to carry out building works for the redevelopment of the lot and upon receiving such consent shall within three calendar months thereof commence the necessary works of redevelopment and shall complete the same to the satisfaction of and within such time limit as is laid down by the Director.

Boundary stones

7. The Grantee shall permit boundary stones properly cut and marked with the number of the lot to be fixed at each angle thereof and either in or on the land itself or in or on any building erected thereon as may be required by the Director and shall pay the fees prescribed by him therefor as well as the prescribed

fees for the refixing of such boundary stones which, through being lost, damaged or removed, need replacing.

Private streets, roads and lanes

8. Any private streets, roads and lanes which by these Conditions are required to be formed shall be sited to the satisfaction of the Director and included in or excluded from the area to be leased as may be determined by him and in either case shall be surrendered to the Government free of cost if so required. If the said streets, roads and lanes are surrendered to the Government, the surfacing, kerbing, draining (both foul and storm water sewers), channelling and road lighting thereof shall be carried out by the Government at the expense of the Grantee and thereafter they shall be maintained at public expense. If the said private streets, roads and lanes remain part of the area to be leased, they shall be lighted, surfaced, kerbed, drained, channelled and maintained by and at the expense of the Grantee in all respects to the satisfaction of the Director and the Director may carry out or cause to be carried out the installation and maintenance of road lighting for the sake of public interest as required. The Grantee shall bear the capital cost of installation of road lighting and allow free ingress and egress to and from the area to be leased to workmen and vehicles for the purpose of installation and maintenance of the road lighting.

Right to inspect

9. (a) The Grantee shall throughout the tenancy, at all reasonable times, permit the Director or his authorized representatives, with or without having given notice, to enter in or upon the lot or any part thereof or any building or part of any building erected on the lot for the purpose of inspecting the same so as to ascertain that there is no breach of or failure to observe any of these Conditions.

Right to inspect for assessing contamination


(b) The Grantee shall throughout the tenancy, at all reasonable times, permit the Director and the Director of Environmental Protection or his or their authorized representatives, upon serving reasonable verbal or written notice on the Grantee, to enter into or upon the lot or any part thereof or any building or part of any building erected on the lot for the purpose of carrying out site investigation works to assess the extent of contamination within the lot, which works shall include but not be limited to conducting site inspections, taking soil and water samples and any other works and operations relating or ancillary to such contamination assessment.

Breach of lease conditions

(c) The fulfilment by the Grantee of his obligations under these Conditions shall be a condition precedent to the grant or continuance of the tenancy, and in the event of any default by the Grantee in complying therewith such default shall be deemed to be a continuing breach and the subsequent acceptance by or on behalf of the Government of any rent or rates or other payment whatsoever shall not (except where the Government has notice of such breach and has expressly acquiesced therein) be deemed to constitute any waiver or relinquishment or otherwise prejudice the enforcement of the Government's right of re-entry for or on account of such default or any other rights, remedies or claims of the Government in respect thereof under these Conditions which shall continue in force and shall apply also in respect of default by the Grantee in the fulfilment of his obligations under these Conditions within any extended or substituted period as if it had been the period originally provided.

Re-entry

10. (a) Upon any failure or neglect by the Grantee to perform, observe or comply with any of these Conditions the Government shall be entitled to re-enter upon and take back possession of the lot or any part thereof and all or any buildings, erections and works erected or to be erected on the lot or any such part thereof or any part of such buildings, erections or works and thereupon this Agreement and the rights of the Grantee hereunder shall absolutely cease and determine (in respect of such part if the re-entry is upon a part only) but without prejudice nevertheless to the rights, remedies and claims of the Government in respect of any breach, non-observance or non-performance of any of these Conditions.



No compensation on re-entry

(b) In the event of re-entry by the Government for or in respect of or arising out of the breach, non-observance or non-performance by the Grantee of the provisions of these Conditions, the Grantee shall not be entitled to any refund of the premium paid by him or any part thereof or to any payment or compensation whatsoever whether in respect of the value of the land or any part thereof or any building or buildings erected or to be erected on the land or any part thereof or part of any such building or buildings or any amount expended by the Grantee in the preparation, formation or development of the lot or any part thereof or otherwise.

Lease

11. (a) When these Conditions have been performed and complied with to the satisfaction of the Director, the Grantee shall subject to approval of his title by the Director be entitled to a lease of the lot for the term stated in the preamble to these Conditions.

(b) The Grantee shall execute and take up a lease of the lot when called upon to do so by the Director and shall pay the prescribed fees therefor. In the event of more than one building being erected on the lot the Grantee may be required to take up a separate lease for the site of each separate building and shall pay the prescribed fees for every additional lease so required to be taken up.

(c) Pending the issue of the lease the tenancy of the lot shall be deemed to be upon and subject to, and such lease, when issued, shall be subject to and contain all exceptions, reservations, covenants, clauses, conditions and provisos as are now inserted in the leases issued by the Government of similar lots in the Hong Kong Special Administrative Region (hereinafter referred to as "Hong Kong") as varied, modified or extended by these Conditions.

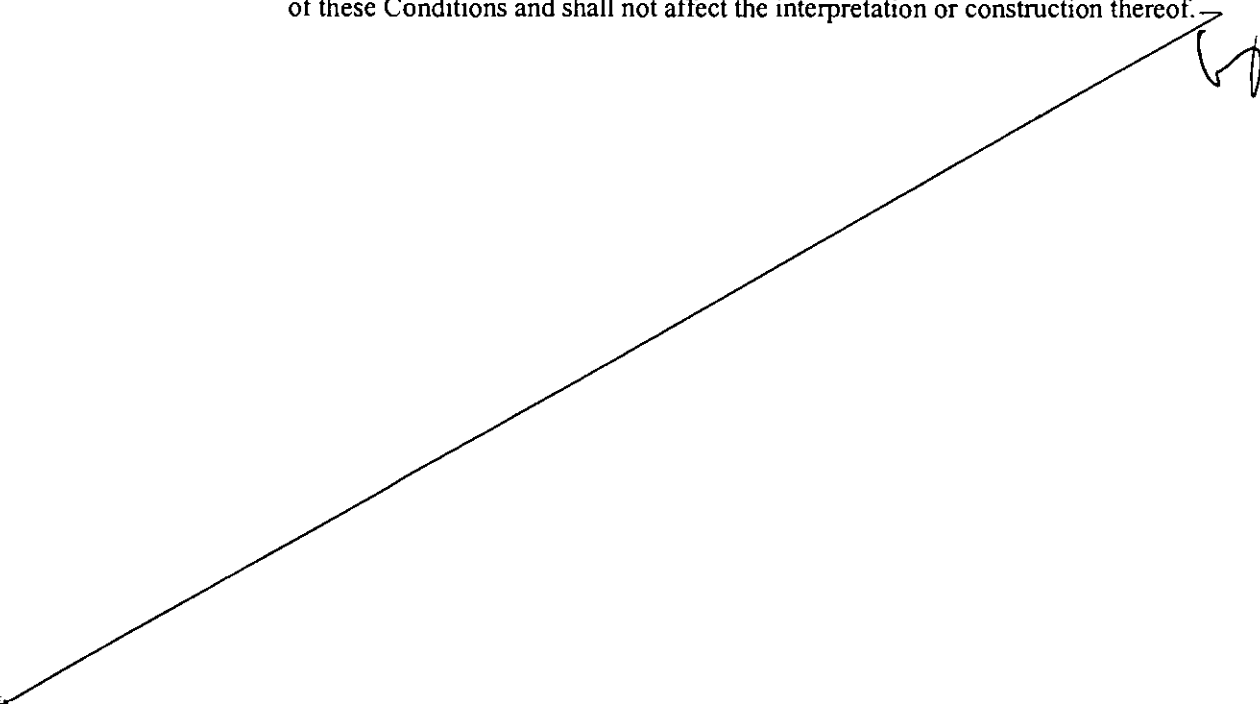
Definitions

12. (a) The expression "Grantee" shall in these Conditions include the person entering into and executing this Agreement and where the context so admits or requires his executors, administrators and assigns and in the case of a corporation its successors and assigns and the expression "lot", except where the context otherwise requires, means the lot stated in the Particulars of the Lot hereof. Where the context so admits or requires, words importing the masculine gender shall be deemed to include females and corporations, and words in the singular shall be deemed to include the plural.

(b) The foregoing General Conditions shall be read and construed as varied or modified by the Special Conditions hereinafter contained, and the expression "these Conditions" whenever used shall mean and include the General and Special Conditions.

Marginal notes

13. The marginal notes to these Conditions shall not be deemed to be part of these Conditions and shall not affect the interpretation or construction thereof.



SPECIAL CONDITIONS

- Surrender (1) The Grantee shall at his own expense surrender to the Government free of cost the old lot described in the Second Schedule hereto to the satisfaction of the Director contemporaneously with the execution of this Agreement.
- Indemnify Government against existing buildings, structures and foundations (2) (a) The Grantee acknowledges that there are existing within the lot some buildings, structures and foundations. The Government will accept no responsibility or liability for any damage, nuisance or disturbance caused to or suffered by the Grantee by reason of the presence and use of the said buildings, structures and foundations and the Grantee hereby indemnifies and shall keep indemnified the Government from and against all liabilities, claims, costs, demands, actions or other proceedings whatsoever arising whether directly or indirectly out of or in connection with the presence and use of the said buildings, structures and foundations.
- Indemnify Government against existing tenancies and licences (b) Without prejudice to these Conditions, the Grantee acknowledges that the lot is granted to him subject to tenancies and licences existing at the time of surrender of the old lot in respect of the buildings and structures which are subsisting at the date of this Agreement. The Grantee hereby indemnifies and shall keep indemnified the Government from and against all liabilities, claims, costs, demands, actions or other proceedings whatsoever arising whether directly or indirectly out of or in connection with the existence of the said tenancies and licences and this grant.
- Requirement for construction on piles (3) The Grantee shall not reclaim or permit or suffer to be reclaimed any foreshore and sea bed within the lot and any building or structure or any part thereof to be erected over such foreshore and sea bed on or after the date of this Agreement must be supported on piles or such other structures as may be approved in writing by the Director.
- Premium (4) Having paid the deposit equal to 10% of the premium specified in the First Schedule hereto, the Grantee shall pay to the Government upon the execution of this Agreement by the Grantee the balance of the premium.
- Possession (5) (a) Subject to compliance with Special Condition No. (1) hereof and to the payment of the balance of the premium in accordance with Special Condition No. (4) hereof, possession of the lot shall be deemed to be given and taken by the Grantee on the date of this Agreement.
- (b) The lot is granted subject to all and any rights, claims, actions, proceedings and liabilities whether arising by way of adverse possession or otherwise as existing on the date of this Agreement in relation to the lot or any part thereof hereby agreed to be granted.
- User (6) (a) Subject to these Conditions, the lot or any part thereof or any building or structure or part of any building or structure erected or to be erected thereon shall not be used for any purpose other than the purposes of a commercial ocean terminal for the berthing of cruise vessels, embarkation and disembarkation of cruise passengers and crews, loading and unloading of cruise supplies and luggage of passengers and crews and for the purposes of the facilities, amenities and accommodation referred to in Special Condition Nos. (7)(a)(ii) and (7)(a)(iii) hereof (hereinafter referred to as "the Ocean Terminal").
- (b) That part of the lot shown coloured pink hatched black on Plan I annexed hereto or any part thereof shall not be used for any purpose other than the purpose of a vehicular access ramp of and for the Ocean Terminal (hereinafter referred to as "the Vehicular Access Ramp").
- (c) For the purpose of this Special Condition, the Director's decision as to what constitute the purposes of a commercial ocean terminal shall be conclusive and

binding on the Grantee.

Type of buildings

(7) (a) The Grantee shall in accordance with these Conditions and in all respects to the satisfaction of the Director construct, erect, provide and maintain on the lot :

- (i) cruise vessel berthing and operation areas and facilities including but not limited to the facilities referred to in Special Condition No. (15)(a) hereof with ancillary and supporting facilities for cruise vessel berthing and operation (hereinafter collectively referred to as "the Cruise Vessel Berthing and Operation Area");
- (ii) passenger, shopping, restaurant, tourist, shipping, banking, postal, telephone, telegraphic office, recreational, sporting, entertainment, parking, taxi, transport, advertising facilities and amenities and such other facilities and amenities as may be approved in writing by the Director; and
- (iii) accommodation for Customs and Excise Department, accommodation for Immigration Department and accommodation for Department of Health as referred to in Special Condition Nos. (11) and (13) hereof.

(b) Except as otherwise required or provided under these Conditions, the Grantee shall not at any time construct, erect, provide or maintain on the lot any building or structure other than as specified in sub-clause (a) of this Special Condition or as the Director may approve in writing for the purposes of the Ocean Terminal.

Development conditions

(8) Subject to these Conditions :

Compliance with Buildings Ordinance

- (a) any building or buildings erected or to be erected on the lot shall in all respects comply with the Buildings Ordinance, any regulations made thereunder and any amending legislation;

Compliance with Town Planning Ordinance

- (b) no building or buildings may be erected on the lot or any part thereof or upon any area or areas outside the lot specified in these Conditions, nor may any development or use of the lot or any part thereof, or of any area or areas outside the lot specified in these Conditions take place, which does not in all respects comply with the requirements of the Town Planning Ordinance, any regulations made thereunder and any amending legislation;

Total gross floor area

- (c) the total gross floor area of any building or buildings erected or to be erected on the lot shall not be more than 85,672 square metres or less than 50,808 square metres provided that :-

Total gross floor area (commercial ocean terminal)

- (i) the total gross floor area of any building or buildings erected or to be erected on the lot designed and intended to be used for the Ocean Terminal shall not be more than 53,632 square metres or less than 32,179 square metres;

Total gross floor area (vehicular access ramp)

- (ii) the total gross floor area of any building or buildings erected or to be erected on the lot designed and intended to be used for the Vehicular Access Ramp shall not be more than 3,900 square metres or less than 3,500 square metres;

Total gross floor area (fee-paying car parks)

- (iii) the total gross floor area of any building or buildings erected or to be erected on the lot designed and intended to be used for the purposes as specified in Special Condition No. (19)(a)(i) hereof shall not be more than 28,140 square metres or less than 15,129 square metres

(it being hereby expressly agreed and accepted by the Grantee that the

Government does not guarantee that the maximum gross floor areas specified in this sub-clause (c) can be attained and no claim for compensation and no refund of premium whatsoever shall be made or claimed against the Government in the event the said maximum gross floor areas cannot be attained);

Height

- (d) no part of any building or other structure erected or to be erected on the lot together with any addition or fitting (if any) to such building or structure may in the aggregate exceed a height of 38 metres above the Hong Kong Principal Datum, and for the avoidance of any doubt, in calculating the height of a building or structure, machine rooms, air-conditioning units, water tanks, stairhoods, projections and similar roof-top structures and advertising signs as may be approved by the Director shall be taken into account; and

Design and disposition

- (e) the design and disposition of any building or buildings to be erected on the lot on or after the date of this Agreement shall be subject to the approval in writing of the Director and no building works (other than site formation works) in relation to such building or buildings shall be commenced on the lot until such approval shall have been obtained. For the purpose of these Conditions "building works" and "site formation works" shall be as defined in the Buildings Ordinance, any regulations made thereunder and any amending legislation.

Operation of the Ocean Terminal

- (9) The Grantee shall from the date of this Agreement manage, operate and maintain and, throughout the term hereby agreed to be granted, continue to manage, operate and maintain the Ocean Terminal on a scale and in a manner to the satisfaction of the Director and in accordance with all Ordinances, any regulations made thereunder and any amending legislation.

Cessation or diminution of user

- (10) The Grantee agrees that it shall be a breach of Special Condition No. (9) hereof and this Special Condition if, at any time during the term hereby agreed to be granted, the Director is of the opinion :

- (a) that the lot or any part thereof or any building or structure or part of any building or structure thereon has ceased to be used for the purposes specified in Special Condition No. (6) hereof (as to which, and without prejudice to the rights of the Director under this Special Condition, the non-user thereof for those purposes for a period of six calendar months shall be conclusive evidence) or that the extent of the user thereof for those purposes has so diminished to the extent that the lot or any part thereof is, in the opinion of the Director, either not being used or adequately used for the purposes for which it is granted; or
- (b) that the Grantee has failed to manage, operate and maintain or continue to manage, operate and maintain the Ocean Terminal in compliance with Special Condition No. (9) hereof (as to which the non-compliance with a notice served by the Director requiring the Grantee to remedy the failure to manage, operate or maintain the Ocean Terminal on a scale and in a manner satisfactory to the Director and in accordance with these Conditions within the time prescribed by him in the notice shall be conclusive and the decision of the Director whether the notice has been complied with shall be final and binding on the Grantee),

and it will be lawful for the Government to re-enter upon and take back possession of the lot or any part thereof, or any interest therein and the buildings and structures thereon without notice, whether under the Government Rights (Re-entry and Vesting Remedies) Ordinance, any regulations made thereunder and any amending legislation, or at common law, or otherwise. Upon the exercise of this power by the Government, the rights of the Grantee under this Agreement will absolutely cease and determine but without prejudice nevertheless to the rights, remedies and claims of the Government in

respect of any breach, non-observance or non-performance of any of these Conditions or otherwise, and the Grantee shall not be entitled to any refund of the premium paid by him or any part thereof or to any payment or compensation whatsoever whether in respect of the value of the lot or any part or parts thereof or any building or buildings or structure or structures thereon or any amount expended by the Grantee in the preparation, formation or development or redevelopment of the lot or any part or parts thereof or otherwise. The Grantee hereby acknowledges and agrees that for the purpose of this Special Condition, the opinion of the Director will be unfettered, conclusive and binding on the Grantee.

Provision of New CIQ
Accommodation

(11) (a) The Grantee shall erect, construct and provide at his own expense within the lot at such locations, with such layouts and to such standards as may be approved by the Director, in a good workmanlike manner and in all respects to the satisfaction of the Director the following accommodation :

(i) accommodation for Customs and Excise Department comprising :

- (I) an office with a net operational floor area of not less than 93 square metres;
- (II) an observation room at the departure hall with a net operational floor area of not less than 7.2 square metres;
- (III) green channel at the departure hall with a net operational floor area of not less than 70 square metres;
- (IV) red channel at the departure hall with a net operational floor area of not less than 92 square metres;
- (V) green channel at the arrival hall with a net operational floor area of not less than 140 square metres;
- (VI) red channel at the arrival hall with a net operational floor area of not less than 193 square metres;
- (VII) operating area behind the red and green channels at the arrival hall with a net operational floor area of not less than 65 square metres; and
- (VIII) 2 gate house offices with a net operational floor area of not less than 25 square metres each;

(ii) accommodation for Immigration Department comprising :

- (I) offices with a net operational floor area of not less than 100 square metres in aggregate;
- (II) 12 clearance counters with a net operational floor area of not less than 95 square metres in aggregate;
- (III) 2 channels for transit passengers and staff or crew with a net operational floor area of not less than 23 square metres in aggregate; and
- (IV) a departure hall with a net operational floor area of not less than 430 square metres; and

(iii) accommodation for Department of Health comprising:-

- (I) an office with a net operational floor area of not less than 25 square metres; _____



(II) body temperature scanning area and screening station with a net operational floor area of not less than 51 square metres in aggregate; and

(III) a medical consultation room with a net operational floor area of not less than 10 square metres

(hereinafter collectively referred to as "New CIQ Accommodation"). The New CIQ Accommodation shall be completed and made fit for occupation and use on or before the 30th day of June, 2017.

Change in net operational floor area

(b) The net operational floor areas as respectively specified in sub-clauses (a)(i), (a)(ii) and (a)(iii) of this Special Condition shall not be altered or amended without the prior written approval of the Director who may in his absolute discretion withhold or give such approval subject to such terms and conditions as he shall see fit, including the payment of such premium and administrative fee as he shall in his absolute discretion determine.

Maintenance and use of New CIQ Accommodation

(12) Throughout the term hereby agreed to be granted, the Grantee shall maintain at his own expense and in all respects to the satisfaction of the Director the New CIQ Accommodation and the Government shall have the exclusive use, occupation and enjoyment of the New CIQ Accommodation free of rent, tax, outgoings, management fees, utility service charges and any other charges whatsoever.

Existing CIQ Accommodation

(13) Until the New CIQ Accommodation has been erected, constructed and provided to the satisfaction of the Director in accordance with Special Condition No. (11) hereof, the Grantee shall provide and maintain and continue to provide and maintain within the lot at his own expense and in all respects to the satisfaction of the Director free of rent, tax, outgoings, management fees, utility service charges and any other charges whatsoever for the exclusive use, occupation and enjoyment of the Government such accommodations for Customs and Excise Department, Immigration Department and Department of Health respectively as may exist at the date of this Agreement (hereinafter collectively referred to as "the Existing CIQ Accommodation").

Determination of net operational floor area

(14) (a) For the purpose of these Conditions, the expression "net operational floor area" means the area enclosed within the perimeter walls or boundaries of a room or space as measured between skirtings but excluding the area of any free-standing columns or wall columns within that room or space. The net operational floor areas of the New CIQ Accommodation shall, unless otherwise stated, be taken as comprising the total of the net floor areas of all rooms and spaces within such parts of the New CIQ Accommodation excluding any structures and partitions, circulation areas, staircases, staircases halls, lift landings, space occupied by toilet facilities, mechanical and electrical services such as lifts and air-conditioning systems.

(b) For the avoidance of doubt, the net operational floor areas of the New CIQ Accommodation to be erected, constructed and provided under Special Condition No. (11) hereof and the gross floor area of the Existing CIQ Accommodation shall be taken into account for the purpose of calculating the total gross floor area stipulated in Special Condition No. (8)(c) hereof.

Cruise passenger facilities

(15) (a) The Grantee shall provide within the Cruise Vessel Berthing and Operation Area at his own expense and in all respects to the satisfaction of the Director throughout the term hereby agreed to be granted for use by cruise passengers the following facilities :

(i) a baggage check-in area with a gross floor area of not less than 275 square metres;

(ii) a baggage reclaim area with a gross floor area of not less than 880 square metres; and

(iii) waiting, reception and ticketing areas with a gross floor area of not less than 715 square metres in aggregate.

(b) Notwithstanding Special Condition No. (11)(a)(ii)(IV) hereof and sub-clause (a)(i) of this Special Condition, the Grantee may convert, in a manner to the satisfaction of the Director, part or whole of the departure hall as referred to in Special Condition No. (11)(a)(ii)(IV) hereof and the baggage check-in area as referred to in sub-clause (a)(i) of this Special Condition temporarily into baggage reclaim area.

Rights of way and other rights

(16) (a) The lot is granted subject to and with the benefit of a Deed of Grant of Rights of Way executed immediately before the execution of this Agreement in favour of the Government (hereinafter referred to as "the Deed of Grant over First Land") whereby certain rights of way to pass and repass over and along the Portions of the First Land (as defined in sub-clause (h)(iv) of this Special Condition) were granted for such purposes and upon such terms and conditions as therein contained.

(b) The Grantee shall when called upon by the Director grant or assign and procure the relevant owners to grant or assign to the Government including its successors and assigns and lessees, tenants and occupiers of the land at the location of the lot all or such parts of the Portions of the First Land and any building or buildings erected or to be erected thereon up to a height of 21.95 metres above the Hong Kong Principal Datum as are or are intended to be occupied by or used for or in connection with the land at the location of the lot and all such rights of way, access and user therein and thereover as are or will be necessary for the uninterrupted use, enjoyment, operation and maintenance of the land at the location of the lot and the messuages, erections and buildings thereon.

(c) The Grantee shall not sell, assign, mortgage, charge, underlet, part with possession of or otherwise dispose of any part of the Grantee's Land (as defined in sub-clause (h)(ii) of this Special Condition) as shall comprise any part of the Portions of the First Land or any part thereof or any interest therein or any building or buildings erected or to be erected thereon and shall ensure that the relevant owners shall not sell, assign, mortgage, charge, underlet, part with possession of or otherwise dispose of any part of the Other Land (as defined in sub-clause (h)(iii) of this Special Condition) as shall comprise any part of the Portions of the First Land or any part thereof or any interest therein or any building or buildings erected or to be erected thereon in each case without excepting and reserving to themselves their successors and assigns for the residues of the terms of the Government leases thereof all or such parts of the Portions of the First Land and of any building or buildings erected or to be erected thereon up to a height of 21.95 metres above the Hong Kong Principal Datum as are or are intended to be occupied with or used for or in connection with the land at the location of the lot and all such rights of way, access or user as are referred to in sub-clause (b) of this Special Condition or without making such sale, assignment, mortgage, charge, underletting, parting with possession or other disposal expressly subject to the rights of the Government under the provisions of sub-clause (b) of this Special Condition, both to be done to the satisfaction of the Director.

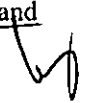
(d) On the expiration or sooner determination of the term hereby agreed to be granted, the Grantee shall grant or assign and procure the relevant owners to grant or assign to the Government including its successors and assigns and lessees, tenants and occupiers of the land at the location of the lot as the Government may direct all or such parts of the Portions of the First Land and any building or buildings erected or to be erected thereon as are or are intended to be occupied by or used for or in connection with the land at the location of the lot and all such rights of way, access and user as are referred to in sub-clauses (b) and (c) of this Special Condition and the Grantee shall not sell, assign, mortgage, charge, underlet, part with possession of or otherwise dispose of any part of the Grantee's Land as shall comprise any part of the Portions of the First Land, or any part thereof or any interest therein or any building or buildings erected or to be erected thereon and shall ensure that the relevant owners shall not sell, assign, mortgage, charge, underlet, part with possession of or otherwise dispose of any part of

the Other Land as shall comprise any part of the Portions of the First Land, or any part thereof or any interest therein or any building or buildings erected or to be erected thereon without making such sale, assignment, mortgage, charge, underletting, parting with possession or other disposal expressly subject to the provisions of this sub-clause (d).

(e) If and to the extent that the rule against perpetuities applies to the provisions of sub-clauses (b), (c) and (d) of this Special Condition, such provisions shall be limited to take effect during the life or lives of the last surviving descendant now living of Her late Majesty Queen Victoria and a period of twenty one years thereafter.

- (f) (i) Immediately after the execution of this Agreement, the Grantee shall execute and procure the relevant owners to execute in favour of the Grantee as the owner of the lot a Deed of Grant of Rights of Way in the form previously approved by the Director whereby certain rights of way over such portions of the Second Land (as defined in sub-clause (h)(v) of this Special Condition) are granted (hereinafter referred to as "the Deed of Grant over Second Land").
- (ii) The Deed of Grant over Second Land shall be registered in the Land Registry against the lot and each of the Second Land within 28 days from the date of this Agreement.
- (iii) The Grantee shall abide by, comply with, observe and perform all the terms and conditions of the Deed of Grant over Second Land so that the Deed of Grant over Second Land shall remain valid and subsisting for so long as the Grantee shall remain the owner of the lot.
- (iv) The Grantee shall not vary, amend, cancel, discharge, extinguish, release, terminate or withdraw the Deed of Grant over Second Land or agree to do so or do or perform any act or deed which has the effect of varying, amending, cancelling, discharging, extinguishing, releasing, terminating or withdrawing the Deed of Grant over Second Land except with the prior written approval of the Director.
- (v) The Grantee shall permit members of the public to have full, free and uninterrupted right, privilege and liberty to pass and repass over and along such portions of the Second Land in respect of which rights of way are granted to it under the Deed of Grant over Second Land for the purposes of access to and egress from the lot at all times thereafter by day or night with or without vehicles free of any fee or charge whatsoever.
- (g) (i) Immediately after the execution of the Deed of Grant over Second Land, the Grantee shall execute and procure the relevant owners to execute an undertaking in the form previously approved by the Director (hereinafter referred to as "the Undertaking") whereby :
 - (I) each of the owners of the Second Land shall undertake and agree with the Government and the Director as follows:-
 - (A) to abide by, comply with, observe and perform all the terms and conditions of the Deed of Grant over Second Land so that the Deed of Grant over Second Land shall remain valid and subsisting for so long as the Grantee shall remain the owner of the lot;
 - (B) not to vary, amend, cancel, discharge, extinguish, release, terminate or withdraw the Deed of Grant over Second Land or agree to do so or do or perform any act

or deed which has the effect of varying, amending, cancelling, discharging, extinguishing, releasing, terminating or withdrawing the Deed of Grant over Second Land except with the prior written approval of the Director;

- (C) not to assign or otherwise dispose of the Second Land or any part thereof or any interest therein or any building or buildings erected or to be erected thereon unless and until the person to whom the Second Land or any part thereof or any interest therein or any building or buildings erected or to be erected thereon is assigned or disposed of shall give in favour of the Government and the Director the same undertaking on terms and conditions similar in scope and extent to the Undertaking, which form of undertaking shall be approved by the Director; and
 - (D) to execute and do, or procure his successors and assigns to execute and do, all such lawful acts, assurances and things as the Director may require for assuring or perfecting the grant of rights of way over the Second Land (in particular, Section A of Kowloon Marine Lot No. 11, Section B of Kowloon Marine Lot No. 11 and the Extension thereto and Section D of Kowloon Marine Lot No. 11) to the Grantee as the owner of the lot; and
- (II) the Grantee as the owner of the lot shall undertake and agree with the Government and the Director as follows :
- (A) to abide by, comply with, observe and perform all the terms and conditions of the Deed of Grant over Second Land so that the Deed of Grant over Second Land shall remain valid and subsisting for so long as the Grantee shall remain the owner of the lot; and
 - (B) not to vary, amend, cancel, discharge, extinguish, release, terminate or withdraw the Deed of Grant over Second Land or agree to do so or do or perform any act or deed which has the effect of varying, amending, cancelling, discharging, extinguishing, releasing, terminating or withdrawing the Deed of Grant over Second Land except with the prior written approval of the Director.
- (ii) The Undertaking shall be registered in the Land Registry against the lot and each of the Second Land within 28 days from the date of the Deed of Grant over Second Land. The Undertaking shall be deposited with the Director within 7 days from its return from the Land Registry after registration.
- (iii) If there is any breach, non-compliance, non-observance or non-performance of the terms of the Undertaking, it will be lawful for the Government to re-enter upon and take back possession of the lot or any part thereof, or any interest therein and the buildings and structures thereon without notice, whether under the Government Rights (Re-entry and Vesting Remedies) Ordinance, any regulations made thereunder and any amending legislation, or at common law, or otherwise. Upon the exercise of this power by the Government, the rights of the Grantee under this Agreement will absolutely cease and
- 

determine but without prejudice nevertheless to the rights, remedies and claims of the Government in respect of any breach, non-compliance, non-observance or non-performance of any of the terms of the Undertaking, and the Grantee shall not be entitled to any refund of the premium paid by him or any part thereof or to any payment or compensation whatsoever whether in respect of the value of the lot or any part or parts thereof or any building or buildings or structure or structures thereon or any amount expended by the Grantee in the preparation, formation or development or redevelopment of the lot or any part or parts thereof or otherwise.

(h) For the purpose of this Special Condition, the following terms shall have the following meaning :

- (i) "the First Land" shall mean The Remaining Portion of Kowloon Marine Lot No. 10, The Remaining Portion of Kowloon Marine Lot No. 91, Section A of Kowloon Marine Lot No. 11 and Section C of Kowloon Marine Lot No. 11;
- (ii) "the Grantee's Land" shall mean Section A of Kowloon Marine Lot No. 11;
- (iii) "the Other Land" shall mean The Remaining Portion of Kowloon Marine Lot No. 10, The Remaining Portion of Kowloon Marine Lot No. 91 and Section C of Kowloon Marine Lot No. 11;
- (iv) "the Portions of the First Land" shall mean such portions of the First Land as are delineated and shown coloured green, green hatched black, indigo, orange and violet on the plans attached to the Deed of Grant over First Land; and
- (v) "the Second Land" shall mean Section B of Kowloon Marine Lot No. 11 and the Extension thereto, Section D of Kowloon Marine Lot No. 11, Section A of Kowloon Marine Lot No. 11 and The Remaining Portion of Kowloon Marine Lot No. 11.

Restriction on alienation

(17) (a) The Grantee shall not sell, assign, underlet, part with possession of or otherwise dispose of the lot or any part thereof or any interest therein or any building or buildings erected or to be erected thereon or any part thereof or enter into any agreement so to do without the prior written consent of the Director.

(b) Notwithstanding sub-clause (a) of this Special Condition, the Grantee may underlet or license any part or parts of the building or buildings erected or to be erected on the lot (except the Cruise Vessel Berthing and Operation Area, the Existing CIQ Accommodation and the New CIQ Accommodation) for such periods not exceeding the term hereby agreed to be granted and on such terms and conditions not inconsistent with these Conditions PROVIDED that in the event of the Government exercising any right of re-entry or forfeiture hereunder by reason of any breach, non-observance or non-performance by the Grantee of any of the terms and conditions on his part herein contained, the Grantee shall forthwith pay to the Government a due proportion of all premium or other capital sums paid by any tenant or licensee for the grant of any tenancy or licence of any part or parts of the building or buildings erected or to be erected on the lot, such proportion being the like proportion of the premium or capital sum as the unexpired portion of the term of the tenancy or licence bears to the whole of such term.

(c) For the avoidance of doubt, the exclusive use, occupation and enjoyment of the New CIQ Accommodation by the Government pursuant to Special Condition No. (12) hereof and the exclusive use, occupation and enjoyment of the Existing CIQ Accommodation by Customs and Excise Department, Immigration Department and Department of Health pursuant to Special Condition No. (13) shall not be considered as

a breach of sub-clauses (a) and (b) of this Special Condition.

No partitioning

(18) The Grantee shall not partition (whether by way of assignment or other disposal or by any other means) the lot or any part thereof.

Parking requirement

(19) (a) Subject to sub-clause (b) of this Special Condition, space shall be provided within the lot to the satisfaction of the Director for the parking of motor vehicles at the following rates unless the Director consents to another rate :

- (i) not less than nine hundred and ten spaces each measuring 2.3 metres in width and 5 metres in length with a minimum headroom of 2.4 metres or such other dimensions as may be approved by the Director, which shall only be used for fee-paying parking of motor vehicles licensed under the Road Traffic Ordinance, any regulations made thereunder and any amending legislation, and belonging to members of the public (hereinafter referred to as "the Fee-paying Public Carpark"); and
- (ii) not less than two hundred and fifty spaces each measuring 2.3 metres in width and 5 metres in length with a minimum headroom of 2.4 metres or such other dimensions as may be approved by the Director, which shall only be used for the parking of motor vehicles licensed under the Road Traffic Ordinance, any regulations made thereunder and any amending legislation, and belonging to those persons visiting the Ocean Terminal.

(b) The dimensions of the parking spaces as specified in sub-clauses (a)(i) and (a)(ii) of this Special Condition apply for the lifetime of the building or buildings now erected on the lot only. Upon demolition of such building or buildings or any part or parts of such building or buildings accommodating the parking spaces, each of the parking spaces required to be provided under sub-clauses (a)(i) and (a)(ii) of this Special Condition shall measure at 2.5 metres in width and 5 metres in length with a minimum headroom of 2.4 metres or such other dimensions as may be approved by the Director.

(c) In addition to the spaces required to be provided under sub-clause (a) of this Special Condition, the Grantee shall provide and reserve for the use by the Government free of all costs and expenses at such locations as may be approved from time to time by the Commissioner of Customs and Excise :

- (i) one space measuring 3.5 metres in width and 14 metres in length; and
- (ii) one space measuring 3.5 metres in width and 7 metres in length.

(d) The spaces provided under sub-clauses (a), (b) and (c) of this Special Condition shall not be used for any purpose other than for the respective purposes stipulated therein.

Loading, unloading and lay-bys requirements

(20) (a) Space shall be provided within the lot to the satisfaction of the Director :

- (i) for the loading and unloading of light goods vehicles at not less than five spaces each measuring 3.5 metres in width and 7 metres in length with a minimum headroom of 3.6 metres or such other dimensions as may be approved by the Director;
- (ii) for the loading and unloading of heavy goods vehicle at not less than one space each measuring 3.5 metres in width and 11 metres in length with a minimum headroom of 4.7 metres or such other dimensions as may be approved by the Director;

- (iii) as lay-bys for the picking up and setting down of passengers from motor vehicles (including taxis) measuring not less than 30 metres long or such other dimensions as may be approved by the Director; and
- (iv) for the picking up and setting down of passengers from tour buses or coaches at not less than ten spaces each measuring 3.5 metres in width and 12.0 metres in length with a minimum headroom of 3.8 meters or such other dimensions as may be approved by the Director.

(b) In addition to the spaces required to be provided in accordance with sub-clause (a) of this Special Condition, the Grantee shall throughout the term hereby agreed to be granted provide or procure the provision of not less than fifty spaces within any or all of Section A of Kowloon Marine Lot No. 11, Section B and Extension of Kowloon Marine Lot No. 11, Section C of Kowloon Marine Lot No. 11, Section D of Kowloon Marine Lot No. 11, The Remaining Portion of Kowloon Marine Lot No. 11, Section A of Kowloon Marine Lot No. 91 and The Remaining Portion of Kowloon Marine Lot No. 91 to the satisfaction of the Director for the loading and unloading of goods vehicles licensed under the Road Traffic Ordinance, any regulations made thereunder and any amending legislation.

(c) The spaces provided under sub-clauses (a)(i), (a)(ii) and (b) of this Special Condition shall not be used for any purpose other than for the loading and unloading of goods vehicles in connection with the Ocean Terminal.

(d) The spaces provided under sub-clauses (a)(iii) and (a)(iv) of this Special Condition shall not be used for any purpose other than for the respective purposes stipulated therein.

Parking spaces etc.
excluded from gross floor
area calculation

(21) (a) Subject to sub-clauses (b), (c) and (d) of this Special Condition, the spaces provided under Special Condition Nos. (19)(a)(ii), (19)(c) and (20)(a) hereof shall not be taken into account in the calculation of the total gross floor area stipulated in Special Condition No. (8)(c) hereof.

(b) Upon redevelopment of the lot (as to which the decision of the Director shall be final and binding on the Grantee), for the purpose of calculating the total gross floor area stipulated in Special Condition No. (8)(c) hereof,

(i) there shall not be taken into account

(I) the spaces provided in accordance with Special Condition No. (19)(a)(ii) hereof if they are provided below ground level;

(II) the spaces provided in accordance with Special Condition Nos. (19)(c), (20)(a)(i) and (20)(a)(ii) hereof if they are provided at or below ground level; and

(III) the spaces provided in accordance with Special Condition Nos. (20)(a)(iii) and (20)(a)(iv) hereof;

(ii) if the spaces provided in accordance with Special Condition No. (19)(a)(ii) hereof are provided at or above ground level or the spaces provided in accordance with Special Condition Nos. (19)(c), (20)(a)(i) and (20)(a)(ii) hereof are provided above ground level, 50% of such spaces together with 50% of the other areas including but not limited to lift lobbies, landings, pedestrian access routes, manoeuvring and circulation areas, and plant rooms serving such spaces shall be taken into account for the calculation of the total gross floor area stipulated in Special Condition No. (8)(c) hereof as to which the decision of the Director shall be final and binding on

the Grantee.

(c) Notwithstanding sub-clause (b)(ii) of this Special Condition, the Director at his sole discretion may subject to the payment by the Grantee of any premium and administrative fee as shall be determined by the Director exclude any spaces and other areas referred to in sub-clause (b)(ii) of this Special Condition from the calculation of total gross floor areas stipulated in Special Condition No. (8)(c) hereof as to which the decision of the Director shall be final and binding on the Grantee.

(d) For the purpose of sub-clause (b) of this Special Condition, the decision of the Director as to what constitutes ground level or whether any space is at, above or below ground level shall be final and binding on the Grantee.

(e) For the avoidance of doubt, the spaces provided under Special Condition No. (19)(a)(i) hereof shall not in any circumstances be excluded from the calculation of the total gross floor area stipulated in Special Condition No. (8)(c) hereof.

Deposit of car park
layout plans

(22) (a) A plan approved by the Director indicating the layout and dimensions of all the parking spaces provided within the lot in accordance with Special Condition No. (19)(a) hereof, or a copy of such plan certified by an Authorized Person (as defined in the Buildings Ordinance, any regulations made thereunder and any amending legislation) shall be deposited with the Director within six calendar months from the date of this Agreement (or such other extended period as may be approved in writing by the Director). The parking spaces indicated on the said approved plan shall not be used for any purpose other than for the purposes set out in Special Condition No. (19)(a) hereof. The Grantee shall maintain the parking spaces and other areas, including but not restricted to the lifts, landings and circulation areas, in accordance with the said approved plan and no amendment, variation, alteration, modification or substitution of the said approved plan shall be made without the prior written consent of the Director.

(b) A plan approved by the Director indicating the layout and dimensions of all the parking, loading and unloading spaces provided within the lot in accordance with Special Condition Nos. (19)(c) and 20(a) hereof, or a copy of such plan certified by an Authorized Person (as defined in the Buildings Ordinance, any regulations made thereunder and any amending legislation) shall be deposited with the Director within sixty calendar months from the date of this Agreement. The parking, loading and unloading spaces indicated on the said approved plan shall not be used for any purpose other than for the purposes set out in Special Condition Nos. (19)(c) and (20)(a) hereof. The Grantee shall maintain the parking, loading and unloading spaces and other areas, including but not restricted to the lifts, landings and circulation areas, in accordance with the said approved plan and no amendment, variation, alteration, modification or substitution of the said approved plan shall be made without the prior written consent of the Director.

(c) Except for the parking spaces indicated on the approved plans respectively referred to in sub-clauses (a) and (b) of this Special Condition, no part of the lot or any building or structure thereon shall be used for parking purposes.

Traffic requirement

(23) (a) If at any time the Grantee is so required by the Director or the Commissioner of Police, the Grantee shall take all necessary measures to control and regulate the ingress and egress of vehicular traffic to and from the lot or any building or buildings erected or to be erected thereon in all respects to the satisfaction of the Director.

(b) The Grantee shall construct and complete in all respects to the satisfaction of the Director such access roads and works as the Director may require for the purposes of sub-clause (a) of this Special Condition.

Advertising

(24) The Grantee shall not exhibit or permit or suffer to be exhibited on the exterior of or outside any building or structure erected or to be erected on the lot any placard, poster, sign or advertisement without the prior written consent of the Director.

- Dredging of sea bed (25) No dredging works shall be carried out on the sea bed alongside the boundary of the lot except with the prior written consent of the Director provided that maintenance dredging works on the sea bed for the berthing of cruise vessels for a depth not exceeding 10.67 metres below the Chart Datum may be carried out without such consent.
- Set back (26) The Grantee shall not cut away, remove or set back any Government land adjacent to or adjoining the lot or carry out any building-up, filling-in or any slope treatment works of any kind whatsoever on any Government land except with the prior written consent of the Director who may, at his sole discretion, give his consent subject to such terms and conditions as he sees fit, including the grant of additional Government land as an extension to the lot at such premium as he may determine.
- Cutting away (27) (a) Where there is or has been any cutting away, removal or setting back of any land, or any building-up or filling-in or any slope treatment works of any kind whatsoever, whether with or without the prior written consent of the Director, either within the lot or on any Government land, which is or was done for the purpose of or in connection with the formation, levelling or development of the lot or any part thereof or any other works required to be done by the Grantee under these Conditions, or for any other purpose, the Grantee shall at his own expense carry out and construct such slope treatment works, retaining walls or other support, protection, drainage or ancillary or other works as shall or may then or at any time thereafter be necessary to protect and support such land within the lot and also any adjacent or adjoining Government or leased land and to obviate and prevent any falling away, landslip or subsidence occurring thereafter. The Grantee shall at all times during the term hereby agreed to be granted maintain at his own expense the said land, slope treatment works, retaining walls or other support, protection, drainage or ancillary or other works in good and substantial repair and condition to the satisfaction of the Director.
- (b) Nothing in sub-clause (a) of this Special Condition shall prejudice the Government's rights under these Conditions, in particular Special Condition No. (26) hereof.
- (c) In the event that as a result of or arising out of any formation, levelling, development or other works done by the Grantee or owing to any other reason, any falling away, landslip or subsidence occurs at any time, whether in or from any land within the lot or from any adjacent or adjoining Government or leased land, the Grantee shall at his own expense reinstate and make good the same to the satisfaction of the Director and shall indemnify the Government, its agents and contractors from and against all costs, charges, damages, demands and claims whatsoever which shall or may be made, suffered or incurred through or by reason of such falling away, landslip or subsidence.
- (d) In addition to any other rights or remedies herein provided for breach of any of these Conditions, the Director shall be entitled by notice in writing to call upon the Grantee to carry out, construct and maintain the said land, slope treatment works, retaining walls, or other support, protection, and drainage or ancillary or other works or to reinstate and make good any falling away, landslip or subsidence, and if the Grantee shall neglect or fail to comply with the notice to the satisfaction of the Director within the period specified therein, the Director may forthwith execute and carry out any necessary works and the Grantee shall on demand repay to the Government the cost thereof, together with any administrative and professional fees and charges.
- No rock crushing (28) No rock crushing plant shall be permitted on the lot without the prior written approval of the Director.
- Anchor maintenance (29) Where prestressed ground anchors have been installed, upon development or redevelopment of the lot or any part thereof, the Grantee shall at his own expense carry out regular maintenance and regular monitoring of the prestressed ground anchors throughout their service life to the satisfaction of the Director and shall supply to the

Director such reports and information on all such monitoring works as the Director may from time to time in his absolute discretion require. If the Grantee shall neglect or fail to carry out the required monitoring works, the Director may forthwith execute and carry out the monitoring works and the Grantee shall on demand repay to the Government the cost thereof.

Spoil or debris

(30) (a) In the event of earth, spoil, debris, construction waste or building materials (hereinafter referred to as "the waste") from the lot, or from other areas affected by any development of the lot being eroded, washed down or dumped onto public lanes or roads or into or onto road-culverts, foreshore or seabed, sewers, storm-water drains or nullahs or other Government properties (hereinafter referred to as "the Government properties"), the Grantee shall at his own expense remove the waste from and make good any damage done to the Government properties. The Grantee shall indemnify the Government against all actions, claims and demands arising out of any damage or nuisance to private property caused by such erosion, washing down or dumping.

(b) Notwithstanding sub-clause (a) of this Special Condition the Director may (but is not obliged to), at the request of the Grantee remove the waste from and make good any damage done to the Government properties and the Grantee shall pay to the Government on demand the cost thereof.

Damage to Services


(31) The Grantee shall take or cause to be taken all proper and adequate care, skill and precautions at all times, and particularly when carrying out construction, maintenance, renewal or repair work (hereinafter referred to as "the Works"), to avoid causing any damage, disturbance or obstruction to any Government or other existing drain, waterway or watercourse, water main, road, footpath, street furniture, sewer, nullah, pipe, cable, wire, utility service or any other works or installations being or running upon, over, under or adjacent to the lot or any part thereof (hereinafter collectively referred to as "the Services"). The Grantee shall prior to carrying out any of the Works make or cause to be made such proper search and enquiry as may be necessary to ascertain the present position and levels of the Services, and shall submit his proposals for dealing with any of the Services which may be affected by the Works in writing to the Director for his approval in all respects, and shall not carry out any work whatsoever until the Director shall have given his written approval to the Works and to such aforesaid proposals. The Grantee shall comply with and at his expense meet any requirements which may be imposed by the Director in respect of the Services in granting the aforesaid approval, including the cost of any necessary diversion, relaying or reinstatement. The Grantee shall at his own expense in all respects repair, make good and reinstate to the satisfaction of the Director any damage, disturbance or obstruction caused to the lot or any of the Services in any manner arising out of the Works (except for nullah, sewer, storm-water drain or water main, the making good of which shall be carried out by the Director, unless the Director elects otherwise, and the Grantee shall pay to the Government on demand the cost of such works). If the Grantee fails to carry out any such necessary diversion, relaying, repairing, making good and reinstatement of the lot or any part thereof or of any of the Services to the satisfaction of the Director, the Director may carry out any such diversion, relaying, repairing, making good or reinstatement as he considers necessary and the Grantee shall pay to the Government on demand the cost of such works.

Construction of drains and channels

(32) (a) The Grantee shall construct and maintain at his own expense and to the satisfaction of the Director such drains and channels, whether within the boundaries of the lot or on Government land, as the Director may consider necessary to intercept and convey into the nearest stream-course, catchpit, channel or Government storm-water drain all storm-water or rain-water falling or flowing on to the lot, and the Grantee shall be solely liable for and shall indemnify the Government and its officers from and against all actions, claims and demands arising out of any damage or nuisance caused by such storm-water or rain-water.

Connecting drains and sewers

(b) The works of connecting any drains and sewers from the lot to the Government storm-water drains and sewers, when laid and commissioned, may be carried out by the Director who shall not be liable to the Grantee for any loss or damage



thereby occasioned and the Grantee shall pay to the Government on demand the cost of such connection works. Alternatively, the said connection works may be carried out by the Grantee at his own expense to the satisfaction of the Director and in such case any section of the said connection works which is constructed within Government land shall be maintained by the Grantee at his own cost and upon demand be handed over by the Grantee to the Government for future maintenance thereof at the expense of the Government and the Grantee shall pay to the Government on demand the cost of the technical audit in respect of the said connection works. The Director may, upon failure of the Grantee to maintain any section of the said connection works which is constructed within Government land, carry out such maintenance works as he considers necessary and the Grantee shall pay to the Government on demand the cost of such works.

Access to the sea

(33) (a) The Grantee shall have no right of access to the sea from the lot and from the sea to the lot except between the points U and V through W as shown and marked on Plan I annexed hereto.

(b) The Government reserves the right to reclaim or carry out any works that will not adversely affect the operation of the Ocean Terminal in the foreshore to seaward of the lot at any time and the Government shall have no liability in respect of any loss, damage, nuisance or disturbance whatsoever caused to or suffered by the Grantee or any other person arising out of or incidental to such reclamation or works, and no claim for compensation or otherwise shall be made against the Government or the Director or his authorized officers by the Grantee in respect of any such loss, damage, nuisance or disturbance whether under the Foreshore and Sea-bed (Reclamations) Ordinance, any regulations made thereunder and any amending legislation or otherwise.

Prohibition of loading/
unloading of cargoes and
containers by shore based
equipment

(34) The Grantee shall at no time use suffer or permit the use of the lot or any part thereof or any building or any part of any building erected or to be erected thereon for the purpose of loading and unloading of cargoes or containers across the quay face, pier face or seawall by shore-based cargo or container handling equipment or other equipment provided that loading and unloading of cruise supplies and luggage of passengers and crews by mobile crane and mobile forklift or such other equipment as may from time to time be approved in writing by the Director are permitted.

(35) Wherever in these Conditions it is provided that :

Supervisory and overhead
charges

(a) the Government or its duly authorized officers shall or may carry out works of any description on the lot or any part thereof or outside the lot (whether on behalf of the Grantee or on the failure of the Grantee to carry out such works or otherwise) at the cost of the Grantee or that the Grantee shall pay or repay to the Government or to its duly authorized officers on demand the cost of such works, such cost shall include such supervisory and overhead charges as may be fixed by the Government or by its duly authorized officers; or


Prior approval or consent

(b) the prior approval or consent of the Government or its duly authorized officers is required, they may give the approval or consent on such terms and conditions as they see fit or refuse it at their absolute discretion.

Definition of gross floor
area

(36) (a) For the purposes of these Conditions the expression "gross floor area" means the area contained within the external faces of the external walls (or in the absence of such walls the external perimeters) of any building or buildings erected or to be erected on the lot measured at each floor level (including any floor below the level of the ground), together with the area of each balcony in such building or buildings, which shall be calculated from the overall dimensions of the balcony (including the thickness of the sides thereof).

(b) Notwithstanding sub-clause (a) of this Special Condition the Director at his sole discretion may : _____



(i) in calculating the gross floor area of any building or buildings erected or to be erected on the lot (in addition to any floor space which may be excluded by Special Condition No. (21) hereof), subject to sub-clause (c) of this Special Condition, exclude :

(I) any sunshade, reflector, any floor space that he is satisfied is constructed or intended to be used solely for the parking or for the loading or unloading of motor vehicles or occupied solely by machinery or equipment for any lift, air-conditioning or heating system or any similar service and any space for refuse disposal;

(II) subject to the payment by the Grantee of any premium and administrative fee as shall be determined by the Director :

(A) any structure or floor space, including, but not limited to, any communal sky garden, communal podium garden, acoustic fin, noise barrier, wing wall, wind catcher or funnel, non-structural prefabricated external wall the thickness of which does not exceed 150 millimetres, or any part thereof (all hereinafter referred to as "environmentally friendly or innovative features") and any other structure or floor space which in the opinion of the Building Authority is an environmentally friendly or innovative feature (as to which his opinion shall be conclusive) and which, for that reason, has been excluded by the Building Authority from calculation of gross floor area under the Buildings Ordinance, any regulations made thereunder and any amending legislation; and

(B) any floor space or structure which has been excluded by the Building Authority from the calculation of gross floor area under the Buildings Ordinance, any regulations made thereunder and any amending legislation;

Calculation of gross floor area in buildings with curtain wall system forming external face of building

(ii) accept, for the purpose of calculating the gross floor area, the outer face of the structural elements of the building or buildings erected or to be erected on the lot as the external wall where a curtain wall system forms the external face of any building or buildings erected or to be erected on the lot provided that the outer face of the curtain wall system shall project no more than 300 millimetres from the outer face of the structural elements and provided also that the Director shall have the sole discretion in deciding what comprises a structural element of any building or buildings erected or to be erected on the lot.



Cap on concession

(c) Upon redevelopment of the lot (as to which the decision of the Director shall be final and binding on the Grantee):

- (i) the floor spaces of the features listed in sub-clause (c)(iii) of this Special Condition which serve or are intended to serve the building or buildings erected or to be erected on the lot for the purposes of :
 - (I) the Ocean Terminal which may in accordance with these Conditions be excluded from the calculation of the total gross floor area stipulated in Special Condition No. (8)(c)(i) hereof shall not in the aggregate exceed 10% of the total gross floor area of the building or buildings erected or to be erected on the lot or any part or parts of the building or buildings to be used for such purposes;
 - (II) the Vehicular Access Ramp which may in accordance with these Conditions be excluded from the calculation of the total gross floor area stipulated in Special Condition No. (8)(c)(ii) hereof shall not in the aggregate exceed 10% of the total gross floor area of the building or buildings erected or to be erected on the lot or any part or parts of the building or buildings to be used for such purposes; and
 - (III) the Fee-paying Public Carpark which may in accordance with these Conditions be excluded from the calculation of the total gross floor area stipulated in Special Condition No. (8)(c)(iii) hereof shall not in the aggregate exceed 10% of the total gross floor area of the building or buildings erected or to be erected on the lot or any part or parts of the building or buildings to be used for such purposes,

provided that the decision of the Building Authority as to whether any floor space of the features listed in sub-clause (c)(iii) of this Special Condition or any part thereof falls within sub-clauses (c)(i)(I) or (c)(i)(II) or (c)(i)(III) of this Special Condition shall be final and binding on the Grantee;

- (ii) in calculating the total gross floor areas of the building or buildings erected or to be erected on the lot or any part or parts of the building or buildings respectively for the purposes of the Ocean Terminal, the Vehicular Access Ramp and the Fee-paying Public Carpark, there shall not be taken into account the floor spaces which are excluded from the calculation of the gross floor area of the building or buildings erected or to be erected on the lot in accordance with these Conditions as to which the decision of the Director shall be final and binding on the Grantee; and
- (iii) the features referred to in sub-clause (c)(i) of this Special Condition are :
 - (I) plant room which has been decided by the Building Authority as non-mandatory or non-essential plant room including but not limited to boiler room, room occupied by machinery or equipment for air-conditioning or heating system, SMATV room (as to which the decision of the Building Authority shall be final and binding on the Grantee), and pipe duct and air duct connected to such plant room;
 - (II) chimney shaft;
 - (III) portion of lift shaft which has been decided by the Building

Authority as larger lift shaft (as to which the decision of the Building Authority shall be final and binding on the Grantee);

- (IV) covered walkway, trellis and horizontal screen not landscaped to the satisfaction of the Building Authority (as to which the decision of the Building Authority shall be final and binding on the Grantee);
- (V) non-structural prefabricated external wall the thickness of which does not exceed 150 millimetres;
- (VI) void over main or common entrance of the building or buildings erected or to be erected on the lot; and
- (VII) projection which projects more than 750 millimetres from the external wall of the building or buildings erected or to be erected on the lot.

No grave or columbarium permitted

(37) (a) No grave or columbarium shall be erected or made on the lot, nor shall any human remains or animal remains whether in earthenware jars, cinerary urns or otherwise be interred therein or deposited thereon.

(b) No memorial tablets shall be placed on the lot or in any building or buildings erected or to be erected on the lot.

No cruise refuelling facilities

(38) No cruise refuelling facilities shall be installed, constructed, provided or operated within the lot.

Landscaping

(39) Upon redevelopment of the lot (as to which the decision of the Director shall be final and binding on the Grantee):

(a) the Grantee shall at his own expense submit to the Director for his approval a landscape master plan indicating the location, disposition and layout of the landscaping works to be provided within the lot in compliance with the requirements stipulated in sub-clause (b) of this Special Condition, and no superstructure work shall be commenced on the lot or any part thereof until the landscape master plan has been approved in writing by the Director;

(b) (i) the landscape master plan shall be at a scale of 1:500 or larger and shall contain information on the landscaping proposals including a survey and treatment of existing trees, site layout and formation levels, conceptual form of building development, illustrative layout of hard and soft landscaping areas, and such other information as the Director may require; and

(ii) not less than 30% of the area of the lot shall be planted with trees, shrubs or other plants and not less than 50% of the said 30% (hereinafter referred to as "the Greenery Area") shall be provided at such location or level as may be determined by the Director at his sole discretion so that the Greenery Area shall be visible to pedestrians or accessible by any person or persons entering the lot, provided that the decision of the Director on which landscaping works proposed by the Grantee constitutes the said 30% shall be final and binding on the Grantee and the Director at his sole discretion may accept other non-planting features proposed by the Grantee as an alternative to planting trees, shrubs or other plants;

(c) the Grantee shall at his own expense landscape the lot in accordance with the approved landscape master plan in all respects to the satisfaction of the Director and no amendment, variation, alteration, modification or substitution of the approved landscape master plan shall be made without the prior written consent of the Director;

and

(d) the Grantee shall at his own expense keep and maintain the landscaped works in a safe, clean, neat, tidy and healthy condition all to the satisfaction of the Director.

Building separation

(40) (a) Except with the prior written approval of the Director, any building or group of buildings erected or to be erected on the lot upon redevelopment of the lot (as to which the decision of the Director shall be final and binding on the Grantee) shall not have any projected façade length of 60 metres or more.

(b) For the purposes of sub-clause (a) of this Special Condition :

- (i) the decision of the Director as to what constitutes a building shall be final and binding on the Grantee;
- (ii) any two or more buildings shall be treated as a group of buildings if the shortest horizontal distance between any two buildings erected or to be erected on the lot is less than 15 metres;
- (iii) the decision of the Director as to what constitutes projected façade length of a building or a group of buildings erected or to be erected on the lot shall be final and binding on the Grantee; and
- (iv) in calculating the projected façade length referred to in sub-clause (a) of this Special Condition, gap between any two buildings shall be taken into account and the Director's decision as to the calculation shall be final and binding on the Grantee.

MEMORANDUM OF AGREEMENT

Memorandum that Wharf Realty Limited whose registered office is situate at 16/F, Ocean Centre, Harbour City, Kowloon and whose seal is hereunder affixed, has this day agreed to carry out the terms and conditions of the foregoing Conditions of Exchange and the Grantee hereby agrees fully to observe and perform the said Conditions and to be bound thereby and the District Lands Officer, Kowloon West on behalf of the Chief Executive of the Hong Kong Special Administrative Region hereby ratifies and confirms the said Exchange on the above Conditions.

Dated this 12th day of June 2012.....

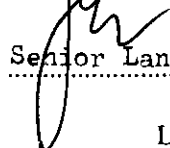


.....
Witness to the Seal of the Grantee and
Signature(s) of its Attesting Officers

Robert Sui Yuen Lynn
Mayer Brown JSM
Solicitor, Hong Kong SAR

Address
17th Floor, Prince's Building,
10 Chater Road, Central,
Hong Kong.

Witness to the Signature of
District Lands Officer, Kowloon West

 (TONG Siu-Kai)
Senior Land Conveyancing Officer/PW(2)
Civil Servant,
Lands Department


Doreen Yuk-Fong Lee
Director

WHEELOCK SECRETARIES LIMITED
Secretaries

.....
WILSON W. S. CHAN
Director & Secretary

.....
Seal of the Grantee and Signature(s) of
its Attesting Officers



LAI Kai-tai, John

.....
District Lands Officer, Kowloon West

CONDITIONS OF EXCHANGE NO. **20166**

Dated 12 June 20 12

AGREEMENT

AND

CONDITIONS OF EXCHANGE

of

Kowloon Inland Lot No. 11178

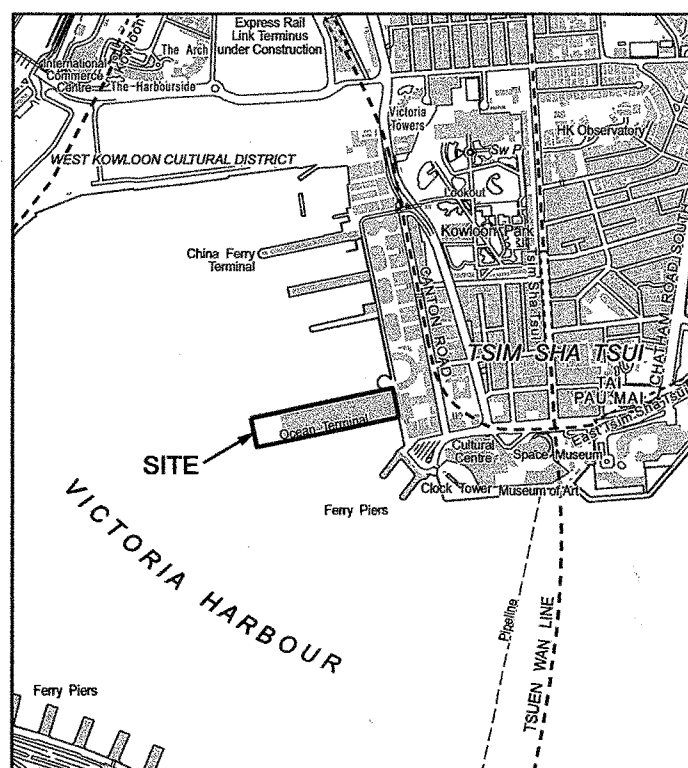
Grantee : Wharf Realty Limited

Rent : As specified in General Condition No. 1

Term : Twenty One years from the date of the
Memorandum of Agreement

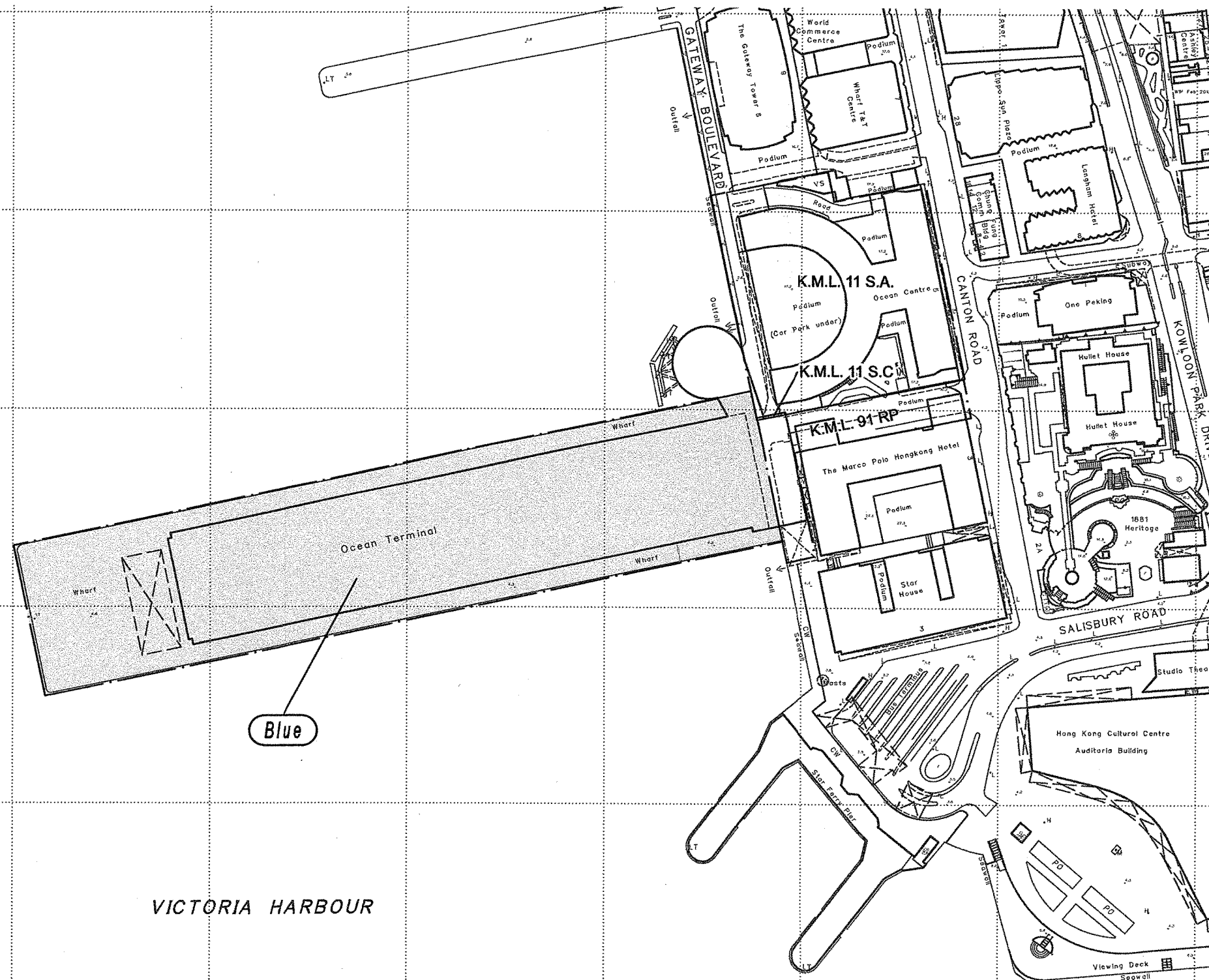
Lands Department

LOCATION



SCALE 1:20000

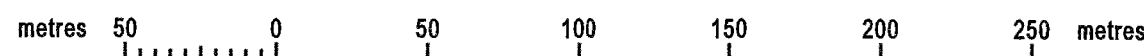
PLAN II



VICTORIA HARBOUR

COLOURED BLUE AREA 320 229 SQUARE FEET OR 29 750.2 SQUARE METRES (ABOUT)

SCALE 1:2 500



文件編號 D/N: 20166

AOC

FOR IDENTIFICATION PURPOSES ONLY



District Lands Office, Kowloon West
Lands Department

Plan Prepared by District Survey Office, Kowloon

© Copyright reserved - Hong Kong SAR Government

SURRENDER OF KOWLOON PERMANENT PIER No. 83

File No. DSO/K 1067/2004, L/M 35/KPT/KW(P)

Survey Sheet No. 11-SW-4B,4C,4D

Layout Plan No.

Reference Plan. No.

PLAN No. KL5531-II

C/E NO. 20166

DISTRICT LANDS OFFICE
KOWLOON WEST

LANDS DEPARTMENT



Doreen Yuk-Fong Lee
Director

WHELOCK SECRETARIES LIMITED
Secretaries

WILSON W. S. CHAN
Director & Secretary

Seal of the Grantee and
Signature(s) of its Attesting Officer(s)

Robert Sui Yuen Lynn
Mayer Brown JSM
Solicitor, Hong Kong SAR

Witness to the Seal of the Grantee and
Signature(s) of its Attesting Officer(s)

LAI Kai-tai, John

District Lands Officer / Kowloon West

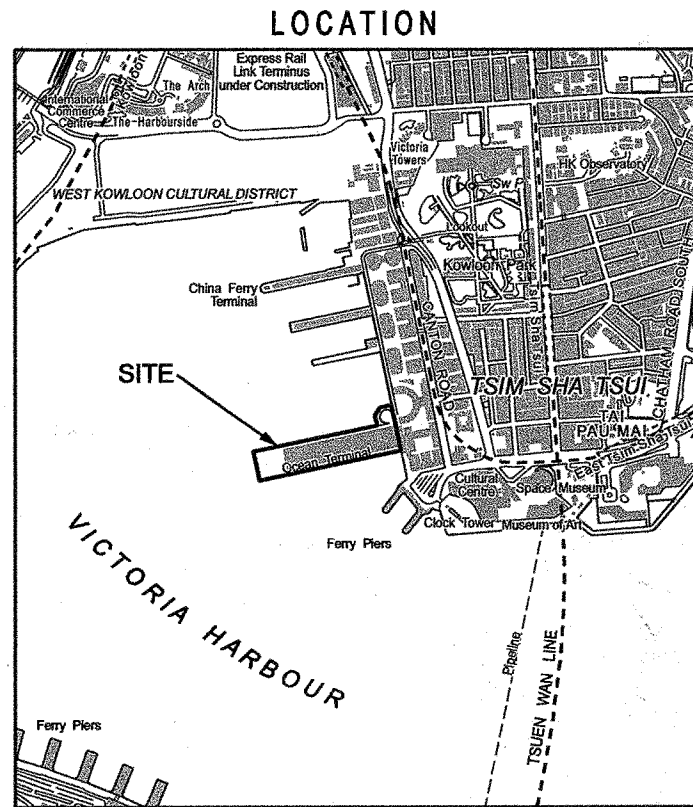
(TONG Siu-kai)
Senior Land Conveyancing Officer/PW(2)
Witness to the Signature of
District Lands Officer / Kowloon West

Dated this 12th day of June 2012

Date : 25/04/2012

LOT NUMBER KL 11178
LOT 11178
LONGITUDE 114° 17' 17.8" E
LATITUDE 22° 19' 10.0" N
SECTION 11

Point	CO-ORDINATES DATA (ORIGIN 1980 DATUM)	
	N	E
A	817330.500	834999.855
V	817399.355	835327.364
B	817426.063	835321.972
C	817447.705	835336.227
D	817453.523	835364.882
U	817333.088	835390.189
E	817254.388	835015.849



SCALE 1:20000

SIDE	DISTANCE IN METRES	BEARING ° ' "	Pt.	CORNER MARKED BY
A V	334.669	78 07 38		
V B	27.247	348 35 07		
B C	25.915	33 22 18		
C D	29.240	78 31 25		
D U	123.065	168 08 00		
U E	382.523	258 07 38		
E A	77.774	348 08 00		

U, V, W } SPECIAL CONDITIONS REFER

	DIM. PLAN			
Field Book				
Comp.Folder	KL5531			
Svy.Officer	K.Y.WONG			
Tech.Officer	W.K. AU			
Date	APR 2012			
Plan No.	KL5531-DI			

Survey approved by
(CHEUNG YIU MING)
District Land Surveyor
04 / 06 / 2012
District Survey Office, Kowloon
Lands Department
© Copyright reserved - Hong Kong SAR Government

COLOURED PINK AND PINK HATCHED BLACK AREA 31.750 SQUARE METRES (ABOUT)

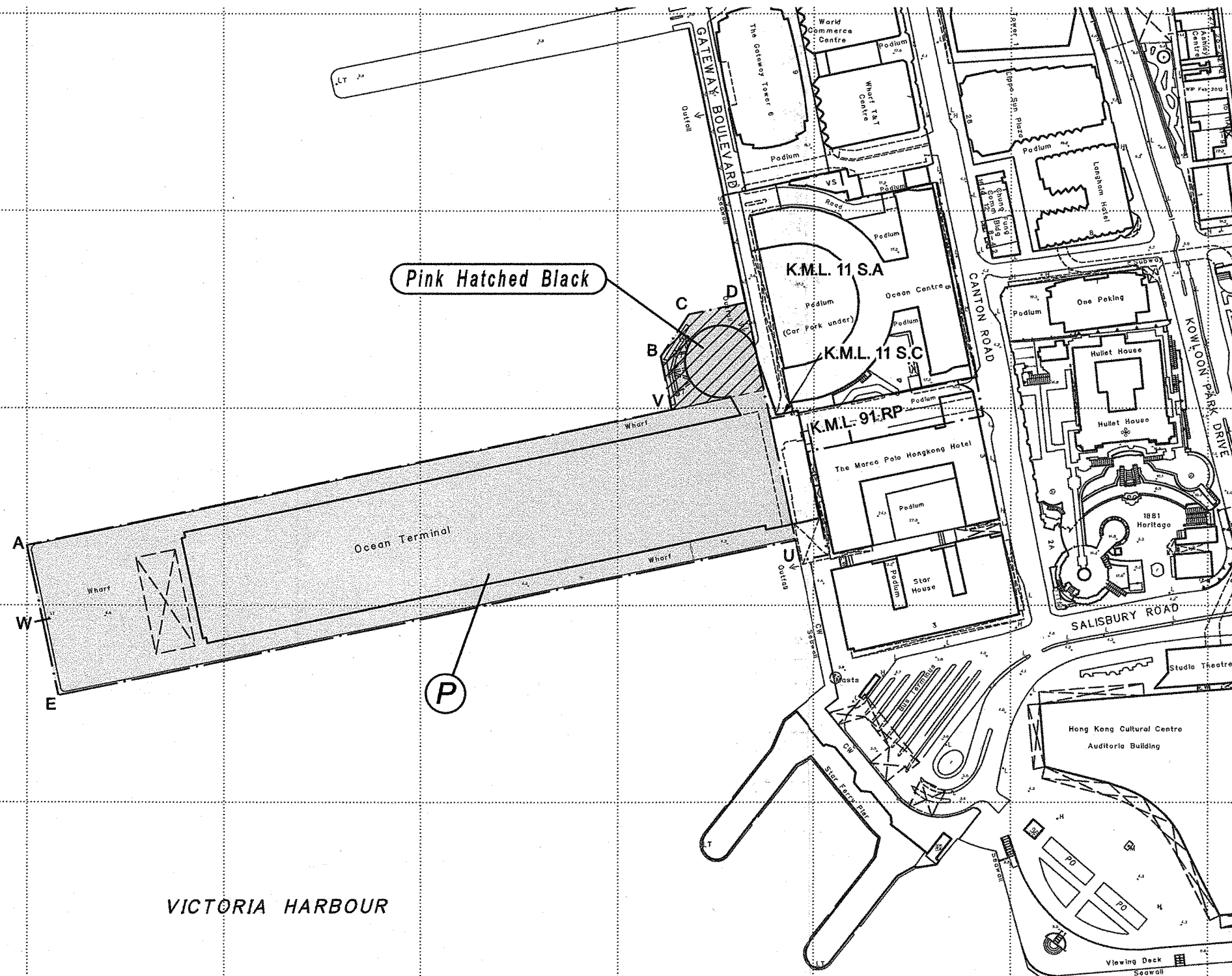
SCALE 1:2 500
metres 50 0 50 100 150 200 250 metres

KOWLOON INLAND LOT No. 11178

File No. DSO/K 1067/2004, L/M 35/KPT/KW(P)
Survey Sheet No. 11-SW-4B, 4C, 4D
Layout Plan No.
Reference Plan. No.
PLAN No. KL5531-DI

Date : 26/04/2012

PLAN I



C/E NO. 20166

DISTRICT LANDS OFFICE
KOWLOON WEST

LANDS DEPARTMENT



Doreen Yuk-Fong Lee
Director
WHELOCK SECRETARIES LIMITED
Secretaries

WILSON W. S. CHAN
Director & Secretary

Seal of the Grantee and
Signature(s) of its Attesting Officer(s)

Robert Sui Yuen Lynn
Mayer Brown JSM
Solicitor, Hong Kong SAR

Witness to the Seal of the Grantee and
Signature(s) of its Attesting Officer(s)

LAI Kai-tai, John

District Lands Officer / Kowloon West

(TONG Siu-kai)
Senior Land Conveyancing Officer/PW(2)
Witness to the Signature of
District Lands Officer / Kowloon West

Dated this 12th day of June 2012

Execution Version

Dated the 12th day of June 2012

- (1) **HARBOUR CITY ESTATES LIMITED**
(the "First Grantor")
- (2) **HARBOUR CITY ESTATES LIMITED**
(the "Second Grantor")
- (3) **WHARF REALTY LIMITED**
(the "Third Grantor")
- (4) **HARBOUR CITY ESTATES LIMITED**
(the "Fourth Grantor")
- (5) **THE GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION**
(the "Grantee")

DEED OF GRANT OF RIGHTS OF WAY

relating to

- (1) The Remaining Portion of Kowloon Marine Lot No.10
 - (2) The Remaining Portion of Kowloon Marine Lot No.91
 - (3) Section A of Kowloon Marine Lot No.11
 - (4) Section C of Kowloon Marine Lot No.11
-

**MAYER • BROWN
JSM**

(WKWL/AFK/RSL/W3/05/41047630)
www.mayerbrownjism.com

THIS DEED OF GRANT OF RIGHTS OF WAY is made the 12th day of June 2012

BETWEEN:

- (1) **HARBOUR CITY ESTATES LIMITED (海港城置業有限公司)** whose registered office is situate at 16th Floor, Ocean Centre, Harbour City, Kowloon, Hong Kong (the **"First Grantor"**, which expression shall where not inapplicable include its successors and assigns) as registered owner of **The Remaining Portion of Kowloon Marine Lot No.10** together with the messuages, erections and buildings thereon (if any) (the **"First Land"**);
- (2) **HARBOUR CITY ESTATES LIMITED (海港城置業有限公司)** whose registered office is situate at 16th Floor, Ocean Centre, Harbour City, Kowloon, Hong Kong (the **"Second Grantor"**, which expression shall where not inapplicable include its successors and assigns) as registered owner of **The Remaining Portion of Kowloon Marine Lot No.91** together with the messuages, erections and buildings thereon (if any) (the **"Second Land"**);
- (3) **WHARF REALTY LIMITED** whose registered office is situate at 16th Floor, Ocean Centre, Harbour City, Kowloon, Hong Kong (the **"Third Grantor"**, which expression shall where not inapplicable include its successors and assigns) as registered owner of **Section A of Kowloon Marine Lot No.11** together with the messuages, erections and buildings thereon (if any) (the **"Third Land"**);
- (4) **HARBOUR CITY ESTATES LIMITED (海港城置業有限公司)** whose registered office is situate at 16th Floor, Ocean Centre, Harbour City, Kowloon, Hong Kong (the **"Fourth Grantor"**, which expression shall where not inapplicable include its successors and assigns) as registered owner of **Section C of Kowloon Marine Lot No.11** together with the messuages, erections and buildings thereon (if any) (the **"Fourth Land"**); and
- (5) **THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION** (the **"Grantee"**, which expression shall where not inapplicable include its successors and assigns).

WHEREAS:

- (A) The First Grantor is the registered owner and entitled to possession of All That the First Land held for the residue of the term of 999 years commencing from the 25th day of July 1864 under the Government Lease as briefly described in **Part 1** of the **Schedule** hereto (the **"First Government Lease"**).
- (B) The Second Grantor is the registered owner and entitled to possession of All That the Second Land held for the residue of the term of 999 years commencing from the 25th day of July 1864 under the Government Lease as briefly described in **Part 2** of the **Schedule** hereto (the **"Second Government Lease"**).

- (C) The Third Grantor is the registered owner and entitled to possession of All That the Third Land held for the residue of the term of 999 years commencing from the 13th day of September 1881 under the Government Lease as briefly described in **Part 3** of the **Schedule** hereto (the "**Third Government Lease**").
- (D) The Fourth Grantor is the registered owner and entitled to possession of All That the Fourth Land held for the residue of the term of 999 years commencing from 13th day of September 1881 under the Third Government Lease.
- (E) The First Grantor, the Second Grantor, the Third Grantor and the Fourth Grantor are collectively referred to in this Deed as the "**Grantors**" and each of them, a "**Grantor**".
- (F) The First Land, the Second Land, the Third Land and the Fourth Land are collectively referred to in this Deed as the "**Land**".
- (G) The Grantors have agreed to grant to the Grantee certain rights of way over such portions of the Land in connection with the use and enjoyment of the land shown coloured pink and pink-hatched black on the Plan I hereto annexed (the "**Subject Lot**").
- (H) The Subject Lot will immediately after execution of this Deed be granted to the Third Grantor for a term of 21 years from the 12th day of June and be known and registered in the Land Registry as Kowloon Inland Lot No.11178.

NOW THIS DEED WITNESSETH as follows:

- 1 In pursuance of the said agreement and in consideration of the premises, the First Grantor **DO** hereby **GRANT** unto the Grantee full, free and uninterrupted right, privilege and liberty for the Grantee and the owners, lessees, tenants and occupiers for the time being of the Subject Lot or any part thereof and their servants, contractors, workmen, employees, agents, visitors, licensees and other persons authorised by them **IN COMMON** with the First Grantor and the owners, lessees, tenants and occupiers for the time being of the First Land, their servants, contractors, workmen, employees, agents, visitors, licensees and other persons authorised by them and all others having the like right for all purposes connected with the uninterrupted use, enjoyment, operation and maintenance of the Subject Lot and the messuages, erections and buildings thereon (if any) at all times hereafter by day or night with or without vehicles (in the case of roadways), to pass and repass over and along such portion of the First Land as is shown for the purpose of identification only coloured violet on the Level G Plan annexed hereto (the "**First Area**").
- 2 In pursuance of the said agreement and in consideration of the premises, the Second Grantor **DO** hereby **GRANT** unto the Grantee full, free and uninterrupted right, privilege and liberty for the Grantee and the owners, lessees, tenants and occupiers for the time being of the Subject Lot or any part thereof and their servants, contractors, workmen, employees, agents, visitors, licensees and other persons authorised by them **IN COMMON** with the Second Grantor and the owners, lessees, tenants and occupiers for the time being of the Second Land, their servants, contractors, workmen, employees,

agents, visitors, licensees and other persons authorised by them and all others having the like right for all purposes connected with the uninterrupted use, enjoyment, operation and maintenance of the Subject Lot and the messuages, erections and buildings thereon (if any) at all times hereafter by day or night with or without vehicles (in the case of roadways), to pass and repass over and along such portions of the Second Land as are shown for the purpose of identification only coloured green on the Level G, Level 2, Level 3, Level 4 and Level 5 Plans annexed hereto and green-hatched black on the Level 2 Plan annexed hereto (the "**Second Area**"). **PROVIDED ALWAYS AND IT IS HEREBY AGREED AND DECLARED THAT** the said right of way over such part of the Second Area as shown coloured green-hatched black on the Level 2 Plan annexed hereto shall be on foot only and may be enclosed and may be used for the purposes of a pedestrian concourse (the "**Pedestrian Concourse**") Provided That:

- (a) no structures other than such shops and kiosks as may be approved in writing by the Director of Lands (the "**Director**") shall be erected or constructed within the Pedestrian Concourse; and
- (b) pedestrians shall at all times hereafter (by day or night) have uninterrupted access (on foot only) to and from the Pedestrian Concourse.

3 In pursuance of the said agreement and in consideration of the premises, the Third Grantor **DO** hereby **GRANT** unto the Grantee full, free and uninterrupted right, privilege and liberty for the Grantee and the owners, lessees, tenants and occupiers for the time being of the Subject Lot or any part thereof and their servants, contractors, workmen, employees, agents, visitors, licensees and other persons authorised by them **IN COMMON** with the Third Grantor and the owners, lessees, tenants and occupiers for the time being of the Third Land, their servants, contractors, workmen, employees, agents, visitors, licensees and other persons authorised by them and all others having the like right for all purposes connected with the uninterrupted use, enjoyment, operation and maintenance of the Subject Lot and the messuages, erections and buildings thereon (if any) at all times hereafter by day or night with or without vehicles (in the case of roadways), to pass and repass over and along such portions of the Third Land as are shown for the purpose of identification only coloured orange on the Level G and Level 3 Plans annexed hereto (the "**Third Area**").

4 In pursuance of the said agreement and in consideration of the premises, the Fourth Grantor **DO** hereby **GRANT** unto the Grantee full, free and uninterrupted right, privilege and liberty for the Grantee and the owners, lessees, tenants and occupiers for the time being of the Subject Lot or any part thereof and their servants, contractors, workmen, employees, agents, visitors, licensees and other persons authorised by them **IN COMMON** with the Fourth Grantor and the owners, lessees, tenants and occupiers for the time being of the Fourth Land, their servants, contractors, workmen, employees, agents, visitors, licensees and other persons authorised by them and all others having the like right for all purposes connected with the uninterrupted use, enjoyment, operation and maintenance of the Subject Lot and the messuages, erections and buildings thereon (if any) at all times hereafter by day or night with or without vehicles (in the case of roadways), to pass and repass over and along such portions of the Fourth Land as are shown for the purpose of identification only coloured indigo on the Level G and Level 3 Plans annexed hereto (the "**Fourth Area**").

- 5 Save for the rights of way in respect of the First Area, the Second Area, the Third Area and the Fourth Area (collectively, the “**Areas**”) and the Grantee’s rights in respect of the Land provided for in Clause 8 hereof, nothing in this Deed shall operate to confer or be construed as conferring on the Grantee any title, right or interest in or over the Areas or the Land.
- 6 It is hereby declared that nothing in this Deed shall be construed as a dedication by any Grantor of any part of the Land or the Areas for public use or the creation of a tenancy between the parties hereto in respect of any part of the Land or the Areas.
- 7 The Grantee declares that during the subsistence of this Deed and save in respect of any period while the Third Grantor may be the lessee of the Subject Lot, the Grantee and its successors in title shall pay a sum proportional to user of the cost incurred by the Grantors in keeping the Areas in proper repair and condition.
- 8 (a) At any time prior to the reversion of Kowloon Inland Lot No.11178 to the Grantee:
- (i) the Grantors shall when called upon by the Director grant or assign or procure the grant or assignment to the Grantee, including its successors and assigns, lessees, tenants and occupiers of the Subject Lot, all or such parts of the First Area, the Second Area, the Third Area and the Fourth Area and any building or buildings erected or to be erected thereon up to a height of 21.95 metres above the Hong Kong Principal Datum as are or are intended to be occupied by or used for or in connection with the Subject Lot and all such rights of way, access and user therein and thereover as are or will be necessary for the uninterrupted use, enjoyment, operation and maintenance of the Subject Lot (the “**Relevant Portions of the Land and Rights of Way**”); and
 - (ii) the Grantors shall not sell, assign, mortgage, charge, underlet, part with possession of or otherwise dispose of the First Area, the Second Area, the Third Area and the Fourth Area as owned by the respective Grantors or any part thereof or any interest therein or any building or buildings erected or to be erected thereon without excepting and reserving to themselves their successors and assigns for the residues of the terms of the respective Government Leases thereof all the Relevant Portions of the Land and Rights of Way or without making such sale, assignment, mortgage, charge, underletting, parting with possession or other disposal expressly subject to the rights of the Grantee under this sub-clause (a), both to be done to the satisfaction of the Director.
- (b) On the reversion of Kowloon Inland Lot No.11178 to the Grantee, the Grantors shall grant or assign or procure the grant or assignment to the Grantee, including its successors and assigns, lessees, tenants and occupiers of the Subject Lot as the Director may direct all the Relevant Portions of the Land and Rights of Way and the Grantors shall not sell, assign, mortgage, charge, underlet, part with possession of or otherwise dispose of the First Area, the Second Area, the Third

Area and the Fourth Area as owned by the respective Grantors or any part thereof or any interest therein or any building or buildings erected or to be erected thereon without making such sale, assignment, mortgage, charge, underletting, parting with possession or other disposal expressly subject to the rights of the Grantee under this sub-clause (b).

- (c) If and to the extent that the rule against perpetuities applies to the provisions of sub-clauses (a) and (b) of this Clause, such provisions shall be limited to take effect during the life or lives of the last surviving descendant now living of Her late Majesty Queen Victoria and a period of twenty one years thereafter.

9 For the avoidance of doubt, the Grantors hereby agree as follows:

- (a) the covenants, rights and liberties made and granted by the First Grantor pursuant to Clause 1 hereof in favour of the Grantee shall run with the First Land and be binding on the First Grantor, its successors and assigns and persons deriving title under or through the First Grantor and shall enure for the benefit of the Subject Lot (notwithstanding the reversion of Kowloon Inland Lot No.11178 to the Grantee) and be enforceable by the Grantee and its successors and assigns and persons deriving title under or through the Grantee against the First Grantor, its successors and assigns and persons deriving title under or through the First Grantor;
- (b) the covenants, rights and liberties made and granted by the Second Grantor pursuant to Clause 2 hereof in favour of the Grantee shall run with the Second Land and be binding on the Second Grantor, its successors and assigns and persons deriving title under or through the Second Grantor and shall enure for the benefit of the Subject Lot (notwithstanding the reversion of Kowloon Inland Lot No.11178 to the Grantee) and be enforceable by the Grantee and its successors and assigns and persons deriving title under or through the Grantee against the Second Grantor, its successors and assigns and persons deriving title under or through the Second Grantor;
- (c) the covenants, rights and liberties made and granted by the Third Grantor pursuant to Clause 3 hereof in favour of the Grantee shall run with the Third Land and be binding on the Third Grantor, its successors and assigns and persons deriving title under or through the Third Grantor and shall enure for the benefit of the Subject Lot (notwithstanding the reversion of Kowloon Inland Lot No.11178 to the Grantee) and be enforceable by the Grantee and its successors and assigns and persons deriving title under or through the Grantee against the Third Grantor, its successors and assigns and persons deriving title under or through the Third Grantor; and
- (d) the covenants, rights and liberties made and granted by the Fourth Grantor pursuant to Clause 4 hereof in favour of the Grantee shall run with the Fourth Land and be binding on the Fourth Grantor, its successors and assigns and persons deriving title under or through the Fourth Grantor and shall enure for the benefit of the Subject Lot (notwithstanding the reversion of Kowloon Inland Lot No.11178 to the Grantee) and be enforceable by the Grantee and its successors

and assigns and persons deriving title under or through the Grantee against the Fourth Grantor, its successors and assigns and persons deriving title under or through the Fourth Grantor.

- 10 For the avoidance of doubt, the Grantors hereby agree and covenant with the Grantee that the Grantors shall not affix, build, construct, erect, install, place, provide or maintain or suffer to be affixed, built, constructed, erected, installed, placed, provided or maintained any buildings, columns, erections, facilities, fittings, installations, projections or structures of whatsoever nature on the Areas or any part or parts thereof up to a height of 21.95 metres above the Hong Kong Principal Datum, whether or not such buildings, columns, erections, facilities, fittings, installations, projections or structures of whatsoever nature amount to or constitute any interference (substantial or otherwise) with the rights of way granted under this Deed.
- 11 It is hereby declared that this Deed shall supersede and replace the Deed of Grant of Right of Way dated the 12th July day of 1966 and registered in the Land Registry by Memorial No.UB551104 as varied by a Deed of Variation of Rights of Way dated the 7th day of December 1979 and registered in the Land Registry by Memorial No.UB1798190 and all rights and rights of way granted thereunder shall be deemed to have been extinguished and cancelled upon the execution of this Deed.

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

Schedule

Part 1 (the “First Government Lease”)

- (a) Date : 12 March 1910
- (b) Parties : (i) King Edward VII ; and
(ii) The Hongkong and Kowloon Wharf and Godown Company, Limited
- (c) Term : 999 years commencing from 25 July 1864
- (d) Lot : Kowloon Marine Lot No.10
- (e) Variation / Modification : As varied and/or modified by a Deed of Variation of Crown Leases dated 8 November 1968 and registered in the Land Registry by Memorial No.UB652090

Part 2 (the “Second Government Lease”)

- (a) Date : 3 July 1915
- (b) Parties : (i) King George V ; and
(ii) The Hongkong and Kowloon Wharf and Godown Company, Limited
- (c) Term : 999 years commencing from 25 July 1864
- (d) Lot : Kowloon Marine Lot No.91
- (e) Variation / Modification : As varied and/or modified by:
 - (i) a Deed of Variation of Crown Leases dated 8 November 1968 and registered in the Land Registry by Memorial No. UB652090; and
 - (ii) a Deed of Variation of Crown Lease dated 6 March 1974 and registered in the Land Registry by Memorial No.UB1064536.

Part 3
(the “Third Government Lease”)

- (a) Date : 12 March 1910
- (b) Parties : (i) King Edward VII ; and
(ii) The Hongkong and Kowloon Wharf and Godown Company, Limited
- (c) Term : 999 years commencing from 13 September 1881
- (d) Lot : Kowloon Marine Lot No.11
- (e) Variation / Modification : As varied and/or modified by:
 - (i) three several Deeds of Variation of Crown Lease dated 6 March 1974, 10 November 1976 and 25 September 1978 and respectively registered in the Land Registry by Memorial Nos.UB1064537, UB1319312 and UB1591295; and
 - (ii) two Modification Letters dated 17 October 1991 and 13 October 1999 and respectively registered in the Land Registry by Memorial Nos.UB5045711 and UB7899996.

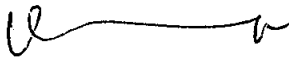
The First Grantor

SEALED with the Common Seal of Harbour)
City Estates Limited in the presence of and)
SIGNED by)

Doreen Yuk-Fong Lee Director

Leng Yen Thean Director

for and on behalf of Harbour City Estates)
Limited in the presence of / whose)
signature(s) is/are verified by:)



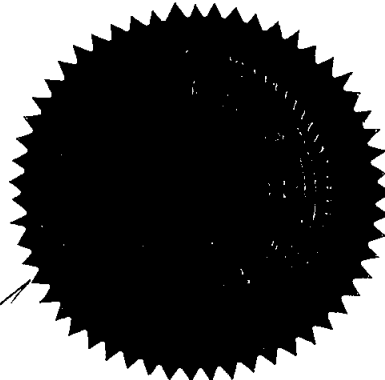
Robert Sui Yuen Lynn
Mayer Brown JSM
Solicitor, Hong Kong SAR



**Doreen Yuk-Fong Lee
Director**



**Leng Yen Thean
Director**



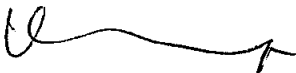
The Second Grantor

SEALED with the Common Seal of Harbour)
City Estates Limited in the presence of and)
SIGNED by)


Doreen Yuk-Fong Lee Director

Leng Yen Thean Director

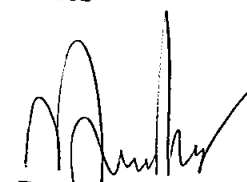
for and on behalf of Harbour City Estates)
Limited in the presence of / whose)
signature(s) is/are verified by:)



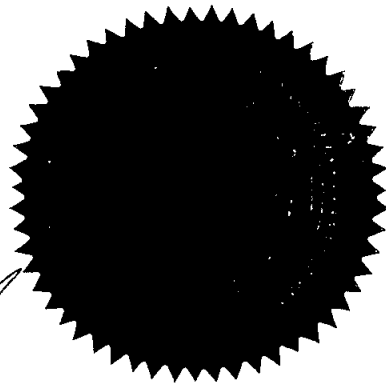
Robert Sui Yuen Lynn
Mayer Brown JSM
Solicitor, Hong Kong SAR



**Doreen Yuk-Fong Lee
Director**



**Leng Yen Thean
Director**



The Third Grantor

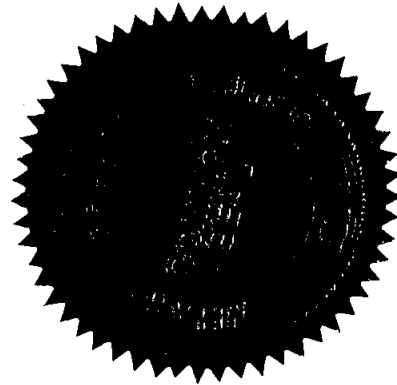
SEALED with the Common Seal of Wharf
Realty Limited in the presence of and
SIGNED by

Doreen Yuk-Fong Lee Director

WHEELOCK SECRETARIES LIMITED Secretaries
for and on behalf of Wharf Realty Limited in
the presence of /whose signature(s) is/are
verified by:



**Doreen Yuk-Fong Lee
Director**





**Robert Sui Yuen Lynn
Mayer Brown JSM
Solicitor, Hong Kong SAR**

**WHEELOCK SECRETARIES LIMITED
Secretaries**



**WILSON W. S. CHAN
Director & Secretary**

The Fourth Grantor

SEALED with the Common Seal of Harbour
City Estates Limited in the presence of and
SIGNED by

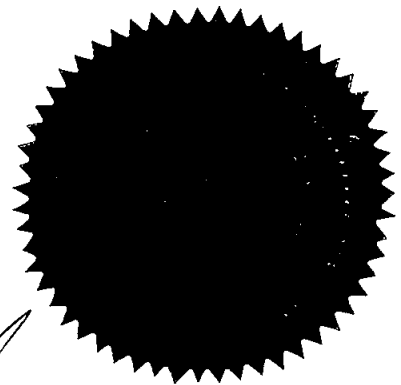
Doreen Yuk-Fong Lee Director

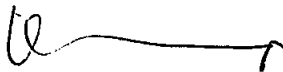
Leng Yen Thean Director

for and on behalf of Harbour City Estates
Limited in the presence of /whose
signature(s) is/are verified by:

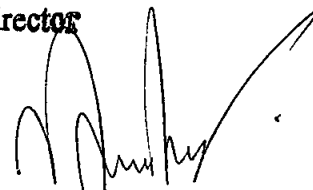


**Doreen Yuk-Fong Lee
Director**





**Robert Sui Yuen Lynn
Mayer Brown JSM
Solicitor, Hong Kong SAR**



**Leng Yen Thean
Director**



NOTE:

1. Area under ramp and staircase are not included as right of way
2. The boundary of KML 91, KML 11 & KML 10 are referred to District Survey Office computation folder no. L3545 and L8855
3. The sub-section boundary of KML 91, KML 10 and KML 11 are referred to memorial no. UB617038 and UB1134719.

LEGEND

- RIGHT OF WAY (BOUNDARY)
- LOT BOUNDARY
- COLUMN OR STRUCTURE
- FIRST AREA (KML 10 RP)
- SECOND AREA (KML 91 RP)
- THIRD AREA (KML 11 S.A.)
- FOURTH AREA (KML 11 S.C.)

I, JOSEPH Y.C. WONG, an Authorized Land Surveyor registered under the Land Survey Ordinance (Cap.473), hereby certify that this survey record plan has been prepared from land boundary surveys that were carried out by me or under my direct supervision in conformity with the Code of Practice approved by the Land Survey Authority under the above Ordinance, and that this plan correctly represents that survey completed on the sixteenth day of May 20 10.

Dated this sixth day of June 20 12

Authorised Land Surveyor

FOR OFFICE USE

PLAN NO.:3192/01/DG/A

LEVEL G PLAN

Scale 1:750

PLAN OF RIGHT OF WAY
AT LEVEL G FOR OCEAN TERMINAL



Ref	Colour	
G	GREEN	
-	GREEN HATCHED BLACK	
'L' Prefixes light shades of above		

NOTES :

1. Area under ramp and staircase are not included as right of way
2. The boundary of KML91, KML11 & KML10 are referred to District Survey Office computation folder no. L3545 and L8855
3. The sub-section boundary of KML91, KML10 and KML11 are referred to memorial no. UB617038 and UB1134719.

LEGEND

- RIGHT OF WAY (BOUNDARY)
- LOT BOUNDARY
- / ● COLUMN OR STRUCTURE
- SECOND AREA (KML 91 RP)
- SECOND AREA (KML 91 RP) PEDESTRAIN CONCOURSE

I, JOSEPH Y C WONG, an Authorized Land Surveyor registered under the Land Survey Ordinance (Cap.473), hereby certify that this survey record plan has been prepared from land boundary surveys that were carried out by me or under my direct supervision in conformity with the Code of Practice approved by the Land Survey Authority under the above Ordinance, and that this plan correctly represents that survey completed on the tenth day of May 20 10.

Dated this sixth day of June 20 12

.....
Authorized Land Surveyor

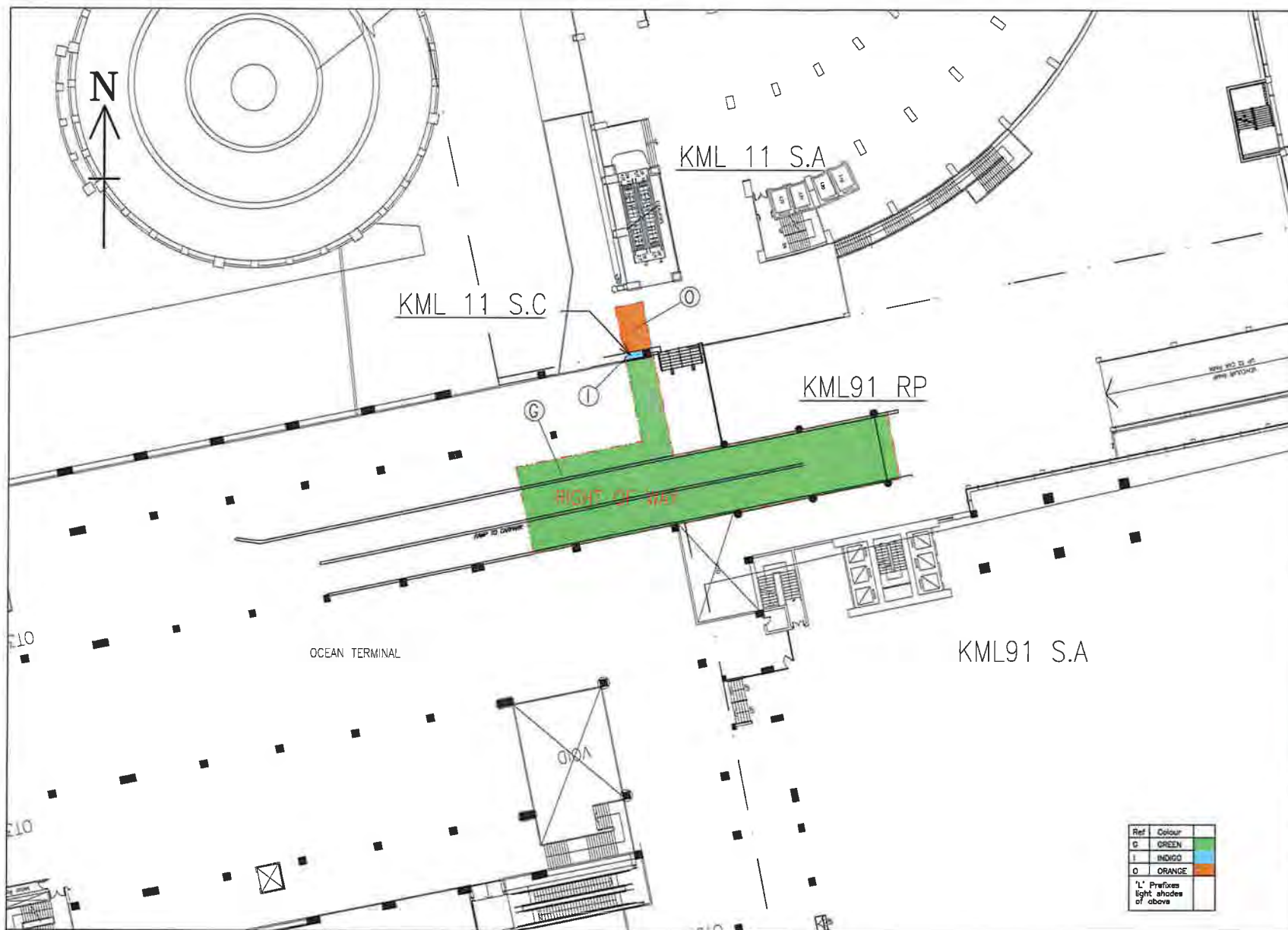
FOR OFFICE USE

PLAN NO.:3192/02/DG/A

LEVEL 2 PLAN

Scale 1:600

PLAN OF RIGHT OF WAY AT LEVEL 2 FOR OCEAN TERMINAL



NOTES :

1. Area under ramp and staircase are not included as right of way
2. The boundary of KML91, KML11 & KML10 are referred to District Survey Office computation folder no. L3545 and L8855
3. The sub-section boundary of KML91, KML10 and KML11 are referred to memorial no. UB617038 and UB1134719.

LEGEND

- RIGHT OF WAY (BOUNDARY)
- LOT BOUNDARY
- / ● COLUMN OR STRUCTURE
- SECOND AREA (KML 91 RP)
- THIRD AREA (KML 11 S.A)
- FOURTH AREA (KML 11 S.C)

I, JOSEPH Y.C. WONG, an Authorized Land Surveyor registered under the Land Survey Ordinance (Cap.473), hereby certify that this survey record plan has been prepared from land boundary surveys that were carried out by me or under my direct supervision in conformity with the Code of Practice approved by the Land Survey Authority under the above Ordinance, and that this plan correctly represents that survey completed on the 10th day of May 20 10.

Dated this sixth day of June 20 12

Authorized Land Surveyor

FOR OFFICE USE

PLAN NO.: 3192/03/DG/A

LEVEL 3 PLAN

Scale 1:400

PLAN OF RIGHT OF WAY AT LEVEL 3 FOR OCEAN TERMINAL



- NOTES :
1. Area under ramp and staircase are not included as right of way
 2. The boundary of KML91, KML11 & KML10 are referred to District Survey Office computation folder no. L3545 and LB855
 3. The sub-section boundary of KML91, KML10 and KML11 are referred to memorial no. UB617038 and UB1134719.

LEGEND	
	RIGHT OF WAY (BOUNDARY)
	LOT BOUNDARY
	SECOND AREA (KML 91 RP)

Ref	Colour
G	GREEN
1'	Prefix light shades of above

I, JOSEPH Y.C. WONG, an Authorized Land Surveyor registered under the Land Survey Ordinance (Cap.473), hereby certify that this survey record plan has been prepared from land boundary surveys that were carried out by me or under my direct supervision in conformity with the Code of Practice approved by the Land Survey Authority under the above Ordinance, and that this plan correctly represents that survey completed on the tenth day of May, 20 10.

Dated this sixth day of June, 20 12

Authorized Land Surveyor

FOR OFFICE USE

PLAN NO. 3192/05/DG/A

LEVEL 5 PLAN

Scale 1:400

PLAN OF RIGHT OF WAY AT LEVEL 5 FOR OCEAN TERMINAL

Execution Version

Dated 12th day of June 2012

- (1) **HARBOUR CITY ESTATES LIMITED and
WHARF REALTY LIMITED**
(the “First Grantors”)
- (2) **WHARF REALTY LIMITED**
(the “Second Grantor”)
- (3) **HARBOUR CITY ESTATES LIMITED**
(the “Third Grantor”)
- (4) **WHARF REALTY LIMITED**
(the “Grantee”)

DEED OF GRANT OF RIGHTS OF WAY

relating to

- (1) Section B of Kowloon Marine Lot No.11 and Extension
and Section D of Kowloon Marine Lot No.11
 - (2) Section A of Kowloon Marine Lot No.11
 - (3) The Remaining Portion of Kowloon Marine Lot No.11
-

**MAYER • BROWN
JSM**

(WKWL/AFK/RSL/W3/05/41047630)
www.mayerbrownjsm.com

50
ML

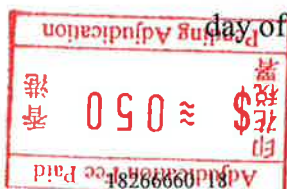
THIS DEED OF GRANT OF RIGHTS OF WAY is made the 12th day of June 2012

BETWEEN:

- (1) **HARBOUR CITY ESTATES LIMITED** (海港城置業有限公司) whose registered office is situate at 16th Floor, Ocean Centre, Harbour City, Kowloon, Hong Kong and **WHARF REALTY LIMITED** whose registered office is situate at 16th Floor, Ocean Centre, Harbour City, Kowloon, Hong Kong (the "**First Grantors**", which expression shall where not inapplicable include their respective successors and assigns) as registered owners of **Section B of Kowloon Marine Lot No.11 and the Extension thereto and Section D of Kowloon Marine Lot No.11** together with the messuages, erections and buildings thereon (if any) (the "**First Land**");
- (2) **WHARF REALTY LIMITED** whose registered office is situate at 16th Floor, Ocean Centre, Harbour City, Kowloon, Hong Kong (the "**Second Grantor**", which expression shall where not inapplicable include its successors and assigns) as registered owner of **Section A of Kowloon Marine Lot No.11** together with the messuages, erections and buildings thereon known at the date hereof as "Ocean Centre", No.5 Canton Road, Kowloon, Hong Kong (the "**Second Land**");
- (3) **HARBOUR CITY ESTATES LIMITED** (海港城置業有限公司) whose registered office is situate at 16th Floor, Ocean Centre, Harbour City, Kowloon, Hong Kong (the "**Third Grantor**", which expression shall where not inapplicable include its successors and assigns) as registered owner of **The Remaining Portion of Kowloon Marine Lot No.11** together with the messuages, erections and buildings thereon (if any) (the "**Third Land**"); and
- (4) **WHARF REALTY LIMITED** whose registered office is situate at 16th Floor, Ocean Centre, Harbour City, Kowloon, Hong Kong (the "**Grantee**", which expression shall exclude its successors and assigns) as registered owner of **Kowloon Inland Lot No.11178** together with the messuages, erections and buildings thereon known at the date hereof as "Ocean Terminal", Kowloon, Hong Kong (the "**Ocean Terminal Land**").

WHEREAS:

- (A) The First Grantors are the registered owners and entitled to possession of All That the First Land as tenants in common in the following shares, that is to say, as to 3,999,655 equal undivided 5,524,816th parts or shares of and in the First Land in Harbour City Estates Limited and as to the remaining 1,525,161 equal undivided 5,524,816th parts or shares of and in the First Land in Wharf Realty Limited held for the residue of the term of 999 years commencing from the 13th day of September 1881 under the Government Lease as briefly described in **Part 1** of the **Schedule** hereto (the "**Government Lease**").
- (B) The Second Grantor is the registered owner and entitled to possession of All That the Second Land held for the residue of the term of 999 years commencing from the 13th day of September 1881 under the Government Lease.



- (C) The Third Grantor is the registered owner and entitled to possession of All That the Third Land held for the residue of the term of 999 years commencing from the 13th day of September 1881 under the Government Lease.
- (D) The Grantee is the registered owner of and entitled to possession of All That the Ocean Terminal Land held for the residue of 21 years commencing from the 12th day of June 2012 under the Conditions of Exchange as briefly described in **Part 2** of the **Schedule** hereto (the “**Conditions**”).
- (E) The First Grantors, the Second Grantor and the Third Grantor are collectively referred to in this Deed as the “**Grantors**” and each of them, a “**Grantor**”.
- (F) The First Land, the Second Land and the Third Land are collectively referred to in this Deed as the “**Land**”.
- (G) The Grantors have agreed to grant to the Grantee certain rights of way over such portions of the Land in the manner as hereinafter more particularly provided.

NOW THIS DEED WITNESSETH as follows:

- 1 In pursuance of the said agreement and in consideration of the premises, the First Grantors **DO** hereby **GRANT** unto the Grantee the full, free and uninterrupted right, privilege and liberty for the Grantee and the owners, lessees, tenants and occupiers for the time being of the Ocean Terminal Land or any part thereof, their servants, contractors, workmen, employees, agents, visitors, licensees and other persons authorised by them **IN COMMON** with the First Grantors and the owners, lessees, tenants and occupiers for the time being of the First Land, their servants, contractors, workmen, employees, agents, visitors, licensees and other persons authorised by them and all others having the like right for the purposes of access to and egress from the Ocean Terminal Land at all times hereafter by day or night with or without vehicles, to pass and repass over and along such portion(s) of the First Land as are shown for the purpose of identification only coloured Green on the Plan annexed hereto (the “**First Area**”) **SUBJECT TO** the provisions of Clause 10 below.
- 2 In pursuance of the said agreement and in consideration of the premises, the Second Grantor **DO** hereby **GRANT** unto the Grantee the full, free and uninterrupted right, privilege and liberty for the Grantee and the owners, lessees, tenants and occupiers for the time being of the Ocean Terminal Land or any part thereof, their servants, contractors, workmen, employees, agents, visitors, licensees and other persons authorised by them **IN COMMON** with the Second Grantor and the owners, lessees, tenants and occupiers for the time being of the Second Land, their servants, contractors, workmen, employees, agents, visitors, licensees and other persons authorised by them and all others having the like right for the purposes of access to and egress from the Ocean Terminal Land at all times hereafter by day or night with or without vehicles, to pass and repass over and along such portion(s) of the Second Land as are shown for the purpose of identification only coloured Yellow on the Plan annexed hereto (the “**Second Area**”) **SUBJECT TO** the provisions of Clause 10 below.

- 3 In pursuance of the said agreement and in consideration of the premises, the Third Grantor **DO** hereby **GRANT** unto the Grantee the full, free and uninterrupted right, privilege and liberty for the Grantee and the owners, lessees, tenants and occupiers for the time being of the Ocean Terminal Land or any part thereof, their servants, contractors, workmen, employees, agents, visitors, licensees and other persons authorised by them **IN COMMON** with the Third Grantor and the owners, lessees, tenants and occupiers for the time being of the Third Land, their servants, contractors, workmen, employees, agents, visitors, licensees and other persons authorised by them and all others having the like right for the purposes of access to and egress from the Ocean Terminal Land at all times hereafter by day or night with or without vehicles, to pass and repass over and along such portion(s) of the Third Land as are shown for the purpose of identification only coloured Pink and Pink Hatched-Black on the Plan annexed hereto (the “**Third Area**”) **SUBJECT TO** the provisions of Clause 10 below.
- 4 The Grantee acknowledges and agrees that the First Area, the Second Area and the Third Area (collectively, the “**Areas**”) shall be managed, maintained and/or repaired by the Grantors (or their authorised management agent) and the Grantee shall at all times obey and comply with all reasonable directions, instructions and requirements which the Grantors (or their authorised management agent) may from time to time give or make at their reasonable discretion (which may include a prohibition of entry or a requirement to leave the Areas or any part or parts thereof on a temporary basis at such times or from time to time as the Grantors (or their authorised management agent) may think fit for safety or security reasons but not further or otherwise).
- 5 The right of entry by the Grantee or its vehicles, tools and equipment onto any part or parts of the Areas shall be entirely at the Grantee’s own risk and the Grantee agrees to the following:
- (a) the Grantee shall fully and effectually indemnify the Grantors and their authorised management agent in the event of the Grantee, its tenants, servants, contractors, workmen, employees, agents, visitors, licensees and other persons authorised by the Grantee or the owner of such vehicles, tools and equipment making any claim against the Grantors or any of them arising out of any injury or death of any such persons or any loss or damage of any such vehicles, tools and equipment not involving the wilful default or gross negligence of the Grantors (or their authorised management agent); and
 - (b) the Grantee shall have no claim whatsoever against the Grantors (or their authorised management agent) for any loss or damage whether directly or indirectly to its vehicles, tools and equipment on the Areas or any part or parts thereof or for any consequential losses to its businesses arising from any failure by the Grantor (or their authorised management agent) to manage and/or maintain and/or repair any part or parts of the Areas not involving the wilful default or gross negligence of the Grantors (or their authorised management agent).
- 6 In the event of the Areas or any part thereof being damaged or destroyed by fire, typhoon, earthquake, subsidence or other cause so as to render a substantial part of the same unfit for the purposes for which it was intended, the Grantors or the relevant Grantors of the

Areas so affected shall at their own costs and expenses obtain independent professional advice on the feasibility of reinstating or rebuilding the Areas or the affected parts thereof, and:

- (a) if the independent professional advice confirms that it is practicable to carry out such reinstatement or rebuilding, the Grantee undertakes and agrees to pay to the Grantors in advance and forthwith on demand by the Grantors a due proportion of the relevant Grantors' estimated costs and expenses of such reinstatement or rebuilding; and
- (b) if the independent professional advice confirms that it is not practicable to carry out such reinstatement or rebuilding, this Deed and the terms, conditions, covenants, rights and grants herein contained so far as they relate to the part of the Areas so damaged or destroyed shall be deemed withdrawn and extinguished and the Grantee shall have no claim whatsoever against the Grantors or any of them.

7 Save for the rights of way in respect of the Areas, nothing in this Deed shall operate to confer or be construed as conferring on the Grantee any title, right or interest in or over the Areas.

8 It is hereby declared that nothing in this Deed shall be construed as a dedication by any Grantor of any part of the Land or the Areas for public use or the creation of a tenancy between the parties hereto in respect of any part of the Land or the Areas and no right to the use or enjoyment of the Areas is acquired by the Grantee other than in strict accordance with the terms of this Deed.

9 This Deed and the grant or grants, covenants, agreements and undertakings contained in this Deed shall be binding on the Grantors and their respective successors and assigns and shall enure for the benefit of the Grantee.

10 This Deed and the grant or grants, covenants, agreements and undertakings contained herein shall:

- (a) remain effective for so long as the Grantee shall remain the owner of the Ocean Terminal Land; and
- (b) forthwith terminate, extinguish and cease to have any further effect on:
 - (i) expiry or sooner termination of the term of years agreed to be granted under the Conditions; or
 - (ii) the Grantee ceasing to be the owner of the Ocean Terminal Land.

11 Notwithstanding anything contained in this Deed, the Grantors acknowledge that the form of this Deed has been approved by the Director of Lands (the "**Director**") prior to its execution and no variation or amendment to or cancellation, discharge, extinguishment, release, termination or withdrawal of this Deed or the doing or performing of any act or deed which has the effect of varying, amending, cancelling,

discharging, extinguishing, releasing, terminating or withdrawing this Deed will be effective except with the prior written approval of the Director.

- 12 It is hereby declared that this Deed shall not in any way whatsoever prejudice the rights of way granted pursuant to a Deed of Grant of Rights of Way executed by Harbour City Estates Limited and Wharf Realty Limited in favour of the Government of the Hong Kong Special Administrative Region dated 12th day of June 2012.

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

Schedule

Part 1 **(the “First Government Lease”)**

- (a) Date : 12 March 1910
- (b) Parties : (i) King Edward VII ; and
(ii) The Hongkong and Kowloon Wharf and Godown Company, Limited
- (c) Term : 999 years commencing from 13 September 1881
- (d) Lot : Kowloon Marine Lot No.11
- (e) Variation / Modification : As varied and/or modified by:
- (i) three several Deeds of Variation of Crown Lease dated 6 March 1974, 10 November 1976 and 25 September 1978 and respectively registered in the Land Registry by Memorial Nos.UB1064537, UB1319312 and UB1591295; and
 - (ii) two Modification Letters dated 17 October 1991 and 13 October 1999 and respectively registered in the Land Registry by Memorial Nos.UB5045711 and UB7899996.

Part 2 **(the “Conditions”)**

- (a) Description : Agreement and Conditions of Exchange deposited and registered in the Land Registry as Conditions of Exchange No. 20166
- (b) Date : 12 June 2012
- (c) Parties : (i) The Government of the Hong Kong Special Administrative Region; and
(ii) Wharf Realty Limited
- (d) Term : 21 years from 12 June 2012
- (e) Lot : Kowloon Inland Lot No.11178

The First Grantors

SEALED with the Common Seal of **Harbour City Estates Limited** of the First Grantors in the presence of and SIGNED by

Doreen Yuk-Fong Lee Director


Leng Yen Thean Director

for and on behalf of **Harbour City Estates Limited** in the presence of / whose signature(s) is/are verified by:


Winnie Ka Wai Li
Mayer Brown JSM
Solicitor, Hong Kong SAR



Doreen Yuk-Fong Lee
Director


Leng Yen Thean
Director



SEALED with the Common Seal of **Wharf Realty Limited** of the First Grantors in the presence of and SIGNED by

Doreen Yuk-Fong Lee Director

WHEELOCK SECRETARIES LIMITED Secretaries

for and on behalf of **Wharf Realty Limited** in the presence of / whose signature(s) is/are verified by:


Winnie Ka Wai Li
Mayer Brown JSM
Solicitor, Hong Kong SAR



Doreen Yuk-Fong Lee
Director



WHEELOCK SECRETARIES LIMITED
Secretaries


.....
WILSON W. S. CHAN
Director & Secretary

The Second Grantor

SEALED with the Common Seal of Wharf
Realty Limited in the presence of and
SIGNED by

Doreen Yuk-Fong Lee Director

WHEELOCK SECRETARIES LIMITED

Secretaries

for and on behalf of Wharf Realty Limited in
the presence of / whose signature(s) is/are
verified by:

Winnie Ka Wai Li
Mayer Brown JSM
Solicitor, Hong Kong SAR



Doreen Yuk-Fong Lee
Director



WHEELOCK SECRETARIES LIMITED
Secretaries

.....
WILSON W. S. CHAN
Director & Secretary

The Third Grantor

SEALED with the Common Seal of Harbour
City Estates Limited in the presence of and
SIGNED by

Doreen Yuk-Fong Lee Director

Leng Yen Thean Director

for and on behalf of Harbour City Estates
Limited in the presence of / whose
signature(s) is/are verified by:

Winnie Ka Wai Li
Mayer Brown JSM
Solicitor, Hong Kong SAR



Doreen Yuk-Fong Lee
Director



Leng Yen Thean
Director

The Grantee

SEALED with the Common Seal of Wharf
Realty Limited in the presence of and
SIGNED by

Doreen Yuk-Fong Lee Director

WHEELOCK SECRETARIES LIMITED Secretaries

for and on behalf of Wharf Realty Limited in
the presence of / whose signature(s) is/are
verified by:



Winnie Ka Wai Li
Mayer Brown JSM
Solicitor, Hong Kong SAR

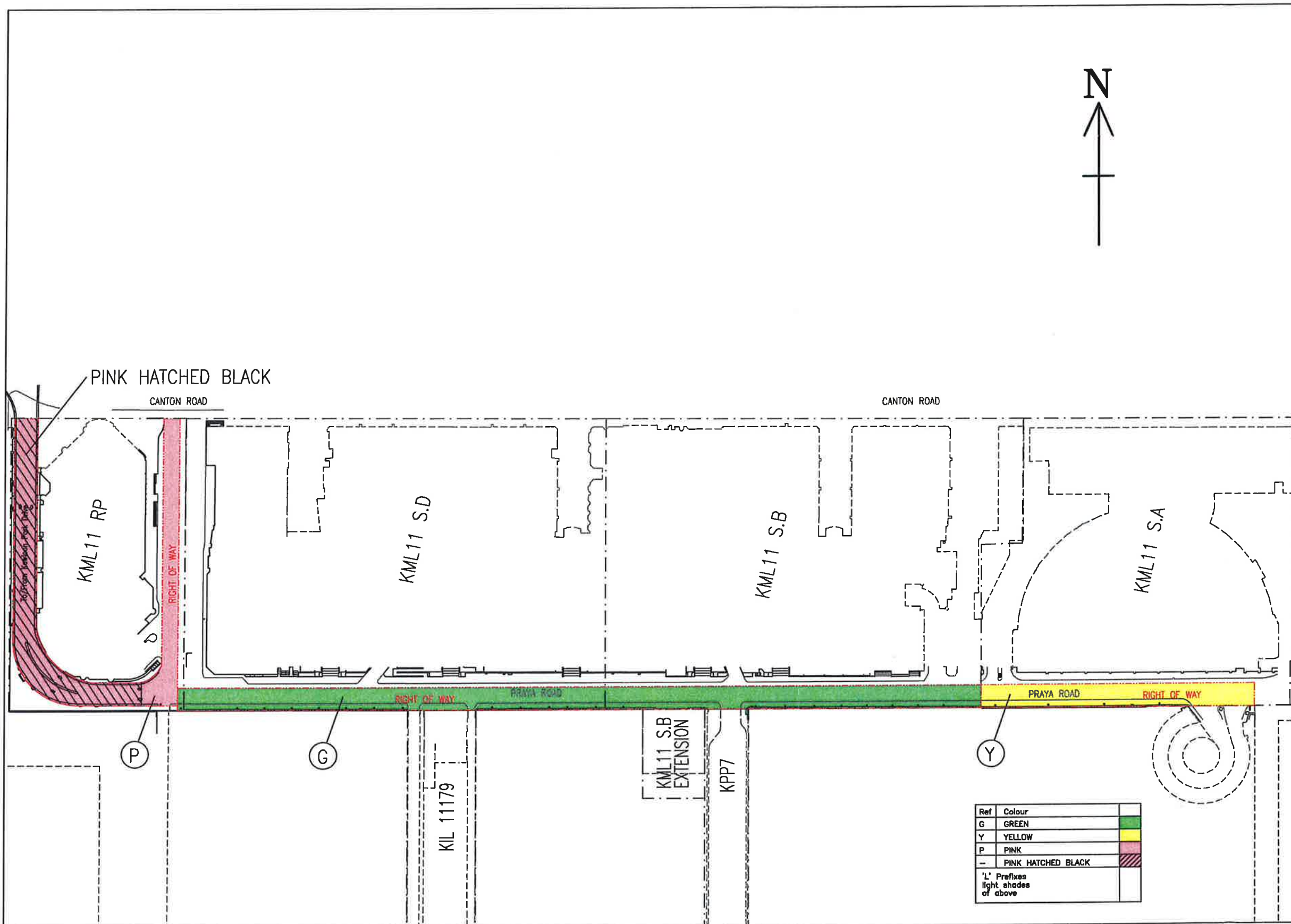


**Doreen Yuk-Fong Lee
Director**



**WHEELOCK SECRETARIES LIMITED
Secretaries**


.....
**WILSON W. S. CHAN
Director & Secretary**



- NOTE:
1. The boundary of KML11 are referred to District Survey Office computation folder no. L3545 and L8855
 2. Area under ramp, flyover and staircase are not included as right of way.
 3. The right of way area on G/F should have clear headroom and width for emergency vehicular access only.
 4. The sub-section boundary of KML11 are referred to memorial no. UB2646920 and UB1134719.

- LEGEND
- RIGHT OF WAY (BOUNDARY)
 - LOT BOUNDARY
 - FIRST AREA (KML 11 S.B & EXT. AND KML 11 S.D)
 - SECOND AREA (KML 11 S.A)
 - THIRD AREA (KML 11 RP)
 - THIRD AREA (KML 11 RP-FLYOVER ACCESS TO PRAYA ROAD)

I, JOSEPH Y C WONG, an Authorized Land Surveyor registered under the Land Survey Ordinance (Cap.473), hereby certify that this survey record plan has been prepared from land boundary surveys that were carried out by me or under my direct supervision in conformity with the Code of Practice approved by the Land Survey Authority under the above Ordinance, and that this plan correctly represents that survey completed on the fifteenth day of May 20 12.

Dated this seventh day of June 20 12

Authorized Land Surveyor

FOR OFFICE USE

PLAN NO.:3513/01

LEVEL G PLAN

Scale 1:1500

PLAN OF RIGHT OF WAY AT LEVEL G FOR PRAYA ROAD

1/69/162 Pt. III

29th day of March 1971

98

THIS LEASE is made the 17th day of April One thousand nine hundred and sixty-eight BETWEEN OUR SOVEREIGN LADY ELIZABETH II by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories Queen Head of the Commonwealth Defender of the Faith (hereinafter referred to as "Her said Majesty" which expression shall where the context admits be deemed to include Her Heirs Successors and Assigns) of the one part and THE HONGKONG AND KOWLOON WHARF AND GODOWN COMPANY, LIMITED a Company with limited liability incorporated in Hong Kong under the Companies Ordinance whose Registered Office is situate at Jardine House No. 22 Pedder Street Victoria in the Colony of Hong Kong (hereinafter referred to as "the Lessee" which expression shall where the context admits be deemed to include its Successors and permitted Assigns) of the other part.

WHEREAS the Governor and Commander-in-Chief of the Colony of Hong Kong and its Dependencies (who and whose successors in Office and the Officer for the time being administering the Government of the Colony are hereinafter referred to as "the Governor") is duly authorized to enter into these presents in the name and on behalf of Her said Majesty.

NOW THIS LEASE WITNESSETH as follows:-

1. In consideration of the yearly rent hereinafter reserved or made payable to Her said Majesty and of the covenants on the part of the Lessee hereinafter contained Her said Majesty doth hereby GRANT AND DEMISE unto the Lessee ALL that portion of sea bed situate at Kowloon in the said Colony bounded on or towards the North by the Harbour and having a frontage thereto of One thousand two hundred and fifty five feet or thereabouts on or towards the East partly by Kowloon Marine Lot No. 11 and partly by Kowloon Marine Lot No. 91 and having a combined frontage thereto of Two hundred and fifty five feet two inches or thereabouts on or towards the South by the said Harbour and having a frontage thereto of One thousand two hundred and fifty five feet or thereabouts and on or towards the West by the said Harbour and having a frontage thereto of Two hundred and fifty five feet two inches or thereabouts Which said portion of sea bed hereby expressed to be demised contains in the whole Three hundred and twenty thousand two hundred and twenty nine square feet or thereabouts and is more particularly delineated and described on the plan annexed hereto and thereon coloured pink and is known as KOWLOON PERMANENT PIER NO. 83 (hereinafter called "the said premises") TOGETHER with the ocean terminal buildings and all

Designation
of property

other structures erected thereon or on any part thereof (hereinafter together referred to as "the terminal") AND TOGETHER with such rights-of-way access and user as have been granted or assigned to Her said Majesty pursuant to Clause 6(1)(a) of the Agreement entered into between the parties hereto dated the 1st day of August 1964 and registered in the Land Office by Memorial No. 448892 (hereinafter referred to as "the said Agreement") AND TOGETHER with a full free and uninterrupted right of access thereto and egress therefrom by sea for all purposes connected with the use of the terminal TO HOLD the same unto the Lessee for the term of TWENTY FIVE YEARS from the Seventeenth day of June One thousand nine hundred and sixty six with such right of renewal as is hereinafter provided YIELDING AND PAYING therefor yearly and every year during the term hereby granted the yearly rent of One Hundred thousand dollars in Current Money of the said Colony (hereinafter referred to as "the said yearly rent") by equal half-yearly payments in advance on the Twenty-fourth day of June and the Twenty-fifth day of December in every year the first of such payments (or a due proportion thereof calculated to the next of such half yearly dates) to be made on the execution of these presents.

Term

Rent

2. The Lessee doth hereby covenant with Her said Majesty as follows:-

Pay Rent

- (a) To pay the said yearly rent of One hundred thousand Dollars on the days and in manner hereinbefore provided for payment thereof without any deduction.

Rates etc.

- (b) To pay and discharge all rates taxes charges and assessments whatsoever which now are or shall be hereafter assessed or charged upon or in respect of the said premises and/or terminal or any part thereof.

Maintenance

- (c) To keep the terminal, and its foundations and all landing steps, access roads and other facilities used in connection therewith whether on the said premises or the adjoining premises of the Lessee in good and tenantable repair and condition and so to deliver the same up to Her said Majesty at the expiration or sooner determination of the said term.

Not to assign, sub-let, etc.

- (d) Not to assign, sub-let or part with the possession of the said premises or any part thereof or the said terminal as a whole without the previous written consent of the Governor but nothing herein contained shall prohibit or require consent for the sub-letting, licensing or

similar dealing with any part or parts of the terminal for such periods (not exceeding the term hereby granted) and on such terms and conditions not inconsistent herewith as the Lessee shall think fit PROVIDED that in the event of Her said Majesty exercising any right of re-entry or forfeiture hereunder by reason of any breach non-observance or non-performance by the Lessee of any of the covenants or conditions on its part herein contained the Lessee shall forthwith pay to Government a due proportion of all premium or other capital sums paid by any sub-lessee, sub-tenant or licensee for the grant of any sub-lease, sub-tenancy, licence or similar interest in any part or parts of the terminal, such proportion being the like proportion of the premium or capital sum as the unexpired portion of the term of the sub-lease, sub-tenancy or licence bears to the whole of such term.

- (e) To maintain and operate the said premises and terminal as a commercial ocean terminal with, such other passenger, shopping, restaurant, tourist, shipping, banking, postal, telephone, telegraphic, office, recreational, sporting, entertainment, parking, taxi, transport, advertising

Repayment
of premia

Operation of
terminal.

and similar facilities or amenities as the Lessee shall think fit but subject in the case of advertising to the provisions of paragraph (k) of this Clause.

- (f) To provide space either on or within the said premises or on or within the properties registered in the Land Office as the Kowloon Marine Lot No. 11 and Kowloon Marine Lot No. 91 for the parking of not less than five hundred private cars and for the loading and unloading of not less than fifty goods vehicles. At least two hundred and fifty of the spaces provided for the parking of private cars shall be available for the parking of cars by members of the public as hereinafter provided for (hereinafter referred to as "the Lessee's public spaces") and the remainder of the spaces so provided shall be available to those persons using the facilities of the Ocean Terminal (hereinafter referred to as "the Lessee's private spaces").

- (g) To provide for the whole of the said term less the last day thereof and without payment of any rent by Her said Majesty such space not exceeding one thousand square feet on the ground and First Floor of the terminal near to the terminal roof

Five hundred
private car
spaces.
(Lessee's
private spaces)
and public
spaces

Accommodation
for D.C. & I.

as may be required by Her said Majesty's Director of Commerce & Industry for a Revenue Office or Offices for Revenue Officers whose duties require their presence at the terminal.

- (h) To permit Her said Majesty's Director of Public Works (hereinafter referred to as "the Director") and any persons authorized by him at all reasonable times to enter upon and examine the condition of the said premises and terminal and thereupon the Director may serve upon the Lessee a notice in writing specifying any repairs necessary to be done and require the Lessee at its own expense forthwith execute the same and if the Lessee shall not within thirty days after service of such notice proceed diligently with the execution of such repairs then to permit the Director his agents and workmen to enter upon the terminal and execute such repairs and the Lessee shall on demand pay to the Director the cost thereof and such cost if unpaid shall be a debt due from the Lessee to Her said Majesty and be forthwith recoverable by action in the nature of rent in arrear.

- (i) To permit the Heads of Government Departments and any public officer authorized by them or any of them to enter upon the said premises

Inspection
of premises.

Official
duties

Approval
of D.P.W.

and the terminal for any purpose connected with their public duties in relation to anything being done or which ought to be done thereon or therein.

- (j) Not to erect or permit or suffer to be erected on the said premises any building without having first obtained the approval in writing of the Director to the design and disposition thereof and not to make any structural alterations or additions to the terminal or any part thereof without the written consent of the Director, it being agreed and declared that for the purposes of this Clause no alteration or addition shall be deemed to be structural unless consent to the carrying out of the same is necessary under the provisions of the Buildings Ordinance ~~1955~~ or any Regulations made thereunder.

Ordinances.

- (k) To comply with the provisions of all Ordinances and Regulations now or hereafter in force in respect of the construction, maintenance, use and proper lighting of the said premises and terminal.
- (l) To ensure the preservation of good order in the said premises and terminal.

Good order.

Advertisements.

- (m) Not to exhibit or permit or suffer to be exhibited on the exterior of the said premises or terminal any advertisement of any kind whatsoever without the consent in writing of the Director which consent shall not be unreasonably withheld.

Insurance.

- (n) To insure and keep insured the said premises against loss or damage by fire throughout the said term with an Insurance Company and for an amount (not exceeding the full insurable value) approved by the Director and duly and punctually to pay all premiums for such purpose and to produce to the Director or his authorized representative the policy or policies of insurance and the last premium receipts whenever reasonably required so to do.

Application of insurance moneys

- (o) To expend all moneys received under or by virtue of any policy or policies of insurance maintained in accordance herewith in rebuilding reconstructing reinstating or making good all damage caused by the fire in respect of which such moneys were paid and out of its own resources to pay all the costs and expenses of so rebuilding, reconstructing, reinstating and making good such damage in so far as the same are not covered by the insurance moneys.

Policy not to be
invalidated

✓
N

Fire equip-
ment.

Dredging of
sea bed.

Traffic
requirements

- (p) Not to do or permit or suffer to be done anything in or upon the said premises or terminal whereby the said policy or policies of insurance might be invalidated.
- (q) To install on and in the said premises and terminal such fire prevention and fire fighting equipment as may be required by Her said Majesty's Director of Fire Services and thereafter to maintain such equipment to his satisfaction.
- (r) To dredge and keep dredged the area of sea bed alongside the terminal shown hatched green on the plan annexed hereto to the same depth (not exceeding thirty five feet below chart datum) as shall be maintained by the Government of Hong Kong in the approaches to such area.
- (s) To comply with all traffic requirements of the Director and Her said Majesty's Commissioner of Police with regard to ingress and egress of motor traffic to and from the said premises and terminal (but not within the said premises or within Kowloon Marine Lot No. 91 Kowloon Marine Lot No. 11 or that area to be known and registered in the Land Office as the Remaining Portion of Kowloon Marine Lot No. 10 or any part thereof) and com-

plate to the satisfaction of the Director such access roads and works as the Director may require.

- (t) In the event of any dispute or doubt as to whether for the purposes of Clause 5(b) hereof any capital invested by the Lessee in the terminal has been recovered or was recoverable during the term hereby created, to make available to Her said Majesty or the arbitrators all relevant books and documents of the Lessee.
- (u) In the event of any damage or obstruction being caused to any nullah, sewer, storm-water drain, watermain or other properties belonging to Her said Majesty's Government within or adjoining the said premises by the Lessee, its servants or agents, to pay on demand the cost of making good or removing such damage or obstructions (it being agreed and declared that the necessary works shall be carried out by Her said Majesty's Government at the cost of the Lessee).
- (v) To pay to Her said Majesty's Government on demand the cost of connecting any drains or sewers from the said premises as required by the Director to the Government storm-water drains or sewers

Inspection
of books of
account etc.

Damage to
Crown pro-
perty.

Drains and
sewers.

when provided (it being agreed and declared that such works shall be carried out by the Director who shall, however, incur no liability to the Lessee in respect thereof).

- (w) Not to interfere with any existing public drain, waterway or nullah within or adjoining the said premises without obtaining a notice in writing from the Director that the necessary diversion of such drain, waterway or nullah has been completed (it being agreed and declared that such diversion as may be considered necessary shall be carried out by the Director at the cost of the Lessee).

- (x) Not without the written consent of the Director to use any water from mains belonging to Her said Majesty's Government for flushing purposes upon any part of the said premises.

Adjoining premises.

Mains water.

For modification,
See Deed of Variation
dated 29.3.1971
attached.

Control of
joint public
car spaces.

3. The car deck provided at the cost of Her said Majesty at the seventy two feet principal datum level will at all times during the continuance of the term hereby created remain under the sole control and management of the Lessee who will be fully responsible therefor. The car parking spaces on the said deck will be operated in conjunction with the Lessee's public spaces (which

said spaces provided at the cost of Her said Majesty and the Lessee's public spaces are hereinafter called "the joint public car parking spaces"). The income from the joint car parking spaces will be divided between Her said Majesty and the Lessee and the following conditions shall apply:-

Operation.

- (a) The Lessee will be solely responsible for the operation of the joint public car parking spaces for the use, upon payment as hereinafter provided, by members of the public for the parking of private motor vehicles.
- (b) The Lessee may demand and receive from any such member of the public the same sum that would be paid by such member of the public for using such space for the same length of time in the nearest public multi-storey car park in Kowloon.
- (c) The method of operation, the charges, the hours the same remains open, the staff and the facilities provided shall so far as may be practical be the same as the nearest public multi-storey car park operated by Her said Majesty in Kowloon, to the intent that a member of the public will receive the same facilities benefit and treatment as would be received

Parking fees.

Modus operandi

if the car was parked in a public multi-storey car park in the same area. In so far as Her said Majesty has provided for the legal rights and obligations of members of the public using such public multi-storey car parks by ordinance and regulations, the Lessee shall have the same rights to make and incorporate such regulations into special conditions and may in particular absolve itself from all responsibility for loss, damage, delay, theft or otherwise relative to such motor vehicles fittings or contents while the same are entering leaving or stationary on the terminal. The Lessee may with the consent and approval of Her said Majesty make bylaws under ^{the Hong Kong and} ~~Ordinance No. 100~~ ^{Kowloon Wharf and Godown Company Limited (By-laws) Ordinance} of 1906 for the proper regulation of such car park.

- (d) All sums of money received from members of the public for the parking facilities provided will be collected by the Lessee, and the banking checking and accounting thereof and therefor shall be the Lessee's sole responsibility. The Lessee will at monthly intervals pay to Her said Majesty a proportionate part of such receipts,

Collection
of fees and
rendering
of accounts.

to be calculated as hereinafter provided, and will at the end of each year or at any other convenient and agreed time prepare accounts for the previous year stating with full details in the form of a profit and loss account the income and expenses for the preceding year. Her said Majesty will be provided with all necessary facilities to check such account and to ascertain that the figures therein stated are correct.

Income from
public car
parking spaces.

- (e) For the purpose of clarification the income derived from the joint public car parking spaces will include all sums paid by members of the public for parking facilities and all income derived from wall advertisements situate alongside or adjacent to the joint public car parking spaces. It will not include any income derived from a petrol filling station or from any free standing outward facing neon signs or posters erected along the deck provided at the cost of Her said Majesty. Any sum derived from the granting by the Lessee of a concession for the cleaning of cars parked on the joint public car parking spaces will also be included provided that if the concession extends

to the Lessee's private spaces then the amount received will be apportioned between the actual number of joint public car parking spaces and the actual number of the Lessee's private spaces so included. The expenses will include all sums incurred for the purchase of electricity, the cost of maintenance to the surface and structure and repainting the same, rates and generally all expenses excluding capital depreciation and interest charges which are incurred in part or whole arising by reference to the joint public car parking spaces. Any expense (other than the wages of the Lessee's Staff members mentioned hereunder) which is incurred partly for the joint public car parking spaces and partly for the Ocean Terminal as a whole will be apportioned between them and if the expense is incurred between the joint public car parking spaces and the Lessee's private spaces the same will be apportioned between them and if necessary between the joint public car parking spaces, the Lessee's private spaces and the Ocean Terminal as a whole. The wages of Staff members who are employed full time for the joint public car parking spaces will be deducted in full. If any

employee of the Lessee spends more than 50% of his employed time working for the benefit of the joint public car parking spaces then the appropriate percentage of such wages will be deducted. The wages of any employee who spends 50% or less of his time so engaged will not be deducted but will be paid by the Lessee. Any mechanical or other equipment required exclusively for the running of the joint public car parking spaces will be purchased by the Lessee and the cost debited from the income of the joint public car parking spaces. The cost of any mechanical or other equipment required for the joint public car parking spaces and the Lessee's private spaces will be apportioned between them in the same manner as other expenses divisible between the joint public car parking spaces and the Lessee's private spaces, provided that the cost of any such equipment is not greatly in excess of similar equipment provided in other multi-story public car parks in Kowloon.

- (f) The Lessee will deduct a management fee equal to 1½% of the total gross income. The management fee will cover the wages of all employees who spend less than

Management
fee.

50% of their time on the joint public car parking spaces, the time spent by Directors, Managers and Accountants and Senior staff in co-ordination planning and supervision of the operation of the joint public car parking spaces, the cost of preparing accounts and the time spent by administrative staff in banking and book-keeping, the selection provision and control of staff and all records connected therewith. This figure shall be open to review at the request of either party and will be adjusted if the same should prove to be grossly miscalculated by reference to the actual expenses of management.

Season
tickets.

- (g) Should season tickets be issued for monthly periods by the Lessee for use in the Lessee's private spaces such season tickets will clearly indicate such fact, by their colour or otherwise, and the holders of such tickets will not be permitted to occupy any of the joint public car parking spaces without further charge. No season tickets issued for use in respect of the said joint public car parking spaces will be available for use on the Lessee's private spaces without the consent of the Lessee.

Division
of income.

- 19 -

(h) The income after deducting expenses and management fee will be divided as follows:-

- (i) The total number of car spaces on the deck provided at the cost of Her said Majesty and the total spaces lost by reason of any neon sign will be ascertained on completion and the total will be deemed to be the total number of spaces provided by Her said Majesty.
- (ii) The total number of spaces on the sixty feet principal datum level deck lost by reason of the ramps and pillars supporting the seventy two feet principal datum level deck together with the Lessee's public spaces will be deemed to be the number of spaces provided by the Lessee.
- (iii) The net income will be divided between the Lessee and Her said Majesty in the relation that the spaces deemed to be provided by Her said Majesty bear to the number of spaces deemed to be provided by the Lessee.

The number of spaces will be ascertained by agreement after completion. If at any time the number of spaces available changes notice of such changes will be given in writing by one party to the other and thereafter the ratio will be adjusted accordingly.

4. PROVIDED ALWAYS and it is hereby agreed and declared as follows:-

Re-entry

- (1) That, subject as hereinafter mentioned if the said yearly rent hereby reserved or any part thereof shall be unpaid for twenty one days after becoming payable (whether formally demanded or not) or the Lessee shall fail to observe or perform any of the covenants or conditions herein contained and on its part to be observed or performed or if the Lessee shall go into liquidation (except a voluntary liquidation for the purposes of amalgamation or reconstruction) or shall make any arrangement or composition with its creditors then and in any such case it shall be lawful for Her said Majesty by the Governor or other person duly authorized in that behalf to enter into and upon the said premises and terminal or any part thereof in the name of the whole and thereupon this Lease

shall absolutely cease and determine but without prejudice to any right of action of Her said Majesty in respect of any arrears of rent or any antecedent breach of the Lessee's covenants or conditions herein contained PROVIDED however that in case of any breach of covenant or condition capable of being remedied Her said Majesty shall not exercise the right of re-entry hereunder without giving to the Lessee notice in writing to remedy the same and a reasonable time in which to remedy such breach having regard to the nature thereof.

Resumption.

- (2) That in the event of the resumption of the said premises and terminal or any part thereof in accordance with the provisions of the Crown Lands Resumption Ordinance Her said Majesty shall be entitled to set off against any compensation that may be awarded by the Compensation Board the amount of any grants and outstanding loans together with interest accrued thereon made by Her said Majesty or the Government of Hong Kong to the Lessee.
- (3) That in the event of resumption of the said premises and terminal or any part thereof being ordered by the Governor in accordance with the provisions of the Crown Lands Resumption Ordinance, the period of notice

Notice

Fire, earth-
quake, typhoon,
etc.

to be stated in accordance with
Section 4(3) of the Ordinance shall
be not less than twelve months.

- (4) That if the terminal or any part thereof shall be destroyed or damaged or rendered substantially unusable by fire, earthquake, typhoon, subsidence of the ground or sea bed or other natural calamity or by riots, civil unrest, acts of foreign princes or governments or force majeure the said yearly rent or part thereof proportionate to the extent of the damage or the degree to which the terminal is rendered unusable shall abate and cease to be payable until, in the case of destruction or damage, the Lessee shall have had a reasonable time to rebuild repair or make good the same and in other cases until the terminal can again be used by the Lessee.

5.

- (a) That provided the Lessee shall duly pay the said yearly rent hereby reserved and shall observe and perform the covenants and conditions on its part to be observed and performed herein contained, the Lessee shall be entitled on giving to Her said Majesty notice in writing in that behalf

Renewal

not more than twelve months nor less than six months before the expiration of the term hereby created to renew this Lease for a further term of Twenty One Years at such rent as shall be agreed or in default of agreement determined by two arbitrators, one to be appointed by Her, said Majesty and one by the Lessee and their umpire if necessary and on the like covenants, provisions and conditions as are herein contained save and except this provision for renewal and the Arbitration Ordinance ~~1848~~ or any amendment or re-enactment thereof or any Ordinance, Regulation or Order enacted or brought into force in substitution thereof shall apply to any arbitration under this Clause.

Particulars.

- (b) The Lessee shall in any notice given in accordance with Sub-clause (a) of this Clause include particulars of the amount of annual rent which it proposes should be payable during the renewed term of twenty one years and if the amount of such rent shall not have been agreed three months before the renewed term, the assessment thereof shall be referred to arbitration in the manner mentioned in paragraph (a) of this Clause AND IT IS HEREBY

EXPRESSLY AGREED AND DECLARED that in assessing such rent the arbitrators shall have regard to the intention of the parties (hereby expressed) that such rent shall bear a reasonable relationship to the net revenue estimated to be derived by the Lessee from the terminal during the renewed term taking into account all relevant circumstances including the amount of capital invested by the Lessee in the terminal and which was not recovered and was not capable of having been recovered during the term hereby created.

Right-of-way, user etc. to be granted on termination of Lease.

6. On the expiration or sooner determination of the term hereby created or on the happening of any other event whereby the said premises revert to Her said Majesty the Lessee shall grant or assign to Her said Majesty or as Her said Majesty may direct all such portions of Kowloon Marine Lot No. 9¹ Kowloon-Marine Lot No. 11 and that area to be known and registered in the Land Office as the Remaining Portion of Kowloon Marine Lot No. 10 and of all buildings erected or to be erected thereon and all such rights of way, access and user as are referred to in Clause 6(1)(a) and (b) of the said Agreement and the Lessee shall not sell, assign, mortgage, charge, sub-let, dispose of or otherwise deal with the said Kowloon Marine Lot No. 9¹

Kowloon Marine Lot No. 11 or that area to be known and registered in the Land Office as the Remaining Portion of Kowloon Marine Lot No. 10 or any building or buildings thereon as aforesaid or any part thereof or any share or interest therein except subject to the provisions of this Clause PROVIDED that to the extent (if any) that the rule of law known as the Rule against Perpetuities may apply to the provisions of this Clause, such provisions shall be limited to take effect during the life or lives of the last surviving descendant now living of Her late Majesty Queen Victoria and a period of twenty one years thereafter.

Service
of
Notices

7. Any notice to the Lessee shall be sufficiently served if left at or sent by registered post to the Lessee at its registered office or last known place of business in Hong Kong.

IN WITNESS whereof the Lessee hath caused its Common Seal to be hereunto affixed the day and year first above written.

Sealed with the Common Seal of
THE HONGKONG AND KOWLOON WHARF
AND GODOWN COMPANY, LIMITED
and signed by *Mr G. M. B. Sahwan*
and *Mr H. B. Newe Wood* its
Directors and countersigned by
Mr D. T. Nolan its
Secretary all in the presence of:-

M. Win G. M. B. Sahwan
Solicitor Hong Kong

Examined and certified to be correct

Mr D. T. Nolan

G. M. B. Sahwan DIRECTOR
H. B. Newe Wood DIRECTOR
D. T. Nolan SECRETARY

Comm. Terminal
Dated the 17th day of April

LEASE

OF

KOWLOON PERMANENT PIER NO. 83

Term: 25 years commencing 17th June 1965

Annual Crown Rent \$100,000.00

(Renewable for a further term of 21
years at a reassessed rent)

Registered C/L Card

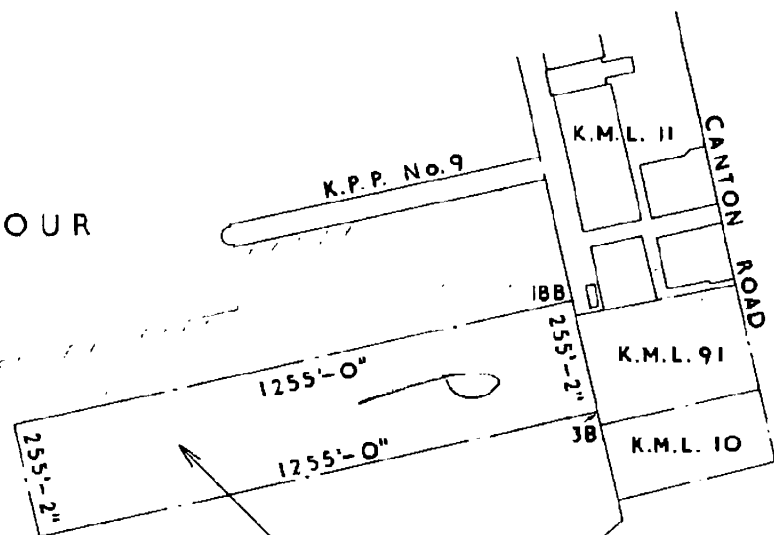
[Signature]
P. Land Officer

KOWLOON PERMANENT PIER No. 83

CO-ORDINATE DATA

	N	E
38	6868.71	7754.98
188	7118.43	7702.56

H A R B O U R



KOWLOON PERMANENT PIER No. 83

AREA 320,229 SQ. FT.

STAR FERRY
PIER

H A R B O U R

ASSISTANT SUPERINTENDENT OF SURVEY

SCALE 400 FEET TO ONE INCH

Pt. III
East of North
Kowloon

Stamp Duty 5 20.00
Duplicate 2.00

Paid on 29.3.71.

No. 798539

R.O. 213 6620036
1,000-R/70-581479

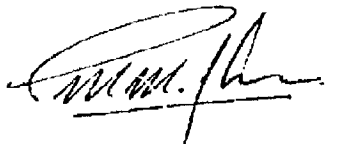
Serial ---
No.
\$ Cons.

A MEMORIAL required to be registered in the Land Office according to the provisions of the Land Registration Ordinance.

Nature and object of the Instrument to which the Memorial relates

L.O. 1/697/62 Pt. III

DEED OF VARIATION (in duplicate) of Crown
Lease of Kowloon Permanent Pier Lot No. 83, a copy
whereof is hereto annexed.

Date of Instrument	Dated the <i>29th</i> day of <i>March</i> 1971.
Names and additions of Parties	<p>OUR SOVEREIGN LADY THE QUEEN of the first part;</p> <p>THE HONGKONG AND KOWLOON WHARF AND GODOWN COMPANY, LIMITED a company with limited liability incorporated in Hong Kong under the Companies Ordinance whose Registered Office is situate at Jardine House No. 22 Pedder Street Victoria in the Colony of Hong Kong, the Lessee, of the second part; and</p> <p>THE COLONIAL TREASURER INCORPORATED a corporation sole incorporated under and by virtue of the Colonial Treasurer Incorporation Ordinance, the Mortgagee, of the third part.</p>
Names and additions of Witnesses	<p>Witness to the affixing of the Common Seal of The Hongkong and Kowloon Wharf and Godown Company, Limited and signed by G.M.B. Salmon and M. Jebson, its Directors: D.T. Nolan. Secretary.</p> <p>Witness to the affixing of the Official Seal of The Colonial Treasurer Incorporated and signed by Sir John James Cowperthwaite, the Financial Secretary, by David Akers-Jones: K.Y. Fong of Land Office, Registrar General's Department, Hong Kong, Assistant Registrar.</p> <p>Witness to the affixing of the Official Seal of Assistant Registrar General and the signature of Noel M. Gleeson, Assistant Registrar General: K.Y. Fong of Land Office, Registrar General's Department, Hong Kong, Assistant Registrar.</p>
Premises affected by the Instrument	KOWLOON PERMANENT PIER LOT NO. 83.
Signature of Parties Signing Memorial	 (Noel M. Gleeson) Assistant Registrar General.

Certified on this *2nd* day of *April* 1971.
 that the foregoing Memorial contains a just and true account of the
 several particulars therein set forth.

Received at the Land Office and Registered as Memorial

No. *798539* on - 2 APR 1971

Annexure to Memorial No. 798539

THIS INDENTURE made the 29th day of March One thousand nine hundred and seventy one BETWEEN Our Sovereign Lady ELIZABETH II by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories Queen Head of the Commonwealth Defender of the Faith (hereinafter referred to as "Her said Majesty") of the first part THE HONGKONG AND KOWLOON WHARF AND GODOWN COMPANY, LIMITED a company with limited liability incorporated in Hong Kong under the Companies Ordinance whose Registered Office is situated at Jardine House No.22 Pedder Street Victoria in the Colony of Hong Kong (hereinafter referred to as "the Lessee") of the second part and THE COLONIAL TREASURER INCORPORATED a corporation sole incorporated under and by virtue of the Colonial Treasurer Incorporation Ordinance (hereinafter referred to as "the Mortgagee") of the third part WHEREAS -

- (a) the Governor and Commander-in-Chief of the Colony of Hong Kong and its dependencies (who and whose successors in office and the Acting Governor for the time being are hereinafter referred to as "the Governor") is duly authorized to enter into these presents in the name and on behalf of Her said Majesty;
- (b) by a Crown Lease (hereinafter referred to as "the said Crown Lease") dated the 17th day of April 1968 made between Her said Majesty of the one part and the Lessee of the other part ALL that portion of sea bed known and registered in the Land Office as Kowloon Permanent Pier No.83 (hereinafter referred to as "the said Pier") was demised unto the said Lessee for a term of 25 years from the 17th day of June 1966 (with a right of renewal for one further term of 21 years) subject to the rent and covenants therein reserved and contained;
- (c) by a Mortgage dated the First day of May 1968 made between the Lessee (the Mortgagor) of the one part and the Mortgagee of the other part and registered in the Land Office by Memorial No.627102

50010

the said Pier was assigned by the Lessee to the Mortgagee by way of Mortgage to secure the repayment to the Mortgagee of the sum of \$26,900,000 and interest thereon;

(d) Clause 3 of the said Crown Lease reads as follows :-

"3. The car deck provided at the cost of Her said Majesty at the seventy two feet principal datum level will at all times during the continuance of the term hereby created remain under the sole control and management of the Lessee who will be fully responsible therefor. The car parking spaces on the said deck will be operated in conjunction with the Lessee's public spaces (which said spaces provided at the cost of Her said Majesty and the Lessee's public spaces are hereinafter called "the joint public car parking spaces"). The income from the joint car parking spaces will be divided between Her said Majesty and the Lessee and the following conditions shall apply:-

- (a) The Lessee will be solely responsible for the operation of the joint public car parking spaces for the use, upon payment as hereinafter provided, by members of the public for the parking of private motor vehicles.
- (b) The Lessee may demand and receive from any such member of the public the same sum that would be paid by such member of the public for using such space for the same length of time in the nearest public multi-storey car park in Kowloon.
- (c) The method of operation, the charges, the hours the same remains open, the staff and the facilities provided shall so far as may be practical be the same as the nearest public multi-storey car park operated by Her said Majesty in Kowloon, to the intent that a member of the public will receive the same facilities benefit and treatment as would be received if the car was parked in a public multi-storey car park in

the same area. In so far as Her said Majesty has provided for the legal rights and obligations of members of the public using such public multi-storey car parks by ordinance and regulations, the Lessee shall have the same rights to make and incorporate such regulations into special conditions and may in particular absolve itself from all responsibility for loss, damage, delay, theft or otherwise relative to such motor vehicles fittings or contents while the same are entering leaving or stationary on the terminal. The Lessee may with the consent and approval of Her said Majesty make bylaws under The Hongkong and Kowloon Wharf and Godown Company Limited (By-laws) Ordinance for the proper regulation of such car park.

- (d) All sums of money received from members of the public for the parking facilities provided will be collected by the Lessee, and the banking checking and accounting thereof and therefor shall be the Lessee's sole responsibility. The Lessee will at monthly intervals pay to Her said Majesty a proportionate part of such receipts, to be calculated as hereinafter provided, and will at the end of each year or at any other convenient and agreed time prepare accounts for the previous year stating with full details in the form of a profit and loss account the income and expenses for the preceding year. Her said Majesty will be provided with all necessary facilities to check such account and to ascertain that the figures therein stated are correct.
- (e) For the purpose of clarification the income derived from the joint public car parking spaces will include all sums paid by members of the public for parking facilities and all income derived from wall advertisements situate alongside

- 4 -

or adjacent to the joint public car parking spaces. It will not include any income derived from a petrol filling station or from any free standing outward facing neon signs or posters erected along the deck provided at the cost of Her said Majesty. Any sum derived from the granting by the Lessee of a concession for the cleaning of cars parked on the joint public car parking spaces will also be included provided that if the concession extends to the Lessee's private spaces then the amount received will be apportioned between the actual number of joint public car parking spaces and the actual number of the Lessee's private spaces as included. The expenses will include all sums incurred for the purchase of electricity, the cost of maintenance to the surface and structure and repainting the same, rates and generally all expenses excluding capital depreciation and interest charges which are incurred in part or whole arising by reference to the joint public car parking spaces. Any expense (other than the wages of the Lessee's Staff members mentioned hereunder) which is incurred partly for the joint public car parking spaces and partly for the Ocean Terminal as a whole will be apportioned between them and if the expense is incurred between the joint public car parking spaces and the Lessee's private spaces the same will be apportioned between them and if necessary between the joint public car parking spaces, the Lessee's private spaces and the Ocean Terminal as a whole. The wages of Staff members who are employed full time for the joint public car parking spaces will be deducted in full. If any employee of the Lessee spends more than 50% of his employed time working for the benefit of the joint public car parking spaces then

the appropriate percentage of such wages will be deducted. The wages of any employee who spends 50% or less of his time so engaged will not be deducted but will be paid by the Lessee. Any mechanical or other equipment required exclusively for the running of the joint public car parking spaces will be purchased by the Lessee and the cost debited from the income of the joint public car parking spaces. The cost of any mechanical or other equipment required for the joint public car parking spaces and the Lessee's private spaces will be apportioned between them in the same manner as other expenses divisible between the joint public car parking spaces and the Lessee's private spaces, provided that the cost of any such equipment is not greatly in excess of similar equipment provided in other multi-storey public car parks in Kowloon.

(f) The Lessee will deduct a management fee equal to 1% of the total gross income. The management fee will cover the wages of all employees who spend less than 50% of their time on the joint public car parking spaces, the time spent by Directors, Managers and Accountants and Senior staff in co-ordination planning and supervision of the operation of the joint public car parking spaces, the cost of preparing accounts and the time spent by administrative staff in banking and book-keeping, the selection provision and control of staff and all records connected therewith. This figure shall be open to review at the request of either party and will be adjusted if the same should prove to be grossly miscalculated by reference to the actual expenses of management.

(g) Should season tickets be issued for monthly periods by the Lessee for use in the Lessee's private spaces such season tickets will clearly indicate such fact, by their colour or

otherwise, and the holders of such tickets will not be permitted to occupy any of the joint public car parking spaces without further charge. No season tickets issued for use in respect of the said joint public car parking spaces will be available for use on the Lessee's private spaces without the consent of the Lessee.

(h) The income after deducting expenses and management fee will be divided as follows :-

- (i) The total number of car spaces on the deck provided at the cost of Her said Majesty and the total spaces lost by reason of any neon sign will be ascertained on completion and the total will be deemed to be the total number of spaces provided by Her said Majesty.
- (ii) The total number of spaces on the sixty feet principal datum level dock lost by reason of the ramps and pillars supporting the seventy two feet principal datum level deck together with the Lessee's public spaces will be deemed to be the number of spaces provided by the Lessee.
- (iii) The net income will be divided between the Lessee and Her said Majesty in the relation that the spaces deemed to be provided by Her said Majesty bear to the number of spaces deemed to be provided by the Lessee.

The number of spaces will be ascertained by agreement after completion. If at any time the number of spaces available changes notice of such changes will be given in writing by one party to the other and thereafter the ratio will be adjusted accordingly.";

- (e) the Lessee and the Mortgagee have requested that the said Clause 3 referred to in Recital (d) immediately hereinbefore written should be modified in manner hereinafter appearing; and

(1) in consideration of the Lessee and the Mortgagee entering into these presents in manner hereinafter appearing and in consideration of an additional premium of \$5,406,000 having been paid by the Lessee to Her said Majesty (the receipt whereof is hereby acknowledged) Her said Majesty has agreed to modify the said Clause 3 hereinbefore referred to in Recital (d) in manner hereinafter appearing;

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and in consideration of the premises and of the payment as hereinbefore recited it is hereby mutually agreed between the parties hereto to the intent that this agreement shall be binding on and enforceable against the parties hereto and their respective successors in title to the said Pier or any part thereof as follows :-

- (1) As from the date of these presents the said Clause 3 referred to in Recital (d) hereinbefore written shall be deemed to be and shall be void and of no effect; and the said Crown Lease shall as from the date hereof be deemed to include and be read and construed as if there were included therein in lieu of the said Clause 3 referred to in Recital (d) the following Clause:-
"3. In addition to the space required to be provided by the Lessee under Clause 2(f) hereof for the parking of not less than five hundred private cars and for the loading and unloading of not less than fifty goods vehicles, the Lessee shall provide and maintain to the satisfaction of the Director spaces for the parking of not less than six hundred cars by members of the public on the car deck provided at the cost of Her said Majesty at the seventy two feet principal datum level. The car parking spaces so provided on the said car deck will at all times during the continuance of the term hereby created remain under the sole control and management of the Lessee who

will be fully responsible therefor. The said car parking spaces on the said car deck will be operated in conjunction with the Lessee's public spaces (which said six hundred car parking spaces on the said car deck and the Lessee's public spaces are hereinafter called "the joint public car parking spaces") subject to the following conditions :-

- (a) the Lessee will be solely responsible for the operation of the joint public car parking spaces for the use, upon payment as hereinafter provided, by members of the public for the parking of private motor vehicles.
- (b) The Lessee may demand and receive from any such member of the public the same sum that would be paid by such member of the public for using such space for the same length of time in the nearest public multi-storey car park in Kowloon.
- (c) The method of operation, the charges, the hours the same remains open, the staff and the facilities provided shall so far as may be practical be the same as the nearest public multi-storey car park operated by Her said Majesty in Kowloon, to the intent that a member of the public will receive the same facilities benefit and treatment as would be received if the car was parked in a public multi-storey car park in the same area. In so far as Her said Majesty has provided for the legal rights and obligations of members of the public using such public multi-storey car parks by ordinance and regulations, the Lessee shall have the same rights to make and incorporate such regulations into special conditions and may in particular absolve itself from all responsibility for loss, damage, delay, theft or otherwise relative to such motor

vehicles fittings or contents while the same are entering leaving or stationary on the terminal. The Lessee may with the consent and approval of Her said Majesty make bylaws under the Hongkong and Kowloon Wharf and Godown Company Limited (By-laws) Ordinance for the proper regulation of such car park."

- (2) Except as hereby modified all the provisions covenants stipulations exceptions reservations powers and conditions contained in the said Crown Lease shall remain in full force and effect;
- (3) The proviso for re-entry on the breach or non-performance of any covenant contained in the Crown Lease shall extend to the breach or non-performance of the provisions of the substituted Clause 3 hereinbefore written at Clause (1) hereof.

IN WITNESS WHEREOF the Assistant Registrar General being duly authorised by the Governor so to do has executed these presents for and on behalf of the Governor by setting his hand and seal hereunto and the Lessee has caused its Common Seal and the Mortgagee has caused its Official Seal to be hereunto affixed the day and year first above written.

Sealed with the Common Seal of)
The Hongkong and Kowloon Wharf)
and Godown Company, Limited)
and signed by G. H. B. SALMON)
and H. JENSEN, DIRECTORS)

in the presence of
D. T. NOLAN, SECRETARY

G. H. B. Salmon DIRECTOR
H. Jensen DIRECTOR
D. T. Nolan SECRETARY

Sealed with the Official Seal
of The Colonial Treasurer
Incorporated and Signed and
Delivered by _____

Sir John James Liverpool,
the Financial Secretary, by

David A. H. Jones

to whom his power of execution
has been delegated in accordance
with Section 4 of the Colonial
Treasurer Incorporation Ordinance
in the presence of

K. Y. Fong

Assistant Registrar,
Registrar General's Department,
Hong Kong.

Signed Sealed and Delivered by
Noel M. Gleeson, Assistant
Registrar General, in the
presence of

(sd) K. Y. Fong

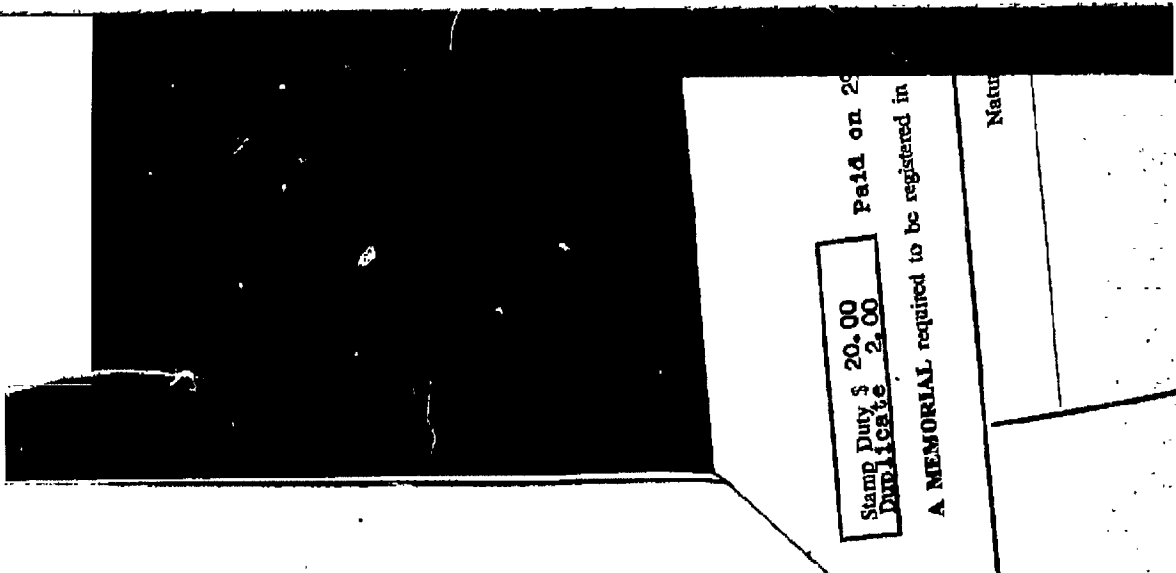
Assistant Registrar,
Registrar General's Department,
Hong Kong.

(Official Seal)

Delemon Jones

(sd) Noel M. Gleeson

(Official Seal)



Paid on 29
Stamp Duty \$ 20.00
Duplicate 2.00
A MEMORIAL required to be registered in
Natu

Dated the 29th day of March 1971

L.O. 1/697/62 Pt. III

DEED OF VARIATION

OF

CROWN LEASE

OF

KOWLOON PERMANENT PIER LOT NO.83

HER MAJESTY THE QUEEN

AND

THE HONGKONG AND KOWLOON WHARF AND
GODOWN COMPANY, LIMITED

AND

THE COLONIAL TREASURER INCORPORATED

Registered in the Land Office by
Memorial No. on

p. Land Officer.
LAND OFFICE,