

**Execution Version**

Dated the 17th day of March 2025

**SILVERWEALTH LAND DEVELOPMENT LIMITED**

AND



AND

**NOAH PROPERTY MANAGEMENT LIMITED** 諾亞物業管理有限公司

AND

**NANYANG COMMERCIAL BANK, LIMITED** 南洋商業銀行有限公司

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**DEED OF MUTUAL COVENANT  
AND MANAGEMENT AGREEMENT**

of

The Remaining Portion of Subsection 1 of Section A of Kowloon Inland Lot No.2528 and  
The Remaining Portion of Section A of Kowloon Inland Lot No.2528

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**THIS DEED OF MUTUAL COVENANT AND MANAGEMENT AGREEMENT**  
("this Deed") is made the 17th day of March Two Thousand and Twenty-five

**BETWEEN:-**

- (1) **SILVERWEALTH LAND DEVELOPMENT LIMITED**, a company incorporated under the laws of Hong Kong with limited liability whose registered office is situate at Suite A, 20<sup>th</sup> Floor, Wah Hen Commercial Centre, 383 Hennessy Road, Hong Kong (hereinafter called the "**First Owner**", which expression shall where the context so admits include its successors and assigns) of the first part;
- (2) [REDACTED] whose registered office is situate at [REDACTED] (hereinafter called the "**First Assignee**", which expression shall where the context so admits include its successors and assigns or his executors administrators and assigns or such survivor of his her or their assigns) of the second part;
- (3) **NOAH PROPERTY MANAGEMENT LIMITED** 諾亞物業管理有限公司 whose registered office is situate at Suite A, 20<sup>th</sup> Floor, Wah Hen Commercial Centre, 383 Hennessy Road, Hong Kong (hereinafter called the "**DMC Manager**", which expression shall where the context so admits include its successors appointed in accordance with the provisions herein) of the third part; and
- (4) **NANYANG COMMERCIAL BANK, LIMITED** 南洋商業銀行有限公司 whose registered office is situate at No. 151 Des Voeux Road Central, Hong Kong (hereinafter called the "**Lender**" which expression shall where the context so admits include its successors and assigns) of the fourth part.

**WHEREAS:-**

(A) **The First Owner's title**

Immediately prior to the Assignment to the First Assignee hereinafter referred to, the First Owner was the registered owner and in possession of the **Land** (as hereinafter defined) which is held under the **Government Lease** (as hereinafter defined).

(B) **Development of the Land**

The First Owner has developed or is in the course of developing the Land in accordance with the **Building Plans** (as hereinafter defined) and has erected or is in the course of erecting the **Building** (as hereinafter defined) on the Land.

(C) **Allocation of Undivided Shares**

For the purposes of sale, the Land and the Building have been notionally divided into 2437 equal **Undivided Shares** (as hereinafter defined) which have been allocated as provided in the FIRST SCHEDULE hereto.

(D) **Assignment to the First Assignee**

By an Assignment bearing even date hereof and made between the First Owner of the one part and the First Assignee of the other part and for the consideration therein expressed, the First Owner assigned unto the First Assignee the **First Assignee's Unit** (as hereinafter defined).

(E) **Partial release of the First Assignee's Unit**

By a partial release bearing even date but executed immediately prior to the Assignment to the First Assignee hereinafter referred to, the First Assignee's Unit was released by the Lender to the First Owner from the **Building Mortgage** (as hereinafter defined).

(E) **The rights and benefits of Owners**

The parties hereto have agreed to enter into this Deed for the purpose of making provisions for the management, improvement, maintenance, repair, renovation, insurance and service of the Land and the Building and the **Common Areas and Facilities** (as hereinafter defined) therein and for the purpose of defining and regulating the rights, interests and obligations of the **Owners** (as hereinafter defined) in respect thereof and to provide for apportionment of the expenses of such management, improvement, maintenance, repair, renovation, insurance and service to be borne by the Owners.

**NOW THIS DEED WITNESSETH** as follows:-

## **SECTION I**

### **DEFINITIONS**

#### **1.1 Definitions**

In this Deed the following expressions shall have the following meanings except where the context otherwise permits or requires:-

**"Authorized Person"**

means Mr. Cheung Kong Yeung of Cheung Kong-yeung Architects Limited, which expression shall include any other authorized person as defined in Section 2(1) of the Buildings Ordinance for the time being appointed by the First Owner in place of the said Mr. Cheung Kong Yeung;

**"BMO"**

means the Building Management Ordinance (Cap. 344 of the Laws of Hong Kong) and any statutory amendments, modifications or re-enactments thereof from time to time being in force;

**"Building"**

means the multi-storeyed building comprising, inter alia, the Residential Units, the Commercial Units and the Common Areas and Facilities now erected or to be erected in or upon the Land and intended to be known as "**Elize Park**";

**"Building Mortgage"**

means the Mortgage dated 24 November 2020 made between the First Owner and the Lender and registered in the Land Registry by Memorial No.20122102140060 and as the same may be varied or supplemented thereafter from time to time;

**"Building Plans"**

means the general building plans for the development of the Land and the Building or any part or parts thereof approved by the Building Authority in accordance with the Buildings Ordinance and includes any approved amendments or modifications thereto from time to time;

**"Buildings Ordinance"**

means the Buildings Ordinance (Cap. 123 of the Laws of Hong Kong) and any statutory amendments, modifications or re-enactments thereof from time to time being in force;

**"Commercial Common Areas and Facilities for Shop C and Shop D"**

means and includes:-

- (a) non-domestic lift lobby, lift, lift shaft, control panel and which are (if and where capable of being shown on plans) for identification purposes only shown coloured Yellow on the DMC Plans;
- (b) such parts of the walls in the non-domestic lift lobby of the Building (including the external wall material) which are (if and where capable of being shown on plans) for identification purposes only shown coloured Yellow on the DMC Plans;

- (c) such other areas and any other systems, services, devices and facilities provided for or installed in the Building intended for the common use and benefit of Shop C on 1/F and Shop D on 2/F as a whole and not just any individual Owner; and
- (d) such other areas, systems, devices, services and facilities of and in the Land and the Building as may be designated as Commercial Common Areas and Facilities for Shop C and Shop D by the First Owner in accordance with this Deed or by the relevant Owners in any Sub-Deed (if any),

but excludes the Residential Common Areas and Facilities, the Development Common Areas and Facilities and such areas within the Building the exclusive right and privilege to hold, use, occupy and enjoy which belongs to any particular Owner and such facilities within the Building serving only any particular Owner;

**"Commercial Unit"**

means a shop (including (if any) all the windows, the door pertaining thereto, the shop front adjacent thereto, unisex accessible lavatory, store room, lobby, all ancillary spaces, facilities, fittings, installations, equipment, apparatus, pipes, pipe sleeves for air-conditioning, systems and devices provided or installed and intended for the exclusive use of the shop(s)) for commercial and/or retail purposes in the Building, and "Commercial Units" shall be construed accordingly;

**"Common Areas and Facilities"**

means, collectively, the Development Common Areas and Facilities, the Residential Common Areas and Facilities, the Commercial Common Areas and Facilities for Shop C and Shop D and all those parts and such of the areas and facilities (if any) of the Building designated as common areas and facilities by the First Owner in accordance with the provisions of this Deed or by the relevant Owners in any Sub-Deed(s) (if any);

**"Curtain Wall"**

means the curtain wall system forming part of the external walls of the Building;

**"Deed(s) of Grant of Easement"**

mean(s) any deed or deeds of grant of easement entered or to be entered into by the First Owner and/or the Manager pursuant to the powers reserved under this Deed and any other documents having the effect of a variation or modification of any of the same;

**"Development Common Areas and Facilities"**

means and includes :-

- (a) the Setback Area, flat roofs (excluding those forming part of the Residential Common Areas and Facilities and those forming part of a Unit), electricity meter cabinets (E.M.C.), refuse storage and material recovery chamber (RS & MRC), cable riser room, fire services (F.S) inlet, sprinkler (SPR.) inlet & control valve, gas valve, sprinkler (SPR.) transfer water pump room, fire services (F.S.) water pump and tank room, sprinkler (SPR.) water pump and tank room, sprinkler (SPR.) water tank, potable & flushing pump room, potable and flushing water upfeed pump & tank room, potable water sump tank, flushing twin tank room, potable twin tank room, Transformer Room Facilities, telecommunications and broadcasting equipment (T.B.E.) room, low voltage (L.V.) switch room, emergency generator room, electrical duct (E.L.), electrical cabinet (E.L. cabinet), water meter cabinets (W.M.C.), pipe ducts (P.D.), hose reels (H.R.), architectural features, architectural feature with (w/) door, stone cladding, aluminum cladding, staircases and such other areas and any other systems, services, devices and facilities provided for or installed in the Building intended for the common use and benefit of the Building as a whole and not just any particular Unit and which are (if and where capable of being shown on plans) for identification purposes only shown coloured Orange and Orange Hatched Black on the DMC Plans;
- (b) such parts of the external walls of the Building (including the Curtain Wall from 1/F to 2/F but excluding those external walls and Curtain Wall of the Building forming

part of (i) the Residential Units; (ii) the Commercial Units; (iii) the Residential Common Areas and Facilities; and (iv) the Commercial Common Areas and Facilities for Shop C and Shop D) which are (if and where capable of being shown on plans) for identification purposes only shown coloured Orange on the DMC Plans;

- (c) such other areas, systems, devices, services and facilities of and in the Land and the Building as may be designated as Development Common Areas and Facilities by the First Owner in accordance with this Deed or by the relevant Owners in any Sub-Deed; and
- (d) to the extent not specifically provided in paragraphs (a), (b) and (c) above, such other parts of the Land and the Building as may fall within the definition of "common parts" as defined in the BMO,

but excludes the Residential Common Areas and Facilities, the Commercial Common Areas and Facilities for Shop C and Shop D and such areas within the Building the exclusive right and privilege to hold, use, occupy and enjoy which belongs to any particular Owner and such facilities within the Building serving only any particular Owner PROVIDED THAT, where appropriate, if

- (i) any parts of the Building covered by paragraph (a) of the definition of "common parts" set out in section 2 of the BMO; and/or
- (ii) any parts specified in the Schedule 1 to the BMO and included under paragraph (b) of the definition of "common parts" set out in section 2 of the BMO,

shall also be covered by the provisions hereinbefore provided, such parts shall be deemed to have been included as, and shall form part of, the Development Common Areas and Facilities;

**"DMC Plans"**

means the plans certified as to their accuracy by the Authorized Person annexed to this Deed for identifying various parts of the Building (including without limitation the Common Areas and Facilities);

**"Fire Safety Management Plan"**

means the fire safety management plan and measures relating to the Residential Units with open kitchen (OPEN KIT.) required to be implemented by the Buildings Department, the Fire Services Department and any other relevant Government authority, which includes any addition or variation thereto from time to time in accordance with the then relevant requirements of the Buildings Department, the Fire Services Department or any other relevant Government authority;

**"First Assignee's Unit"**

means all those [REDACTED] equal undivided 2437th parts or shares of and in the Land and the Building together with the sole and exclusive right and privilege to hold use occupy and enjoy ALL THOSE premises known as [REDACTED] of the Building;

**"Government"**

means the Government of Hong Kong;

**"Government Lease"**

means the Government Lease dated the 15th day of April 1937 made between late King George the Sixth of the one part and Li Chi Lap alias Li Yuk Lam of the other part in relation to Kowloon Inland Lot No.2528 and any subsequent extensions or variations or modifications thereto or renewals thereof;

**"Hong Kong"**

means the Hong Kong Special Administrative Region of the People's Republic of China;

**"House Rules"**

means the rules supplemental to this Deed governing the Building or any part or parts thereof from time to time in force made pursuant to this Deed;

**"Land"**

means all those pieces or parcels of ground registered in the Land Registry as The Remaining Portion of Subsection 1 of Section A of Kowloon Inland Lot No.2528 and The Remaining Portion of Section A of Kowloon Inland Lot No.2528 respectively;

**"Maintenance Manual for Works and Installations"**

means the schedules and maintenance manual for the Works and Installations as mentioned in Clause 10.12 hereof as may from time to time be amended or revised in accordance with the provisions of this Deed;

**"Management Expenses"**

means the costs, charges and expenses necessarily and reasonably incurred or to be incurred for the management and maintenance of the Land and the Building and the Common Areas and Facilities therein to be borne by the Owners including the remuneration of the Manager as provided in this Deed;

**"Manager"**

means the DMC Manager or any other manager for the time being appointed as manager of the Land and the Building pursuant to the provisions of this Deed and in the absence of any such appointment, the Owners' Committee shall act as the Manager;

**"Non-enclosed Areas"**

means the balconies of the Residential Units which are for the purpose of identification only marked "BAL." on the DMC Plans and the covered areas underneath the balconies (including the covered areas underneath the lowest balconies);

**"Occupation Permit"**

means a temporary or permanent occupation permit issued by the Building Authority in relation to the Building or any part or parts thereof pursuant to the Buildings Ordinance;

**"Owner"**

means each person in whom for the time being any Undivided Share of and in the Land and the Building is vested and who is registered as the owner of such Undivided Share under the Land Registration Ordinance (Cap.128 of the Laws of Hong Kong) and every joint tenant or tenant in common of any such Undivided Share and where any such Undivided Share has been assigned or charged by way of mortgage or charge the word Owner shall include both mortgagor or chargor and mortgagee or chargee in possession of such Undivided Share PROVIDED THAT, subject to the provisions of the mortgage or the charge, the voting rights conferred on the Owner of such Undivided Share by the provisions of this Deed shall be exercisable only by the mortgagor or chargor unless the mortgagee or chargee is in possession of or has foreclosed such Undivided Share, and "Owners" shall be construed accordingly;

**"Owners' Committee"**

means a Committee of the Owners formed in accordance with Section VII of this Deed and, where an Owners' Corporation has been formed, the management committee of the Owners' Corporation;

**"Owners' Corporation"**

means the Owners' Corporation of the Building formed in accordance with the provisions of the BMO;

**"Recreational Facilities"**

means the recreational facilities and all other associated plant and equipment of and for such facilities, gym, unisex accessible lavatory (UNISEX ACC. LAV.), function room, covered

landscaped area, landscaped area, flat roof on 3/F and such other (if any) sports and recreational facilities as are now or from time to time constructed by the First Owner and designed for such purposes as may be designated by the First Owner;

**"Residential Common Areas and Facilities"**

means and includes :-

- (a) lifts, lift shafts, lift machine room, domestic entrance lobby, lift lobbies, caretaker counter area, air-conditioning (A/C) platforms, maintenance area, flat roofs (excluding those forming part of the Development Common Areas and Facilities and those forming part of a Unit), hose reels (H.R.), architectural features, aluminium cladding, external parapet(s) of the Residential Units (excluding the interior finishes of any part of the external parapet(s) enclosing and facing a Residential Unit and top of such external parapet(s), which interior finishes and top of such external parapet(s) shall form part of the Residential Unit), top of Curtain Wall (C.W.) and top of balconies which are (if and where capable of being shown on plans) for identification purposes only shown coloured Green on the DMC Plans;
- (b) such parts of the external walls of the Building from 3/F and above (including the Curtain Wall and non-structural prefabricated external walls but excluding the windows, louvers, sliding door, French door and balustrades of the Residential Units and those external walls and Curtain Wall of the Building forming part of (i) the Residential Units; (ii) the Commercial Units; (iii) the Development Common Areas and Facilities; and (iv) the Commercial Common Areas and Facilities for Shop C and Shop D) which are (if and where capable of being shown on plans) for identification purposes only shown coloured Green on the DMC Plans;
- (c) the Recreational Facilities;
- (d) such other areas and any other systems, services, devices and facilities provided for or installed in the Building intended for the common use and benefit of all the Residential Units as a whole and not just any particular Residential Unit; and
- (e) such other areas, systems, devices, services and facilities of and in the Land and the Building as may be designated as Residential Common Areas and Facilities by the First Owner in accordance with this Deed or by the relevant Owners in any Sub-Deed (if any),

but excludes the Development Common Areas and Facilities and Commercial Common Areas and Facilities for Shop C and Shop D and such areas within the Building the exclusive right and privilege to hold, use, occupy and enjoy which belongs to any particular Owner and such facilities within the Building serving only any particular Owner;

**"Residential Unit"**

means a unit (together with the Non-enclosed Areas designated to the relevant unit, all the windows, balustrade (if any), railing (if any), sliding door (if any), French door (if any), balcony (if any), flat roof (if any), roof (if any), metal supporting frame(s) (if any) for air-conditioning units or plants, interior finishes of the external parapet(s) (if any) enclosing and facing the Residential Unit and top of such external parapet(s) (if any) and appurtenant thereto (if any)) for residential use and purpose in the Building and "Residential Units" shall be construed accordingly;

**"Setback Area"**

means the part of the Development Common Areas and Facilities on the Ground Floor of the Building and is for identification purposes only shown coloured Orange Hatched Black on the G/F Floor Plan annexed hereto;

**"Special Fund"**



means the special fund with respect to the non-refundable and non-transferable sum contributed by the Owners and set up and maintained by the Manager in accordance with Clause 5.8 hereof;

**"Sub-Deed"**

means any Sub-Deed in respect of any part or parts of the Land and the Building to be entered into between the First Owner and another co-owner or owners of the Building;

**"Transformer Room Facilities"**

means all transformer rooms facilities within the Land, which consist of the transformer room(s), cable accommodation and all associated facilities and ancillary equipments and facilities for the purpose of servicing the Building;

**"Undivided Shares"**

means those equal undivided parts or shares of and in the Land and in the Building allocated to various parts of the Building in accordance with the provisions of this Deed and/or any Sub-Deed (if any), and "Undivided Share" shall be construed accordingly;

**"Unit"**

means any Residential Unit, Commercial Unit or any part or parts of the Land and the Building to which Undivided Shares have been or will be allocated in accordance with this Deed or any Sub-Deed (if any) and the full and exclusive right and privilege to hold, use occupy and enjoy of which belongs or is capable of being assigned to an Owner and shall have the same definition as "flat" under the BMO, and "Units" shall be construed accordingly;

**"window"**

in relation to any Unit, means:-

- (a) any louvres and openable or non-openable window of the Unit;
- (b) any openable window on the Curtain Wall enclosing such Unit;
- (c) any non-openable window or vision panel on the Curtain Wall wholly enclosing such Unit (excluding any non-openable window or vision panel that partly encloses such Unit); and

together with all the glass of windows and window frames thereof (if any); and the term "windows" shall be construed accordingly;

**"Works and Installations"**

means the major works and installations in the Building (whether forming part of the Common Areas and Facilities or not) requiring regular maintenance on a recurrent basis as listed out in the FOURTH SCHEDULE hereto.

**1.2 Genders**

In this Deed, words importing the singular number shall include the plural number and vice versa, and words importing the masculine, feminine or neuter gender shall include the others of them and words importing persons shall include corporations and vice versa.

**1.3 Clause Headings**

Clause headings are inserted for convenience only and for reference, and in no way define, limit, or describe the scope of this Deed or the intent of any provisions thereof.

## **SECTION II**

### **RIGHTS AND OBLIGATIONS OF OWNERS**

#### **2.1 Rights of the First Owner**

The First Owner shall at all times hereafter subject to and with the benefit of the Government Lease, this Deed have the sole and exclusive right and privilege to hold, use, occupy and enjoy to the exclusion of the First Assignee the whole of the Land and the Building together with the appurtenances thereto and the entire rents and profits thereof SAVE AND EXCEPT the First Assignee's Unit assigned to the First Assignee as aforesaid and SUBJECT TO the rights and privilege granted to the First Assignee by the said Assignment.

#### **2.2 Rights of the First Assignee**

The First Assignee shall at all times hereafter subject to and with the benefit of the Government Lease and this Deed have the full and exclusive right and privilege to hold, use, occupy and enjoy to the exclusion of the First Owner the First Assignee's Unit assigned to the First Assignee as aforesaid together with the appurtenances thereto and the entire rents and profits thereof.

#### **2.3 Rights of all Owners**

Each Undivided Share together with the sole and exclusive right and privilege to hold, use, occupy and enjoy any part of the Building and to receive rents and profits therefrom shall be held by the Owners from time to time entitled thereto subject to and with the benefit of the rights and privileges provided in Part A of the SECOND SCHEDULE hereto and the express covenants and provisions contained in the Government Lease and this Deed.

#### **2.4 Owners bound by covenants and restrictions**

- (a) The Owner or Owners for the time being of each Undivided Share shall at all times hereafter be bound by and shall observe and perform the covenants, provisions and restrictions contained herein and in the THIRD SCHEDULE hereto so far as the same relate to such Undivided Share held by it and shall hold each Undivided Share subject to the easements, rights and privileges set out in Part B of the SECOND SCHEDULE hereto.
- (b) All the Owners (including the First Owner) and the Manager covenant with each other that they shall comply with the terms and conditions of the Government Lease so long as they shall remain the Owners and/or the Manager (as the case may be) of the Building.

#### **2.5 Right to assign without reference to other Owners**

Subject to the provisions of the Government Lease and this Deed, every Owner shall have the full right and liberty without reference to the other Owners or other persons who may be interested in any other Undivided Share in any way whatsoever and without the necessity of making such other Owners or other persons a party to the transaction to sell, assign, charge, mortgage, lease, license or otherwise dispose of or deal with his Undivided Share together with the exclusive right and privilege to hold, use, occupy and enjoy such part or parts of the Land and the Building which may be held therewith PROVIDED THAT any such sale, assignment, mortgage, charge, lease or licence shall be made expressly subject to and with the benefit of this Deed.

#### **2.6 Exclusive use of the Land and Building not to be dealt with separately from Undivided Shares**

- (a) The right to the exclusive use, occupation and enjoyment of any part of the Land and the Building shall not be sold, assigned, mortgaged, charged or otherwise dealt with separately from the Undivided Shares with which the same is held PROVIDED ALWAYS THAT the provisions of this Clause shall not extend to leases or tenancies or licences in respect of any part or parts of the Land or the Building.

- (b) The right to the exclusive use, occupation and enjoyment of (if any) the balcony(ies), flat roof(s) and roof(s) held with a Residential Unit shall not be sold, assigned, mortgaged, charged, leased or otherwise dealt with separately from the Residential Unit with which (if any) the balcony(ies), flat roof(s) and roof(s) is/are held.

**2.7 Rights of the Owner(s) to use the Development Common Areas and Facilities**

Every Owner, his tenants, servants, agents, invitees and licensees shall have the full right and liberty (in common with the Manager and others having like rights) to go pass and repass over and along and to use the Development Common Areas and Facilities for all purposes connected with the proper use and enjoyment of his Unit subject always to the provisions of this Deed and the rights and powers of the First Owner and the Manager relating thereto and PROVIDED THAT in exercising such rights no Owner shall interfere with or permit or suffer to be interfered with the general amenities or services provided for the Land and the Building and that each Owner shall comply with the House Rules from time to time in force in respect of the same.

**2.8 Rights of the Owner(s) of the Residential Unit(s) to use the Residential Common Areas and Facilities**

Every Owner(s) of the Residential Unit(s), his tenants, servants, agents, invitees and licensees shall have the full right and liberty (in common with the Manager and others having like rights) to go pass and repass over and along and to use the Residential Common Areas and Facilities for all purposes connected with the proper use and enjoyment of his Residential Unit subject always to the provisions of this Deed and the rights and powers of the First Owner and the Manager relating thereto and PROVIDED THAT in exercising such rights no Owner of a Residential Unit shall interfere with or permit or suffer to be interfered with the general amenities or services provided for the Land and the Building and that each Owner shall comply with the House Rules from time to time in force in respect of the same.

**2.9 Rights of the Owner(s) of Shop C on 1/F and Shop D on 2/F to use the Commercial Common Areas and Facilities for Shop C and Shop D**

The Owner(s) of Shop C on 1/F and Shop D on 2/F, his tenants, servants, agents, invitees and licensees shall have the full right and liberty (in common with the Manager and others having like rights) to go pass and repass over and along and to use the Commercial Common Areas and Facilities for Shop C and Shop D for all purposes connected with the proper use and enjoyment of his Commercial Unit(s) subject always to the provisions of this Deed and the rights and powers of the First Owner and the Manager relating thereto and PROVIDED THAT in exercising such rights no Owner shall interfere with or permit or suffer to be interfered with the general amenities or services provided for the Land and the Building and that the Owner shall comply with the House Rules from time to time in force in respect of the same.

**2.10 Rights of the Owner of Commercial Unit(s)**

For the avoidance of doubt and notwithstanding any provisions herein contained, the Owner(s) of the Commercial Unit(s), or any part(s) thereof, shall have the right at any time(s) and from time to time as he shall think fit to do all or any of the following acts or deeds and to exercise all or any of the following rights:-

- (a) the right to allocate, re-allocate and/or sub-allocate the Undivided Shares to any part(s) of the Commercial Unit(s) PROVIDED THAT the exercise of this right shall not interfere with other Owners' right to hold, use, occupy and enjoy his Unit;
- (b) the right to enter into one or more Sub-Deed(s) in respect of the Commercial Unit(s), or any part(s) thereof, with any other Owner or Owners of the sub-divided portion(s) of the Commercial Unit(s), or any part(s) thereof, to regulate and define their rights and obligations;
- (c) the right to designate or re-designate or alter the user of the Commercial Unit(s), or any part(s) thereof owned by him, without the concurrence or approval of any other Owners or other person having an interest in the Land and the Building and no such designation, re-designation or alteration shall give the other Owners any right of action against such Owner but nothing herein

shall absolve such Owner from the requirements of obtaining the prior written consent of the Government pursuant to the Government Lease (if necessary) and/or other Government authorities and PROVIDED THAT the exercise of the right under this sub-clause shall not interfere with the other Owners' right to hold, use, occupy and enjoy their Units nor impede access to their Units; and

- (d) the right to alter, re-arrange or demolish the whole of or any part or parts of the Commercial Unit(s), or any part(s) thereof, owned by him and to replace or construct or re-construct thereon any structure in such manner as such Owner thinks fit without the concurrence or approval of the other Owners but nothing herein shall absolve such Owner from the requirements of obtaining the prior written consent of the Building Authority (if necessary) and any other statutory Government authorities pursuant to the Government Lease (if necessary) and/or any applicable Ordinances or regulations made thereunder and PROVIDED THAT the exercise of the right under this sub-clause shall not contravene the terms and conditions contained in the Government Lease and shall not interfere with the other Owners' right to hold, use, occupy and enjoy their Units nor impede access to their Units.

## **2.11 Assignment of Common Areas and Facilities**

Upon execution of this Deed, the First Owner shall assign to and vested in the Manager free of costs or consideration as trustee for all Owners the Undivided Shares allocated to the Common Areas and Facilities together with the Common Areas and Facilities subject to and with the benefit of the Government Lease and this Deed. The Manager shall hold the Undivided Shares allocated to the Common Areas and Facilities together with the Common Areas and Facilities on trust for the benefit of all Owners. In the event the Manager shall resign or be dismissed or wound up or a receiving order made against it and another manager appointed in its stead in accordance with these presents, then the Manager or the liquidator or the receiver (as the case may be) shall assign free of costs or consideration such Undivided Shares together with the Common Areas and Facilities to the new manager upon the same trust PROVIDED THAT if an Owners' Corporation is formed it may require the Manager for the time being or its liquidator or receiver (as the case may be) to assign such Undivided Shares together with the Common Areas and Facilities and transfer the management responsibility to it free of costs or consideration and in which event the Manager shall assign free of costs or consideration the Undivided Shares allocated to the Common Areas and Facilities together with the Common Areas and Facilities and transfer free of costs or consideration the management responsibility to the Owners' Corporation which shall hold such Undivided Shares and the Common Areas and Facilities on trust for the benefit of all the Owners.

## **SECTION III**

### **ADDITIONAL RIGHTS OF THE FIRST OWNER**

#### **3.1 Additional rights of First Owner**

Notwithstanding anything herein contained, each and every Owner covenants with the First Owner with the intent that the covenants, rights, entitlements, exceptions and reservations herein conferred upon the First Owner shall bind each and every Owner and their respective successors and assigns and are intended to run and shall run with the Land and the Building and any interest therein that the First Owner shall, in addition to any other rights which it may have reserved under the said Assignment to the First Assignee or otherwise, and for as long as the First Owner or its subsidiaries or associated companies or holding companies or any subsidiary of such holding company remains the beneficial owner of any Undivided Share, have the sole and absolute right in its absolute discretion at any time or times and from time to time as it shall deem fit, to do all or any of the following acts or deeds and to exercise all or any of the following rights:-

**(a) Right to designate other additional areas**

Subject to the prior approval of the Owners by a resolution passed at an Owners' meeting convened under this Deed, the right to designate and declare from time to time by deed any part or parts of the Land and the Building the sole and exclusive right to hold, use, occupy and enjoy of which, and to receive the rents and profits in respect of which, is vested in the First Owner to be additional Common Areas and Facilities and to sub-allocate Undivided Shares thereto whereupon with effect from such designation or declaration as aforesaid such additional Common Areas and Facilities shall form part of the Common Areas and Facilities and the Owners shall contribute to the maintenance and upkeep of the same as if they were part of the Common Areas and Facilities and the Undivided Shares of such additional Common Areas and Facilities shall as soon as practicable thereafter be assigned to the Manager or the Owners' Corporation (as the case may be) in accordance with this Deed on trust for and on behalf of all the Owners PROVIDED THAT:-

- (i) in making such designation or declaration the First Owner shall not interfere with an Owner's right to hold, use, occupy and enjoy the part of the Building which he owns;
- (ii) no Owner or the Manager shall re-convert or re-designate such additional Common Areas and Facilities to the relevant Owner's own use or benefit save as otherwise provided for when the area in question was so converted or designated;
- (iii) all the Undivided Shares allocated to such additional Common Areas and Facilities shall be vested in the Manager in accordance with the provisions of this Deed free of costs or consideration; and
- (iv) the First Owner shall prepare or cause to be prepared a set of the plans showing the additional Common Areas and Facilities certified as to their accuracy by or on behalf of the Authorized Person to be kept at the management office for inspection by all the Owners during normal business office hours of the Manager free of costs and charges.

**(b) Right to amend Building Plans, etc.**

The right to:-

- (i) sub-divide and re-partition any Unit or Units the sole and exclusive right to hold, use, occupy and enjoy of which belongs to the First Owner;
- (ii) change, amend, vary, add to or alter the Building Plans existing at the date hereof without the concurrence or approval of any Owner or any of the parties hereto and no such change, amendment, variation, addition or alteration shall give to the Owners any right of action against the First Owner;

- (iii) subject to the Government Lease and this Deed and the compliance of all applicable laws and regulations, to make structural or non-structural alterations or additions to the Building or the services or facilities installed therein or any part or parts thereof the sole and exclusive right to hold, use, occupy and enjoy of which belongs to the First Owner,

without the concurrence or approval of the Manager or any Owner or any of the other parties hereto and no such sub-division, re-partitioning, structural or non-structural alterations or additions, change, amendment, variation, alteration or addition shall give to any Owner any right of action against the First Owner PROVIDED THAT any such change, amendment, variation, addition or alteration shall not unreasonably interfere with an Owner's right to hold, use, occupy and enjoy his Unit or unreasonably impede or restrict the access to and from any such Unit but nothing herein shall absolve the First Owner from obtaining (if required) any necessary written consent of the Government.

(c) **To affix telecommunication equipment, etc.**

The right to affix, erect, maintain, alter, renew, service, repair, replace and remove any one or more chimneys, flues, pipes, pumps, tanks, trunking, conduits, cables, signs, advertisements (illuminated or otherwise), masts, plants, machinery, equipment, lightning conductors and lighting fixtures, systems for broadcast transmission and reception, information distribution and communication, including without limitation to satellite master antennae system, communal aerial broadcast and distribution systems, microwave distribution systems, cable and wireless communications systems, telecommunications transmission, reception and transponder systems, aerials, dishes, antennae, transmitters, transponders, receivers, tuners and the ancillary equipment and connections thereto and other fixtures and structures of whatsoever kind on any part or parts of the Common Areas and Facilities or on such other areas of the Building the exclusive right to hold, use, occupy and enjoy of which belongs to the First Owner or to grant the right to do so to any person PROVIDED THAT:-

- (i) written approval of the Owners by a resolution passed at an Owners' meeting convened under this Deed shall first be obtained where Common Areas and Facilities are concerned in respect of the exercise of the right reserved hereunder; and
- (ii) any such fixtures, structures, erections, equipments, machine and systems shall not unreasonably interfere with the use and enjoyment by other Owners of their Units

AND FOR THIS PURPOSE, the First Owner shall have the right to:-

- (1) enter into and upon any part of the Land and the Building with or without workmen and equipment at all reasonable times on giving prior written notice (save in case of emergency) for any or all of the purposes aforesaid; and
- (2) license or otherwise permit or grant the right so to do to any other person on such terms as the First Owner may deem fit;

PROVIDED THAT any consideration received as a result of the exercise of such rights so far as the Common Areas and Facilities are concerned shall be credited to the Special Fund and PROVIDED FURTHER THAT the First Owner shall cause as little disturbance as reasonably practicable when carrying out the works conferred hereunder and make good any damage caused thereby as soon as practicably;

(d) **Rights of access for completing the Building**

The right to:-

- (i) enter into and upon all parts of the Land and the Building including the Common Areas and Facilities with all necessary equipment, plant and materials for the purposes of

completing or commissioning the construction of the Building or any part thereof and carrying out any other works in, under, on or over the Land and the Building as it may from time to time see fit and the right of the First Owner to enter the Land and the Building to carry out such works shall extend equally to all necessary contractors, agents, workers and other persons authorised by the First Owner. The First Owner in pursuance of such works may from time to time issue in writing to the Owners instructions as to the areas or parts of the Common Areas and Facilities that the Owners, their servants, agents, contractors or licensees may or may not use while such works are being carried out and the First Owner shall not incur any liability of any nature whatsoever to any Owner by reason of such construction works PROVIDED THAT:-

- (A) the First Owner shall make good any damage or loss that may be caused by or arise from such works;
  - (B) the other Owners' right to hold, use, occupy and enjoy their Units shall not be unreasonably interfered with; and
  - (C) the other Owners' right to have access to and from their Unit shall not be unreasonably impeded;
- (ii) determine as to the time when and as to the place where and whether to proceed with the said construction works with power to postpone such works as the First Owner shall deem fit;

(e) **Right to dedicate to public part of the Land**

Subject to the prior approval of the Owners' Committee or the Owners' Corporation (if formed), the right to dedicate to the public any part or parts of the Land and the Building for the purposes of passage with or without vehicles or in such manner as the First Owner shall in its absolute discretion deem fit PROVIDED THAT:-

- (i) in making such dedication the First Owner shall not unreasonably interfere with an Owner's right to hold, use, occupy and enjoy the Unit which he owns and to have unimpeded access to and from such Unit; and
- (ii) any benefit, concession or compensation acquired shall be paid into the Special Fund.

(f) **Right to adjust boundary of the Land**

Subject to the prior written approval of the Owners' Committee or the Owners' Corporation (if formed), the right to adjust and/or re-align the boundary of the Land and to negotiate and agree with the Government in connection therewith and for that purpose to execute any documents in the name of the First Owner in connection therewith without the necessity of joining in any other Owner PROVIDED THAT:-

- (i) the use and enjoyment of Units by other Owners and the right of access from and to such Units shall not be affected; and
- (ii) any benefit, concession or compensation acquired shall be paid into the Special Fund.

(g) **Right to surrender or assign to Government**

Subject to the prior written approval of the Owners' Committee or the Owners' Corporation (if formed), the right and privilege without the necessity of joining in any other Owner to surrender or assign or part with possession of any part or parts of the Land and/or the Building (other than a Unit the exclusive right to use, occupy and enjoy is owned by the First Owner or has been assigned to an Owner) which is required to be surrendered or assigned to the Government PROVIDED THAT any benefit, concession or compensation acquired shall be paid into the Special Fund.

(h) **Rights to negotiate with the Government**

Subject to the prior written approval of the Owners' Committee or the Owners' Corporation (if formed), the right at its own cost and expense to apply to, negotiate and agree with the Government with a view to amend, vary or modify the Government Lease (including the plan(s) annexed thereto) or any conditions thereof or to procure a licence or easement from the Government for installing on Government land, pipes, sewers, subways or other facilities serving the Land and/or the Building or any part thereof in such manner as the First Owner may deem fit including, and without limiting the generality of the foregoing, any amendment, variation or modification of the Government Lease (including the plan(s) annexed thereto) the effect of which is to:-

- (i) alter or vary the permitted use or density of development of any part or parts of the Building; or
- (ii) confer on or except and reserve unto the Government the right to require any variation or modification to any part of the Land and the Building and/or the right to grant to any owner and his successors and assigns of any adjoining or neighbouring land or any land adjoining or connected to any adjoining or neighbouring land whether by any private or public roads or passageways or otherwise the right and liberty to pass, repass, on, along, over or through the Land and the Building with or without vehicles for access to or otherwise for the proper use and enjoyment of such land subject to such terms and conditions as the Government may deem appropriate,

without the concurrence or approval of the Owners (except where the proposed amendment, variation or modification relates to Units other than those remaining in the ownership of the First Owner) and to execute any documents in the name of the First Owner in connection therewith without the necessity of joining in the Owners (except where the proposed amendment, variation or modification relates to Units other than those remaining in the ownership of the First Owner) and any such amendment or variation or modification or licence or easement shall be binding on the Owners and no such amendment or variation or modification or licence or easement shall give to any Owner any right of action against the First Owner PROVIDED THAT the exercise of this right shall not interfere with an Owner's right and privilege to hold, use and enjoy his Unit or unreasonably impede or restrict the access to or from any such part of the Building.

(i) **Right to enter into Sub-Deed**

The right without the necessity of making any Owner entitled to the exclusive use occupation and enjoyment of any Unit outside the part or parts of the Building in question a party thereto to enter into a Sub-Deed or Sub-Deeds in respect of any part or parts of the Building PROVIDED THAT such Sub-Deed(s) shall not conflict with the provisions of this Deed or affect the rights, interests or obligations of other Owners bound by this Deed and any other previous Sub-Deed(s).

(j) **Right to assign Common Areas and Facilities to Manager**

The right to assign the Undivided Shares relating to the Common Areas and Facilities to the Manager, without costs or consideration, for the general benefit of the Owners and upon such assignment such Undivided Shares shall be held by the Manager as trustee for all the Owners and if the Manager shall resign or be wound up or is removed and another manager appointed in its stead in accordance with the provisions of this Deed, then the liquidator or the outgoing Manager shall assign such Undivided Shares free of costs or consideration to the new manager or the Owners' Corporation, at any time, if so required by it to hold as such trustee as aforesaid PROVIDED THAT:-



- (i) nothing herein contained shall in any way fetter or diminish the rights, powers, authorities, entitlements, duties and obligations of the Manager contained in this Deed or any relevant Sub-Deed; and
- (ii) the Manager shall not be required to pay any contribution to Management Expenses in respect of the Undivided Shares relating to the Common Areas and Facilities.

(k) **Right to lay drains and other services**

Subject to the prior approval of the Owners' Committee and the approval of any Government authority concerned (if necessary), the right to construct maintain lay alter remove re-route and renew drains, pipes, cables, sewers and other installations, fittings, chambers and other structures within the Common Areas and Facilities or partly within the Common Areas and Facilities and adjoining land to supply utilities services to the Common Areas and Facilities and/or to any other adjoining adjacent or neighbouring lands and to grant licence or otherwise permit or grant the right so to do any of the aforesaid to any person on such terms and conditions as the First Owner may deem fit PROVIDED THAT this sub-clause shall not inhibit the right of the First Owner to complete the Building in accordance with the Building Plans.

(l) **Right to incorporate extensions**

The right and privilege to negotiate and agree with the Government to incorporate any lands as extensions to the Land PROVIDED THAT:-

- (i) unless the same is done at the request or for the benefit of the Owners all premia and fees payable for the same shall be borne by the First Owner and no Owner except the First Owner shall have any claim for any benefit or compensation arising therefrom; and
- (ii) as from the date of such incorporation the relevant extension shall form part of the Land and shall be subject to this Deed and any relevant Sub-Deed(s).

(m) **Right to obtain rights over adjoining lands**

The right and privilege to obtain the grant of any rights, rights of way or easements or quasi-easements (including but not limited to the right to use any roads, passageways, walkways, footpaths, pedestrian bridges, subways, gardens, open spaces, nullahs and culverts, recreational areas and facilities, sewage treatment plants and facilities, refuse collection and disposal areas and facilities, drainage system and gas, water and electricity storage, transformation and supply systems) over any adjoining or neighbouring lands or to obtain any similar rights by licence for the benefit of the Land and the Building on such terms and conditions and from such persons as the First Owner shall deem fit.

(n) **Right to grant rights to adjoining lands**

Subject to such restrictions as may be contained in the Government Lease and to the prior written approval of the Owners' Committee or the Owners' Corporation (if formed), the right to grant any rights, any rights of way or easements or quasi-easements (including but not limited to the right to use any roads, passageways, walkways, footpaths, pedestrian bridges, subways, gardens, open spaces, nullahs and culverts, sewage treatment plants and facilities, refuse collection and disposal areas and facilities, drainage system and gas, water and electricity storage, transformation and supply systems) over any part or parts of the Common Areas and Facilities or to grant any similar rights by licence for the benefit of any adjoining or neighbouring lands on such terms and conditions and to such persons as the First Owner shall deem fit PROVIDED THAT any benefit acquired out of the exercise by the First Owner of the rights under this sub-Clause in so far as it affects the Common Areas and Facilities shall be held upon trust for all the Owners and, if such benefit is in monetary terms, shall be credited towards the Special Fund.

(o) **Right to enter into Deed(s) of Grant of Easement**

Without prejudice to the generality of sub-clause (m) and (n) above and subject to the prior written approval of the Owners' Committee or the Owners' Corporation (if formed), the right, with or without joining any Owner, to enter into any deed or deeds of grant of easement in favour of the owners and/or occupiers of neighbouring premises or any easement or right of way exercisable by the Owners of the Land over any neighbouring premises at any time or times and on such terms and subject to such conditions and with such party or parties as the First Owner may deem appropriate, and to enter into any deed or deeds, at any time or times, to vary, amend or otherwise alter the terms, conditions or covenants of such deed or deeds so long as the same does not or do not affect the right of any Owner to the exclusive use and occupation of his Unit and does not impede or restrict the access to and from any part or parts of the Building and the Land and PROVIDED THAT all monetary consideration (if any) received therefor pursuant to this sub-Clause shall be paid into the Special Fund.

(p) **Right to change name of the Building**

The right to change the name of the Building at any time as the First Owner shall deem fit and to execute any documents in the name of the First Owner in connection therewith without the necessity of joining in any other Owner upon giving three months' notice to the Owners and shall not be liable to any Owner or other person having an interest in the Building for any damages, claims, costs or expenses resulting therefrom or in connection therewith.

(q) **Right to adjust, allocate or re-allocate Undivided Shares**

Subject to the Government Lease and this Deed, the right without the concurrence or approval of the other Owners to adjust and/or allocate and from time to time re-allocate the Undivided Shares retained by the First Owner to any of the Units and the Undivided Shares relating thereto and the fraction which each such Undivided Share bears to the whole PROVIDED THAT such adjustment, allocation and/or re-allocation:-

- (i) will not affect other Owners' sole and exclusive right and privilege to hold use and occupy their part or parts of the Building;
- (ii) will not adversely affect the other Owners' right interest and enjoyment in the Building and the Land;
- (iii) will not increase the proportion of the other Owners' contribution to the Management Expenses;
- (iv) shall be on gross floor area basis; and

PROVIDED FURTHER THAT the total number of Undivided Shares shall remain the same after such adjustment, allocation or re-allocation.

(r) **Right to change user**

Subject to the approval of the relevant Government authorities from time to time (if required), the right to change the user of the Building or any part or parts thereof, the beneficial ownership of which is retained by the First Owner without the concurrence or approval of other Owners PROVIDED THAT:-

- (i) the right of an Owner to hold, use, occupy and enjoy his Unit shall not be interfered with; and
- (ii) the rights, interest and enjoyment of other Owners shall not be adversely affected.

(s) **Right to make alterations, etc.**

Subject to the approval of the relevant Government authorities, at any time hereafter and from time to time to change, amend, vary, add to or alter the plans of any Units or any part or parts of the Building owned by the First Owner, to determine or change or alter the number of the Units to be included, constructed or erected in or on the Building, to change or alter the location and/or the areas and/or users of any Units or part or parts of the Building owned by the First Owner, and to carry out all necessary works (including without limitation any addition and alteration works) to the relevant part of the Common Areas and Facilities, without the concurrence or approval of any other Owner PROVIDED THAT:-

- (i) the right of other Owners to the exclusive use and enjoyment of their Units shall not be adversely affected; and
- (ii) access to and from any part or parts of the Building shall not be impeded or restricted.

(t) **Right to change floor numbering**

The full and unrestricted right without interference by the other Owners to designate or re-designate the floor numbering and allocate or re-allocate an appropriate number of Undivided Shares to such areas in the Building which are owned by the First Owner.

(u) **Right to adjust numbering of Units etc.**

The right to adjust the number or numbering of Units and/or the layout of the Units and to re-designate and re-adjust the same and allocate or re-allocate an appropriate number of Undivided Shares to such Units which are owned by the First Owner without the concurrence or approval of any Owner subject to the approval (if required) of the Government authorities.

(v) **Right to build and operate in Common Areas and Facilities**

The right to build and operate in such part or parts of the Common Areas and Facilities to complete the Building in accordance with the Building Plans and for any purposes as the First Owner deems fit PROVIDED THAT such building works and operations shall not contravene the terms and conditions of the Government Lease or any of the laws and regulations for the time being in force in Hong Kong and shall not interfere with the exclusive right of any Owner to hold, use, occupy and enjoy his Unit or unreasonably impede or restrict the access to and from any such Unit.

(w) **Right to subjacent and lateral support**

The right to subjacent and lateral support from the remainder of the Building.

(x) **Right to bring legal action**

The right to bring legal action at its own cost against owners of premises adjacent to the Building for encroachment onto the Land and the Building or any part or parts thereof without joining in any other Owner and damages or relief obtained shall belong to the First Owner.

Unless otherwise stated any consideration received or receivable in the exercise by the First Owner of any of the rights and privileges reserved unto it under this Clause 3.1 shall if the First Owner deems fit be for the own use and benefit of the First Owner and may be on such terms and conditions as the First Owner may deem appropriate and unless otherwise stated any such rights and privileges may be exercised and enjoyed without the concurrence or consent of any other Owner or the necessity of joining any other Owner as parties to any documents PROVIDED THAT notwithstanding anything contained in the foregoing provision to the contrary, if such rights and privileges shall be affecting, arising out of or in connection with the Common Areas and Facilities, any such monetary consideration received therefor as aforesaid shall be credited to the management account for the management and maintenance of the Land and the Building or the Special Fund (as the case may be). So far as the law permits, the First Owner

shall have the right from time to time to confer grant or assign any of its rights in this Clause 3.1 on or to any other person or permit the exercise of any such rights by any other person and, for such purpose, the "First Owner" includes its subsidiaries, associated companies, holding company and any subsidiary of such holding company and the person to whom the aforesaid right or rights have been assigned by the First Owner.

### **3.2 Power of Attorney**

The Owners hereby jointly and severally and irrevocably APPOINT the First Owner as their attorney and grant unto the First Owner the full right power and authority to do all acts deeds matters and things and to execute and sign seal and as their act deliver such deeds and to sign such documents or instruments as may be necessary for the exercise of or incidental to the First Owner's rights mentioned in Clause 3.1 of this Deed with the full power of delegation and the Owners hereby further jointly and severally undertake to do all acts deeds matters and things and to execute sign seal and deliver such deeds and to sign such documents or instruments as may be necessary to give effect to the abovementioned grant.

### **3.3 Assignment to include covenant**

An Owner shall not be entitled to assign the part of the Building which he owns unless the Assignment includes a covenant in substantially the following terms:-

"The Purchaser covenants with the Vendor for itself and as agent for SILVERWEALTH LAND DEVELOPMENT LIMITED ("the Company" which expression shall include its successors assigns (other than the Purchaser) and attorneys) to the intent that such covenants shall bind the Property and the owner or owners thereof for the time being and other person or persons deriving title under the Purchaser (each and all of whom including the Purchaser is and are hereinafter included in the expression "the Covenanting Purchaser") and shall enure for the benefit of the Building and be enforceable by the Company and their successors and assigns that:-

- (i) the Covenanting Purchaser confirms and acknowledges that the covenants, rights, entitlements, exceptions and reservations granted and conferred on the Company under Clause 3.1 of a Deed of Mutual Covenant and Management Agreement dated the [ ] day of [ ] and the Covenanting Purchaser shall not do or permit anything to be done which will in any way affect or hinder the exercise of the said rights by the Company;
- (ii) the Covenanting Purchaser shall, if required by the Company, do everything necessary, including giving express consents in writing to the exercise of the said rights by the Company, to facilitate the exercise of the said rights by the Company;
- (iii) the Covenanting Purchaser hereby expressly and irrevocably appoints the Company to be its attorney and grants unto the Company the full right power and authority to give all consents and to do all acts deeds matters and things and to execute and sign seal and as the acts and deeds of the Covenanting Purchaser deliver such deeds and to sign such documents or instruments as may be necessary for the exercise of or incidental to the exercise of the rights conferred on the Company as aforesaid with the full power of delegation and the Covenanting Purchaser hereby further covenants to do all acts deeds matters and things and to execute sign seal and deliver such deed or deeds and to sign such documents or instruments as may be necessary to give effect to such appointment and grant; and
- (iv) in the event of the Covenanting Purchaser selling or otherwise disposing of the Property, the Covenanting Purchaser shall sell or otherwise dispose of the Property upon the condition that the purchaser or assignee thereof shall enter into the same binding covenants on terms similar in scope and extent as the covenants (i), (ii) and (iii) hereinbefore contained

PROVIDED THAT upon the Covenanting Purchaser complying with and performing the covenant (iv) hereinbefore contained, the Covenanting Purchaser shall not be liable for any breach of the covenants (i), (ii) and (iii) hereinbefore contained which may happen after the Covenanting Purchaser shall have sold or otherwise disposed of the Property in respect whereof such purchaser or assignee shall have entered into such covenants similar in scope and extent as the covenants (i), (ii) and (iii) hereinbefore contained."

## SECTION IV

### MANAGER AND POWERS OF MANAGER

#### **4.1 Management to be undertaken by the Manager**

- (a) Subject to the provisions of the BMO, the parties hereto have agreed with the DMC Manager for the DMC Manager to undertake the management of the Land and the Building for an initial period of two (2) years from the date of this Deed and shall thereafter continue until terminated as provided in this Clause 4.1.
- (b) The appointment of the Manager may be terminated as follows:-
  - (i) The appointment is terminated by the Manager by giving not less than three (3) calendar months' notice of termination in writing:-
    - (1) by sending such notice to the Owners' Committee; or
    - (2) where there is no Owners' Committee, by giving such a notice on each of the Owners and by displaying such a notice in a prominent place in the Building.
  - (ii) The notice referred to in this Clause 4.1(b)(i)(2) may be given:-
    - (1) by delivering it personally to the Owner; or
    - (2) by sending it by post to the Owner at his last known address; or
    - (3) by leaving it at the Owner's Unit or depositing it in the letter box for that Unit; or
  - (iii) Prior to the formation of the Owners' Corporation, the Owner's Committee may at any time terminate the Manager's appointment without compensation by a resolution passed by a majority of votes of the Owners voting either personally or by proxy at a general meeting convened for the purpose and supported by the Owners of not less than fifty per cent (50%) of all the Undivided Shares in aggregate (excluding those Undivided Shares allocated to the Common Areas and Facilities) and by giving the Manager not less than three (3) calendar months' notice of termination in writing; or
  - (iv) in the event that the Manager is wound up or has a receiving order made against it.
- (c) (i) Where an Owners' Corporation has been formed and subject to Clause 4.1(c)(iv), at a general meeting convened for the purpose, the Owners' Corporation may, by a resolution:-
  - (1) passed by a majority of the votes of the Owners voting either personally or by proxy; and
  - (2) supported by the Owners of not less than fifty per cent (50%) of the Undivided Shares in aggregate (excluding the Undivided Shares for the Common Areas and Facilities),terminate by notice the appointment of the DMC Manager without compensation.
- (ii) The resolution under Clause 4.1(c)(i) above shall have effect only if:-
  - (1) such notice of termination of appointment is in writing;
  - (2) provision is made in the resolution for a period of not less than three (3) months' notice or, in lieu of notice, provision is made for an agreement to be

made with the DMC Manager for the payment to it of a sum equal to the amount of remuneration which would have accrued to it during that period;

- (3) such notice is accompanied by a copy of the resolution terminating the DMC Manager's appointment; and
  - (4) such notice and the copy of the resolution are given to the DMC Manager within fourteen (14) days after the date of the meeting.
- (iii) The notice and the copy of the resolution referred to in Clause 4.1(c)(ii)(4) may be given:-
  - (1) by delivering them personally to the DMC Manager;
  - (2) by sending them by post to the DMC Manager at its last known address.
- (iv) For the purposes of Clause 4.1(c)(i):-
  - (1) only the Owners of Undivided Shares who pay or who are liable to pay contribution towards the Management Expenses relating to those Undivided Shares shall be entitled to vote;
  - (2) the reference in Clause 4.1(c)(i)(2) to "the Owners of not less than fifty per cent (50%) of the Undivided Shares in the aggregate" shall be construed as a reference to the Owners of not less than fifty per cent (50%) of the Undivided Shares in the aggregate who are entitled to vote.
- (v) If a contract for the appointment of the Manager other than the DMC Manager contains no provision for the termination of the Manager's appointment, then Clause 4.1(c)(i), (ii), (iii) and (iv) apply to the termination of the Manager's appointment as they apply to the termination of the DMC Manager's appointment.
- (vi) Clause 4.1(c)(v) operates without prejudice to any other power there may be in a contract for the appointment of the Manager other than the DMC Manager to terminate the appointment of the Manager.
- (vii) If a notice to terminate a Manager's appointment is given under this Clause 4.1(c):-
  - (1) no appointment of a new Manager shall take effect unless the appointment is approved by a resolution of the Owners' Committee (if any); and
  - (2) if no such appointment is approved under Clause 4.1(c)(vii)(1) above by the time the notice expires, the Owners' Corporation may appoint another Manager and, if it does so, the Owners' Corporation shall have exclusive power to appoint any subsequent Manager.
- (viii) This Clause 4.1(c) is subject to any notice relating to the Building that may be published by the Secretary for Home Affairs under Section 34E(4) of the BMO.
- (d)
  - (i) Subject to Clause 4.1(d)(ii), if the Manager's appointment ends for any reason, it shall, as soon as practicable after its appointment ends, and in any event within fourteen (14) days of the date his appointment ends, deliver to the Owners' Committee (if any) or the Manager appointed in its place any movable property in respect of the control, management and administration of the Land and the Building that is under its control or its custody or possession, and that belongs to the Owners' Corporation (if any) or the Owners.
  - (ii) If the Manager's appointment ends for any reason, the Manager shall within two (2) months of the date the Manager's appointment ends:-

- (1) prepare an income and expenditure account for the period beginning with the commencement of the financial year in which the Manager's appointment ends and ending on the date the Manager's appointment ended; and a balance sheet as at the date the Manager's appointment ended and shall arrange for that account and balance sheet to be audited by a certified public accountant or by some other independent auditor specified in a resolution of the Owners' Committee (if any) or, in the absence of any such specification, by such certified public accountant or other independent auditor as may be chosen by the Manager;
- (2) deliver to the Owners' Committee (if any) or the Manager appointed in its place any books or records of accounts, papers, documents and other records which are required for the purposes of Clause 4.1(d)(ii)(1) and have not been delivered under Clause 4.1(d)(i); and
- (3) assign the Undivided Shares of the Common Areas and Facilities to the new Manager unless the same have already been vested in the Owners' Corporation.

#### **4.2 General Provisions re Termination**

- (a) Without limiting the generality of Clause 4.1, no provision of this Deed shall limit the application of Schedule 7 to the BMO by restricting or prohibiting the termination of the DMC Manager's appointment or his resignation during the initial term of two (2) years of its appointment.
- (b) If any person has given an undertaking in writing to, or has entered into an agreement with, the Government to manage or be responsible for the management of the Building, and the Owners' Corporation has appointed a Manager under Clause 4.1(c)(vii)(2) above, the Owners' Corporation shall be deemed to have given to that person an instrument of indemnity under which the Owners' Corporation shall be liable to indemnify that person in respect of any act or omission by the Manager appointed under that Clause 4.1(c)(vii)(2) that may otherwise render that person liable for a breach of that undertaking or agreement.

#### **4.3 Appointment of new Manager**

Upon termination of the Manager's employment in whatever manner or in the event that the Manager is wound up or has a receiving order made against it, a meeting of the Owners' Committee shall immediately be convened to appoint a manager to take its place and such meeting shall appoint a manager who shall on the expiry of the notice given by or, as the case may be, to the Manager immediately thereupon and thenceforth become vested with all the powers and duties of the Manager hereunder and the Owners' Committee shall on behalf of the Owners enter into a management agreement with such new manager defining its rights duties and obligations. It is hereby declared and agreed that at no time shall there be no duly appointed manager to manage the Land and the Building.

#### **4.4 Manager's remuneration**

- (a) The Manager's annual remuneration for the performance of its duties hereunder shall be ten per cent (10%) of the total annual Management Expenses (excluding (i) the Manager's remuneration and (ii) expenditure of a capital nature or expenditure drawn or to be drawn out of the Special Fund, in this Clause, ("**capital expenditure**"), PROVIDED THAT by a resolution of Owners passed at a meeting of the Owners convened under this Deed, any capital expenditure may be included for calculating the Manager's remuneration at the aforesaid percentage or at such lower rate as considered appropriate by the Owners) reasonably and necessarily incurred for the proper and efficient management of the Land and the Building.
- (b) The Manager shall be entitled to charge and be paid all disbursements and out-of-pocket expenses necessarily and reasonably incurred in the course of carrying out its duties hereunder.

The Manager's remuneration shall be the net remuneration of the Manager for its services as Manager and shall not include the costs, expenses, salary and fees for any staff, facilities, accountancy services or other professional supervision and all disbursements and out-of-pocket expenses necessarily and reasonably incurred in the course of carrying its duties hereunder which said costs and expenses shall form part of the Management Expenses and shall be a direct charge upon the Management Expenses.

- (c) The Owners shall pay to the Manager the Manager's annual remuneration hereunder in advance on the first day (or such other day as the Manager may deem appropriate) of each calendar month by twelve (12) equal monthly instalments each such payment to be in the sum of one-twelfth (1/12) of the annual remuneration of the Manager to be determined as aforesaid payable by the Owners according to the annual management budget or the revised annual management budget for the year in question to be prepared as provided in Clauses 5.1 to 5.5 hereof and any adjustment payment that needs to be made to bring the amount paid to the Manager by way of Manager's remuneration for the year in question to the correct amount for such year will be made within twenty one (21) days from the completion of the auditing of the management accounts for such year as provided in Clause 6.3 hereof.
- (d) No variation of the percentage referred to in Clause 4.4(a) above may be made except with approval by a resolution of Owners at the meeting of Owners convened in accordance with the provisions of this Deed for the purpose of reviewing the same.
- (e) Upon any review of the Manager's remuneration in accordance with Clause 4.4(d) above, if the Manager does not agree to any resolution passed at the meeting of the Owners in respect of such review, then the Manager, if it so desires, shall have the right to resign by giving notice of termination in accordance with Clause 4.1(b)(i) above.

#### **4.5 Duties and Powers of Manager**

The management of the Land and the Building shall be undertaken by the Manager and each Owner hereby irrevocably APPOINTS the Manager as agent in respect of any matter concerning the Land and the Building as a whole and the Common Areas and Facilities therein duly authorised under this Deed and to enforce the provisions of this Deed against the other Owner or Owners. In addition to the other powers expressly provided in this Deed, the Manager shall have full authority to do all such acts and things as may be necessary or expedient for or in connection with the Land and the Building and the management thereof. Without in any way limiting the generality of the foregoing, the Manager shall have the following powers and duties:-

- (a) To demand, collect and receive all amounts payable by each Owner under the provisions of this Deed;
- (b) To insure and keep insured the Common Areas and Facilities to the full new reinstatement value as comprehensively as reasonably possible and in particular against loss or damage by fire and/or such other perils as the Manager shall deem fit, and in respect of third party or public liability and occupiers' liability and employer's liability in respect of the employees of the Manager employed within or exclusively in connection with the management of the Land and the Building with some reputable insurance company or companies in the name of the Manager for itself and for and on behalf of the Owners of the Land and the Building according to their respective interests and in such sum or sums as the Manager shall deem fit and without limiting the generality of the foregoing to procure master insurance for the Land and the Building as a whole including those areas which are not Common Areas and Facilities and to pay all premia required to keep such insurance policies in force and updated;
- (c) To arrange for refuse collection and disposal from all parts of the Land and the Building including the Common Areas and Facilities and from areas designated as refuse collection points in the Land and the Building;
- (d) To keep and maintain in good order and repair and condition the lighting of the Common Areas and Facilities and to keep the Common Areas and Facilities well lighted and in a tidy condition;



- (e) To repair, maintain, upkeep, improve, control, operate and manage the Common Areas and Facilities together with all structures, sewers, street furniture and plants constructed, installed and provided thereon or therein respectively; to keep the Common Areas and Facilities in a clean and sanitary state and condition;
- (f) To repair, improve, renovate, maintain, clean, paint or otherwise treat or decorate as appropriate, the structure and fabric of the Building and the external walls, the Curtain Wall system, the architectural fixtures and fittings thereof, elevations and facade thereof but excluding windows and window frames except those situate in the Common Areas and Facilities PROVIDED HOWEVER THAT the Manager shall have the power at the expense of the Owner concerned to replace broken window glass if any such shall be broken and remain unreplaced for seven (7) days (except in emergency) after the Manager shall have served a notice on the Owner or occupier of the part of the Building concerned requiring him to replace the same;
- (g) To keep all the sewers, drains, watercourses and pipes forming part of the Common Areas and Facilities free and clear from obstructions;
- (h) To keep all the Common Areas and Facilities in good condition and working order and to extend or provide additional facilities as the Manager shall at its discretion deem necessary or desirable and to keep the lifts and fire fighting equipment in accordance with any laws and regulations applicable thereto and whenever it shall be necessary or convenient so to do at the Manager's discretion to enter into contracts with third parties for the maintenance of any such facilities or the Common Areas and Facilities;
- (i) To prevent so far as is possible any refuse or other matter being deposited, washed, eroded or falling from the Land and the Building onto any part of any public roads or any road-culverts, sewers, drains, nullahs or other Government property or land adjacent to the Land or the Building and to remove any such matter therefrom and to ensure that no damage is done to any drains, waterways, watercourses, footpaths, sewers, nullahs, pipes, cables, wires, utility services or other works being in, under, over or adjacent to the Land and the Building or any part thereof by reason of any maintenance or other works carried out by the Manager as herein provided and to make good any such damage;
- (j) To repair, maintain, paint, white-wash, tile or otherwise treat as may be appropriate the Common Areas and Facilities and the exterior of the Building at such intervals as the same may reasonably require to be done;
- (k) To replace any glass in the Common Areas and Facilities that may be broken;
- (l) To keep in good order and repair the ventilation system of the enclosed part or parts of the Common Areas and Facilities;
- (m) To prevent refuse from being deposited on the Land and the Building or any part thereof not designated for refuse collection and to remove all refuse from all parts of the Land and the Building and arrange for its disposal at such intervals and to maintain in the Building refuse collection facilities to the satisfaction of the relevant Government authorities;
- (n) To prevent unauthorised obstruction of the Common Areas and Facilities and to remove and impound any structure article or thing causing the obstruction;
- (o) To choose from time to time subject to the prior approval of the Owners' Committee or the Owners' Corporation (if formed) the colour and type of facade of the Building and of the Common Areas and Facilities;
- (p) To make suitable arrangements for the supply of fresh and flushing water, gas and electricity and any other utility or service to or for the Land and the Building or any part thereof;

- (q) To provide and maintain as the Manager deems necessary security force, watchmen, porters, caretakers, closed circuit television system and burglar alarms and other security measures in the Land and the Building at all times;
- (r) To lease, license, install, maintain and operate or contract for the leasing, licensing, installation, maintenance and operation of or connection to the communal radio and/or television aerials and/or satellite dishes and/or satellite master antenna television system and/or cable television system (if any) which serve the Building and to enter into any contract or arrangement with any communication service provider for the provision of any communication services to and for the Building or any part thereof PROVIDED THAT:-
- (i) the term of such contract shall not exceed three (3) years;
  - (ii) the right to be granted to any service provider under such contract shall not be exclusive and shall provide for the sharing of such equipment and facilities with other service providers;
  - (iii) no Owner shall be required to make any payment in any form to any service provider attributable to the installation or provision of such facilities or services unless he is a subscriber to the relevant service;
- (s) To remove any structure or installation, signboard, advertisement, sunshade, bracket, fitting, obstruction, device, aerial or any thing in or on the Land and the Building or any part thereof which is illegal, unauthorised or which contravenes the terms herein contained or any of the provisions of the Government Lease and this Deed and to demand and recover on a fully indemnity basis from the Owner or person by whom such structure or other thing as aforesaid was erected or installed the costs and expenses of such removal and the making good of any damages caused thereby to the satisfaction of the Manager;
- (t) To appoint solicitor or legal counsel to advise upon any point which arises in the management of the Land and the Building necessitating professional legal advice and with authority to accept service on behalf of all the Owners for the time being of the Land and the Building of all legal proceedings relating to the Land and the Building (except proceedings relating to the rights or obligations of individual Owners) and, in particular but without limiting the foregoing, in all proceedings in which the Government shall be a party and at all times within seven (7) days of being requested so to do by the Government, to appoint a solicitor who shall undertake to accept service on behalf of all such Owners whether for the purpose of Order 10 Rule 1 of the Rules of the High Court (or any provision amending or in substitution for the same) or other rules of court or any tribunal of competent jurisdiction or otherwise;
- (u) To prevent (by legal action if necessary) any person including an Owner from unlawfully occupying or using or obstructing any of the Common Areas and Facilities;
- (v) To prevent (by legal action if necessary) any person including an Owner from occupying or using any part of the Land and the Building in any manner in contravention of the Government Lease or this Deed;
- (w) To prevent (by legal action if necessary) and to remedy any breach by any Owner or other person residing in or visiting the Land and the Building of any provisions of the Government Lease or this Deed;
- (x) To prevent any person detrimentally altering or injuring or damaging any part or parts of the Land and the Building or any part of the Common Areas and Facilities;
- (y) To prevent any person from overloading the floors or lifts of the Building or any part or parts thereof;

- (z) From time to time and for the purpose of regulating the passenger traffic within the Building and/or for the purpose of achieving a more efficient use of the lifts to allocate and/or assign the lifts for the exclusive use of particular levels of the Building;
- (aa) To prevent any person from overloading any of the electrical installations and circuits or any of the mains or wiring in the Building;
- (bb) To have the sole right to represent all the Owners in all matters and dealings with the Government or any statutory body or any utility or other competent authority or any other person whomsoever in any way touching or concerning the management of the Land and the Building as a whole or the Common Areas and Facilities with power to bind all Owners as to any policy adopted or decision reached or action taken in relation to any such dealings;
- (cc) To enter into contracts with and to engage, employ, remunerate and dismiss solicitors, architects, accountants, surveyors and other professional advisers and consultants, contractors, workmen, servants, agents, watchmen, caretakers and other building staff and attendants for and in connection with the management of the Land and the Building and to commence, conduct, carry on and defend in its own name legal and other proceedings touching or concerning the Land and the Building or the management thereof;
- (dd) To enforce the due observance and performance by the Owners and occupiers of the terms and conditions of the Government Lease, this Deed and the House Rules and to take action in respect of any breach thereof including the commencement, conduct and defence of legal proceedings and the registration and enforcement of charges as herein mentioned;
- (ee) To ensure that all Owners or occupiers of any part of the Building maintain the part owned or occupied by them in a clean, proper and satisfactory manner and if there be any default on the part of any such Owners or occupiers and such default continues after notice has been served by the Manager on such Owners or occupiers, to, at the sole discretion of the Manager, put in hand any necessary maintenance and to take all possible steps to recover the costs therefor from the defaulting Owners or occupiers;
- (ff) To post the name or Unit number of any Owner in default or in breach of the terms and conditions of this Deed or the House Rules together with particulars of the default or breach on the public notice boards of the Building;
- (gg) Subject to the prior approval of the Owners' Committee or the Owners' Corporation (if formed) to grant such easements, quasi-easements, rights, privileges, licences and informal arrangements as it shall in its absolute discretion consider necessary to ensure the efficient management of the Land and the Building PROVIDED THAT any consideration received or receivable from the exercise of such right shall form part of the Special Fund;
- (hh) Subject to prior approval of the Owners' Committee or the Owners' Corporation (if formed):-
  - (i) to grant any other rights of way or access or use at any level to the owners or occupiers of any other premises adjoining the Land or the Building or to such person and persons and upon such terms and conditions as the Manager may think fit in respect of the Common Areas and Facilities or any part thereof and on behalf of the Owners to obtain a grant of similar rights in respect of such adjoining premises;
  - (ii) to enter into the Deed(s) of Grant of Easement or any other deed or deeds of grant of easement in relation thereto;
  - (iii) to enter into any deed or deeds, at any time or times, to vary, amend or otherwise alter the terms, conditions or covenants of or contained in such Deed(s) of Grant of Easement; and
  - (iv) to release or extinguish such Deed(s) of Grant of Easement and any easement or right of way exercisable by the Owners of the Land over any neighbouring premises;

- (ii) Subject to the prior approval of the Owners' Committee (when formed) or Owners' Corporation (if formed) to grant easements and rights of any other kind to the owners and occupiers of adjoining or neighbouring properties or the Government to construct, lay, maintain, remove, repair and renew drains, pipes, cables, irrigation pipes and other installations, fittings, chambers and other equipment and structures within the Land and the Building (whether or not serving the Land and the Building) which the Manager shall in its absolute discretion deem appropriate;
- (jj) To recruit and employ such staff as may from time to time be necessary to enable the Manager to perform any of its powers in accordance with this Deed on such terms as the Manager shall in its absolute discretion decide and to provide accommodation, uniforms, working clothes, tools, appliances, cleaning and other materials and all equipment necessary therefor;
- (kk) To deal with all enquiries, complaints, reports and correspondence relating to the Land and the Building as a whole;
- (ll) To grant franchises, leases, tenancy agreements and licences to other persons to use such of the Common Areas and Facilities (other than the Recreational Facilities) and on such terms and conditions and for such consideration as the Manager shall reasonably think fit PROVIDED THAT:-
  - (i) all income arising therefrom shall form part of the Special Fund; and
  - (ii) the grant of such franchises, leases, tenancy agreements and licences shall not interfere with an Owner's exclusive right to hold, use, occupy and enjoy his Unit or unreasonably impede or restrict the access to and from any such Unit;
- (mm) To remove any livestock, live poultry, fowls or animals from the Land and the Building if the keeping of which is in breach of the provisions of this Deed or, in the opinion of the Manager, such livestock, live poultry, fowls or animals are causing a nuisance to other Owners or occupiers of the Building PROVIDED THAT this Clause shall not apply to (i) trained guide dogs on leash for the blind whilst guiding any person with disability in vision, and (ii) livestock, fish, poultry or other animal for business being carried out in the Commercial Units and the Commercial Common Areas and Facilities for Shop C and Shop D. In any event no dogs shall be permitted in the Common Areas and Facilities unless carried or on leash and wearing mouth strap;
- (nn) To provide such Christmas, Chinese New Year and other festive decorations and to organise such festive celebrations or activities for the Building and such other social or recreational activities, functions and activities for the Owners as the Manager shall in its sole discretion consider desirable;
- (oo) Subject as otherwise provided in this Deed to give or withhold its written consent or approval to anything which requires its written consent or approval pursuant to this Deed or the House Rules and to impose conditions and additional conditions relative thereto PROVIDED THAT the Manager shall act reasonably in giving or withholding such written consent or approval and in imposing conditions or additional conditions relative thereto and the giving or withholding by the Manager of such consent or approval shall be final and conclusive and binding on the Owners and where any consent or approval is required from the Manager by an Owner, the Manager shall be entitled to charge and retain a reasonable administrative fee which sum shall be held by the Manager for the benefit of the Owners and paid into the Special Fund;
- (pp) Subject as otherwise provided in this Deed, from time to time in the absence of an Owners' Committee or if authorised by the Owners' Committee to compile rules and regulations governing:-
  - (i) the convening, conduct and procedure of meetings of the Owners, the Owners' Committee and any sub-committees thereof;

- (ii) the establishment, appointment and constitution of sub-committees of the Owners' Committee;
  - (iii) the conduct of the ballot for the election or re-election of Owners as members of the Owners' Committee; and
  - (iv) all other matters to regulate the meetings of the Owners, the Owners' Committee and any sub-committees thereof and to facilitate the transaction of business thereat;
- (qq) To convene such meetings of the Owners or meetings of the Owners' Committee as may be necessary or requisite and to act as secretary to keep the minutes of such meetings;
- (rr) To do all things as are necessary or desirable for the purposes of maintaining and improving all facilities and services in or on the Land and the Building for the better enjoyment or use of the Land and the Building by its Owners occupiers and their licensees PROVIDED THAT the prior approval of the Owners by a resolution passed at the meeting of the Owners convened under this Deed shall first be obtained in relation to any improvement to the Common Areas and Facilities which involves an expenditure in excess of ten per cent (10%) of the current annual management budget;
- (ss) Subject to the approval of the Owners' Committee or the Owners' Corporation (if formed) to grant such easements, quasi-easements, rights, privileges and licences to and to enter into such arrangements and agreements with the Government or the general public or any person or persons and upon such terms and conditions in respect of any part or parts of the Common Areas and Facilities as the Manager may in its absolute discretion think fit PROVIDED THAT any consideration received therefor shall form part of the Special Fund;
- (tt) To impose charges, restrictions, regulations and conditions for the use of the Common Areas and Facilities and to remove or evict any person thereon who fails to comply with or is in breach of any House Rules relating to such facilities and to exclude any person who has been in persistent breach of such House Rules from the use of such facilities for such period as the Manager shall in its discretion deem appropriate;
- (uu) To make payment to the Government on demand of the cost incurred by the Government in connecting the drains and sewers from the Land to the Government's foul and storm water drains and sewers;
- (vv) To repair and maintain the drains and channels and drainage system whether within or outside the Land which is required to be maintained pursuant to the Government Lease or otherwise for proper functioning of the Building;
- (ww) To enter into contracts with third parties for or to delegate or subcontract to other agents or managers whose business is that of estate management the management, maintenance, operation and control of the Common Areas and Facilities or any part or parts thereof on such terms and conditions as the Manager shall in its discretion think fit PROVIDED THAT:-
- (i) the Manager shall at all times remain responsible for management, maintenance, operation and control of the Land and the Building in the event of delegation or subcontracting; and
  - (ii) the Manager shall not be entitled to transfer or assign its rights or obligations under this Deed to any such third parties and such third parties must remain answerable to the Manager;
- (xx) To take all steps necessary or expedient for complying with the Government Lease and any Government requirements concerning the Land and the Building or any part thereof;

- (yy) To engage qualified personnel to inspect or carry out a structural survey of the Land and the Building or any part thereof including the drains and channels within or outside the Land but serving the Building as and when the Manager deems necessary or desirable;
- (zz) At the request of the Owners' Corporation (if formed), to assign the Undivided Shares relating to the Common Areas and Facilities and to transfer the management responsibility to the Owners' Corporation free of costs or consideration, for the benefit of the Owners of the Land and the Building upon which such Undivided Shares shall be held by the Owners' Corporation as trustees for the Owners;
- (aaa) Upon default of the Owner or Owners in repairing and/or maintaining and/or replacing the plumbing and drainage facilities and/or any other services and facilities or any part or parts thereof the repair and/or maintenance and/or replacement of which is such Owner's or Owners' responsibility under this Deed, to, at the sole discretion of the Manager, enter with or without workmen at all reasonable times on written notice (except in case of emergency) into all parts of the Land and the Building including any Unit for the purpose of inspecting the plumbing and drainage facilities and any other services and facilities and to replace or repair at the expenses of the Owner or Owners concerned any part or parts of the plumbing and drainage facilities and any other services and facilities which shall leak;
- (bbb) To put up appropriate signages at the entrance of the Building and/or any part or parts of the Common Areas and Facilities;
- (ccc) To enforce, observe and perform and (subject to the prior approval of the Owners' Committee (when formed) or Owners' Corporation (if formed)) to agree with the relevant party or parties to revise, amend, supplement or terminate the terms and conditions of any Deed(s) of Grant of Easement and any right of way, easement and other rights which the Building enjoys or to which the Building is subject and to take action in respect of any breach thereof;
- (ddd) To discontinue providing any management services to any Owner who defaults in payment of any amounts due from it under this Deed or the House Rules or otherwise fails to observe or perform any of the terms and conditions of this Deed or the House Rules until such default is rectified;
- (eee) To ensure that no hawkers shall carry on business on any part of the Land or the Building and remove any hawker found to be so doing and to post up and display notices to the effect that hawker is prohibited on the Land and the Building prominently near all entrances of the Land and the Building in accordance with the Government Lease or the relevant legislation;
- (fff) In the event that the Government agrees to take over or resume any part or parts of the Common Areas and Facilities vested in the Manager to surrender the same or any part thereof to the Government and the Manager is HEREBY APPOINTED the lawful attorney to execute and sign all relevant documents on behalf of all the Owners for such purpose including matters relating to payment of compensation and in the event of any land being resumed by the Government, to execute any necessary document in relation to such reversion PROVIDED ALWAYS THAT in the event that any land being surrendered covers any private streets, roads or lanes, to make payment (if any) to the Government as required for the surfacing, kerbing, draining (both foul and storm water sewers) and channelling thereof carried out by the Government in respect of such streets, roads and lanes surrendered;
- (ggg) Subject to having obtained the relevant Government authority's approval (if required) and having given prior reasonable notice to Owners affected by the relevant works (except in case of emergency), to erect or place on the external walls, any flat roof, main roof, top roofs and/or balcony scaffolding and/or building maintenance unit(s) and/or other equipment necessary for proper repair and maintenance of the plumbing facilities, the external walls, windows and other facilities and services of the Building PROVIDED THAT the Manager shall ensure that the least disturbance is caused as is reasonably practicable and shall make good any damage so caused and be responsible for negligent, wilful or criminal acts of the Manager or its workers or contractors;

- (hhh) If the Manager shall in its discretion deem fit to operate or enter into contract with any other person for the operation of the shuttle bus services for the use and benefit of the Owners or occupiers for the time being of the Land and the Building whether on its own or together with the manager and/or owners of other neighbouring premises and during such times and at such intervals and to such destinations as the Manager may think appropriate and to charge the users of the shuttle bus service such fares as the Manager may think reasonable;
- (iii) To maintain all areas open spaces and facilities as are required to be maintained under the provisions of the Government Lease and/or requirements by the Government departments and in the manner as provided therein;
- (jjj) To enter into any Deed(s) of Grant of Easement or any deed or deeds of grant of easement at any time or times and on such terms and subject to such conditions and with such party or parties as the Manager may deem appropriate to enter into any deed or deeds, at any time or times, to vary, amend or otherwise alter the terms, conditions or covenants of or contained in any of such Deed(s) of Grant of Easement and/or such deed or deeds so long as the same does not or do not affect the right of any Owner to the exclusive use of his part of the Building;
- (kkk) To improve, control, operate and manage the Recreational Facilities in good and substantial repair and condition and to landscape, plant with trees and shrubs, flowers, bushes, grass and other vegetation (if applicable) on any part or parts of the Common Areas and Facilities and any portion of the Land and podium not built upon and to maintain the same including any access steps staircases and ramps in a safe, clean, neat, tidy, functional and healthy condition PROVIDED THAT the provision of any additional facilities for and any improvements to the Recreational Facilities shall be subject to obtaining the prior approval from the Owners by a resolution passed at a meeting of the Owners;
- (III) To do all things which the Manager shall, in consultation with the Owners' Committee or the Owners by a resolution passed at a meeting of the Owners, deem necessary or desirable for the purposes of maintaining and improving all facilities and services in or on the Land and the Building for the better enjoyment or use of the Land and the Building by its Owners occupiers and their licensees;
- (mmm) To consult (either generally or in any particular case) the Owners' Corporation at a general meeting of the Owners' Corporation and adopt the approach decided by the Owners' Corporation on the channels of communication among Owners on any business relating to the management of the Land and the Building;
- (nnn) To provide appropriate and sufficient waste separation and recovery facilities including, but not limited to, waste separation bins at such locations within the Common Areas and Facilities as it may consider suitable and convenient to facilitate waste separation and recovery by the Owners and occupiers of the Building. The Manager shall ensure that the waste separation and recovery facilities so provided shall consist of material that will not cause any fire hazard and shall be placed in such locations so as not to cause obstruction to any fire escape route and, that the recyclable materials recovered from the waste separation and recovery facilities or through the regular cleansing process shall be properly collected, stored, and sent for recycling. The Manager shall maintain the waste separation and recovery facilities in an environmentally acceptable and hygienic manner to avoid creating nuisance to the Owners and occupiers of the Building;
- (ooo) To organise any social, recreational and community events, functions or activities as the Manager in his sole discretion considers appropriate or necessary from time to time to promote the well-being, harmony, relationship or environmental awareness of the Owners and occupiers of the Building;
- (ppp) To repair, maintain the artificial lighting (if any) and backup emergency system for, among other things, the staircases of the Building;

- (qqq) To implement the Fire Safety Management Plan and to issue any guideline or direction from time to time relating to its implementation (including the arranging of regular visual inspection once in a year to ensure no alteration or removal of the fire safety provisions within the Residential Units with open kitchen, the arranging of inspection and certification at least once a year of the fire safety provisions within the Common Areas and Facilities and within the Residential Units with open kitchen (at the relevant Owners' expenses) by registered fire services installations contractor, the arranging of fire drills for the occupants of the Building at least once a year) in accordance with the Fire Safety Management Plan, and where the Manager considers necessary, to enter with or without workmen equipment or materials at all reasonable times on reasonable notice (except in an emergency when no notice is required) any Residential Unit with open kitchen to carry out regular testing, maintenance, reinstatement or rectification of the fire safety provisions therein at that Owner's expenses or to verify observance and compliance of provisions set out in the FIFTH SCHEDULE hereto;
- (rrr) To grant rights of ingress, egress and regress and rights of similar kind to the Government, its officers, contractors and agents, his or their workmen with or without tools, equipment, machinery or motor vehicles to construct, lay, maintain, remove, repair and renew drains, pipes, cables, irrigation pipes and other installations, fittings, chambers and other equipment and structures within the Land and the Building (whether or not serving the Land and the Building) and on such terms and conditions as the Manager shall in its absolute discretion deem appropriate;
- (sss) To provide for arrangements with respect to the control and maintenance of the Setback Area as the Manager shall deem fit;
- (ttt) To keep the Setback Area properly landscaped, paved, open, uncovered and prohibit any permanent building structure (other than any landscaped features and perforated boundary walls) to be erected or constructed or placed on the Setback Area or any part thereof;
- (uuu) To upkeep the Transformer Room Facilities in accordance with the provisions and maintenance responsibilities stipulated in the supply rules issued by CLP Power Hong Kong Limited and any amendment from time to time thereto, including, without limitation, for repair, maintenance and reinstatement of the Transformer Room Facilities; and
- (vvv) To do all such other things as are reasonably incidental to the management of the Land and the Building.

#### **4.6 Other Powers of the Manager**

Without limiting the generality of the other express powers of the Manager herein contained, the Manager shall have power:-

- (a) To charge the Owners for the temporary use of electricity, water or other utilities supplied by the Manager and for the collection and removal of fitting out or decoration debris PROVIDED THAT such charges collected shall be credited to the management account;
- (b) To charge the Owners for all costs and consultants' fees incurred in approving their fitting out, decoration, construction or other plans submitted for approval by the Manager in accordance with the provisions of this Deed or the House Rules;
- (c) To charge the Owners for the use of fresh or sea water supplied (other than fresh or sea water supplied to the Owners through separate meters) at such rates as are from time to time determined by the Manager PROVIDED THAT such charges collected shall be credited to the management account;
- (d) From time to time to make rules and regulations governing the supply and use of fresh and sea water to all parts of the Land and the Building, the payment and recovery of charges for installation, disconnection and reconnection and readings of meters, damage to meters and default interest to a like extent as are from time to time made by Government;



- (e) To enter with or without workmen at all reasonable times on prior written notice (except in the case of emergency) into and upon all parts of the Land and the Building and to erect scaffolding and other equipment thereon necessary for the purpose of laying, replacing, repairing, maintaining, altering or removing any of the fresh or sea water mains and drains and pipes thereon serving any part of the Land whether or not the same belong exclusively to any other part or parts of the Building PROVIDED THAT the Manager shall make good any damage caused thereby and ensure that the least disturbance is caused;
- (f) At the sole discretion of the Manager, to enter with or without workmen at all reasonable times on prior written notice (except in the case of emergency) into all parts of the Land and the Building for the purpose of inspecting toilet(s) or kitchen(s) and to replace or repair at the expense of the Owner or Owners concerned any part or parts of the toilet(s) or kitchen(s) which shall leak.
- (g) To charge the Owners of the Residential Units a prescribed fee for use of the Recreational Facilities or any part thereof of such reasonable amount as the Manager shall in its reasonable discretion deem fit PROVIDED THAT all such prescribed fees collected shall be credited to the management account to be utilised towards the management, maintenance and repair of the Residential Common Areas and Facilities;
- (h) To charge the Owner or certain group of Owners all costs of repair or maintenance of any part of the Common Areas and Facilities which, in the opinion of the Manager (whose decision shall be final and conclusive save for manifest error), serve only such Owner or such group of Owners.

#### 4.7 Power to enter into Units

- (a) The Manager shall have power with or without workmen at all reasonable times on written notice (except in case of emergency) to enter into all parts of the Land and the Building including any Unit for the purposes of inspecting, rebuilding, repairing, altering, renewing, improving, maintaining, cleaning, painting or decorating any part or parts of the Land and the Building, the Common Areas and Facilities or for the exercise and carrying out of any of its powers and duties under the provisions of this Deed and for the purpose of gaining access to the Common Areas and Facilities and to carry out (at the cost and expense of the relevant Owner of a Residential Unit with open kitchen) annual maintenance of the fire services installations therein and in the event of emergency, the Manager may enter such part or parts of the Land and the Building without notice and forcibly if need be PROVIDED THAT the Manager shall cause as little disturbance as possible when carrying out such works and make good any damage caused thereby as soon as practicable and be responsible for negligent or wilful or criminal acts of the Manager or its workers or contractors and PROVIDED FURTHER THAT the Manager shall not be liable or held responsible for the cosmetic works in relation thereto and, without limiting the generality of the foregoing, the Manager shall have power to enter and access to any part of the Units and to enter into all parts of the Land and the Building for the purpose of gaining access thereto with or without workmen and equipment for the purpose of cleaning, painting, repairing, and maintaining the Curtain Wall, windows, external walls, flat roofs and other parts of the Building forming part of the Common Areas and Facilities including without limitation, the right to affix and dock any building maintenance unit(s) for the aforesaid purposes.
- (b) Without prejudice to the generality of Clause 4.7(a) above, in respect of any roof or flat roof forming part of a Residential Unit, the Manager shall have the right to enter into all or any parts of such roof or flat roof for the purposes of carrying out all necessary cleaning maintenance and/or repair works (whether or not such works are ad-hoc in nature).
- (c) The Common Areas and Facilities shall be under the exclusive control of the Manager who may, subject to the prior approval of the Owners' Committee, make rules or regulations or impose conditions regulating the use and management thereof subject to the provisions of the Government Lease and this Deed and any relevant Sub-Deed PROVIDED THAT the exercise of this right shall

not unreasonably interfere with an Owner's exclusive right to hold, use, occupy and enjoy his Unit or unreasonably impede or restrict the access to and from such Unit.

- (d) In respect of any flat roof, main roof and balcony forming part of a Residential Unit, the Manager shall have the right at all times to extend, maintain, operate, move and have access to, over and /or into or partly into the portion of airspace above the flat roof, main roof and balcony, or the parapet walls of the roof or flat roof as may be determined by the Manager, one or more building maintenance unit(s), other equipment or device of management, vertical passenger hoists(s) and building maintenance equipment (collectively the "**building maintenance unit(s)**") to service, cleanse, enhance, maintain, repair, renovate, decorate, improve and/or replace any part of any exterior of the Building, and to remain temporarily over and/or on the said airspace for such period as may be necessary for the purpose of inspecting, rebuilding, repairing, renewing, maintaining, cleaning, painting or decorating all or any part of the Common Areas and Facilities PROVIDED THAT the use and enjoyment by the Owner of his Residential Unit shall not be materially adversely affected or prejudiced thereby.

#### **4.8 Manager's acts and decisions binding on Owners**

All acts and decisions of the Manager arrived at in accordance with the provisions of this Deed in respect of any of the matters aforesaid shall be binding in all respects on all the Owners for the time being. Each Owner hereby appoints the Manager to act as agent for and on behalf of each Owner in respect of any matters concerning the Land and the Building as a whole and the Common Areas and Facilities therein as authorised under this Deed and to enforce and/or carry into effect the provisions of this Deed.

#### **4.9 House Rules**

- (a) The Manager shall have power from time to time with the approval of the Owners' Committee (if formed) to make, revoke and amend House Rules regulating the use, occupation, maintenance and environmental control of the Land and the Building and the Common Areas and Facilities or any part or part thereof and the conduct of persons occupying, visiting or using the same and the conditions regarding such occupation, visit or use including the payment of charges (if any) and such House Rules shall be binding on all the Owners, their tenants, licensees, servants or agents. Copies of the House Rules from time to time in force shall be displayed at a prominent place in the Building and a copy thereof shall be supplied to each Owner on request on payment of reasonable copying charges.
- (b) Such House Rules shall be supplementary to the terms and conditions contained in this Deed and shall not in any way conflict with such terms and conditions or the BMO or the Government Lease. In case of inconsistency between such House Rules and the terms and conditions of this Deed, then the terms and conditions of this Deed shall prevail.
- (c) Neither the Manager nor the Owners' Committee or the Owners' Corporation shall be held liable for any loss or damage however caused or arising from any non-enforcement of such House Rules or non-observance thereof by any third party.
- (d) The Manager shall have the power from time to time to make, revoke or amend House Rules in accordance with this Clause to protect the environment of the Building and to implement waste reduction and recycling measures with reference to the guidelines on property management issued from time to time by the Director of Environmental Protection.
- (e) Without prejudice to the generality of sub-clause (b) above, the Manager shall subject to the prior approval of the Owners' Committee (if formed) be entitled to make revoke and amend rules regulating and restricting the use of the Recreational Facilities including without limitation restricting the use of the Recreational Facilities in certain circumstances or to certain persons, and the fixing of the payment for use of any of the Recreational Facilities PROVIDED THAT all such payments to the Manager shall be credited to the management account to be utilised towards the management, maintenance and repair of the Residential Common Areas and Facilities.

#### **4.10 Exclusions and Indemnities**

The Manager, its servants, agents or contractors shall not be liable to the Owners or any of them or to any person or persons whomsoever whether claiming through, under or in trust for any Owner or otherwise, for or in respect of any act, deed, matter or thing done or omitted in pursuance or purported pursuance of the provisions of this Deed not being an act or omission involving criminal liability or dishonesty or negligence or wilful act and the Owners shall fully and effectually indemnify the Manager, its servants, agents or contractors from and against all actions, proceedings, claims and demands whatsoever arising directly or indirectly out of or in connection with the management of the Land and the Building or any such act, deed, matter or thing done or omitted as aforesaid and all costs and expenses in connection therewith. Without in any way limiting the generality of the foregoing, the Manager, its servants, agents or contractors shall not be held liable for any damage, loss or injury caused by or in any way arising out of:-

- (a) any defect in or failure or breakdown of any of the Common Areas and Facilities; or
- (b) any failure, malfunction or suspension of the supply of water, electricity, air-conditioning or other utility or service to the Land and the Building; or
- (c) fire or flooding or the overflow or leakage of water from anywhere whether within or outside the Land and the Building; or
- (d) the activity of termites, cockroaches, rats, mice or other pests or vermin; or
- (e) theft, burglary or robbery within the Land and the Building; or
- (f) any act of God, force majeure or circumstances beyond the control of the Manager;

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

#### **4.11 Owner to be responsible for act or negligence of occupiers**

Each Owner shall be responsible for and shall indemnify the Manager and the other Owners and occupiers for the time being against all actions, proceedings, claims and demands whatsoever arising out of or in respect of any injury to any person or any loss or damage to any property caused by or as the result of the act or negligence of such Owner or any occupier of any Unit of which he has the exclusive use or any person using such Unit with his consent express or implied or by, or through, or in any way owing to the overflow of water or spread of fire or leakage of electricity therefrom and to pay all costs, charges and expenses incurred in repairing or making good any loss or damage to the Land and the Building or any part or parts thereof or any of the Common Areas and Facilities therein or thereon caused by the act, neglect or default of all such persons. In the case of loss or damage which the Manager is empowered by this Deed to make good or repair, such costs, charges and expenses shall be recoverable by the Manager and in the case of loss or damage suffered by other Owners or occupiers for which the Manager is not empowered by this Deed or for which the Manager has elected not to repair or make good, such costs, charges and expenses together with all other damages recoverable by law shall be recoverable by the person or persons sustaining the loss or damage.

#### **4.12 Other powers under BMO**

In addition to the powers of the Manager provided in this Deed, the Manager shall have all the powers of a corporation incorporated under the BMO or any other ordinance amending extending or re-enacting the same insofar as it may lawfully exercise such powers.

## SECTION V

### MANAGEMENT EXPENSES

#### **5.1 Preparation of annual management budget**

- (a) Subject to Clauses 5.1(c), 5.1(e) and 5.1(f) below, the total amount of Management Expenses payable by the Owners during any period of twelve (12) months adopted by the Manager as the financial year in respect of the management of the Land and the Building shall be the total estimated Management Expenses during that year as specified by the Manager in accordance with Clause 5.1(b) below.
- (b) In respect of each financial year, the Manager shall:-
  - (i) prepare a draft annual management budget setting out the estimated Management Expenses of the Land and the Building during the financial year PROVIDED THAT the first draft annual management budget shall be prepared by the Manager as soon as practicable after his appointment and shall cover the period from the date hereof until the 31st day of December of the same year and all subsequent draft annual management budgets shall be prepared by the Manager at least one (1) month prior to the commencement of the financial year and such subsequent draft annual management budgets (other than the first draft annual management budget) shall be prepared in consultation with the Owners' Committee (if any);
  - (ii) send a copy of the draft annual management budget to the Owners' Committee or, where there is no Owners' Committee, display a copy of the draft annual management budget in a prominent place in the Building and cause it to remain so displayed for at least 7 consecutive days;
  - (iii) send or display, as the case may be, with the copy of the draft annual management budget a notice inviting each Owner to send his comments on the draft annual management budget to the Manager within a period of fourteen (14) days from the date the draft annual management budget was sent or first displayed;
  - (iv) after the end of the period as set out in Clause 5.1(b)(iii) above, the Manager may alter (but shall not be obliged to do so) the draft annual management budget based on the suggestions made by the Owners' Committee or the Owners and prepare a revised annual management budget specifying the total estimated Management Expenses during the financial year;
  - (v) send a copy of the revised annual management budget to the Owners' Committee or, where there is no Owners' Committee, display a copy of the annual management budget in a prominent place in the Building and cause it to remain so displayed for at least 7 consecutive days.
- (c) Where, in respect of a financial year, the Manager has not complied with Clause 5.1(b) above before the commencement of that financial year, the total amount of the Management Expenses for that year shall:-
  - (i) until the Manager has so complied, be deemed to be the same as the total amount of Management Expenses (if any) for the previous financial year;
  - (ii) when the Manager has so complied, be the total estimated Management Expenses specified in the annual management budget for that financial year, and the amount that the Owners shall contribute towards the Management Expenses shall be calculated and adjusted accordingly.
- (d) Where an annual management budget has been sent or displayed in accordance with Clause 5.1(b)(v) above and the Manager wishes to revise it, it shall follow the same procedures in

respect of the revised annual management budget as apply to the draft annual management budget and annual management budget by virtue of Clause 5.1(b) above.

- (e) Where a revised annual management budget is sent or displayed in accordance with Clause 5.1(d) above, the total amount of the Management Expenses for that financial year shall be the total Management Expenses or estimated Management Expenses specified in the revised annual management budget and the amount that Owners shall contribute towards the Management Expenses shall be calculated and adjusted accordingly.
- (f) If there is an Owners' Corporation and, within a period of one (1) month from the date that an annual management budget or revised annual management budget for a financial year is sent or first displayed in accordance with Clauses 5.1(b) or 5.1(d) above, the Owners' Corporation decides, by a resolution of the Owners, to reject the annual management budget or revised annual management budget, as the case may be, the total amount of Management Expenses for the financial year shall, until another annual management budget or revised annual management budget is sent or displayed in accordance with Clauses 5.1(b) or 5.1(d) above and is not so rejected under this Clause 5.1(f), be deemed to be the same as the total amount of Management Expenses (if any) for the previous financial year, together with an amount not exceeding ten per cent (10%) of that total amount as the Manager may determine.
- (g) If any Owner requests in writing the Manager to supply him with a copy of any draft annual management budget, annual management budget or revised annual management budget, the Manager shall, on payment of a reasonable copying charge, supply a copy to that person.

## **5.2 Financial Year**

The first financial year for the purpose of management of the Land and the Building or any part or parts thereof shall commence on the date hereof and shall terminate on the 31<sup>st</sup> day of December of the following year and subsequent financial years shall commence on the 1<sup>st</sup> day of January and shall terminate on the 31<sup>st</sup> day of December of that year. The financial year may be changed but only once in every five (5) years except with the prior approval of a resolutions of the Owners' Committee (if formed) upon giving notice published in the public notice boards of the Building.

## **5.3 Management Expenses**

Subject to the provisions of this Deed, the Management Expenses in the annual management budget shall include all expenditure which is to be expended for the benefit of all Owners and for the proper and efficient management and maintenance of the Land and the Building (including but not limited to the Common Areas and Facilities) and, without prejudice to the generality of the foregoing, shall include the following costs, charges and expenses:-

- (a) the expenses for management, maintenance, operation, control, improvement, renovation, decoration, ventilation, repair and cleansing of the Common Areas and Facilities and the lighting thereof;
- (b) the expenses for cultivation, irrigation and maintenance of the lawns and planters and landscaped gardens and areas on the Common Areas and Facilities;
- (c) the cost and charges for the supply and consumption of electricity, gas, air-conditioning, water, telephone and other utilities serving the Common Areas and Facilities and charges, assessments, impositions and outgoings payable in respect of the Common Areas and Facilities;
- (d) the cost and expense of inspecting, maintaining, repairing and carrying out any necessary works in respect of the foundations, columns and other structures constructed or to be constructed for the support of the Land and the Building and the drains, nullahs, sewers, pipes, watermains and channels and such other areas whether within or outside the Land serving the Building or that are required to be maintained under the Government Lease or for the proper functioning of the Building;

- (e) the remuneration and related expenses for the provision of security guard services for the Land and the Building and the cost of employing caretakers, security guards, watchmen, cleaners, lift operators and attendants and such other staff to manage and administer the Land and the Building and the Common Areas and Facilities therein and the expenses of training of the said caretakers, security guards, watchmen and such other staff employed for management of the Building;
- (f) the costs and expenses of purchasing or hiring all necessary plants, equipments, vehicles and machineries as are required for the management and maintenance of the Land and the Building;
- (g) the Government rents of the Land under the Government Lease but only if no separate assessments are made for the individual Units and the Manager decides, in its discretion, that the same shall be included as part of the Management Expenses and thereafter the Government rents (if any) in respect of the Common Areas and Facilities;
- (h) the costs and expenses of refuse collection, storage and disposal in respect of the Land and the Building and the Common Areas and Facilities;
- (i) the expenses and all sums payable under or pursuant to any Deed(s) of Grant of Easement;
- (j) the remuneration of the Manager calculated in accordance with the provisions of this Deed for providing its services hereunder;
- (k) the premia for insurance of the Land and the Building including but not limited to the Common Areas and Facilities to the full new reinstatement value against loss or damage by fire and/or other perils and of the Manager against third party or public liability and occupiers' liability and employer's liability in respect of employees employed within or exclusively in connection with the management of the Land and the Building or any other insurance policy considered necessary by the Manager;
- (l) a sum for contingencies and provisions for future deficits;
- (m) the expenses in connection with the carrying out of all or any of the duties of the Manager as set out in this Deed;
- (n) legal and accounting and surveying fees and all other professional fees properly and reasonably incurred by the Manager in carrying out the services provided by this Deed and/or in connection with the management and maintenance of the Land and the Building;
- (o) all costs incurred in connection with the Common Areas and Facilities;
- (p) any tax payable by the Manager on any of the sums held by it under the provisions of this Deed PROVIDED THAT any tax payable on the Manager's remuneration shall be borne and paid by the Manager;
- (q) the licence fees (if any) payable to the Government for laying of drains and channels which serve the Building within or under the Government land adjacent to the Land;
- (r) a sinking fund for emergencies;
- (s) the cost of operating the shuttle bus services (if any) to and from the Building;
- (t) any other costs, charges and expenses properly incurred by the Manager in the performance of any duty or in the exercise of any power under this Deed or any Deed(s) of Grant of Easement;
- (u) any other items of expenditure which are necessary for the administration, management and maintenance of the Land and the Building including but not limited to all staff, facilities, office, accountancy, professional, supervisory and clerical expenses reasonably and necessarily incurred by the Manager in respect thereof or such proportionate part thereof and for such

purposes, the Manager shall be entitled to apportion any such items of expenditure which relate to the administration and/or management and/or maintenance of the Land and the Building as well as any other land(s) and building(s) in such manner as shall be determined in the reasonable discretion of the Manager having regard to the relevant circumstances,

PROVIDED THAT

- (1) the expenditure for improvement to the Common Areas and Facilities by the Manager shall not exceed ten per cent (10%) of the current annual management budget, save with the prior approval of the Owners by passing a resolution at the meeting of the Owners convened under this Deed;
- (2) the expenditure of a capital nature for the replacement, improvement and renovation of installations, systems, equipment, tools, plant, machinery and apparatus within or forming part of the Common Areas and Facilities shall be compiled in a separate heading within the appropriate section of the annual management budget and shall be payable out of the Special Fund mentioned in Clause 5.8 of this Deed when the same is established; and
- (3)
  - (a) Subject to proviso (3)(b) and (c) below, the Manager shall not enter into any contract for the procurement of any supplies, goods or services the value of which exceeds or is likely to exceed the sum of HK\$200,000 or such other sum in substitution therefor as the Authority may specify by notice in the Gazette unless
    - (i) the supplies, goods or services are procured by invitation to tender; and
    - (ii) the procurement complies with the Code of Practice referred to in Section 20A(1) of the BMO.
  - (b) Subject to proviso (3)(c) below, the Manager shall not enter into any contract for the procurement of any supplies, goods or services the value of which exceeds or is likely to exceed a sum which is equivalent to twenty per cent (20%) of the annual management budget or such other percentage in substitution therefor as the Authority may specify by notice in Gazette unless:
    - (i) if there is an Owners' Corporation
      - (1) the supplies, goods or services are procured by invitation to tender;
      - (2) the procurement complies with the Code of Practice referred to in Section 20A(1) of the BMO; and
      - (3) whether a tender submitted for the purpose is accepted or not is decided by a resolution of the Owners passed at a general meeting of the Owners' Corporation, and the contract is entered into with the successful tenderer; or
    - (ii) if there is no Owners' Corporation
      - (1) the supplies, goods or services are procured by invitation to tender;
      - (2) the procurement complies with the Code of Practice referred to in Section 20A(1) of the BMO; and
      - (3) whether a tender submitted for the purpose is accepted or not is decided by a resolution of the Owners passed at a meeting of the Owners convened and conducted in accordance with this Deed, and the contract is entered into with the successful tenderer.

- (c) Proviso (3)(a) and (b) above do not apply to any supplies, goods or services which but for this proviso (3)(c) would be required to be procured by invitation to tender (referred to in this proviso (3)(c) as the "**relevant supplies, goods or services**")
  - (i) where there is an Owners' Corporation, if
    - (1) the relevant supplies, goods or services are of the same type as any supplies, goods or services which are for the time being supplied to the Owners' Corporation by a supplier; and
    - (2) the Owners' Corporation decides by a resolution of the Owners passed at a general meeting of the Owners' Corporation that the relevant supplies, goods or services shall be procured from that supplier on such terms and conditions as specified in the resolution, instead of by invitation to tender; or
  - (ii) where there is no Owners' Corporation, if
    - (1) the relevant supplies, goods or services are of the same type as any supplies, goods or services which are for the time being supplied to the Owners by a supplier; and
    - (2) the Owners decide by a resolution of the Owners passed at a meeting of the Owners convened and conducted in accordance with this Deed that the relevant supplies, goods or services shall be procured from that supplier on such terms and conditions as specified in the resolution, instead of by invitation to tender.
- (4) notwithstanding anything to the contrary contained in this Deed, where, in the opinion of the Manager, any expenditure relates solely to or is solely for the benefit of any Unit and no Owner of any other Unit would receive any material benefit therefrom, and the Manager considers that it is appropriate to do so under the circumstances, the Manager may decide (whose decision shall be final and binding) to require that the full amount of such expenditure shall be borne by the Owner of that Unit.

#### 5.4 **Calculation of contribution to annual management budget**

- (a) Subject to the provisions of this Deed, the annual management budget shall be divided into the following parts to the intent that:-
  - (i) The first part shall cover any expenditure which in the opinion of the Manager (whose decision shall be conclusive save for manifest error) is specifically referable to the Development Common Areas and Facilities and the Land and the Building as a whole (the "**Development Management Expenses**") PROVIDED THAT in relation to this part of the annual management budget the Manager may take into account any payments to be made and any receipts to be obtained pursuant to any Deed(s) of Grant of Easement and any agreement, contract and undertaking.
  - (ii) The second part shall cover all expenditure which in the opinion of the Manager (whose decision shall be conclusive save for manifest error) is specifically referable to the Residential Common Areas and Facilities (the "**Residential Management Expenses**").
  - (iii) The third part shall cover all expenditure which in the opinion of the Manager (whose decision shall be conclusive save for manifest error) is specifically referable to the Commercial Common Areas and Facilities for Shop C and Shop D (the "**Commercial Management Expenses for Shop C and Shop D**").



PROVIDED THAT:-

- (1) the Manager shall have the discretion on a fair and reasonable basis to break down each or any of the parts of the annual management budget into sub-budget(s) or sub-sub-budget(s) for any specific part of the Building (and the breakdown of such section or part of the annual management budget shall save for manifest error be conclusively decided by the Manager), for the purpose of differentiating between the different levels of management services available to and the use of the relevant services and facilities and areas by the Owner or Owners of Units within such specific parts and in each case, in the annual management budget next prepared by the Manager pursuant to this Deed;
  - (2) in the event that a Sub-Deed is entered into in respect of any component part of the Building and in the Sub-Deed any areas and facilities are designated as common areas and facilities, a new part of the annual management budget shall be established by the Manager such part to cover all expenditure which in the opinion of the Manager (whose decision shall be final and conclusive save for manifest error) is specifically referable to the common areas and facilities of such component part of the Building and such expenditure shall be borne by the Owners of that component part of the Building (as the case may be) in accordance with the provisions of the Sub-Deed.
- (b) Each Owner shall contribute towards the Management Expenses of the Building (including the Manager's remuneration) in such manner in such amount and in such proportion as hereinafter provided:-
- (i) Each Owner shall contribute his due proportion of the budgeted Development Management Expenses which proportion shall be equal to the Undivided Shares of his Unit divided by the total Undivided Shares of all Units (excluding the Undivided Shares of the Common Areas and Facilities);
  - (ii) Each Owner of a Residential Unit shall contribute his due proportion of the budgeted Residential Management Expenses which proportion shall be equal to the Undivided Shares of his Residential Unit divided by the total Undivided Shares of all Residential Units;
  - (iii) Each Owner of Shop C on 1/F and Shop D on 2/F shall contribute his due proportion of the budgeted Commercial Management Expenses for Shop C and Shop D which proportion shall be equal to the Undivided Shares of his Commercial Unit divided by the total Undivided Shares of Shop C on 1/F and Shop D on 2/F;
  - (iv) Where the Manager prepares sub-budgets or sub-sub-budget(s) for any specific part of the Building, only the expenses which are attributable to the specific part of the Building shall be apportioned in the manner described above and the expenses of any sub-budget or sub-sub-budget(s) (as the case may be) shall be paid by the Owners of Units covered by such a sub-budget or sub-sub-budget(s) (as the case may be) in the proportion that the Undivided Shares attributable to the Units owned by them bears to the total number of Undivided Shares allocated to all Units covered by such a sub-budget or sub-sub-budget(s) (as the case may be);
  - (v) If a Sub-Deed is entered into in respect of any component part of the Building and a new part of the annual management budget is established for that component part in accordance with proviso of Clause 5.4(a), each Owner of that component part shall in addition contribute his due proportion of the budgeted management expenses for that part in the manner provided in the Sub-Deed;
  - (vi) It is hereby expressly provided that the Owner's liability to make such payment or contribution shall in no way be reduced by reason of the fact that the Unit or such part of the Building to which he is entitled to exclusive possession is vacant or occupied and whether it has been let or leased to tenant or is occupied by the Owner himself or any other person;

PROVIDED THAT:-

- (1) notwithstanding any provisions to the contrary herein contained, if the Manager is of the opinion that the annual management budget and/or the sharing of the amounts of Management Expenses assessed under any or some parts of the annual management budget in accordance with the manner set out in the above provisions may lead to or result in any Owner or the Owners of any Unit or any part of the Building unfairly or inequitably paying some higher or lesser contributions, the Manager shall be entitled to modify any annual management budget in such manner as the Manager may in its discretion (but subject to the prior approval of the Owners' Committee (if formed) and subject to compliance with the procedures applicable to the draft annual management budget, the annual management budget and the revised annual management budget) think fit (whether by creating new parts or abolishing existing parts of the annual management budget or otherwise) and to prepare new annual management budget in the modified manner as aforementioned and/or to vary or modify the manner of sharing the amounts of Management Expenses assessed under any or some parts of the annual management budget by the relevant Owners in such way as the Manager may in its discretion (but in consultation with the Owners' Committee (if formed)) think fit and the modified annual management budget and the modified manner of sharing the Management Expenses shall be binding (save for manifest error) on all Owners; and
- (2) the Manager's determination of the amount of contribution payable by each Owner as aforesaid shall (in the absence of manifest error) be conclusive and binding on all Owners.

**5.5 Revision to annual management budget**

- (a) Without prejudice to anything herein contained, in the event of the Manager finding at any time that the annual management budget is insufficient to cover all expenditure or in the event of a deficiency occurring or seeming to the Manager likely to occur or if there shall be any change in circumstances which in the opinion of the Manager (whose decision shall be binding and conclusive save for manifest error) require any revision to the annual management budget, the Manager may at any time during the financial year subject to Clause 5.5(b) below, prepare a revised annual management budget and once completed shall have the same reviewed by the Owners' Committee (only if and when it has been formed) and the provisions of Clauses 5.1 to 5.4 shall apply mutatis mutandis to the revised annual management budget as to the annual management budget. A revised annual management budget may be further revised as often as may be necessary in the manner as aforesaid. The surplus (if any) shall be applied towards the Management Expenses of the Land and the Building.
- (b) The Manager shall also have the power, in the event of a revised management budget completed pursuant to and in accordance with Clause 5.5(a) above, to add to the amount to be contributed monthly by any Owner such additional amount as shall be necessary to meet revised estimated management expenditure in any accounting year to the intent that any such amount shall form part of the monthly contribution of such Owner to the management expenses and be recoverable accordingly.

**5.6 Excluded Expenses**

Notwithstanding anything herein contained and for the avoidance of any doubt, the Management Expenses payable by the Owners in accordance with this Deed shall not include:-

- (a) Any sum attributable or relating to the cost of completing the construction of the Land and the Building or any part thereof which sums shall be borne solely by the First Owner;
- (b) All existing and future Government rents (if apportioned or separately assessed), taxes, rates, assessments, property tax, water rates (if separately metered) and outgoings of every description

for the time being payable in respect of any Unit which shall be borne by the Owner for the time being thereof;

- (c) The expenses for keeping in good and tenable repair and condition the interior fixtures and fittings, windows, sealant of the windows, balustrades and railings of the balconies, flat roofs and roofs, platform(s) designated for placing air-conditioner(s) and doors of any part of the Building together with the plumbing, electrical installations, plant, equipment, apparatus or services thereof not forming part of the Common Areas and Facilities which shall be borne solely by the Owner or Owners for the time being thereof.

#### **5.7 Undivided Shares held by Manager not liable to contribute to Management Expenses**

- (a) Notwithstanding anything herein contained, where the Manager or the Owners' Corporation acquires Undivided Shares of and in the Land and the Building (including those relating to the Common Areas and Facilities) as trustee for all the Owners pursuant to the provisions of the Government Lease or this Deed, then such Undivided Shares and the Units held therewith shall be exempted from contributing to Management Expenses as provided in this Deed.
- (b) The Undivided Shares allocated to the Common Areas and Facilities will not carry any liability to pay charges under this Deed or any voting rights at any meeting whether under this Deed, the BMO or otherwise nor will those Undivided Shares be taken into account for the purpose of calculating the quorum of any meeting.

#### **5.8 Establishment and Maintenance of Special Fund**

- (a) For the purpose of paragraph 4 of Schedule 7 to the BMO, there shall be established and maintained by the Manager one Special Fund with the following separate accounts for different component parts of the Common Areas and Facilities :-
  - (i) A separate account of the Special Fund designated for the Development Common Areas and Facilities towards payment of expenditure of a capital nature or of a kind not expected by the Manager to be incurred annually relating to the Development Common Areas and Facilities, which includes but is not limited to, expenses for the renovation, improvement and repair of the Development Common Areas and Facilities and the setting up of the management office, the purchase, setting up, replacement, improvement and addition of installations, systems, equipment, tools, plants and machineries and apparatus for the Development Common Areas and Facilities and the costs of the relevant investigation works and professional services. This part of the Special Fund shall be held by the Manager as trustee for all Owners for the time being and such fund shall not be refundable or transferable.
  - (ii) A separate account of the Special Fund designated for the Residential Common Areas and Facilities towards payment of expenditure of a capital nature or of a kind not expected by the Manager to be incurred annually relating to the Residential Common Areas and Facilities, which includes but is not limited to, expenses for the renovation, improvement and repair of the Residential Common Areas and Facilities, the purchase, setting up, replacement, improvement and addition of installations, systems, equipment, tools, plant and machineries for the Residential Common Areas and Facilities and the costs of the relevant investigation works and professional services. This part of the Special Fund shall be held by the Manager as trustee for the Owners of all Residential Units for the time being and such fund shall not be refundable or transferable.
  - (iii) A separate account of the Special Fund designated for the Commercial Common Areas and Facilities for Shop C and Shop D towards payment of expenditure of a capital nature or of a kind not expected by the Manager to be incurred annually relating to the Commercial Common Areas and Facilities for Shop C and Shop D, which includes but is not limited to, expenses for the renovation, improvement and repair of the Commercial Common Areas and Facilities for Shop C and Shop D, the purchase,

setting up, replacement, improvement and addition of installations, systems, equipment, tools, plant and machineries for the Commercial Common Areas and Facilities for Shop C and Shop D and the costs of the relevant investigation works and professional services. This part of the Special Fund shall be held by the Manager as trustee for the Owners of Shop C on 1/F and Shop D on 2/F for the time being and such fund shall not be refundable or transferable.

- (b) Except where the First Owner has made payments in accordance with sub-Clause (c) below,
  - (i) each Owner shall before he is given possession of his Unit by or upon completion of the purchase of his Unit from the First Owner, whichever shall be the earlier, deposit with the Manager a sum equivalent to two (2) months' contribution towards the Management Expenses payable in respect of his Unit based on the first year's budgeted Development Management Expenses as an initial contribution to the Special Fund.
  - (ii) each Owner shall before he is given possession of his Residential Unit by or upon completion of the purchase of his Residential Unit from the First Owner, whichever shall be the earlier, deposit with the Manager a sum equivalent to two (2) months' contribution towards the Management Expenses payable in respect of his Residential Unit based on the first year's budgeted Residential Management Expenses as an initial contribution to the Special Fund.
  - (iii) each Owner of Shop C on 1/F and Shop D on 2/F shall before he is given possession of his Commercial Unit by or upon completion of the purchase of his Commercial Unit from the First Owner, whichever shall be the earlier, deposit with the Manager a sum equivalent to two (2) months' contribution towards the Management Expenses payable in respect of his Commercial Unit based on the first year's budgeted Commercial Management Expenses for Shop C and Shop D as an initial contribution to the Special Fund.
- (c) The First Owner shall in respect of any Unit remaining unsold after three (3) months from the date of this Deed deposit with the Manager a sum equivalent to two (2) months' contribution towards the Management Expenses based on the first annual management budget as an initial contribution to the Special Fund in respect of such unsold Unit. For the purpose of this sub-Clause (c), a Unit shall be considered as remaining unsold where no assignment has been executed by the First Owner in respect of such Unit.
- (d) Each Owner shall also on demand pay to the Manager for the ensuing years such further sum as his contributions to the Special Fund in such amounts and at such time as shall be determined and approved by a resolution of the Owners at a meeting of the Owners convened under this Deed having regard to the reasonable recommendation by the Manager.
- (e) If there is an Owners' Corporation, the Owners' Corporation shall determine, by a resolution of the Owners, the amount to be contributed to the Special Fund by the Owners in any financial year, and the time when those contributions shall be payable.
- (f) The Manager shall open and maintain at a bank within the meaning of Section 2 of the Banking Ordinance (Cap.155 of the Laws of Hong Kong) an interest-bearing account, the title of which shall refer to the Special Fund for the Building, and the Manager shall use that account exclusively for the purpose referred to in sub-Clause (a) above.
- (g) Without prejudice to the generality of sub-Clause (f) above, if there is an Owners' Corporation, the Manager shall open and maintain one or more segregated interest-bearing accounts, each of which shall be designated as a trust account or client account, for holding money received by it from or on behalf of the Owners' Corporation in respect of the Special Fund.
- (h) The Manager shall display a document showing evidence of any account opened and maintained under sub-Clause (f) or (g) in a prominent place in the Building.

- (i) The Manager shall without delay pay all money received by the Manager in respect of the Special Fund into the account opened and maintained under sub-Clause (f) above; or if there is an Owners' Corporation, the account opened and maintained under sub-Clause (g) above.
- (j) Except as herein provided or in a situation considered by the Manager to be an emergency, no money shall be paid out of the Special Fund unless it is for a purpose approved by a resolution of the Owners' Committee (if any). For the avoidance of doubt, the Manager shall not use the Special Fund or any part or parts thereof for the payment of any outstanding Management Expenses arising from or in connection with the day-to-day management of the Building.

#### **5.9 Management fee deposit and debris removal fee**

- (a) Each Owner (save and except the First Owner but subject as provided in sub-Clause (b) below) shall before he is given possession of his Unit by or upon completion of the purchase of his Unit from the First Owner, whichever shall be the earlier:-
  - (i) deposit with the Manager as security for the due payment of all amounts which may be or become payable by him under this Deed a sum equal to three (3) months' contribution towards the Management Expenses payable in respect of his Unit based on the first annual management budget which said sum shall be non-refundable but transferable and shall not be set off against any contribution payable by him under this Deed;
  - (ii) pay to the Manager the whole or a due proportion (being the same proportion as the number of Undivided Shares allocated to his Unit bears to the total number of Undivided Shares of all Units in the Building) of all water meter deposits and electricity deposits and all utility and other deposits which have already been paid in respect of his Unit and/or in respect of the Common Areas and Facilities;
  - (iii) pay to the Manager a non-refundable sum not more than one (1) month's contribution towards the Management Expenses payable in respect of his Unit based on the first annual management budget as shall be specified by the Manager as a debris removal fee. Any such fee received by the Manager which is not used for debris removal or special cleaning and clearing shall be credited to the Special Fund; and
  - (iv) pay to the Manager a sum equivalent to two (2) months' contribution towards the Management Expenses payable in respect of his Unit based on the first annual management budget on account of payment by him of the first two (2) months' management fees in advance.
- (b) The First Owner shall in respect of any Unit remaining unsold after three (3) months from the date of this Deed, whichever is the later:-
  - (i) deposit with the Manager as security for the due payment of all amounts which may be or become payable by him under this Deed a sum equal to three (3) months' contribution towards the Management Expenses payable in respect of such unsold Unit based on the first annual management budget, which deposit shall not be set off against any contribution payable by it under this Deed;
  - (ii) pay to the Manager the whole or a due proportion (being the same proportion as the number of Undivided Shares allocated to such unsold Units bears to the total number of Undivided Shares of all Units (excluding the Undivided Shares of the Common Areas and Facilities)) of all water meter deposits and electricity deposits and all utility and other deposits which have already been paid in respect of such unsold Units and/or in respect of the Common Areas and Facilities;
  - (iii) pay to the Manager a non-refundable sum not more than one (1) month's contribution towards the Management Expenses payable in respect of such unsold Unit based on the first annual management budget as shall be specified by the Manager as debris



removal fee PROVIDED THAT such sum paid by the First Owner under this paragraph (iii) shall be transferable by the First Owner to its assignees. Any such fees received by the Manager which is not used for debris removal or special cleaning or clearing shall be credited to the Special Fund.

For the purpose of this sub-Clause (b), a Unit shall be considered as remaining unsold where no assignment has been executed by the First Owner in respect of such Unit.

- (c) Each Owner shall also on demand pay to the Manager such additional amount as may be necessary to increase the deposit as security for payment of sums due under this Deed to a sum equivalent to three (3) months' contribution towards the Management Expenses under any current annual management budget payable in respect of his part or parts of the Building.
- (d) Notwithstanding the foregoing (and without prejudice to the rights of the Manager generally under this Deed), the Manager shall have the right to set off the deposit against any sums payable by an Owner under this Deed. The Manager shall be under no obligation to exercise such right of set off and, in any proceedings by the Manager against an Owner in respect of a payment default, such Owner shall have no right to require the Manager to mitigate its loss by exercising its right of set-off prior to its exercising its other rights under this Deed in respect of such default. If the Manager has exercised its right of set-off under this Clause, it shall have the right to require the relevant Owner or his successor in title to replenish the deposit to an amount equivalent to three (3) months' contribution towards the Management Expenses payable in respect of the relevant part of the Building which he owns based on the current annual budget.

#### **5.10 Payment of monthly contribution to Management Expenses**

- (a) The Management Expenses payable in respect of a Unit up to and inclusive of the date of the assignment of such Unit by the First Owner shall be borne and paid by the First Owner.
- (b) Payments of contribution to the Management Expenses and other contributions under this Deed shall normally be made by each Owner in advance on the first day of each calendar month but this shall not interfere with the Manager's discretion to call for any particular payment or contribution to be made on any other day or days it may deem necessary or desirable.

#### **5.11 Manager's discretion in respect of contribution to Management Expenses**

Notwithstanding anything contained in this Deed, the Manager shall be entitled in its absolute discretion:-

- (a) with the agreement of the Owner concerned of any Unit to levy and to retain an additional charge against such Owner in respect of services rendered by the Manager to the Owner or occupier of that Unit beyond what is provided for in this Deed PROVIDED THAT such charge shall form part of the Special Fund.
- (b) To charge the Owner concerned a reasonable sum as consideration for granting and processing any consent required from the Manager pursuant to this Deed (irrespective of whether such consent is eventually granted or withheld by the Manager) PROVIDED THAT such consideration shall form part of the Special Fund.
- (c) To give to any Owner a refund of or exempt any Owner from paying part of the charges payable by such Owner under this Deed in the event of the Owner, with the prior authorisation or permission of the Manager and the Owners' Committee (if formed), doing or performing any of the functions or duties of the Manager hereunder.

#### **5.12 Manager's right to collect payment from other occupiers of the Building**

The Manager may collect from licensees, tenants and other occupiers of any part of the Land and the Building not otherwise required to pay management contribution under this Deed, such sum or sums as the Manager shall in his absolute discretion determine as contribution towards the Management Expenses and such sum or sums collected shall form part of the Special Fund.

### 5.13 **Enforcement by Manager**

#### (a) **Interest and collection charge on late payment**

If any Owner shall fail to pay the Manager any amount payable hereunder within thirty (30) days from the date of demand for payment of such amount, he shall further pay to the Manager:-

- (i) Interest calculated at a rate of two per cent (2%) per annum above the prime rate from time to time specified by The Hongkong and Shanghai Banking Corporation Limited in respect of any payment in arrears and such interest shall be payable from the due date until payment; and
- (ii) A collection charge of an amount not exceeding ten per cent (10%) of the amount due to cover the cost (in addition to legal costs of proceedings as hereinafter mentioned) of the extra work occasioned by the default.

PROVIDED THAT all monies paid to the Manager by way of interest or collection charges shall form part of the Special Fund.

#### (b) **Civil Action taken by Manager**

All amounts which become payable by any Owner in accordance with the provisions of this Deed together with interest thereon as aforesaid and the said collection charge and all damages claimed for breach of any of the provisions of this Deed and legal cost and all other expenses incurred in or in connection with recovering or attempting to recover the same (on a solicitor and client basis) shall be recoverable by civil action at the suit of the Manager (and the claim in any such action may include a claim for the costs of the Manager in such action on a full indemnity basis and the defaulting Owner shall in addition to the amount claimed in such action be liable for such costs). In any such action the Manager shall conclusively be deemed to be acting as the agent for and on behalf of the Owners (except the defaulting Owner) as a whole and no Owner sued under the provisions of this Deed shall raise or be entitled to raise any defence of want of authority or take objection to the right of the Manager as plaintiff to sue or to recover such amounts as may be found to be due.

#### (c) **Registration of Charge against shares of defaulting Owner**

In the event of any Owner failing to pay any sum due and payable by him in accordance with the provisions of this Deed or failing to pay any damages awarded by any court for breach of any of the terms or conditions of this Deed within thirty (30) days from the date of demand, the amount thereof together with interest and the collection charge at the rate and for the amount as specified in Clause 5.13(a) hereof together with all costs and expenses which may be incurred in recovering or attempting to recover the same including the legal expenses referred to in Clause 5.13(b) hereof and in registering the charge hereinafter referred to shall stand charged on the Undivided Shares of the defaulting Owner and the Unit held therewith and the Manager shall be entitled without prejudice to any other remedy hereunder to register a Memorial of such charge in the Land Registry against the Undivided Shares of the defaulting Owner and the Unit held therewith. Such charge shall remain valid and enforceable as hereinafter mentioned notwithstanding that judgment has been obtained for the amount thereof unless and until such judgment has been satisfied in full.

#### (d) **Order for Sale**

Any charge registered in accordance with Clause 5.13(c) hereof shall be enforceable as an equitable charge by action at the suit of the Manager for an order for sale of the Undivided Shares of the defaulting Owner together with the right to the exclusive use, occupation and enjoyment of the part of the Land and the Building held therewith and the provisions of Clause 5.13(b) of this Deed shall apply equally to any such action.

(e) **Proceedings to enforce this Deed and House Rules**

The Manager shall without prejudice to anything herein mentioned further have power to commence proceedings for the purpose of enforcing the observance and performance, by any Owner and any person occupying any part of the Land and the Building through, under or with the consent of any such Owner, of the covenants, conditions and provisions of this Deed binding on such Owner and of the House Rules made hereunder and of recovering damages for the breach, non-observance or non-performance thereof. The provisions of Clause 5.13(b) above shall apply to all such proceedings.

5.14 **Application of insurance money etc.**

Subject to Clause 9.1 of this Deed, all insurance money, compensation or damages recovered by the Manager in respect of any damage or loss suffered in respect of any part of the Land and the Building shall be expended by the Manager in the repair, rebuilding or reinstatement of that part of the Land and the Building and any surplus thereof shall form part of the Special Fund.



## SECTION VI

### SPECIAL FUND, ACCOUNTS ETC.

#### **6.1 Owners' interest in funds held by Manager**

Any person ceasing to be the Owner of any Undivided Share or Shares in the Land and the Building shall in respect of the Undivided Share or Shares of which he ceases to be the Owner thereupon cease to have any interest in the funds held by the Manager including the deposits paid under Clause 5.9 and his contributions towards the Special Fund paid under Clause 5.8 of this Deed to the intent that all such funds shall be held and applied for the management and maintenance of the Land and the Building irrespective of changes in ownership of the Undivided Shares in the Land and the Building PROVIDED THAT any deposits as security for the payment of sums due hereunder or the balance thereof paid under Clause 5.9 may be transferred into the name of the new Owner of such Undivided Shares and PROVIDED FURTHER THAT upon the Land reverting to the Government and no further government lease or land grant being obtainable, any balance of the said funds held by the Manager shall be divided proportionately between Owners contributing to the Management Expenses immediately prior to such reversion, or in the case of extinguishment of rights and obligations as provided in Clause 9.1 hereof, an appropriate part of the said funds shall be divided proportionately between Owners whose rights and obligations are extinguished in proportion to their Undivided Shares.

#### **6.2 Summary of Income and Expenditure**

- (a) The Manager shall open and maintain an interest-bearing account in the name of the Manager and to be held on trust by the Manager for and on behalf of all the Owners for the time being of the Land and the Building and the Manager shall use that account exclusively in respect of the management of the Land and the Building.
- (b) Without prejudice to the generality of Clause 6.2(a) above, if there is an Owners' Corporation, the Manager shall open and maintain one or more segregated interest-bearing accounts, each of which shall be designated as a trust account or client account, for holding money received by him from or on behalf of the Owners' Corporation in respect of the management of the Building.
- (c) The Manager shall display a document showing evidence of any account opened and maintained under Clause 6.2(a) and (b) in a prominent place in the Building.
- (d) Subject to Clauses 6.2(e) and 6.2(f) below, the Manager shall without delay pay all money received by the Manager in respect of the management of the Land and the Building into such interest-bearing account maintained under Clause 6.2(a) or, if there is an Owners' Corporation, the account opened and maintained under Clause 6.2(b) above.
- (e) Subject to Clause 6.2(f) below, the Manager may, out of money received by the Manager in respect of the management of the Land and the Building, retain or pay into a current account a reasonable amount to cover expenditure of a minor nature, but that amount shall not exceed such figure as is approved or determined from time to time by a resolution of the Owners' Committee (if the same has been established).
- (f) The retention of a reasonable amount of money under Clause 6.2(e) above or the payment of that amount into a current account in accordance with Clause 6.2(e) and any other arrangement for dealing with money received by the Manager shall be subject to such conditions as may be approved by a resolution of the Owners' Committee (if the same has been established).
- (g) Any reference in this Clause 6.2 to an account is a reference to an account opened with a bank within the meaning of Section 2 of the Banking Ordinance (Cap.155 of the Laws of Hong Kong), the title of which refers to the management of the Land and the Building.
- (h) The Manager shall maintain proper books or records of account and other financial records of all receipts and all payments made to and all expenditure incurred by the Manager in the exercise of its powers and duties hereunder and shall keep all bills, invoices, vouchers, receipts and other

documents referred to in those books and records for at least six (6) years. In addition, within one (1) month after each consecutive period of three (3) months, or such shorter period as the Manager may select, the Manager shall prepare a summary of income and expenditure and a balance sheet in respect of that period, display a copy of the summary of income and expenditure and balance sheet in a prominent place in the Building and cause it to remain so displayed for at least seven (7) consecutive days.

### **6.3 Audit of annual accounts**

- (a) Within two (2) months after the end of each financial year, the Manager shall prepare an income and expenditure account and balance sheet for that year, display a copy of the income and expenditure account and balance sheet in a prominent place in the Building, and cause it to remain so displayed for at least seven (7) consecutive days.
- (b) Each income and expenditure account and balance sheet shall be certified by a firm of certified public accountants appointed by the Manager and shall provide an accurate summary of all items of income and expenditure during that financial year including details of the Special Fund and an estimate of the time when there will be a need to draw on the Special Fund, and the amount of money that will be then needed.
- (c) Prior to the formation of the Owners' Corporation, the Manager shall upon request of the Owners at an Owners' meeting appoint an accountant or some other independent auditor nominated by the Owners at the said meeting to audit any income and expenditure account and balance sheet prepared by the Manager as aforesaid.
- (d) If there is an Owners' Corporation and the Owners' Corporation decides, by a resolution of the Owners, that any income and expenditure account and balance sheet prepared by the Manager as aforesaid should be audited by an accountant or by some other independent auditor as may be specified in that resolution, the Manager shall without delay arrange for such an audit to be carried out by that person and
  - (i) permit any Owner, at any reasonable time, to inspect the audited income and expenditure account and balance sheet and the report made by the accountant or auditor in respect of the income and expenditure account and balance sheet; and
  - (ii) on payment of a reasonable copying charge, supply any Owner with a copy of the audited income and expenditure account and balance sheet, or the report made by the accountant or auditor in respect of the income and expenditure account and balance sheet, or both, as requested by the Owner.

### **6.4 Inspection of accounts**

The Manager shall:-

- (a) upon reasonable notice being given by any Owner permit any Owner, at any reasonable time, to inspect the books or records of account and any income and expenditure account or balance sheet prepared pursuant to this Deed; and
- (b) on payment of a reasonable copying charge, supply any Owner with a copy of any record or document requested by him.

## **SECTION VII**

### **OWNERS' COMMITTEE**

#### **7.1 First Meeting**

Within nine (9) months of the execution of this Deed, the Manager shall convene a meeting of the Owners to establish an Owners' Committee and to elect a chairman thereof or to establish a management committee for the purpose of forming the Owners' Corporation.

#### **7.2 Constitution**

The Owners' Committee shall consist of not less than three (3) and not more than five (5) persons and in the appointment or election of the members to the Owners' Committee, provided that :-

- (a) not less than two (2) members shall be elected from persons who are Owners of the Residential Units; and
- (b) not more than one (1) member shall be elected from persons who are Owners of the Commercial Unit(s).

#### **7.3 Meetings**

The Owners' Committee shall meet at such times as occasion shall require and in any event not less than once a year.

#### **7.4 Functions**

The functions of the Owners' Committee shall be limited to the following:-

- (a) The representing of the Owners in all dealings with the Manager;
- (b) The undertaking of such other duties as the Manager may, with their approval, delegate to them;
- (c) The reviewing of the draft annual management budget, annual management budget and revised annual management budget prepared by the Manager;
- (d) The reviewing and approval of the House Rules made from time to time by the Manager;
- (e) The liaising with the Manager in respect of all matters concerning the management of the Land and the Building;
- (f) The appointment of accountants for audit of the annual accounts prepared by the Manager;
- (g) To convene meetings of all the Owners;
- (h) To act as the Manager during such period as no Manager is appointed;
- (i) To appoint a manager to take the place of the Manager in accordance with the provisions of Clause 4.3 hereof; and
- (j) The exercise of all other powers and duties conferred on the Owners' Committee by virtue of this Deed.

#### **7.5 Eligibility**

The following persons shall be eligible for membership of the Owners' Committee:-

- (a) Any Owner and, in the event of an Owner being a corporate body, any representative appointed by such Owner. The appointment of a representative by a corporate body shall be in writing addressed to the Owners' Committee and may be revoked and another appointment made at any time on notice in writing being given to the Owners' Committee in the same manner;
- (b) The husband or wife of any Owner or any adult member of the family of any Owner duly authorised by the Owner which authorisation shall be in writing addressed to the Owners' Committee and may be revoked at any time on notice in writing being given to the Owners' Committee in the same manner,

PROVIDED THAT not more than one person from a Unit may stand for election or be appointed as a committee member of the Owners' Committee.

#### **7.6 Member continues in office**

If at any annual general meeting at which an appointment or election of a member should take place, the office of the retiring member is not filled, or if in any year no annual general meeting is held, the member shall continue in office until the next annual general meeting.

#### **7.7 Owners' Committee continues to act**

Provided a quorum exists, the Owners' Committee shall be entitled to act notwithstanding that the number of its members falls below the maximum allowed or that for any reason less than the maximum allowed number of members are elected in the manner herein provided, PROVIDED THAT if the number is reduced below three (3), the remaining member(s) of the Owners' Committee may act for the purpose only of calling for a meeting of the Owners to elect member(s) of the Owners' Committee to fill in the vacancy.

#### **7.8 Cessation of Office of Members**

The chairman and every member of the Owners' Committee shall retire from office at the next annual general meeting following his appointment or election but shall be eligible for re-appointment or re-election but subject to this he shall hold office until:-

- (a) he resigns by notice in writing to the Owners' Committee; or
- (b) in the case of an elected member, he ceases to be eligible or is not re-elected at the meeting of Owners at which he stands for re-election; or
- (c) he becomes bankrupt or insolvent or enters into a composition with his creditors or is convicted of a criminal offence other than a summary offence not involving his honesty or integrity; or
- (d) he becomes incapacitated by physical or mental illness or death; or
- (e) in the case of an elected member he is removed from office by the Owners whom he represents by ordinary resolution of a duly convened meeting of such Owners or in the case of an appointed member he is removed from office by notice to that effect to the Owners' Committee given by the Owners who have the right to appoint him; or
- (f) he or the person appointing or authorising him ceases to be an Owner of the Undivided Shares; or
- (g) he resides abroad.

In any of the events provided for in sub-clauses (a), (c), (d), (e) or (f) above, the Manager shall convene a meeting of the Owners who have elected the member concerned to fill the casual vacancy thereby created if the member concerned is an elected member, and the Owners who are entitled to appoint the member concerned shall have the right to fill the casual vacancy thereby created if the member concerned is an appointed member.

**7.9 Annual Meeting**

The Owners' Committee shall meet at the requisition of the chairman or any two members of the Owners' Committee or whenever requested by the Manager PROVIDED THAT not less than one such meeting shall be held once in each calendar year commencing with the year following the date of this Deed for the purpose of reviewing the Manager's management budget and transacting any other business of which due notice is given in the notice convening the meeting.

**7.10 Notice of Meeting**

- (a) The person or persons convening the meeting of the Owners' Committee shall, at least 7 days before the date of the meeting, give notice of the meeting to each member of the Owners' Committee.
- (b) The notice of meeting referred to in Clause 7.10(a) shall specify:-
  - (i) the date, time and place of the meeting; and
  - (ii) the resolutions (if any) that are to be proposed at the meeting.
- (c) The notice of meeting referred to Clause 7.10(a) may be given:-
  - (i) by delivering it personally to the member of the Owners' Committee;
  - (ii) by sending it by post to the member of the Owners' Committee at his last known address; or
  - (iii) by leaving it at the member's Unit or depositing it in the letter box for that Unit.

**7.11 Transaction of business**

No business shall be transacted at any time by the Owners' Committee unless a quorum is present when the meeting proceeds to business and 50% of the members of the Owners' Committee (rounded up to the nearest whole number) or 3 such members, whichever is the greater, shall be a quorum. If within half an hour for the time appointed for the meeting a quorum is not present, the meeting if convened upon the requisition of members of the Owners' Committee, shall be dissolved; if convened by the Manager, it shall stand adjourned to the same day in the next week at the same time and place, and, if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members of the Owners' Committee present shall be a quorum.

**7.12 Chairman**

The members present at the first meeting of the Owners' Committee shall choose one of their members to be the chairman and he shall be chairman until the next annual general meeting. Thereafter the chairman shall be chosen by the members of the Owners' Committee at the first meeting of the Owners' Committee held in any calendar year. A meeting of the Owners' Committee shall be presided by the chairman or in the absence of the chairman, the members present at any meeting duly convened shall choose one of their members to be the chairman of that meeting.

**7.13 Power to make rules**

- (a) The Owners' Committee shall have full power from time to time to make and compile rules and regulations governing:-
  - (i) the convening, conduct and procedure of meetings of the Owners, the Owners' Committee and any sub-committees thereof;

- (ii) the establishment, appointment and constitution of sub-committees of the Owners' Committee;
- (iii) the conduct of the ballot for the election or re-election of Owners as members of the Owners' Committee;
- (iv) all other matters to regulate the meetings of the Owners, the Owners' Committee and any sub-committees thereof and to facilitate the transaction of business thereat;

PROVIDED THAT no such rules or regulations shall be contrary to or inconsistent with the provisions of this Deed.

- (b) The Manager shall appoint a representative to represent the Manager in all its business and dealings with the Owners' Committee and such representative may act as a secretary to the Owners' Committee who may attend all meetings of the Owners' Committee but not to vote thereat and who if requested by the Owners' Committee shall cause a record of the persons present at the meetings of the Owners' Committee and the proceedings thereof to be kept.

#### **7.14 Resolutions**

The following provisions shall apply in all meetings of the Owners' Committee:-

- (a) All resolutions passed by a simple majority of votes at such meeting shall be binding on all the Owners but no such resolution shall be valid if it concerns any other matter not being the subjects contained in the notice convening the meeting or if it is contrary to the provisions of this Deed.
- (b) A resolution put to the vote of the meeting shall be decided on a show of hands only.
- (c) On a show of hands every member of the Owners' Committee present at the meeting shall have one vote.
- (d) In the case of an equality of votes the chairman shall have a second or casting vote.

#### **7.15 Liability of the Owner's Committee**

The Owners' Committee and the members thereof shall not be liable to the Owners or any of them or to any person or persons whomsoever whether claiming through, under or in trust for any Owner or otherwise, for or in respect of any act, deed, matter or thing done or omitted in pursuance or in purported pursuance of the provisions of this Deed not being anything involving criminal liability or dishonesty or gross negligence or wilful act by or on the part of any or all of the members of the Owners' Committee, and the Owners shall fully and effectually indemnify the Owners' Committee from and against all actions, proceedings, claims and demands whatsoever arising directly or indirectly out of or in connection with any act, deeds, matter or thing done or omitted as aforesaid which does not involve criminal liability or dishonesty or gross negligence or wilful act on the part of the Owners' Committee or the members thereof and all costs and expenses in connection therewith.

#### **7.16 Remuneration**

No remuneration shall be payable to the Owners' Committee or any member thereof but such members shall be entitled to be reimbursed for all out-of-pocket expenses necessarily incurred in carrying out their duties.

#### **7.17 Minutes and Records**

- (a) The Owners' Committee shall cause to be kept records and minutes of:-
  - (i) the appointment and election and vacation of appointments of all its members, chairman and secretary and all changes therein;

- (ii) all resolutions and notes of proceedings of the Owners' Committee;
  - (iii) the members present at all meetings.
- (b) Such records and minutes shall be kept in such place as the Owners' Committee may from time to time determine and shall be open to inspection by any Owner on reasonable notice being given and such Owner shall also be entitled to extracts thereof on paying the reasonable copying charges therefor.

**7.18 Formation of Sub-committees**

Nothing herein contained shall prevent the Owners' Committee from forming sub-committees for the welfare of the Owners and the occupiers of the Building or to co-opt members who are not members of the Owners' Committee to serve on such sub-committees.

**7.19 Procedure**

- (a) The procedure at meetings of the Owners' Committee shall be as is determined by the Owners' Committee.
- (b) Subject to the provisions in Schedule 7 to the BMO, the procurement of supplies, goods or services by the Owners' Committee that involves an amount in excess of or likely to be in excess of HK\$200,000 (or such other sum as the Secretary for Home Affairs may specify by notice in the Gazette) or an amount which is or is likely to be more than 20% of the annual management budget (or such other percentage as the Secretary for Home Affairs may specify by notice in the Gazette), whichever is the lesser, must be by invitation to tender and the standards and guidelines as may be specified in the Code of Practice referred to in Section 20A of the BMO will apply to the Owners' Committee with any appropriate variation.

## SECTION VIII

### MEETING OF OWNERS

#### **8.1 Owners' Meeting**

From time to time as occasion may require there shall be meetings of the Owners to discuss and decide matters concerning the Land and the Building and the first of such meeting of the Owners shall be convened by the Manager as soon as possible but not later than nine (9) months after the date of this Deed, to appoint a Chairman and the Owners' Committee or a management committee for the purpose of forming an Owners' Corporation under the BMO. For the purpose of this Section VIII, unless otherwise expressly stated, any reference to "Owner" or "Owners" shall exclude the Owner(s) of the Common Areas and Facilities. In regard to such Owners' meetings the following provisions shall apply:-

- (a) A meeting of the Owners may be convened by:
  - (i) the Owners' Committee;
  - (ii) the Manager; or
  - (iii) an Owner appointed to convene such a meeting by the Owners who in aggregate have vested in them for the time being not less than five per cent (5%) of the total number of Undivided Shares excluding the Undivided Shares allocated to the Common Areas and Facilities.
- (b) The person convening the meeting of the Owners shall, at least fourteen (14) days before the date of the meeting, give notice of the meeting to each Owner. Such notice of meeting shall specify:
  - (i) the date, time and place of the meeting; and
  - (ii) the resolutions (if any) that are to be proposed at the meeting.
- (c) The notice of meeting referred to in Clause 8.1(b) may be given:-
  - (i) by delivering it personally to the Owner;
  - (ii) by sending it by post to the Owner at his last known address; or
  - (iii) by leaving it at the Owner's Unit or depositing it in the letter box for that Unit.
- (d)
  - (i) No business shall be transacted at any meeting unless a quorum is present when the meeting proceeds to business and 10% of the Owners present in person or by proxy shall be a quorum. If there is no quorum at any time within thirty (30) minutes from the time appointed for the meeting, such meeting shall be adjourned to the same time and day in the following week at the same place and if there is no quorum at such adjourned meeting, the Owner(s) and the representative of the Manager present at such adjourned meeting shall constitute a quorum.
  - (ii) For the purposes of Clause 8.1(d)(i) above, the reference to "10% of the Owners" shall:
    - (1) be construed as a reference to 10% of the number of persons who are Owners without regard to their ownership of any particular percentage of the total number of shares into which the Building is divided; and
    - (2) not be construed as the Owners of 10% of the Undivided Shares in aggregate.



- (e) A meeting of the Owners shall be presided over by the chairman of the Owners' Committee or, if the meeting is convened under Clause 8.1(a)(ii) or (iii), the person convening the meeting.
- (f) The chairman shall cause a record to be kept of the persons present at the meeting and the proceedings thereof.
- (g) At a meeting of the Owners:-
  - (i) an Owner shall have one vote in respect of each Undivided Share he owns;
  - (ii) an Owner may cast a vote personally or by proxy;
  - (iii) where 2 or more persons are the co-Owners of an Undivided Share, the vote in respect that Undivided Share may be cast:-
    - (1) by a proxy jointly appointed by the co-Owners;
    - (2) by a person appointed by the co-Owners from among themselves; or
    - (3) if no appointment is made under sub-paragraph (1) or (2), either by one of the co-Owners personally or by a proxy appointed by one of the co-Owners.
  - (iv) where 2 or more persons are the co-Owners of an Undivided Share and more than one of the co-Owners seeks to cast a vote in respect of the Undivided Share, only the vote that is cast, whether personally or by proxy, by the co-Owner whose name, in order of priority, stands highest in relation to that Undivided Share in the register kept at the Land Register shall be treated as valid; and
  - (v) if there is an equality of votes, the person presiding over the meeting shall have, in addition to a deliberative vote, a casting vote.
- (h) In regard to the election, re-election or the removal from office of a member of the Owners' Committee or of the chairman of the meeting, votes shall be cast, if so demanded by any Owner, by means of a secret ballot supervised by the Manager.
- (i) (i) An instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A to the BMO, and
  - (1) shall be signed by the Owner; or
  - (2) if the Owner is a body corporate, shall notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorised by the body corporate in that behalf.
- (ii) The instrument appointing a proxy shall be lodged with the chairman of the Owners' Committee or, if the meeting is convened under Clause 8.1(a)(ii) or (iii), the person convening the meeting at least 48 hours before the time for the holding of the meeting.
- (iii) A proxy appointed by an Owner to attend and vote on behalf of the Owner shall, for the purposes of the meeting, be treated as being the Owner present at that meeting.
- (j) Save as otherwise herein provided, any resolution on any matter concerning the Land and the Building passed by a simple majority of votes at a duly convened meeting of the Owners present in person or by proxy and voting in proportion to the number of Undivided Shares excluding the Undivided Shares allocated to the Common Areas and Facilities held at such meeting shall be binding on all the Owners of the Land and the Building (which shall include the Owner(s) of the Common Areas and Facilities) PROVIDED as follows:-

- (i) The notice convening the meeting shall have been duly given and shall have specified the intention to propose a resolution or resolutions concerning such matters.
- (ii) No resolution purporting to be passed at any such meeting concerning any matter not mentioned in such notice shall be valid.
- (iii) No resolution shall be valid to the extent that it purports to alter or amend the provisions of or is otherwise contrary to this Deed.
- (iv) A resolution may be passed as to the manner in which the powers hereby conferred on the Manager are to be exercised or carried out.
- (k) A resolution in writing signed by Owners who in the aggregate have vested in them for the time being more than fifty per cent (50%) of the total number of Undivided Shares in the Land and the Building excluding the Undivided Shares allocated to the Common Areas and Facilities shall be as valid and effectual as if it had been passed at a duly convened meeting of the Owners.
- (l) The accidental omission to give notice as aforesaid to any Owner shall not invalidate the proceedings at any meeting or any resolution passed thereat.
- (m) The Undivided Shares allocated to the Common Areas and Facilities should not carry any voting right, nor should they be taken into account for the purpose of calculating the quorum of any meeting.
- (n) The procedure at a meeting of Owners shall be as is determined by the Owners.

## **SECTION IX**

### **EXTINGUISHMENT OF RIGHTS**

#### **9.1 Owners' meeting in the event of the Building being damaged**

In the event of the Building or any part thereof being so damaged 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, (a) the Owners' Committee (b) the Manager or (c) an Owner appointed by those Owners who in aggregate have vested in them for the time being not less than seventy-five per cent (75%) of the total number of Undivided Shares of the part of the Building (excluding the Undivided Shares allocated to the Common Areas and Facilities) so affected shall convene a meeting of the Owners of the part of the Building so affected and such meeting may resolve by a resolution (such resolution shall be binding upon all the Owners of the part of the Building so affected) of not less than seventy-five per cent (75%) majority of such Owners voting in person or by proxy in proportion to the number of Undivided Shares (excluding the Undivided Shares allocated to the Common Areas and Facilities) of the part of the Building so affected held at such meeting that by reason of insufficiency of insurance money or changes in building law and/or regulations or any other circumstances whatsoever, it is not practicable to reinstate or rebuild the Building or (as the case may be) the part thereof so affected then in such event the Undivided Shares in and of the Building or (as the case may be) the part thereof so affected shall be acquired by the Manager and the Owners of such Undivided Shares shall in such event be obliged to assign the same and all rights and appurtenances thereto to the Manager upon trust to forthwith dispose of the same by public auction or private treaty and to distribute the net proceeds of sale amongst the Owners of such Undivided Shares in proportion to the respective number of Undivided Shares previously held by such Owners. All insurance money received in respect of any policy of insurance on the Building or (as the case may be) the part thereof so affected shall likewise be distributed amongst such Owners. In such event all the rights, privileges, obligations and covenants of such Owners under this Deed shall be extinguished so far as the same relate to such Owners PROVIDED ALWAYS THAT if it is resolved to reinstate or rebuild the Building or (as the case may be) the part thereof so affected the Owners of the Building or (as the case may be) the part thereof so affected shall pay the excess of the cost of reinstatement or rebuilding of the Building or the relevant part thereof damaged as aforesaid over and above the proceeds recoverable from the insurance of the Building or (as the case may be) the part thereof so affected in proportion to the respective number of Undivided Shares held by them and that until such payment the same will become a charge upon their respective Undivided Shares allocated to the Building or the relevant part thereof and be recoverable as a civil debt.

#### **9.2 Provisions applicable to such Owners' meeting**

The following provisions shall apply to a meeting convened as provided in Clause 9.1 hereof:-

- (a) The person convening such meeting of the Owners shall, at least 14 days before the date of the meeting, give notice of the meeting to each Owner. Such notice of meeting shall specify:
  - (i) the date, time and place of the meeting; and
  - (ii) the resolutions (if any) that are to be proposed at the meeting.
- (b) The notice of meeting referred to in Clause 9.2(a) shall be posted on the public notice boards of or a prominent place in the Building and if possible, may be given:-
  - (i) by delivering it personally to the Owner;
  - (ii) by sending it by post to the Owner at his last known address; or
  - (iii) by leaving at the Owner's Unit or depositing it in the letter box for that Unit.
- (c) No business shall be transacted at any meeting unless a quorum is present when the meeting proceeds to business and Owners present in person or by proxy who in the aggregate have vested in them not less than seventy-five per cent (75%) of the total number of Undivided Shares of

the part of the Building (excluding the Undivided Shares allocated to the Common Areas and Facilities) so affected in question shall be a quorum.

- (d) If within half an hour from the time appointed for the meeting a quorum is not present the meeting shall stand adjourned to the same time and day in the next week at the same place, and if at such adjourned meeting a quorum be not present the Owners present shall be deemed to constitute a quorum.
- (c) The Chairman of the Owners' Committee or, if the meeting is convened under Clause 9.1(b) or (c), the person convening such meeting shall be the chairman of the meeting.
- (f) The chairman shall cause a record to be kept of the persons present at the meeting and notes of the proceedings thereof.
- (g) At such meeting of the Owners:-
  - (i) an Owner shall have one vote in respect of each Undivided Share or (as the case may be) the part thereof so affected he owns;
  - (ii) an Owner may cast a vote personally or by proxy;
  - (iii) where 2 or more persons are the co-Owners of an Undivided Share or (as the case may be) the part thereof so affected, the vote in respect that Undivided Share or (as the case may be) the part thereof so affected may be cast:-
    - (1) by a proxy jointly appointed by the co-Owners;
    - (2) by a person appointed by the co-Owners from among themselves; or
    - (3) if no appointment is made under sub-paragraph (1) or (2), either by one of the co-Owners personally or by a proxy appointed by one of the co-Owners.
  - (iv) where 2 or more persons are the co-Owners of an Undivided Share or (as the case may be) the part thereof so affected, and more than one of the co-Owners seeks to cast a vote in respect of the Undivided Share, only the vote that is cast, whether personally or by proxy, by the co-Owner whose name, in order of priority, stands highest in relation to that Undivided Share in the register kept at the Land Register shall be treated as valid; and
  - (v) if there is an equality of votes, the person presiding over the meeting shall have, in addition to a deliberative vote, a casting vote.
- (h) (i) An instrument appointing a proxy shall be in the form set out in Form 1 in Schedule 1A to the BMO, and
  - (1) shall be signed by the Owner; or
  - (2) if the Owner is a body corporate, shall notwithstanding anything to the contrary in its constitution, be impressed with the seal or chop of the body corporate and signed by a person authorised by the body corporate in that behalf.
- (ii) The instrument appointing a proxy shall be lodged with the chairman of the Owners' Committee or, if the meeting is convened under Clause 9.1(b) or (c), the person convening the meeting at least 48 hours before the time for the holding of the meeting.
- (iii) A proxy appointed by an Owner to attend and vote on behalf of the Owner shall, for the purposes of the meeting, be treated as being the Owner present at that meeting.

- (i) A resolution passed at a duly convened meeting by a seventy-five per cent (75%) majority of votes of such Owners present in person or by proxy and voting in proportion to the number of Undivided Shares in the relevant part of the Building so affected in question (excluding the Undivided Shares allocated to the Common Areas and Facilities) held at such meeting shall be binding on all the Owners of the Building or (as the case may be) the relevant part of the Building PROVIDED THAT:-
  - (i) the notice convening the meeting shall specify the intention to propose a resolution concerning such matter;
  - (ii) any resolution purported to be passed at any such meeting concerning any other matter shall not be valid;
  - (iii) no resolution shall be valid if it is contrary to the provisions of this Deed.
- (j) A resolution in writing signed by Owners who in the aggregate have vested in them for the time being not less than seventy-five per cent (75%) of the Undivided Shares allocated to the part of the Building so affected in question (excluding the Undivided Shares allocated to the Common Areas and Facilities) shall be as valid and effectual as if it had been passed at a duly convened meeting of such Owners.
- (k) The accidental omission to give notice as aforesaid to any Owner shall not invalidate the meeting or any resolution passed thereat.

## **SECTION X**

### **MISCELLANEOUS PROVISIONS**

#### **10.1 Owners to notify Manager when ceasing to be Owner**

Each Owner shall on ceasing to be the Owner of any Undivided Share and the premises enjoyed therewith notify the Manager of such cessation and of the name and address of the new Owner and, without prejudice to the liability of the new Owner who shall be liable for all sums due and payable and performance and observance of the terms and conditions by the Owner from whom he purchased under the terms of this Deed, such Owner shall remain liable for all such sums and for the observance and performance of such terms and conditions up to the date on which such notice is received by the Manager.

#### **10.2 Non-Resident Owner**

Each Owner of any Undivided Share who shall not personally be in occupation of the Unit(s) held therewith shall provide the Manager with an address in Hong Kong for service of notices under the terms of this Deed. In the event that the Owner shall fail to provide with the Manager with such an address in Hong Kong, then the Manager may treat the address of such Unit(s) as the address for service of notices.

#### **10.3 Cessation of Liabilities**

Subject to Clause 10.1 above, no person shall, after ceasing to be the Owner of any Undivided Share, be liable for any debt liability or obligation under the covenants, terms and conditions of this Deed in respect of such Undivided Share and the premises held therewith save and except in respect of any breach, non-observance or non-performance by such person of any such covenant or term and condition prior to his ceasing to be the Owner thereof.

#### **10.4 Public notice boards etc.**

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

#### **10.5 Service of Notice**

Subject as hereinbefore provided in the case of notices to be affixed to the public notice boards and except in the case of a notice required by this Deed or by law to be served personally or in any other manner, all notices or demands required to be served hereunder shall be sufficiently served if addressed to the party to whom the notices or demands are given and sent by prepaid post to or left at the Unit or the letter box thereof (if any) of which the party to be served is the Owner notwithstanding that such party shall not personally occupy the said Unit PROVIDED HOWEVER THAT where notice is to be given to an Owner who is a mortgagor, such notice may also be served on the mortgagee, if a company, at its registered office or last known place of business in Hong Kong and, if an individual, at his last known residence. All notices required to be given to the Manager shall be sufficiently served if sent by prepaid post addressed to or if by hand left at the registered office of the Manager.

#### **10.6 Chinese translation**

- (a) The First Owner shall at its own cost provide a direct translation in Chinese of this Deed. The First Owner shall deposit a copy of this Deed and the Chinese translation in the management office within one (1) month after the execution of this Deed for inspection by the Owners free of charge. The Manager shall upon request of any Owner and upon payment of a reasonable

charge provide a copy of this Deed and/or the Chinese translation to such Owner for taking copies at their expense. Any charge received therefrom shall be credited into the Special Fund. In the event of any discrepancy between the Chinese translation or summary and the English version of this Deed, the English version shall prevail.

- (b) The First Owner must deposit a copy of Schedules 7 and 8 to the BMO (English and Chinese versions) in the management office for reference by all Owners free of costs and for taking copies at their own expense and upon payment of a reasonable charge. All charges received must be credited to the Special Fund.

#### **10.7 Plans of Common Areas and Facilities**

The First Owner shall prepare or cause to be prepared a set of plans showing the Common Areas and Facilities certified as to their accuracy by or on behalf of the Authorized Person. Such plans are to be kept at the management office and may be inspected by all the Owners during normal office hours of the Manager free of charge.

#### **10.8 BMO**

Nothing herein shall prejudice the operation of the BMO and to the extent that any provisions contained herein shall be in conflict with the BMO, the BMO shall prevail. During the existence of an Owners' Corporation under the BMO, the rights, duties, powers and obligations for the control, management and the administration of the Land and the Building conferred by this Deed on the Manager shall be vested in the Owners' Corporation, and the general meeting of the Owners' Corporation shall take the place of the meeting of Owners under this Deed, and the management committee of the Owners' Corporation shall take the place of the Owners' Committee under this Deed.

#### **10.9 Incorporation of Schedules 7 and 8 to the BMO**

Notwithstanding anything herein contained, it is hereby specifically agreed that

- (a) the provisions of Schedules 7 and 8 to the BMO shall be incorporated in and form part of this Deed; and
- (b) in the event that any provisions contained herein shall be in conflict with the provisions of Schedule 7 and/or Schedule 8 (as the case may be) to the BMO, then the provisions of Schedule 7 and/or Schedule 8 (as the case may be) to the BMO shall prevail.

#### **10.10 Binding effects**

The covenants and provisions of this Deed shall be binding on the parties hereto and their respective executors, administrators, successors in title and assigns and the benefit and burden thereof shall be annexed to and run with the Land and the Building and each and every of the Units and Common Areas and Facilities and to the Undivided Share or Shares held therewith. The Conveyancing and Property Ordinance (Cap.219 of the Laws of Hong Kong) and any statutory amendments, modifications or re-enactment thereof for the time being in force shall apply to this Deed.

#### **10.11 Undivided Shares for the Common Areas and Facilities**

- (a) The First Owner shall upon execution of this Deed assign the whole of the Undivided Shares allocated to the Common Areas and Facilities together with the Common Areas and Facilities to the Manager free of cost or consideration to be held on trust for the Owners.
- (b) In the event the appointment of the Manager is terminated or the Manager shall resign or be wound up or have a receiving order made against it or is removed and another Manager be appointed in its stead in accordance with this Deed, then the outgoing Manager or the liquidator or the receiver shall assign the Undivided Shares attributed to the Common Areas and Facilities together with the Common Areas and Facilities which they represent to the new Manager free of costs or consideration.

- (c) When the Owners' Corporation has been formed, it may request the Manager to and the Manager shall assign the Undivided Shares in the Common Areas and Facilities together with the Common Areas and Facilities and transfer the management responsibilities to it free of costs or consideration, in which event, the Owners' Corporation must hold them on trust for the benefit of the Owners for the time being.

#### **10.12 Works and Installations**

- (a) The First Owner shall at its own cost and expense prepare the first Maintenance Manual for Works and Installations for the reference of the Owners and the Manager setting out the following details:-
- (i) As-built record plans of the building and services installations together with the necessary technical information (such as specifications of materials and design standard) for maintenance of all facilities and equipment.
  - (ii) All warranties and guarantees provided by contractors (together with the names of the companies providing the warranty and the contact telephone numbers) in respect of all facilities and equipment.
  - (iii) Recommended maintenance strategy and procedures.
  - (iv) A list of items of the Works and Installations requiring routine maintenance.
  - (v) Recommended frequency of routine maintenance inspection.
  - (vi) Checklist and typical inspection record sheets for routine maintenance inspection.
  - (vii) Recommended maintenance cycle of the Works and Installations.
- (b) Within one (1) month after the date of this Deed, the First Owner shall deposit a full copy of the first Maintenance Manual for Works and Installations in the management office for inspection by the Owners free of charge and for taking copies at their own expenses and upon payment of a reasonable charge to the Manager PROVIDED THAT all charges received therefrom shall be credited into the Special Fund.
- (c)
- (i) The Manager shall on behalf of and at the cost and expense of the Owners inspect, maintain and carry out all necessary works for the Common Areas and Facilities including those part or parts of the Works and Installation forming part of the Common Areas and Facilities.
  - (ii) The Owners shall at their own costs and expense inspect, maintain and carry out all necessary works for maintenance of the Building and their Units including those part or parts of the Works and Installation forming part of their Units.
- (d) The Owners may, by a resolution passed at an Owners' meeting convened under this Deed, make, amend, revise and revoke the Maintenance Manual for Works and Installations or any part thereof as the Owners shall deem fit, in which event the Manager shall procure a revised Maintenance Manual for Works and Installations or any amendments thereto (e.g. the addition of works and installations in the Building, the updating of maintenance strategies etc.) from a qualified professional or consultant within such time as may be prescribed by the said Owners' resolution. All costs and expenses of and incidental to the preparation of the revised Maintenance Manual for the Works and Installations or any subsequent amendments thereto shall be borne by the Owners and paid out of the Special Fund.
- (e) The Manager shall deposit the revised Maintenance Manual for Works and Installations and any subsequent amendments thereto in the management office within one month after the date of its preparation for inspection by the Owners free of charge and for taking copies at their own



expenses and upon payment of a reasonable charge to the Manager PROVIDED THAT all charges received therefrom shall be credited into the Special Fund.

**10.13 Obligations of the Lender**

- (a) Notwithstanding anything herein contained, until such time as the Lender enters into possession of the premises mortgaged or charged to the Lender under the Building Mortgage, the covenants and obligations in this Deed contained and the liability for making any payment under this Deed and the other burden and restrictions herein imposed shall not be binding upon the Lender and no liability for any payment under this Deed shall be binding on the Lender in respect of any sums accrued prior to the Lender entering into possession.
- (b) In consideration of the Lender having entered into these presents, the First Owner hereby covenants with the Lender in its aforesaid capacity that:-
  - (a) it shall fully observe and perform all the covenants herein contained to be observed and performed by the First Owner while any share or interest in any part of the Land and the Building is subject to the Building Mortgage; and
  - (b) it shall keep the Lender fully indemnified against the non observance and non performance of any of the said covenants.

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

**THE FIRST SCHEDULE ABOVE REFERRED TO**

**ALLOCATION OF UNDIVIDED SHARES**

**Section 1: Summary**

	<b>Units</b>	<b>Undivided Shares</b>
A.	Residential Units	1539
B.	Commercial Units	398
C.	Common Areas and Facilities	500
	<b>Sub-total:</b>	2437

<b>A. Residential Units</b>			<b>Undivided Shares Per Residential Unit</b>
<b>Floor</b>	<b>Flat</b>	<b>Remark</b>	
5/F	Flat A	2	39
	Flat B	2	21
	Flat C	2	43
6/F	Flat A	2	30
	Flat B	1	23
	Flat C	2	29
7/F – 12/F, 15/F – 22/F (14 storeys)	Flat A	1	32
	Flat B	1	23
	Flat C	1	30
23/F	Flat A	3	41
	Flat B	3	38
25/F	Flat A	4	44
	Flat B	4	41
<b>Sub-total</b>			<b>1539</b>

Remarks:

1. Including balcony thereof.
2. Including flat roof(s) adjacent thereto.
3. Including balcony thereof and flat roof adjacent thereto.
4. Including balcony thereof and roof on the roof floor.
5. There are no 4th, 13th, 14th and 24<sup>th</sup> floors.

<b>B. Commercial Units</b>		<b>Undivided Shares Per Residential Unit</b>
<b>Floor</b>	<b>Shop</b>	
G/F	Shop A	72
	Shop B	102
1/F	Shop C	112
2/F	Shop D	112
<b>Sub-total</b>		<b>398</b>

<b>C. Common Areas and Facilities</b>	<b>Undivided Shares</b>
Common Areas and Facilities	500

**THE SECOND SCHEDULE ABOVE REFERRED TO**

**RIGHTS, PRIVILEGES AND EASEMENTS**

**PART A**

1. The Owner of each Undivided Share together with the full and exclusive right to hold, use, occupy and enjoy his Unit shall have the benefit of the following easements, rights and privileges SUBJECT TO the provisions of the Government Lease, this Deed and any Deed(s) of Grant of Easement, the House Rules and the rights of the Manager and the First Owner as provided in this Deed and the payment by the Owner of his due proportion of the Management Expenses and Special Fund contributions and any other payments payable pursuant to this Deed:-
  - (a) **Right of way to use Development Common Areas and Facilities**

Full right and liberty for the Owner for the time being, his lessees, tenants, servants, agents, lawful occupants and licensees (in common with all persons having the like right) to go pass or repass over and along and to use the Development Common Areas and Facilities for all purposes connected with the proper use and enjoyment of his Unit;
  - (b) **Right of Support and Shelter**

The right to subjacent and lateral support and to shelter and protection from the other parts of the Building;
  - (c) **Right of passage of water etc.**

The free and uninterrupted passage and running of water (if any), sewage, gas, electricity, ventilation, air-conditioning, telephone and various other services (if any) from and to his Unit through the gutters, sewers, drains, flues, conduits, ducts, watercourses, cables, pipes and wires and other conducting media which now are or may at any time hereafter be in, under or passing through his Unit or the Land and the Building or any part or parts thereof for the proper use and enjoyment of his Unit;
  - (d) **Right of Entry to other parts of the Land and the Building to repair**

Subject to the consent of the Manager and (as the case may be) the Owners of the relevant Units, the right for any Owner with or without workmen plant equipment and materials at all reasonable times upon prior notice (except in the case of emergency) to enter upon other parts of the Land and the Building for the purpose of carrying out any works for the maintenance and repair of his Unit (such work not being the responsibility of the Manager under this Deed and which cannot practically be carried out without such access) causing as little disturbance as possible and forthwith making good any damage caused thereby;
  - (e) **Right to easements etc.**

All other easements, rights and privileges belonging or appertaining to the Land and the Building or any part thereof.
2. In addition to the above easements, rights and privileges and SUBJECT ALWAYS TO the provisions of the Government Lease, this Deed, any Deed(s) of Grant of Easement, the House Rules, the rights of the Manager and the First Owner as provided in this Deed, each Owner of the Residential Unit, his lessees, tenants, servants, agents, lawful occupants and licensees (in common with all persons having the like right) shall have the full right and liberty to go pass or repass over and along and to use the Residential Common Areas and Facilities for all purposes connected with the proper use and enjoyment of his Residential Unit.
3. In addition to the above easements, rights and privileges and SUBJECT ALWAYS TO the provisions of the Government Lease, this Deed, any Deed(s) of Grant of Easement, the House Rules, the rights of the Manager and the First Owner as provided in this Deed, each Owner of Shop C on 1/F and Shop D on 2/F,

his lessees, tenants, servants, agents, lawful occupants and licensees (in common with all persons having the like right) shall have the full right and liberty to go pass or repass over and along and to use the Commercial Common Areas and Facilities for Shop C and Shop D for all purposes connected with the proper use and enjoyment of his Commercial Unit(s).

4. For the avoidance of doubt, Owners shall have no right to enter upon any part of the Land and the Building save as expressly herein provided.

## **PART B**

The following are the easements, rights and privileges subject to which the Owner of each Undivided Share and the exclusive right to hold, use, occupy and enjoy his Unit is held:-

(a) **Government's right under the Government Lease**

The full rights and privileges of the Government specifically excepted and reserved in the Government Lease.

(b) **Manager's right of entry**

(i) **Entry for purposes of repair and maintenance etc.**

The full right and privilege of the Manager at all reasonable times upon prior notice (except in the case of emergency) with or without agents, surveyors, contractors, workmen and others and with or without tools or machines to enter into and upon his Unit for the purposes of effecting maintenance, repairs, cleansing, improvement, relocation, replacement or examination of or to the Land or the Building or any part or parts thereof or any of the Common Areas and Facilities or any other apparatus and equipment used or installed for the benefit of the Land or the Building or any part or parts thereof causing as little disturbance as reasonably practicable and making good any damage caused thereby as soon as reasonably practicable and being liable for criminal, negligent, wilful and dishonest acts of its own and criminal, negligent, wilful and dishonest acts of its agents, surveyors, contractors and workmen.

(ii) **Operating the building maintenance unit(s), etc.**

The full right and privilege of the Manager at all times to extend, maintain, operate, move and have access to, over and/or into or partly into the portion of airspace above the flat roof, main roof, balcony or the parapet walls of the flat roof or main roof as may be determined by the Manager building maintenance unit(s) to service, cleanse, enhance, maintain, repair, renovate, decorate, improve and/or replace any part of any exterior of the Building, and to remain temporarily over and/or on the said airspace for such period as may be necessary for the purpose of inspecting, rebuilding, repairing, renewing, maintaining, cleaning, painting or decorating all or any part of the Common Areas and Facilities PROVIDED THAT the use and enjoyment of the Unit by the Owner of the same shall not be materially adversely affected or prejudiced thereby.

(c) **Other Rights**

Easements, rights and privileges equivalent to those set forth in sub-clauses (b), (c), (d) and (e) of Clause 1 of Part A of this Schedule and as reserved unto the First Owner and the Manager under this Deed.

**THE THIRD SCHEDULE ABOVE REFERRED TO**  
**COVENANTS AND RESTRICTIONS**

1. **Structural Alteration**

No Owner shall:-

- (a) make any structural alteration to his Unit (including but not limited to external walls, structure, facade of the Building or any services, facilities, installation or fixture therein) which may damage or affect or interfere with the use and enjoyment of any other part or parts of the Building, whether in separate or common occupation or use or interfere with or affect the rights of any other Owner; or
- (b) cut, injure, damage, alter or interfere with any part or parts of the Common Areas and Facilities or any equipment or apparatus on, in or upon the Land and the Building not being equipment or apparatus for its exclusive use and benefit.

Notwithstanding anything contained in this Deed to the contrary, no provision of this Deed shall be construed as having the effect of preventing an Owner from taking legal action against another Owner in this respect.

2. **Breach of Government Lease etc.**

Every Owner shall observe and perform all the covenants conditions and provisions of the Government Lease, this Deed and the House Rules which may be in force from time to time. No Owner shall permit or suffer to be done any act or thing in contravention of the terms and conditions of the Government Lease or whereby any insurance on the Land and the Building or any part thereof may become void or voidable or whereby the premia for any such insurance may be increased and in the event of any breach of this Clause by any Owner, the defaulting Owner shall indemnify the other Owners and the Manager against all losses, damages and expenses that may be suffered or incurred as a result of such a breach and without limitation to the generality of the foregoing, pay to the Manager the amount of any increase in premium caused by or on account of such breach.

3. **Partition**

No Owner shall at any time exercise or attempt to exercise any statutory or common law right to partition the Land and the Building or any part or parts thereof.

4. **Construction and Management**

No Owner shall do or permit or suffer to be done any act, deed, matter or thing which in any way interferes with or affects or which is likely to interfere with or affect the construction of any part of the Land and the Building at any time in the course of construction and/or the management and the maintenance of the Land and the Building or any part or parts thereof.

5. **User**

- (a) No Owner shall use or permit or suffer his Unit or any part or parts thereof to be used:-
  - (i) for the purpose of a pawn shop, a mahjong school, a funeral parlour, coffin shop, garage for car repairing or any activity or purpose related to gambling, the production, sale, storage, display or viewing of pornographic materials, Buddhist or Taoist temple or Buddhist or Taoist hall for the performance of the ceremony known as "Ta Chai" (打齋) or for any similar ceremony; or
  - (ii) for any illegal or immoral purpose; or
  - (iii) otherwise than in accordance with the Government Lease, this Deed and any applicable laws and regulations from time to time applicable thereto;

- (b) No Owner shall do, cause or permit or suffer to be done any act or thing which may be or become a nuisance or annoyance to or cause damage or inconvenience to the other Owners and/or any neighbouring premises.

6. **Common Areas and Facilities**

No Owner shall:-

- (a) obstruct or install any article and obstruct the access to and from any part of the Common Areas and Facilities save with the prior written consent of the Manager (such consent not to be granted if the obstruction is in contravention of any applicable laws or regulations or the provisions of the Government Lease or this Deed) or place or leave any refuse or other matter or thing thereon or do or suffer or permit to be done anything therein as may be or become a nuisance to any other Owners; or
- (b) place or store or permit to be placed or stored any article or thing on or in any part of the Common Areas and Facilities. If and whenever any article or thing shall be placed or stored by any Owner on or in any part of the Common Areas and Facilities, then the Manager, its agents, servants, caretakers or cleaners of the Building shall have the right without giving any prior notice to the defaulting Owner to remove such articles and thing from such part of the Common Areas and Facilities and all costs and expenses incurred by the Manager for such removal shall be reimbursed upon demand to the Manager by the defaulting Owner and the defaulting Owner shall not claim against the Manager, its agents, servants, caretakers or cleaners for any loss or damage to such article or thing due to such removal; or
- (c) have the right to enter into such parts of the Common Areas and Facilities which the Manager shall reasonably restrict or to alter, repair, connect to or in any other way interfere with or affect the working of the Common Areas and Facilities without the prior written consent of the Manager. Subject as hereinbefore provided in this Deed, the Common Areas and Facilities shall at all times be under the exclusive management and control of the Manager who shall have full and unrestricted power to regulate and control the reasonable use thereof by the Owners, the occupiers and their invitees.

7. **Installations**

No Owner shall cut, maim, alter, affix, interfere with, damage or in any other way affect or permit or suffer to be cut, maimed, altered, affixed, interfered with, damaged or in any other way affected any pipes, valves, ducts, lightning conductors, communal television and radio aerial system, fixtures or any other installation provided in the Building or any part of the Common Areas and Facilities.

8. **Drainage and Water Apparatus**

- (a) No Owner shall do or suffer or permit to be done anything whereby the flush or drainage system for the Land and the Building may be clogged or efficient working thereof may be impaired or the supply of water, electricity or gas or other utilities shall be affected or likely to be affected and in the event of any breach of this Clause, the defaulting Owner shall indemnify the other Owners and the Manager against all losses, damages and expenses that may be suffered or incurred as a result of such a breach and without limitation to the generality of the foregoing, pay to the Manager on demand the cost of rectifying any breakage, blockage or damage resulting from such breach.
- (b) No Owner shall construct or install any drainage or other pipeworks outside the external walls of the Building other than as may be approved in writing by the Manager and in spaces specifically provided by the Manager therefor.
- (c) No Owner shall use water closets and other water apparatus in any part of the Building for any purpose other than those for which they were constructed nor shall any sweeping, rubbish, rags or any other articles be thrown into the same. Any damage resulting from misuse of any water

closets or apparatus shall be made good by the Owner or occupier at his own expense in whose part of the Building it shall have been caused.

9. **Refuse Disposal**

No Owner shall throw out or discard or permit or suffer to be thrown out or discarded from his Unit any refuse, rubbish, litter or other article or thing whatsoever except using the services or facilities provided for the disposal thereof.

10. **Sprinkler**

No Owner shall make any alteration to or interfere with the sprinkler system or any other fire fighting equipment or suffer to be done anything to such sprinkler system or fire fighting equipment which would constitute a breach of the Fire Services Ordinance (Cap. 95 of the Laws of Hong Kong) or any by-laws or regulations made thereunder or any other applicable laws or regulations. If any extension of the sprinkler heads and/or smoke detectors or alteration to the fire fighting equipment shall be required by any Owner, then such works shall be carried out by a contractor approved by the Manager at the expense of such Owner and in such manner as the Manager shall think fit. In addition, each Owner shall, at his own cost and expense throughout the term of the Government Lease and to the satisfaction of the Fire Services Department, provide and maintain an access for fire appliances and fire personnel to the Land and the Building to the satisfaction of the Fire Services Department and permit such access for such purposes and at such time or times as the Fire Services Department may require.

11. **Electrical Installation**

No Owner (save and except the First Owner) shall perform installation, repair or alteration works to the electrical wiring from the switch rooms forming part of the Common Areas and Facilities to any part or parts of the Land and the Building save with the prior written consent of the Manager. Any such work in respect of which the Manager shall have given its prior written consent shall be carried out by a contractor approved by the Manager at the expense of the Owner concerned and in such manner as the Manager shall think fit.

12. **Loading**

No Owner or its agents licensees or contractors shall place on any part of the Land or of the Building or any part of the floor of any Unit any vehicle, article, machinery, goods or merchandise which may cause the maximum floor loading-bearing capacity thereof to be exceeded. In the event of a breach of this paragraph, the defaulting Owner shall indemnify the other Owners and the Manager against all losses, damages and expenses that may be suffered or incurred as a result of such a breach and without limitation to the generality of the foregoing, make good any damage caused to the relevant part of the Building or the Unit or any fixtures and fittings therein.

13. **Dangerous Goods**

No Owner shall store or permit to be stored in any part of the Building any hazardous, dangerous, combustible or explosive goods or materials except such as may be reasonably required for the purpose of domestic cooking and heating.

14. **Government Rent, etc.**

Every Owner shall promptly pay and discharge all existing and future Government rent, taxes, rates, assessments and other outgoings payable in respect of his Unit and make contributions towards the Management Expenses as provided in this Deed and every Owner shall indemnify the other Owners and the Manager against all liability therefor.

15. **Repairs**

- (a) Each Owner shall at its own cost and expense and in compliance with the Government Lease, this Deed and the House Rules, manage, repair, maintain and upkeep his Unit and all services and facilities installed therein or used in connected therewith.



- (b) Subject to the provisions of this Deed, each Owner shall keep and maintain the part of the Building in respect of which he is entitled to exclusive possession and all wirings and pipings thereto which do not form part of the Common Areas and Facilities and all electrical and sanitary appliances thereto in good repair and condition and shall maintain the same to the satisfaction of the Manager and in a manner so as to avoid any loss damage nuisance or annoyance to the Owners or occupiers of any other part or parts of the Land and the Building. Subject as aforesaid the expenses of keeping in good and tenantable repair and condition the interior of any part of the Building and all the fixtures and fittings and all plumbings therein or appertaining thereto and all the windows and doors thereof shall be borne by such Owner who is entitled to the sole and exclusive use occupation and enjoyment thereof.

16. **Signages**

Subject to the rights of the First Owner under this Deed, no Owner shall erect, install or otherwise affix, display or project any signs, signboards, advertisements, banners, posters or placards or other things or structures or visual images of whatever kind and description on the external walls or at any window or any part thereof or within his Unit but visible from outside the Building or extending outside the exterior of the Building save as otherwise provided in this Deed or except with the prior written approval of the Manager.

17. **Noise**

No Owner shall make or cause or permit any disturbing noise in his Unit or do or cause or permit anything to be done which will interfere with the rights, comforts and convenience of other occupants of the Building.

18. **External appearance**

Subject to the rights of the First Owner under this Deed, no Owner shall, without the prior consent in writing of the Manager:

- (a) paint the outside of the Building or the Land or any part thereof;
- (b) do or permit to be done any act or thing which may or will interfere with or alter the facade or external appearance of the Land or the Building, and in particular and save as herein expressly provided, no external shades, awnings, fences, metal grilles, partitions or any other structure or thing shall be placed, installed, exhibited, affixed, erected or attached or caused or permitted to remain in or any part of the external walls, A/C platform(s), platform(s) above any projecting bay window, main roof(s), flat roofs or top roofs of the Building;
- (c) cause or permit or suffer any part of the external walls of the Building to be wholly or partially blocked;
- (d) change the colour or appearance of any window(s), door(s) of balcony(ies), flat roof(s), roof(s) or door(s) leading out to any part of the Common Areas and Facilities or is/are visible from the Common Areas and Facilities of any Unit;
- (e) alter or remove the railings or balustrades in any balcony, flat roof or roof of any Residential Unit; or
- (f) interrupt, alter or remove, or cause or permit or suffer any claddings to the pipes in or on any balcony, flat roof or roof of any Residential Unit to be interrupted altered or removed.

19. **Air-Conditioning System**

No air-conditioning units or other units shall be installed in any Unit or on or abut to the Common Areas and Facilities and in particular through any windows or external walls of the Building without the prior written consent of the Manager other than at places designated for such purpose (over which the Manager's decision shall be final and conclusive and binding on the Owners) and in no

circumstances will penetration of the external walls be permitted and all possible measures shall be taken to prevent excessive noise, condensation or dripping on to any part of the Land and the Building or public ways. Every Owner shall also at his own cost and expense keep and maintain the air-conditioning or other units or plants (if any) and the metal supporting frame(s) therefor (whether or not installed or placed at A/C platform(s) forming part of the Common Areas and Facilities) serving exclusively his part of the Building in good repair and condition. No A/C platform(s) appurtenant to a Unit or area designated for the installation or placing of air-conditioning plants shall be used for any purpose other than for placing the air-conditioning plants serving the relevant Unit or area.

20. **Discharge into drains**

No Owner shall allow any noxious, dangerous, poisonous or objectionable effluent to be discharged into the pipes drains or sewers and each Owner shall take all such measures as may be necessary to ensure that any effluent so discharged will not be corrosive or otherwise harmful to the drains or sewers or cause obstruction or deposit therein. No smoke shall be emitted from the Building without the prior consent being first obtained from the proper authority and from the Manager. No Owner shall cause or permit or suffer any odours or noxious smells which shall in the opinion of the Manager be offensive or unusual to be produced. Each Owner shall comply with and observe all ordinances, by-laws, regulations and rules for the time being in force in Hong Kong governing the control of any form of pollution and the protection of the environment.

21. **Aerial**

No Owner (save and except the First Owner) shall be entitled to connect to any aerials telecommunication transmitters and receivers, antennae and other equipment and installations installed by the Manager except with the permission of the Manager and in accordance with any House Rules relating to the same. Save and except the First Owner, no Owner shall affix or install his own aerial, telecommunication transmitter, receiver, antennae and other equipment and installations in and outside any part of the Building without the prior written consent of the Manager.

22. **Restriction on keeping livestock, etc.-**

- (a) No Owner of Residential Unit shall bring on to or keep or harbour any livestock, live poultry, fowls or animals on any part of the Building PROVIDED THAT:-
  - (i) subject to any applicable laws and regulations in force in Hong Kong from time to time and subject to and in accordance with the House Rules, domestic animals or other pets may be kept in a Residential Unit unless the same has been the cause of reasonable written complaint by the Owners or occupiers of not less than three (3) Residential Units, the reasonableness of the complaint shall be determined by the Manager at its absolute discretion;
  - (ii) trained guide dogs for the blind may be brought into any part of the Building whilst guiding any person with disability in vision.
- (b) In no event shall dogs be permitted in lifts or in any part of the Building intended for common use UNLESS they are carried or on leash and wearing mouth strap.

23. **Not to convert Common Areas and Facilities to own use**

Except with the prior approval of the Owners' Committee (if formed), no Owner (including the First Owner) shall convert any part of the Common Areas and Facilities to its own use or for its own benefit and any payment or fees received by the Owners' Committee for the approval shall be credited to the Special Fund.

24. **Balconies, Flat Roofs and Roofs**

- (a) Subject to the rights of the First Owner under this Deed, no Owner of Residential Unit shall without the prior written consent of the Manager erect or build or suffer to be erected or built on or upon the flat roof(s), roof(s) or balcony(ies) forming part of a Residential Unit any walls,

windows, gates, doors, curtains, external awnings, canopies, partitions, security bars, protection grilles or any other structures whatsoever either of a permanent or temporary nature so that the said flat roof(s), roof(s) or balcony(ies) will be enclosed or partitioned either in whole or in part and where such installations have been approved in writing by the Manager the same shall be erected in accordance with designs approved by the Manager and shall be installed in accordance with the fixing instructions specified by the Manager and the subsequent installation shall follow strictly the approved design and any conditions that may be imposed and shall thereafter be maintained to such standard as may from time to time be laid down by the Manager. The Manager shall have the right to enter and remove from such flat roof(s), roof(s) or balcony(ies) such unauthorised structure or structures at the cost and expense of the defaulting Owner. Notwithstanding anything herein contrary, no balcony shall be enclosed in any manner other than as under the Building Plans.

- (b) No Owner except the Owner having the exclusive right to occupy the flat roof or roof of a Residential Unit shall have the right to use the flat roof or roof thereof (if any). No Owner shall without the prior written consent of the Manager and the competent Government authorities (if required) erect or place or cause or permit to be erected or placed any advertising signs or other structure on the flat roof or roof of a Residential Unit or any part thereof and the Manager shall have the right to enter to remove anything erected or placed on such flat roof or roof or any part thereof in contravention of this provision at the cost and expense of the Owner erecting or placing the same.
- (c) Subject to the rights of the First Owner under this Deed, no Owner shall erect or permit or suffer to be erected any radio or television aerial or advertising sign or keep, hang or exhibit or permit or suffer to be kept, hung or exhibited any washing cloth, clothing or any unsightly objects or store or permit or suffer to be stored any utensils or other articles upon the flat roof(s), main roof(s), top roof(s), balcony(ies), A/C platform(s), platform(s) above any projecting bay window, windows, external walls, corridors, lift lobbies, entrance halls of any part of the Building or any other areas which in the opinion of the Manager shall be undesirable or constitute a nuisance to other Owners or occupiers of the Building and the Manager shall have the right to remove such articles without notice but after warning has been given to such Owner at the cost of the offending Owner.

25. **Maintenance of Windows, etc.**

- (a) Each Owner of a Residential Unit shall at his own cost and expense be responsible for the cleaning, repair and maintenance of all the balustrades and railings on the balcony, flat roof and roof and all the windows of the Residential Unit. Any such repair and maintenance work shall be carried out by contractor(s) approved by the Manager and in accordance with such guidelines, specifications and/or prescribed design that may from time to time be issued by the Manager and/or set out in the House Rules.
- (b) Each Owner of a Commercial Unit shall at his own cost and expense be responsible for the cleaning, repair and maintenance of all the windows of the Commercial Unit. Any such repair and maintenance work shall be carried out by contractor(s) approved by the Manager and in accordance with such guidelines, specifications and/or prescribed design that may from time to time be issued by the Manager and/or set out in the House Rules.
- (c) The Owners shall, acting through the Manager, be responsible for the repair, maintenance and cleaning of the external walls of the Building including, but not limited to, facade and associated facilities thereof PROVIDED THAT if the cleaning, repair or maintenance is required as a result of the act, neglect, default or omission of any Owner or his servants, agents, contractors, licensees or tenants, such Owner shall be wholly responsible for the relevant costs of cleaning, repair or maintenance.

26. **Restriction on children**

Without prejudice to the other provisions of this Deed, no Owner shall allow children to play in the Common Areas and Facilities which are not Recreational Facilities particularly lifts and any damage

to or discolouration to decorations in such areas or lifts (if any) by children shall be paid for by the Owner or occupier of the Unit in which the child or children concerned reside.

27. **Use of lifts**

No Owner shall allow bicycles, baby carriages or similar vehicles in the lifts unless the greatest care against damage to the lifts is exercised and the same shall not be allowed to obstruct any Common Areas and Facilities and no Owner shall use the lifts of the Building for carrying and transporting any goods or articles whatsoever which in the reasonable opinion of the Manager adversely affect the normal functioning of the lifts.

28. **Laundry**

No clothing or laundry shall be hung on any balcony (other than in the spaces specifically provided therefor in such balcony and in any event below the level of the top of the balustrade of such balcony, save with the prior written approval of the Manager), A/C platform, platform above any projecting bay window, flat roof, roof or windows or outside the Building or any part thereof or in the Common Areas and Facilities.

29. **Use of Recreational Facilities**

The Recreational Facilities shall only be used and enjoyed for recreational purposes by the Owners and occupiers of the Residential Units and their bona fide visitors and subject to the provisions of this Deed, the House Rules and such rules as may from time to time be laid down by the Manager. The Recreational Facilities shall not be used for any commercial purposes whatsoever save and except as decided or approved by the Manager in his absolute discretion (whose decision shall be final and binding).

30. **Noise and Water Pollution**

Each Owner shall observe and comply with all Ordinances, Regulations, by-laws and rules for the time being in force in Hong Kong governing the control of any form of pollution (including but without limitation noise and water pollution), whether aerial or otherwise, and the protection of the environment. In particular, no Owner shall discharge or permit or suffer to be discharged into any public sewer, storm water drain, channel or stream-course any trade effluent or foul or contaminated water or cooling water without the prior written consent of the competent Government authorities.

31. **Use of Residential Units**

- (a) No Residential Unit shall be used for any purpose other than for private residential purpose and in particular no Residential Unit shall be used as a boarding house, apartment house, guesthouse, sleeping accommodation or for any form of commercial letting or occupancy in bed spaces or cubicles (irrespective of whether it is on a long-term or on a temporary basis and irrespective of whether or not any money or other form of consideration is payable therefor) SAVE AND EXCEPT that the First Owner may use any such Residential Units owned by him as show flats for such period or periods as it shall in its reasonable discretion consider appropriate.
- (b) No Owner shall permit or suffer to be erected, affixed, installed or attached in or on or at the door or doors or entrance or entrances of any Residential Unit any metal grille or shutter or gate without the prior written approval of the Manager.
- (c) No Residential Unit or any part thereof shall be used for the storage of goods or merchandise other than the personal and household possession of the Owner or occupier.
- (d) No Owner shall permit or suffer to be erected, affixed or installed on or at the window or windows of a Residential Unit any window grille or metal grille without the prior written consent of the Manager and where such installations have been approved in writing by the Manager the same shall be erected in accordance with such design, colour and material as shall be specified by the Manager and shall be installed in accordance with the fixing instructions specified by the Manager.

32. **Complaints**

All complaints touching or concerning any part of the Land or the Building shall be made in writing to the Manager.

33. **Rights of the First Owner**

All the covenants, provisions and restrictions in this Third Schedule shall be subject to and deemed to have been qualified by the rights reserved to the First Owner and its assignees under Section III of this Deed, whether or not expressly so stated.

34. **Preservation of Trees**

No Owner (save and except the First Owner) shall remove, interfere with, damage or cut any tree growing on the Land or adjacent thereto and each Owner shall be responsible to remedy and indemnify the other Owners in respect of any breach of this Clause including a breach by the occupants of his Unit and their guests or visitors.

35. **Non-enclosed Areas**

- (a) The Non-enclosed Areas shall only be used as balconies in relation to or in connection with use and enjoyment of the Residential Units for which they are provided.
- (b) The design and location of the Non-enclosed Areas under the Building Plans shall not be altered in any way.
- (c) No Owner shall cause, permit, suffer or allow any Non-enclosed Areas or any part thereof to be enclosed above the safe parapet height as shown on the Building Plans.
- (d) No fences, awnings, grilles or any structures or things shall be installed, exhibited, affixed, erected or attached to any of the Non-enclosed Areas whereby the same shall be enclosed in whole or in part other than as approved under the Building Plans.
- (e) In the event of the above covenants being in breach, the Manager, without prejudice to the right of the other Owners, shall have the right to demand the defaulting Owners to remedy the breach forthwith and if necessary to reinstate the Non-enclosed Areas to their original state under the Building Plans and if the defaulting Owners shall fail to comply with the Manager's demand, the Manager shall have the right to take such steps as it may in its absolute discretion consider necessary to secure compliance with the aforesaid covenants including but not limited to the right to enter upon the Residential Units concerned (including the Non-enclosed Areas provided therein) and remove any fences, awnings, grilles or any structures or things which are installed, exhibited, affixed, erected or attached to the Non-enclosed Areas or the Residential Units which are in breach of the aforesaid covenants. The defaulting Owner shall pay to the Manager all costs incurred by the Manager for or in relation to the steps taken by the Manager for the aforesaid purpose.

36. **Not to interfere with operation of the building maintenance unit(s), etc.**

No Owner shall do or permit or suffer to be done by his tenants, occupiers or licensees any act, deed, matter or thing or place any items in the balcony, roof, flat roof or the parapet walls of the roof or flat roof pertaining to his Residential Unit which in any way interferes with or affects or which is likely to interfere with or affect the operation of the building maintenance unit(s) at any time in the course of the management and/or the maintenance of the Building.

37. **Not to install furnace etc. which may result in breach**

Save and except with the prior written consent of the Manager, no Owner shall install any furnace, boiler or other plant or equipment or use any fuel energy that may produce gas, smoke, liquid or otherwise and no Owner shall install the aforesaid furnace, boiler, plant or equipment or use any



method or process of manufacture or treatment which may in any circumstances result in the discharge or emission whether it be in the form of gas, smoke, liquid or otherwise and which shall in the opinion of the Manager be excessive or unnecessary or which may contravene the Air Pollution Control Ordinance (Cap. 311 of the Laws of Hong Kong) or any amendments thereto.

38. **Residential Units with flat roofs, roofs and/or Non-enclosed Areas to avoid water leakage into Common Areas and Facilities**

Every Owner of the Residential Units with flat roofs, roofs and/or Non-enclosed Areas shall at all times ensure that (a) the drains of the flat roofs, roofs and/or the Non-enclosed Areas of their respective Residential Units are in good function and condition and shall ensure that there shall be no overflowing or leakage of water from their respective Residential Units and the flat roofs, roofs and/or Non-enclosed Areas thereof into other parts of the Building (including without limitation the Common Areas and Facilities) and (b) the doors of the flat roofs, roofs and/or the Non-enclosed Areas forming part of their respective Residential Units shall remain closed during inclement weather in order to ensure that there shall be no overflowing or leakage of water from the flat roofs, roofs and/or the Non-enclosed Areas into other parts of the Building (including without limitation the Common Areas and Facilities), failing which the Manager shall have the right to enter into the relevant Residential Units in accordance with paragraph (b) of Part B of the Second Schedule hereof for the purpose of carrying out any necessary works to stop such overflowing or leakage. The Owner of the relevant Residential Unit causing such water overflow or leakage shall be wholly responsible for all the costs, expenses, loss and damage as may be incurred and/or suffered by the Manager and/or any other Owners.

39. **Common wall or common fence wall adjoining Units**

- (a) Owners who have a common wall or a common fence wall adjoining their respective Units and/or flat roofs shall each have the right to the use of the interior surface of the wall on his side subject to an obligation to maintain repair and reinstate such interior surface. Without prejudice to the said obligation, if the wall or any portion thereof (being neither structural wall nor load bearing wall under the Building Plans and not forming part of the Common Areas and Facilities) is damaged or injured for any cause other than the act or negligence of either Owner, it shall be repaired or rebuilt or reinstated at their joint cost and expense with each bearing half of such cost and expense and such Owners shall repair rebuild or reinstate the wall and contribute to such cost and expense forthwith.
- (b) Neither Owner in respect of a common wall or a common fence wall adjoining their respective Units and/or flat roofs shall use any portion of the wall so as to interfere with the use and enjoyment of the other Owner in respect thereof. Neither Owner shall put structures of any kind onto or so near to the wall as to cause leakage of water or damage to the other side of the wall or as to be likely to cause the wall to collapse, nor can the Owner(s) in any way demolish or alter the wall Provided That an Owner owning such adjoining Units with the common wall or common fence wall may demolish or alter the common wall or common fence wall (being not structural wall nor load bearing wall under the Building Plans and not forming part of the Common Areas and Facilities) with the necessary approval of the Buildings Department and other relevant governmental authority and in compliance with the Buildings Ordinance and other relevant laws ordinances and regulations and provided further that if such adjoining Units cease to be under the ownership of the same Owner, the Owners of such adjoining Units shall as soon as practicable rebuild or reinstate the common wall or common fence wall to the original state and condition at their joint cost and expense.

40. **Fire Safety Management Plan**

Each Owner of Residential Unit with open kitchen shall at his own costs and expenses observe and comply with the Fire Safety Management Plan, in particular the provisions set out in the FIFTH SCHEDULE hereto, and any guideline or direction to be issued or given by the Manager from time to time relating to the implementation of the Fire Safety Management Plan and shall cause his tenants and other occupants of his Residential Unit to observe and comply with the same.

41. **Setback Area**

- (a) If so required by the Manager, arrangements with respect to the control and maintenance of the Setback Area will be provided by the Manager as the Manager shall deem fit.
- (b) The Setback Area shall be kept properly landscaped, paved, open, uncovered and no permanent building structure (other than any landscaped features and perforated boundary walls) may be erected or constructed or placed on the Setback Area or any part thereof.

**THE FOURTH SCHEDULE ABOVE REFERRED TO**

**WORKS AND INSTALLATIONS**

The major works and installations in the Building (whether forming part of the Common Areas and Facilities or not) requiring regular maintenance on a recurrent basis which include but not limited to the following:-

- (a) Curtain Wall;
- (b) structural elements;
- (c) external wall finishes and roofing materials;
- (d) fire safety elements;
- (e) the slope structures (if applicable);
- (f) plumbing system;
- (g) drainage system;
- (h) fire services installations and equipment;
- (i) electrical wiring system;
- (j) lift installations;
- (k) gas supply system (if applicable);
- (l) window installations;
- (m) air-conditioning and ventilation system;
- (n) gondola system;
- (o) green features (including planters);
- (p) security and CCTV system;
- (q) telecommunication and broadcasting system;
- (r) exterior lighting system;
- (s) lighting in the Common Areas and Facilities; and
- (t) Transformer Room Facilities.



**THE FIFTH SCHEDULE ABOVE REFERRED TO**  
**PROVISIONS RELATING TO THE FIRE SAFETY MANAGEMENT PLAN**

1. An Owner of Residential Unit with open kitchen (in this FIFTH SCHEDULE, the "Relevant Owner") shall be responsible for maintenance and annual inspection of the fire safety provisions within his Residential Unit.
2. The Relevant Owner shall not:-
  - (a) alter, remove or obstruct any smoke detectors provided inside his Residential Unit and at the common lobby outside his Residential Unit;
  - (b) alter, remove or obstruct the sprinkler head provided at the ceiling immediately above the open kitchen of his Residential Unit; or
  - (c) alter or remove the full height wall having a fire resistance rating of not less than -/30/30 adjacent to the exit door of his Residential Unit.
3. The Relevant Owner shall allow the Manager and the registered fire services installation contractor(s) to enter with or without workmen, contractors and others and with or without equipment and apparatus at all reasonable times on prior reasonable notice (except in case of emergency) into his Residential Unit to carry out (at the cost and expense of the Relevant Owner) annual check and maintenance of the fire safety provisions including but not limited to smoke detectors and sprinkler heads within his Residential Unit.
4. The Relevant Owner shall observe and comply with the Fire Safety Management Plan and any guideline or direction to be issued or given by the Manager from time to time relating to the implementation of the Fire Safety Management Plan.
5. In the event that the Relevant Owner parts with possession of his Residential Unit, such Owner shall procure the tenant, licensee or occupier (as the case may be) to comply with the Fire Safety Management Plan, in particular the provisions set out under this FIFTH SCHEDULE, and make it a condition in the relevant agreement (if any).
6. The costs and expenses incurred by the Manager and/or the registered fire service installation contractor(s) for the maintenance, annual inspection and certification of the fire safety provisions for open kitchen shall be borne by the Relevant Owners on demand.

**SEALED** with the Common Seal of the **First Owner** and **SIGNED** by

duly authorized by resolution of the board of  
directors whose signature(s) is/are verified by:-

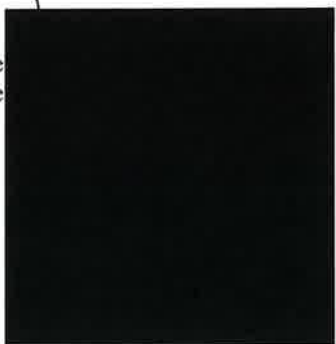
Young Hin Fai Libby  
Solicitor, Hong Kong SAR  
King & Wood Mallesons



SEALED with the Common Seal of the First )  
Assignee and SIGNED by )  
 )



duly authorized by written resolutions of its sole  
director in the presence of/whose signature(s) is/are  
verified by:-



A handwritten signature in black ink, appearing to read 'Lee Ching Woon'.

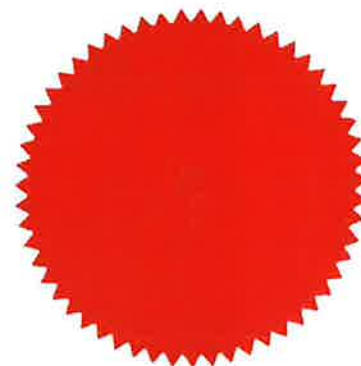
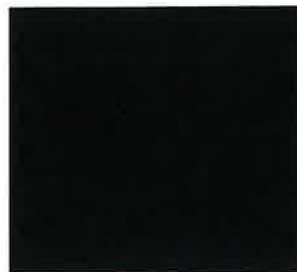
Lee Ching Woon  
SOLICITOR, HONG KONG SAR  
**Bird & Bird**

Cheng Ka Chun,

duly authorized by resolution of the board of directors whose signature(s) is/are verified by:-



Young Hiu Fai Libby  
Solicitor, Hong Kong SAR  
King & Wood Mallesons



**SEALED** with the Common Seal of the **Lender** and )  
**SIGNED** by [REDACTED] and )  
[REDACTED] )

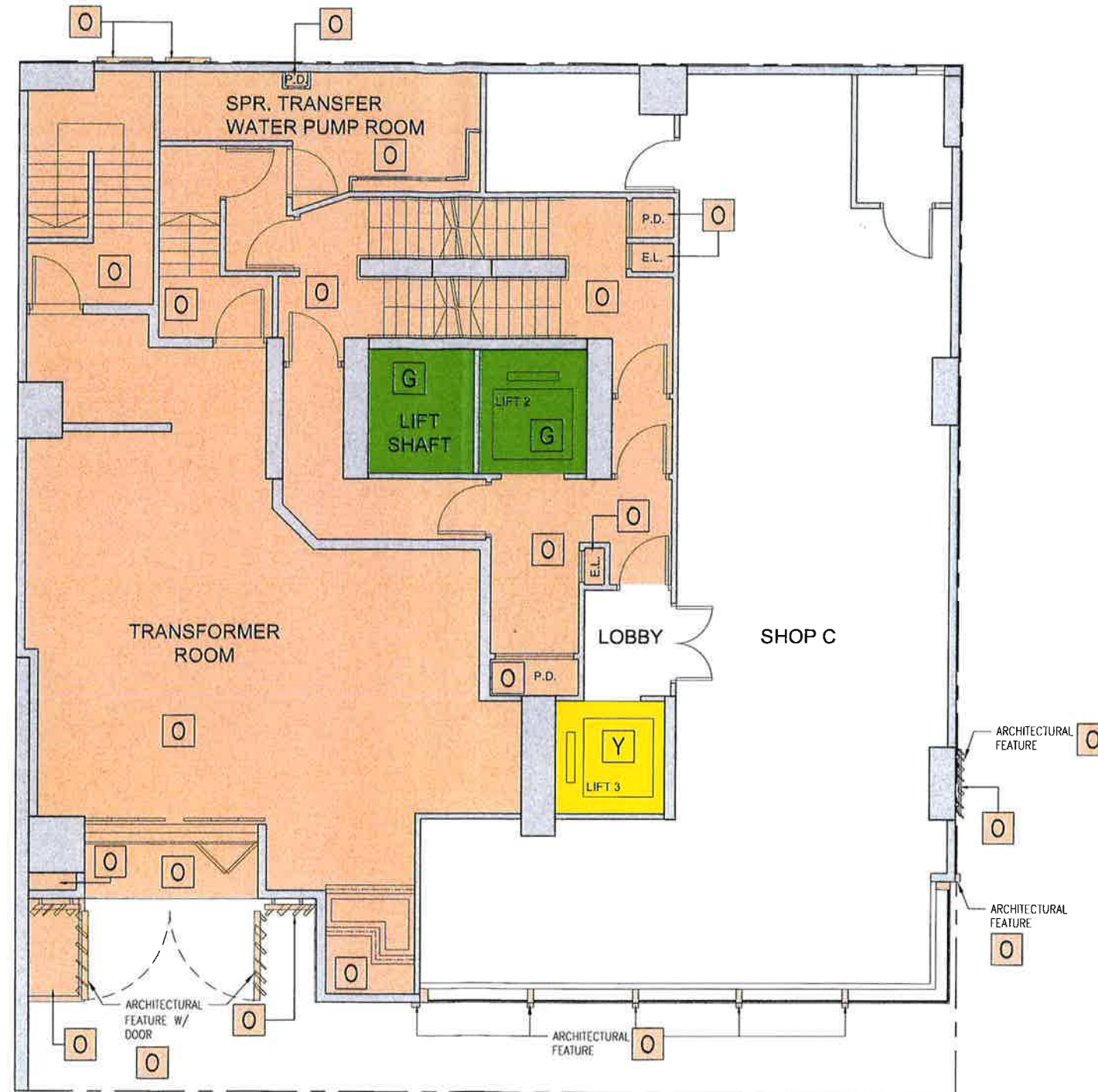
duly authorized by resolution of the board of  
directors whose signature(s) is/are verified by:-

A handwritten signature in black ink, consisting of a stylized 'L' shape followed by a cursive 'X' and a vertical line.

**Young Hiu Fai Libby**  
Solicitor, Hong Kong SAR  
King & Wood Mallesons







- O - ORANGE  
DEVELOPMENT COMMON AREAS AND FACILITIES
- G - GREEN  
RESIDENTIAL COMMON AREAS AND FACILITIES
- Y - YELLOW  
COMMERCIAL COMMON AREAS AND FACILITIES FOR  
SHOP C AND SHOP D

NOTE: FOR IDENTIFICATION PURPOSE ONLY

## 1/F FLOOR PLAN

NO.181 SAI YEE STREET , HONG KONG  
K.I.L. 2528 s.A R.P. & s.A ss.1 R.P.

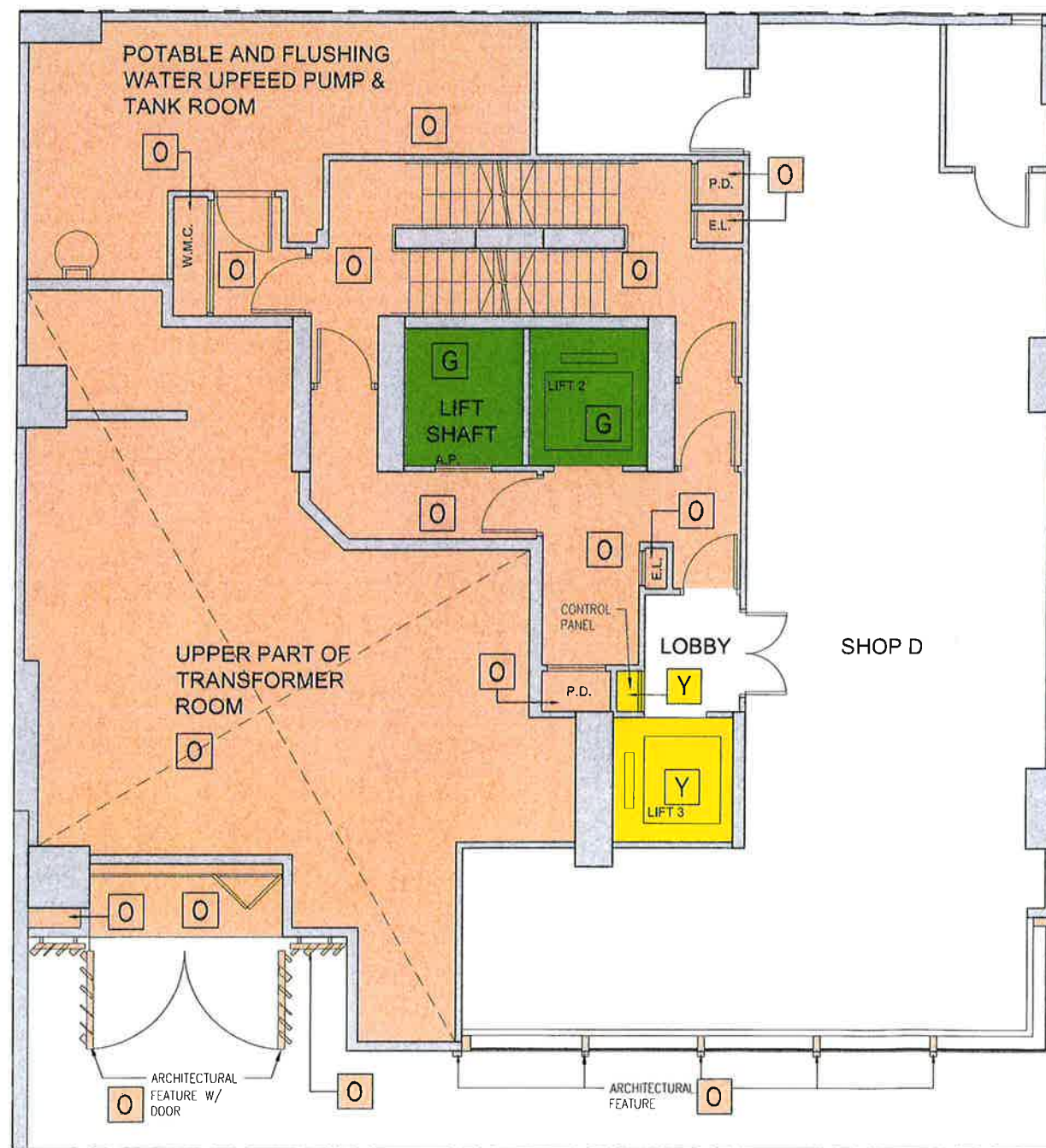


I hereby certify the accuracy of the Plan

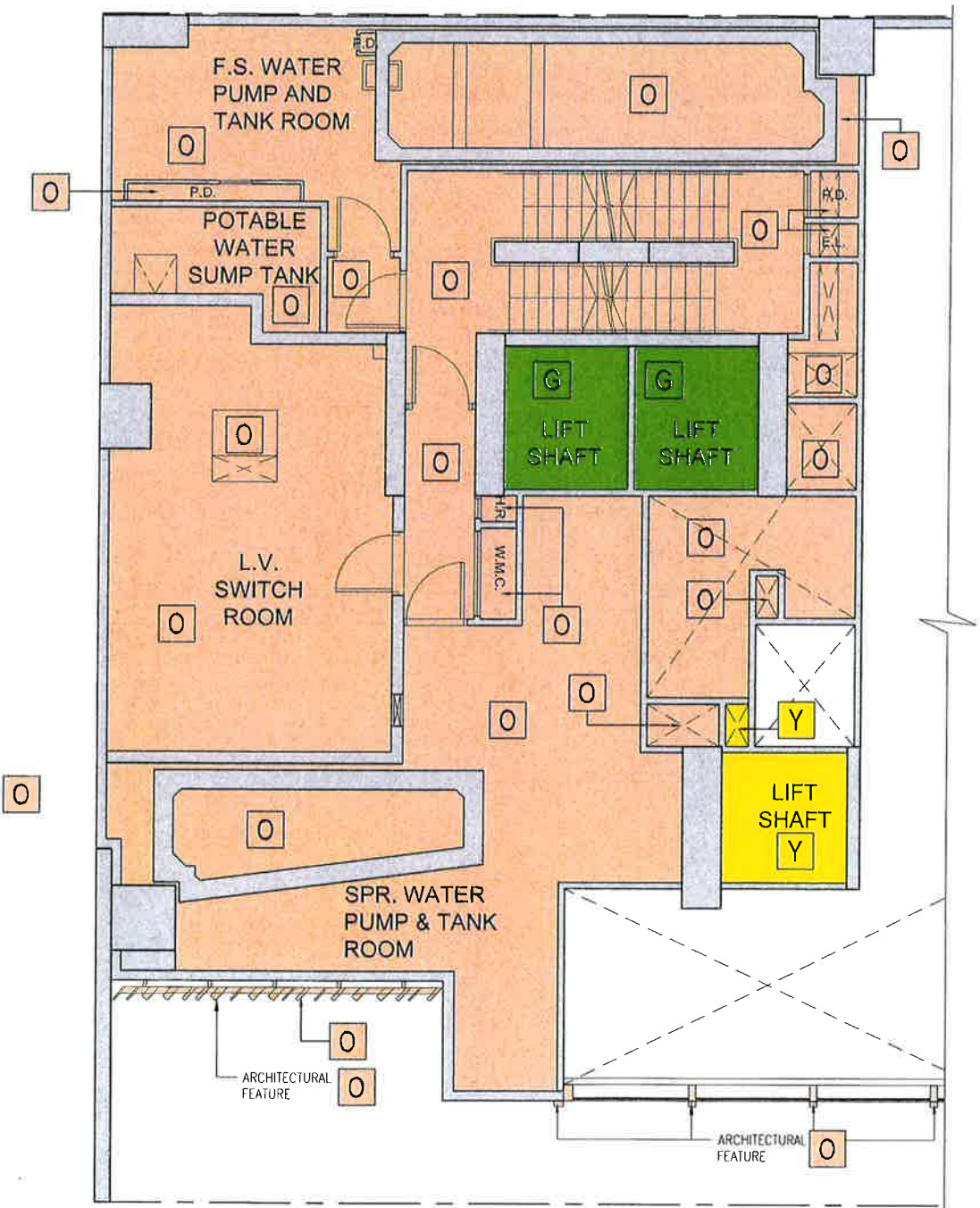
*[Signature]*

CHEUNG Kong Yeung  
B.A. (A.S.) M. Arch. H.K.I.A.  
Authorized Person (Architect)





2/F FLOOR PLAN



2/F FLOOR PART PLAN

(BETWEEN 2/F AND 3/F)

- O - ORANGE  
DEVELOPMENT COMMON AREAS AND FACILITIES
- G - GREEN  
RESIDENTIAL COMMON AREAS AND FACILITIES
- Y - YELLOW  
COMMERCIAL COMMON AREAS AND FACILITIES FOR  
SHOP C AND SHOP D

NOTE: FOR IDENTIFICATION PURPOSE ONLY

NO.181 SAI YEE STREET, HONG KONG  
K.I.L. 2528 s.A R.P. & s.A ss.1 R.P.

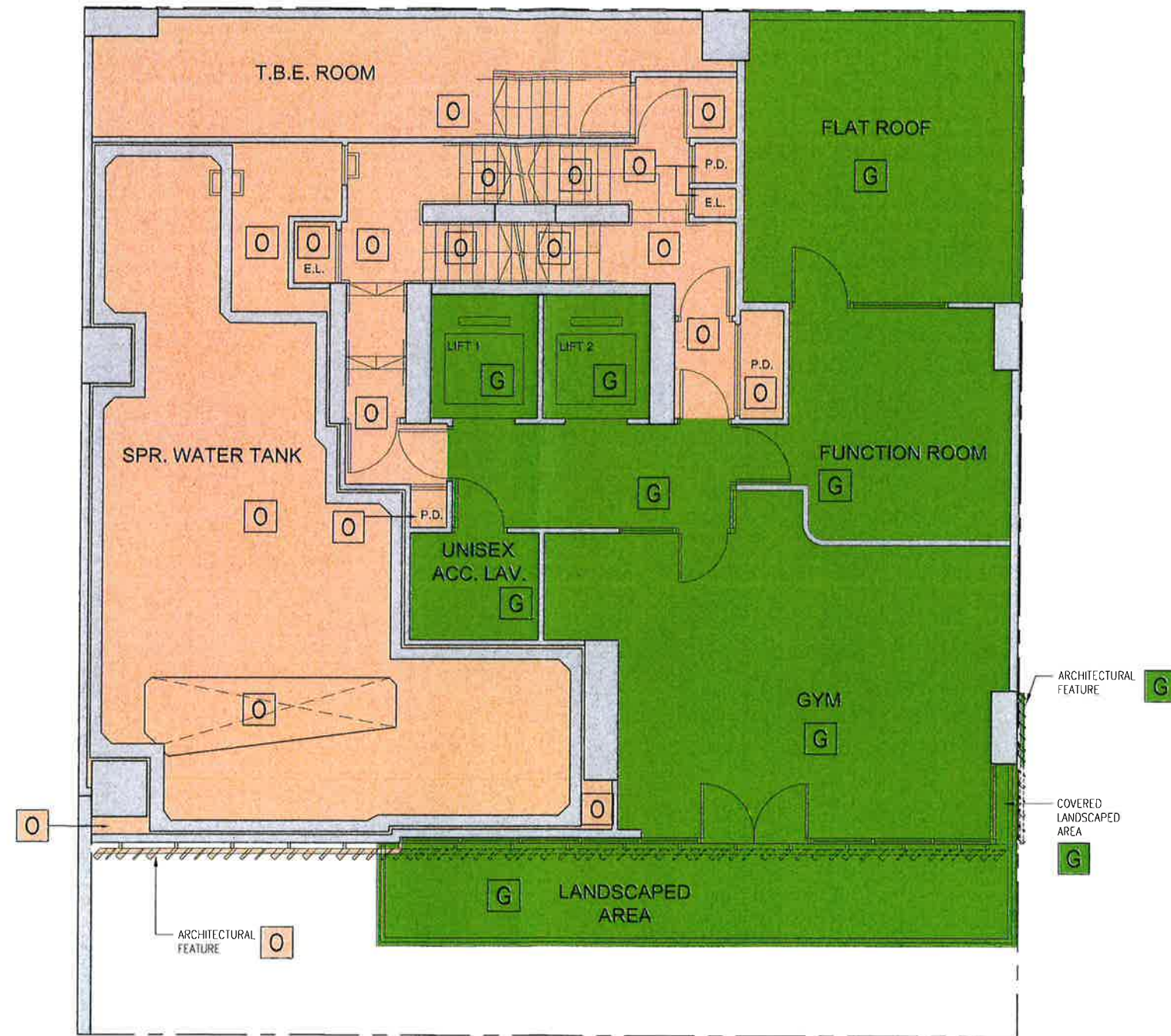


I hereby certify the accuracy of the Plan

*(Signature)*

CHEUNG Kong Yeung  
B.A. (A.S.) M. Arch. H.K.I.A.  
Authorized Person (Architect)





- O** - ORANGE  
DEVELOPMENT COMMON AREAS AND FACILITIES
- G** - GREEN  
RESIDENTIAL COMMON AREAS AND FACILITIES

NOTE: FOR IDENTIFICATION PURPOSE ONLY

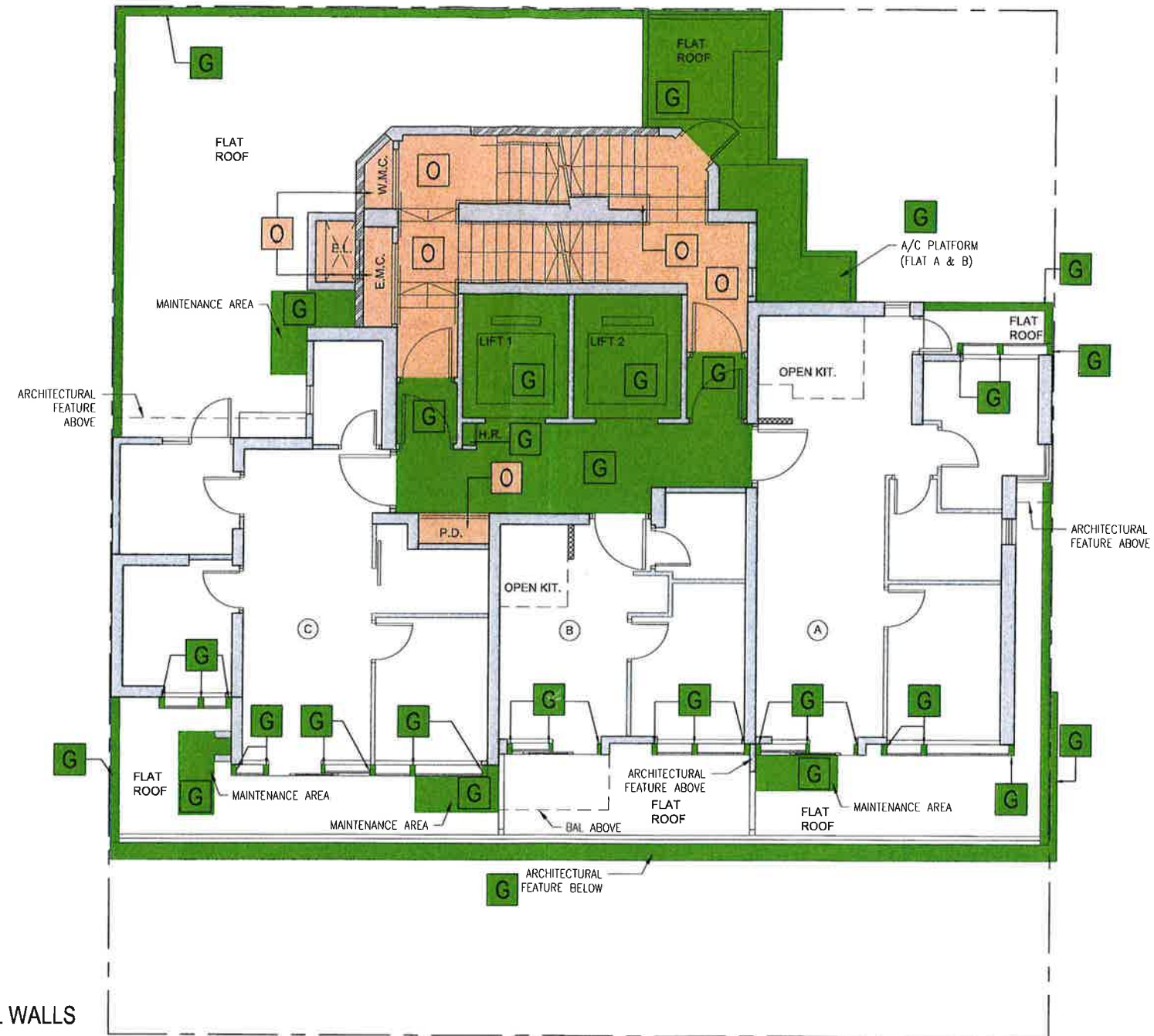
### 3/F FLOOR PLAN

NO.181 SAI YEE STREET , HONG KONG  
K.I.L. 2528 s.A R.P. & s.A ss.1 R.P.



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CHEUNG Kong Yeung  
B.A. (A.S.) M. Arch. H.K.I.A.  
Authorized Person (Architect)



NON-STRUCTURAL PREFABRICATED EXTERNAL WALLS

F.R.R. WALL FOR OPEN KITCHEN

ORANGE  
DEVELOPMENT COMMON AREAS AND FACILITIES

GREEN  
RESIDENTIAL COMMON AREAS AND FACILITIES

NOTE: FOR IDENTIFICATION PURPOSE ONLY

## 5/F FLOOR PLAN

NO.181 SAI YEE STREET , HONG KONG  
K.I.L. 2528 s.A R.P. & s.A ss.1 R.P.

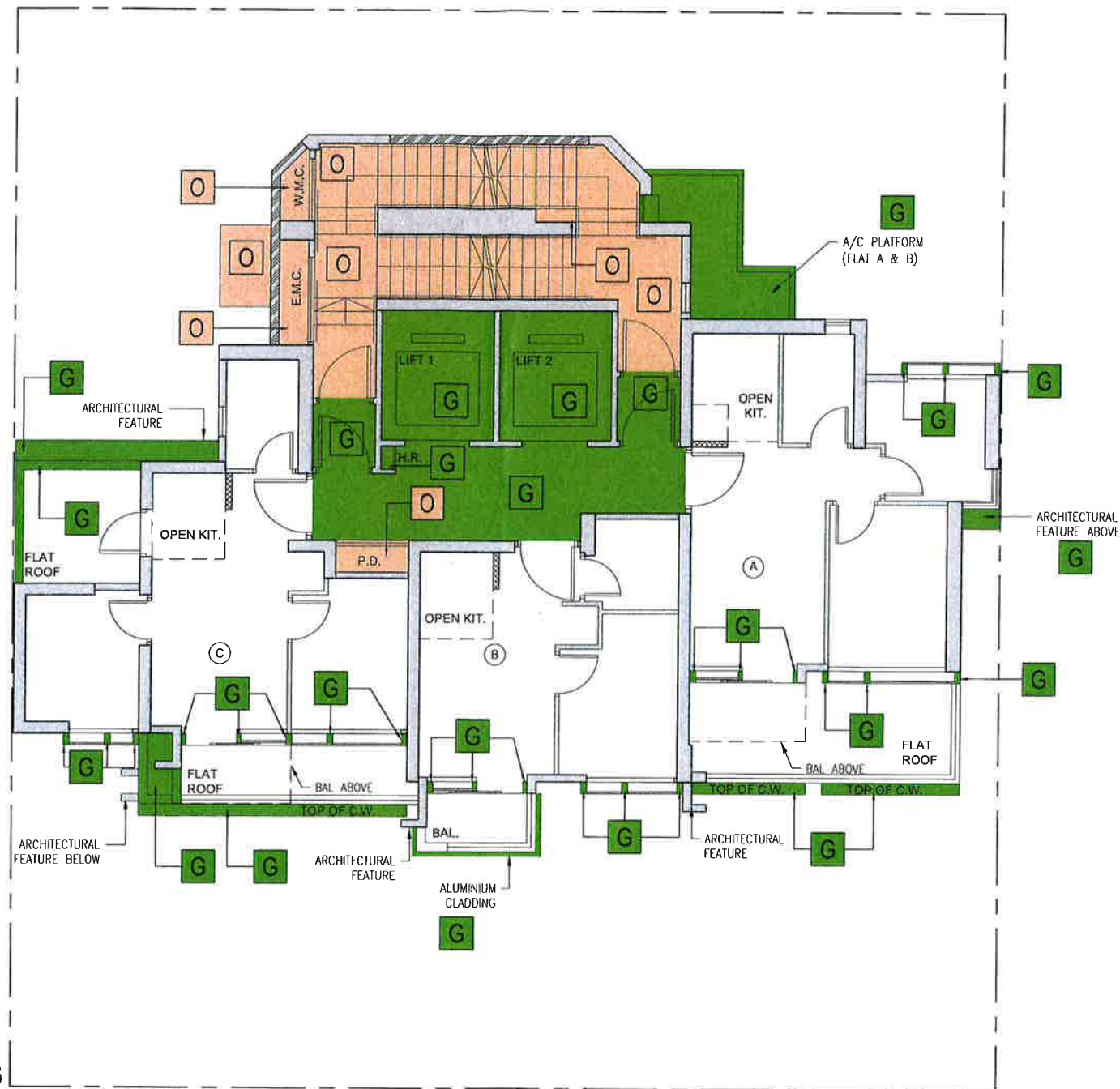


I hereby certify the accuracy of the Plan

*[Signature]*

CHEUNG Kong Yeung  
B.A. (A.S.) M. Arch. H.K.I.A.  
Authorized Person (Architect)





NON-STRUCTURAL PREFABRICATED EXTERNAL WALLS

F.R.R. WALL FOR OPEN KITCHEN

ORANGE  
DEVELOPMENT COMMON AREAS AND FACILITIES

GREEN  
RESIDENTIAL COMMON AREAS AND FACILITIES

## 6/F FLOOR PLAN

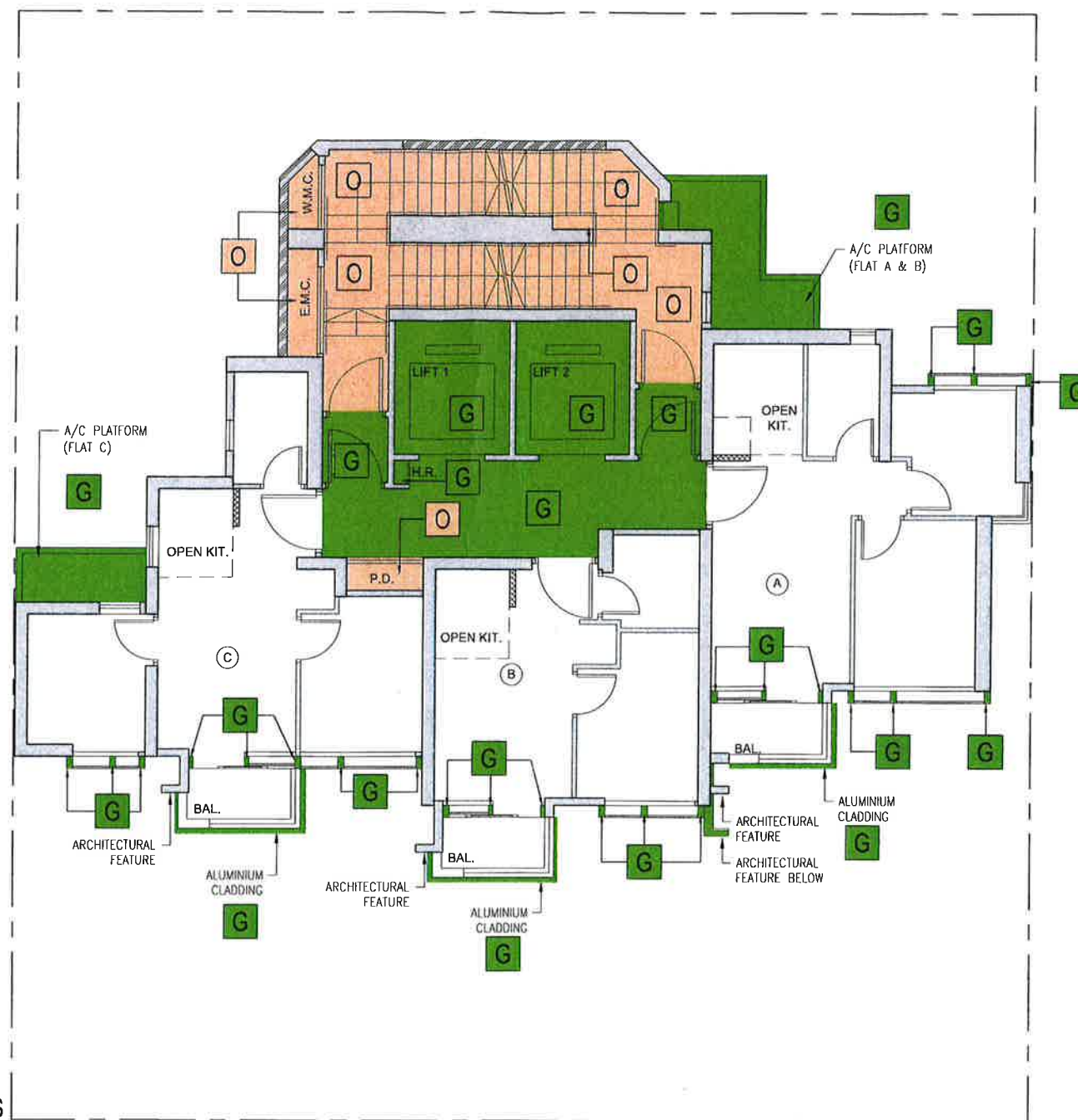
NO.181 SAI YEE STREET , HONG KONG  
K.I.L. 2528 s.A R.P. & s.A ss.1 R.P.



NOTE: FOR IDENTIFICATION PURPOSE ONLY

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CHEUNG Kong Yeung  
B.A. (A.S.) M. Arch. H.K.I.A.  
Authorized Person (Architect)



NON-STRUCTURAL PREFABRICATED EXTERNAL WALLS

F.R.R. WALL FOR OPEN KITCHEN

O - ORANGE  
DEVELOPMENT COMMON AREAS AND FACILITIES

G - GREEN  
RESIDENTIAL COMMON AREAS AND FACILITIES

NOTE: FOR IDENTIFICATION PURPOSE ONLY

## 7/F - 12/F, 15/F-17/F & 19/F - 22/F FLOOR PLAN

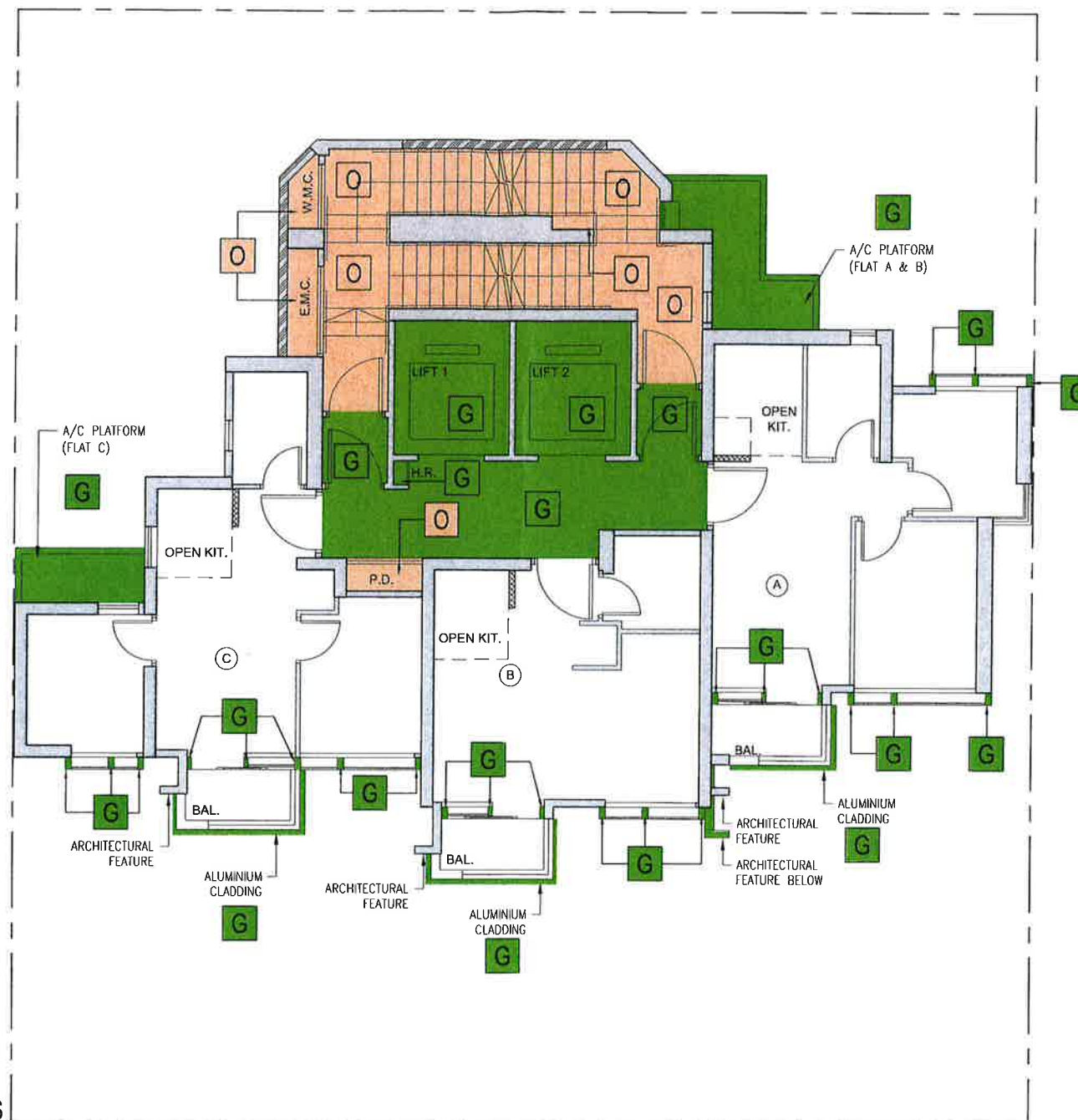
NO.181 SAI YEE STREET, HONG KONG  
K.I.L. 2528 s.A R.P. & s.A ss.1 R.P.



I hereby certify the accuracy of the Plan

*[Signature]*

CHEUNG Kong Yeung  
B.A. (A.S.) M. Arch. H.K.I.A.  
Authorized Person (Architect)



NON-STRUCTURAL PREFABRICATED EXTERNAL WALLS

F.R.R. WALL FOR OPEN KITCHEN

ORANGE  
DEVELOPMENT COMMON AREAS AND FACILITIES

GREEN  
RESIDENTIAL COMMON AREAS AND FACILITIES

## 18/F FLOOR PLAN

NO.181 SAI YEE STREET , HONG KONG  
K.I.L. 2528 s.A R.P. & s.A ss.1 R.P.



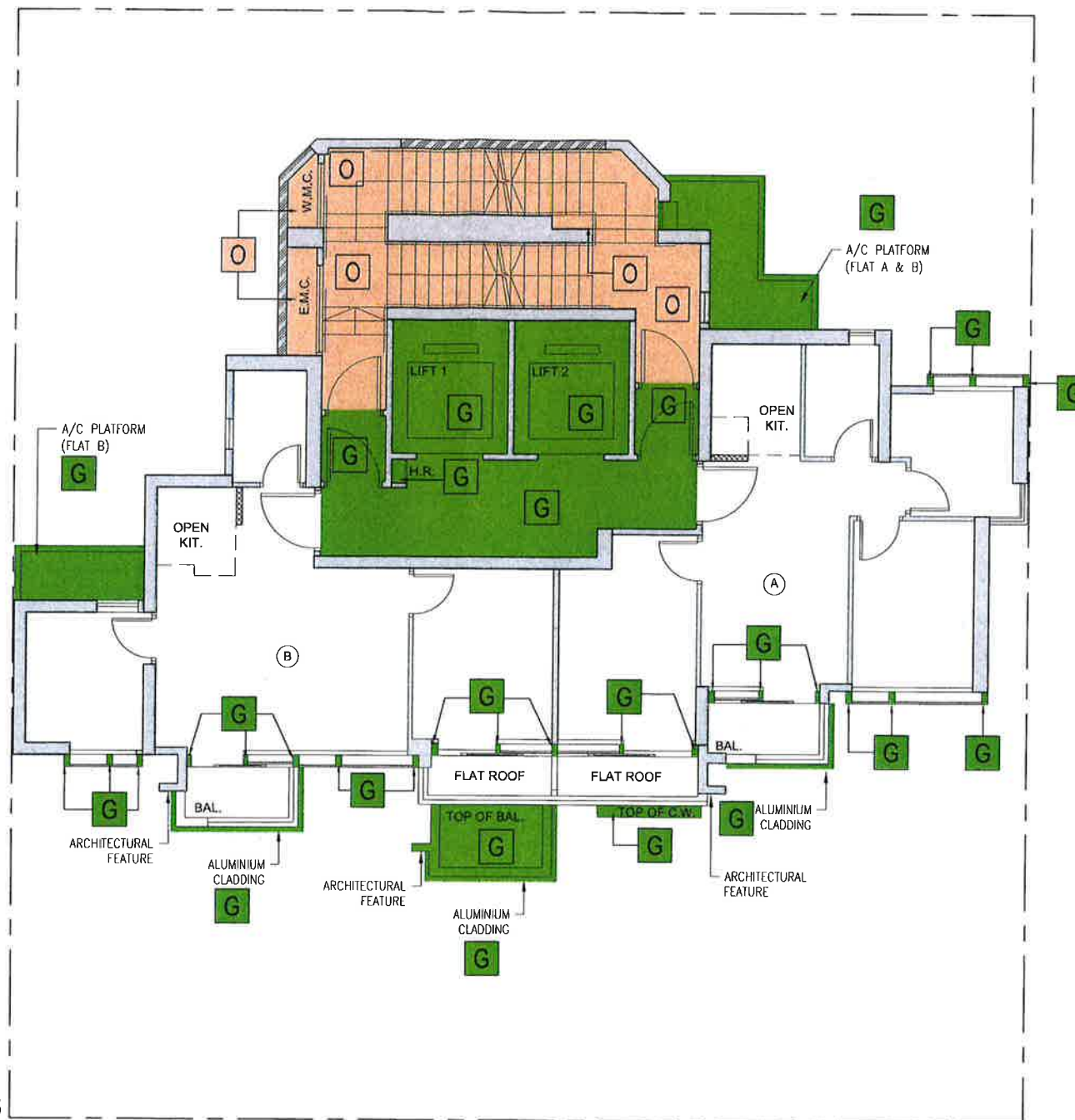
NOTE: FOR IDENTIFICATION PURPOSE ONLY





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*[Signature]*

CHEUNG Kong Yeung  
B.A. (A.S.) M. Arch. H.K.I.A.  
Authorized Person (Architect)





-  - NON-STRUCTURAL PREFABRICATED EXTERNAL WALLS
-  - F.R.R. WALL FOR OPEN KITCHEN
-  - ORANGE  
DEVELOPMENT COMMON AREAS AND FACILITIES
-  - GREEN  
RESIDENTIAL COMMON AREAS AND FACILITIES

## 23/F FLOOR PLAN

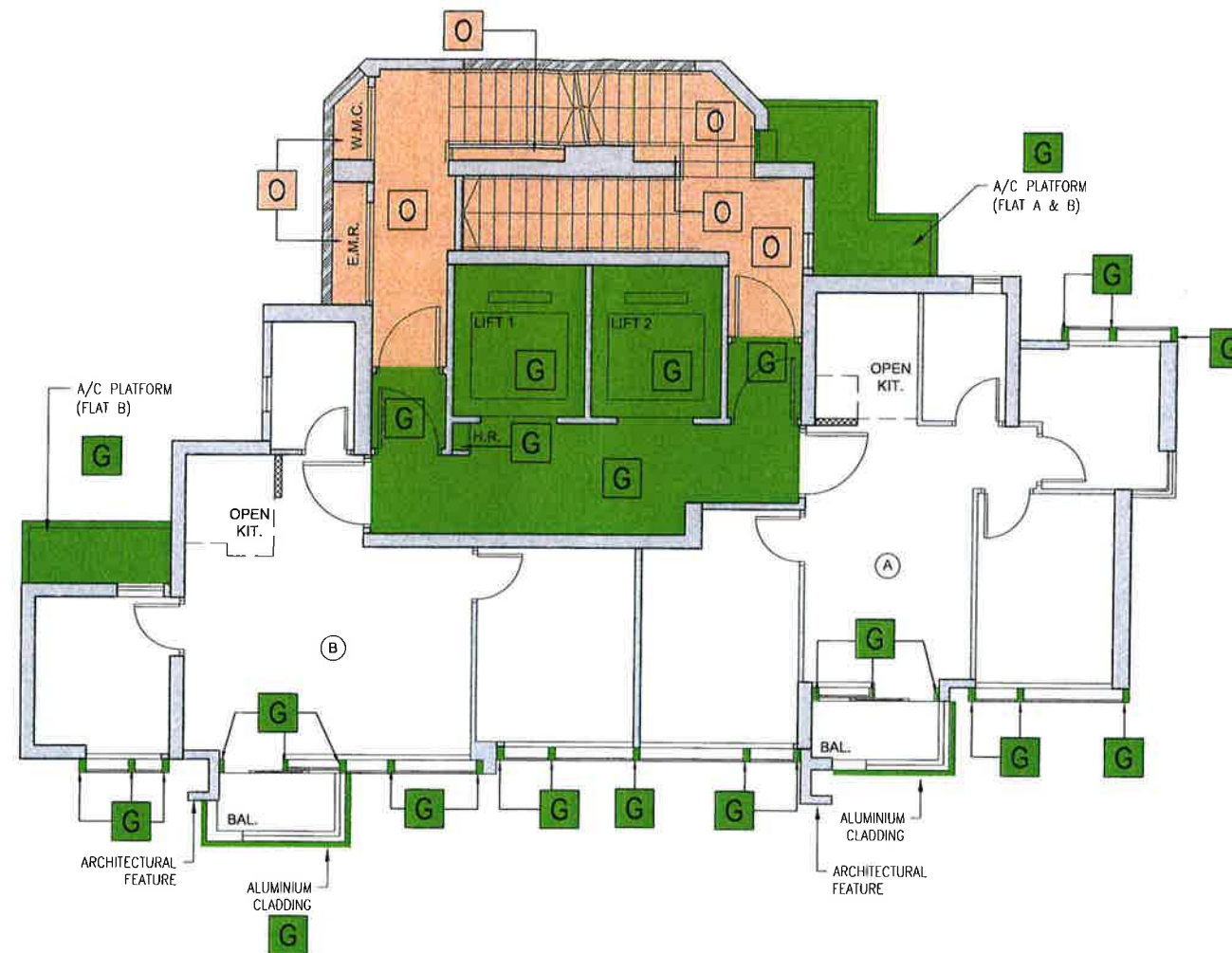
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K.I.L. 2528 s.A R.P. & s.A ss.1 R.P.





NOTE: FOR IDENTIFICATION PURPOSE ONLY



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B.A. (A.S.) M. Arch. H.K.I.A.  
Authorized Person (Architect)



-  - NON-STRUCTURAL PREFABRICATED EXTERNAL WALLS
-  - F.R.R. WALL FOR OPEN KITCHEN
-  - ORANGE  
DEVELOPMENT COMMON AREAS AND FACILITIES
-  - GREEN  
RESIDENTIAL COMMON AREAS AND FACILITIES

NOTE: FOR IDENTIFICATION PURPOSE ONLY

## 25/F FLOOR PLAN

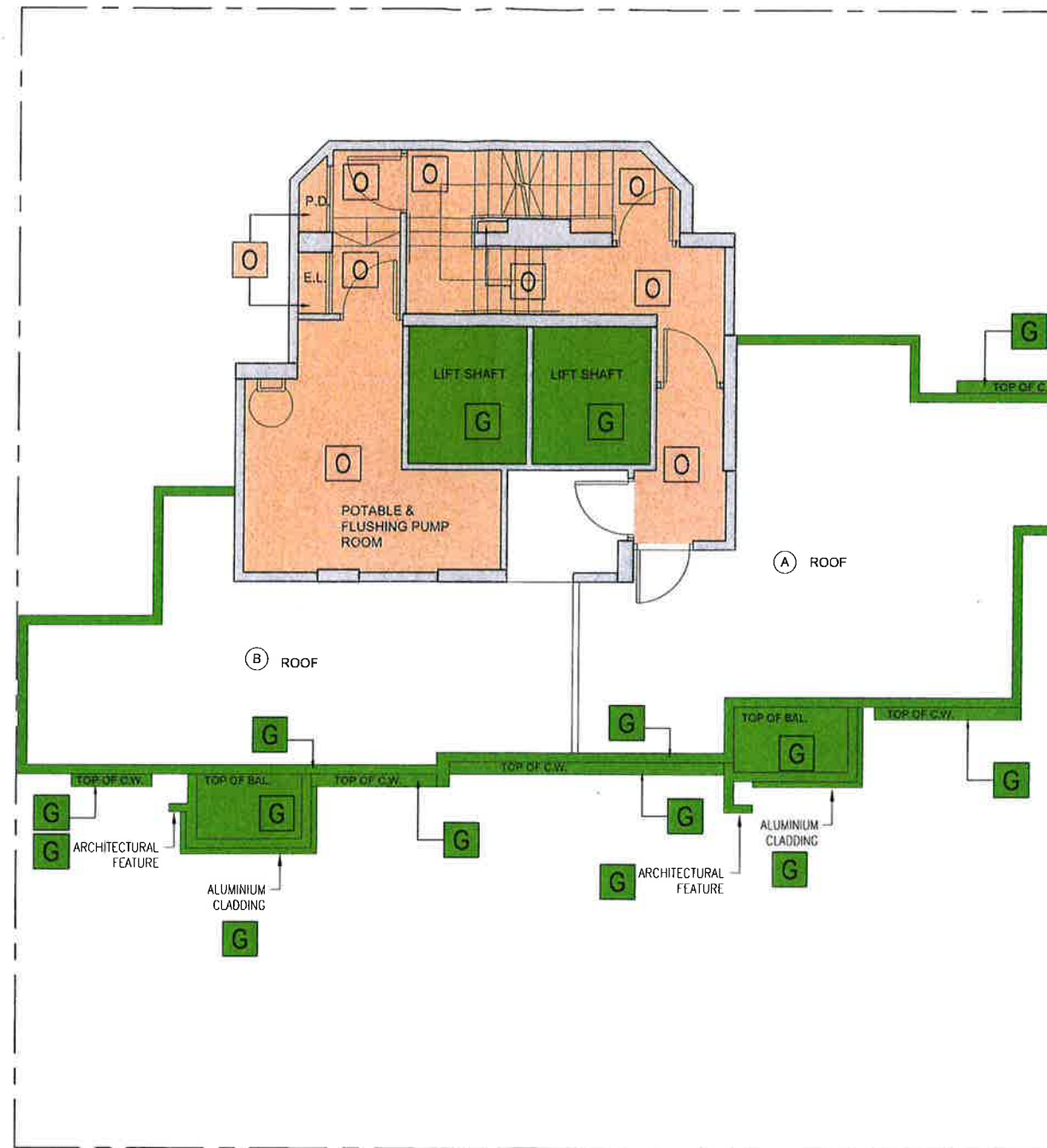
NO.181 SAI YEE STREET , HONG KONG  
K.I.L. 2528 s.A R.P. & s.A ss.1 R.P.



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B.A. (A.S.) M. Arch. H.K.I.A.  
Authorized Person (Architect)



- O - ORANGE  
DEVELOPMENT COMMON AREAS AND FACILITIES
- G - GREEN  
RESIDENTIAL COMMON AREAS AND FACILITIES

NOTE: FOR IDENTIFICATION PURPOSE ONLY

## ROOF FLOOR PLAN

NO.181 SAI YEE STREET , HONG KONG  
K.I.L. 2528 s.A R.P. & s.A ss.1 R.P.



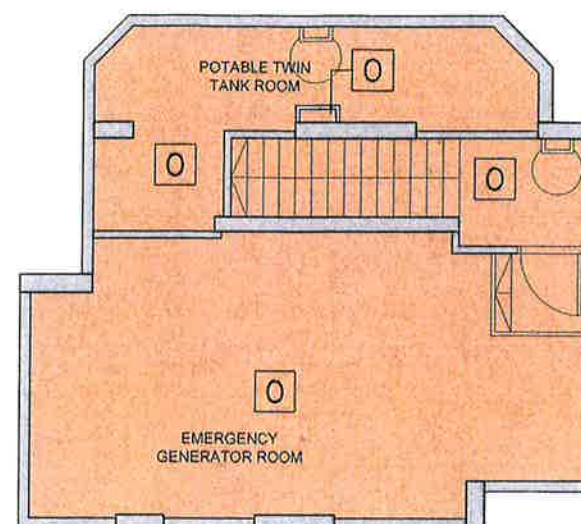
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CHEUNG Kong Yeung  
B.A. (A.S.) M. Arch. H.K.I.A.  
Authorized Person (Architect)

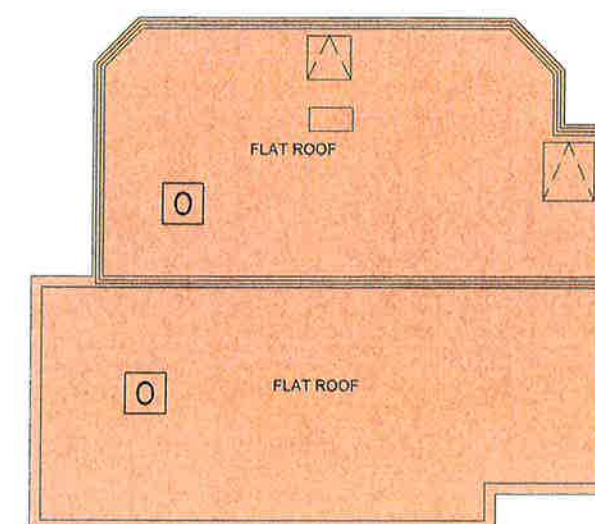




UPPER ROOF 1 FLOOR PLAN



UPPER ROOF 2 FLOOR PLAN



TOP ROOF FLOOR PLAN

- O - ORANGE  
DEVELOPMENT COMMON AREAS AND FACILITIES
- G - GREEN  
RESIDENTIAL COMMON AREAS AND FACILITIES

NOTE: FOR IDENTIFICATION PURPOSE ONLY

NO.181 SAI YEE STREET , HONG KONG  
K.I.L. 2528 s.A R.P. & s.A ss.1 R.P.



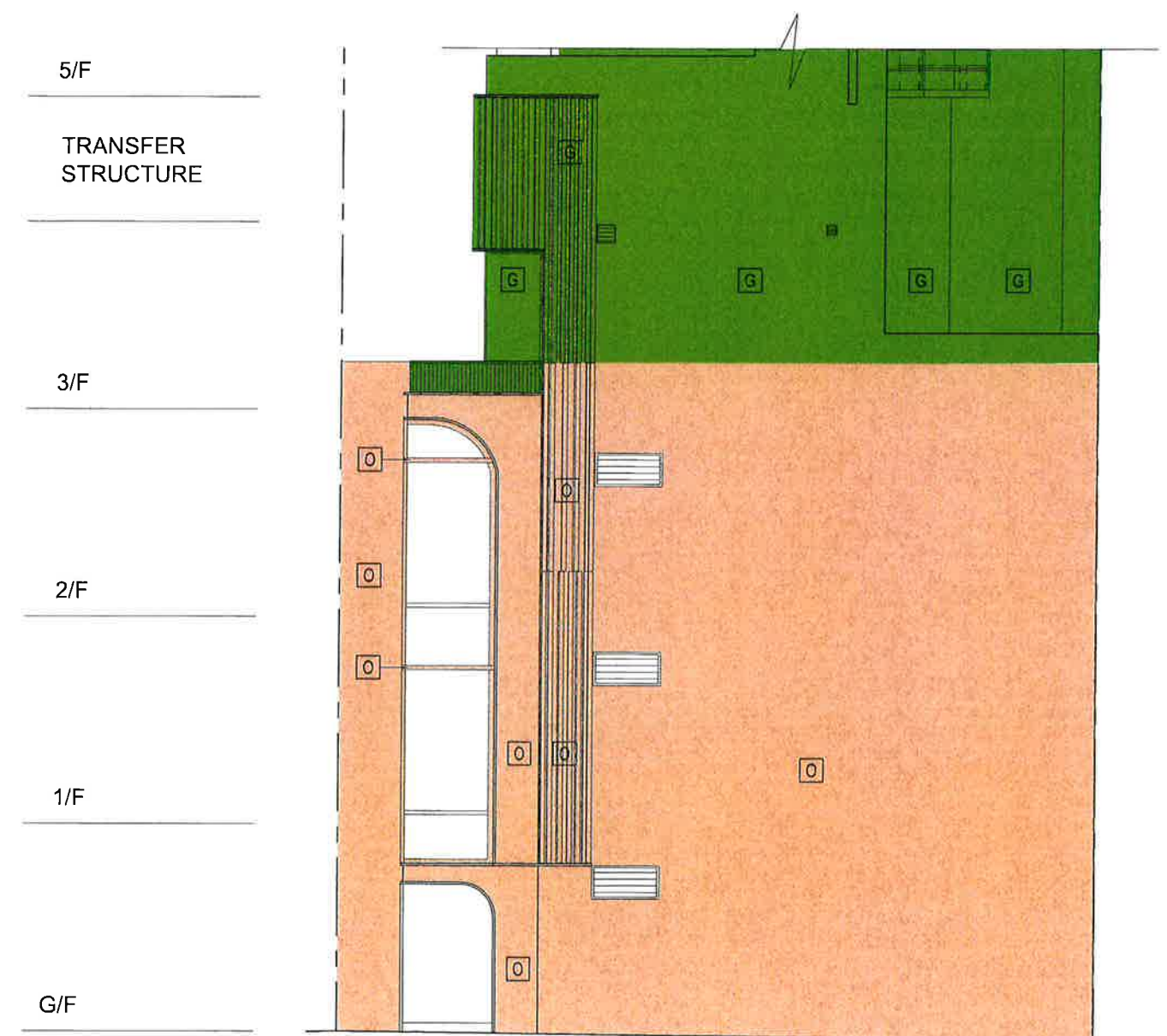
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*[Signature]*

CHEUNG Kong Yeung  
B.A. (A.S.) M. Arch. H.K.I.A.  
Authorized Person (Architect)



EAST ELEVATION



NORTH ELEVATION

- O - ORANGE  
DEVELOPMENT COMMON AREAS AND FACILITIES
- G - GREEN  
RESIDENTIAL COMMON AREAS AND FACILITIES
- Y - YELLOW  
COMMERCIAL COMMON AREAS AND FACILITIES FOR  
SHOP C AND SHOP D

NOTE: FOR IDENTIFICATION PURPOSE ONLY

NO.181 SAI YEE STREET , HONG KONG  
K.I.L. 2528 s.A R.P. & s.A ss.1 R.P.



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CHEUNG Kong Yeung  
B.A. (A.S.) M. Arch. H.K.I.A.  
Authorized Person (Architect)



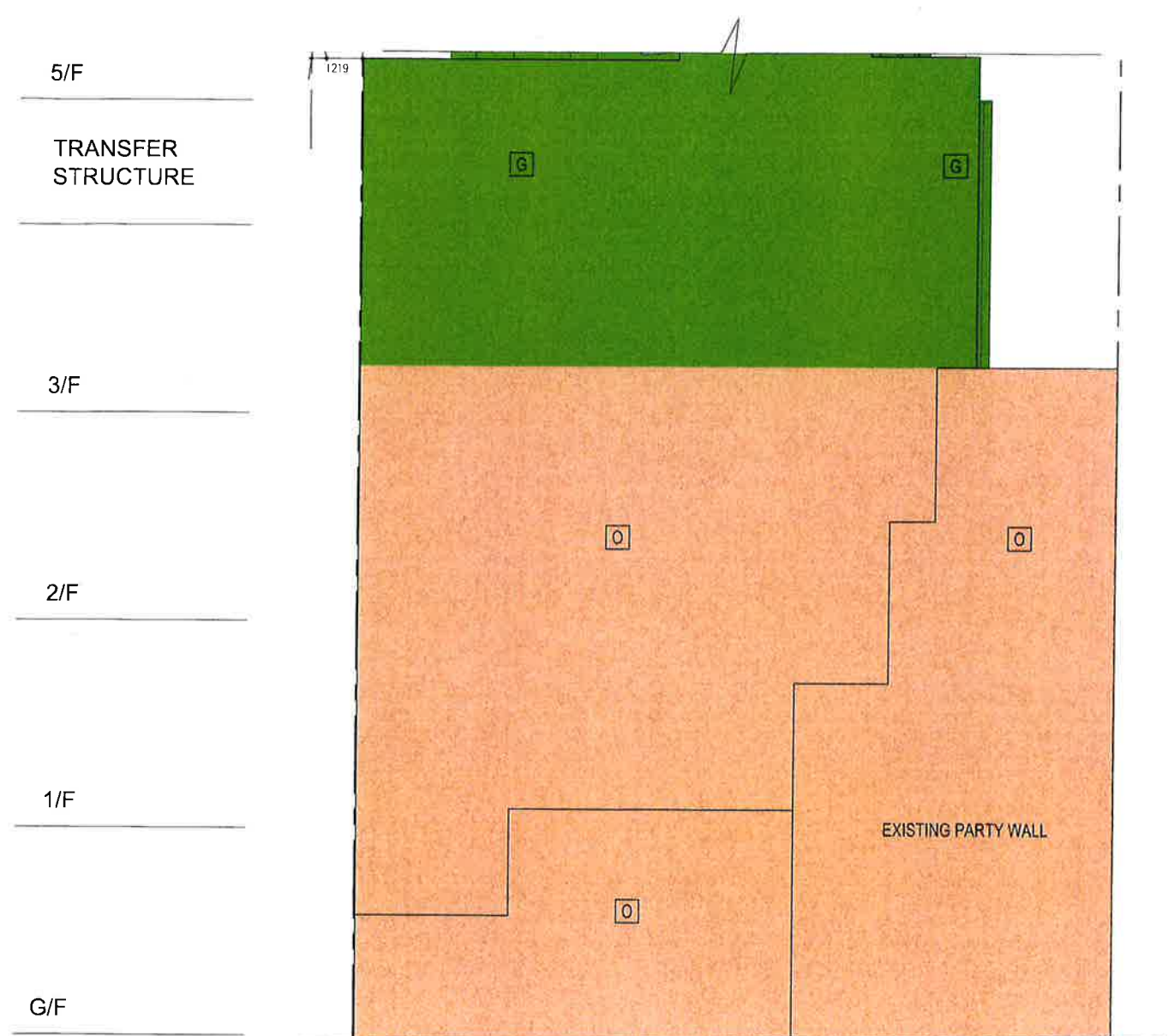


WEST ELEVATION

- O - ORANGE  
DEVELOPMENT COMMON AREAS AND FACILITIES
- G - GREEN  
RESIDENTIAL COMMON AREAS AND FACILITIES

NOTE: FOR IDENTIFICATION PURPOSE ONLY

NO.181 SAI YEE STREET , HONG KONG  
K.I.L. 2528 s.A R.P. & s.A ss.1 R.P.



SOUTH ELEVATION

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CHEUNG Kong Yeung  
B.A. (A.S.) M. Arch. H.K.I.A.  
Authorized Person (Architect)