

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

SALE AND PURCHASE AGREEMENT
(BUILDING INTENDED FOR SUBDIVISION)

Date : _____

Item : _____

1. Project : _____

2. Developer : _____

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

4. Parcel : Lot No. : _____
Block : _____
Level : _____
Type : _____
Area : _____
Bumiputera Lot : _____
Provisional Share Units : (to be allocated after
Occupation Certificate)
Car Park : “_____” per unit
(accessory parcel may be
applied for)

5. Purchase Price : _____

6. Developer’s Licence : _____

7. Advertisement and
Sale Permit : _____

8. Project Account : “Name of Bank” (_____) “Address”
Account No. _____

9. Project Land : “CL/NT/PL Town Lease, Location”
Owner : _____

10. Bridging Financier : _____

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

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

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

1. Agreement

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

2. Schedules

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

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

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

Director
Name :
NRIC No. :

Director/Secretary
Name :
NRIC No. :

Common Seal

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

Director
Name :
NRIC No. :

Director/Secretary
Name :
NRIC No. :

* Signed by the Owner
in the presence of:

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

Director
Name :
NRIC No. :

Director/Secretary
Name :
NRIC No. :

* Signed by the Purchaser
in the presence of:

Common Seal

* *Delete whichever not applicable.*

FIRST SCHEDULE
GENERAL TERMS

1. The Developer covenants to be bound by all the provisions as stipulated in the Housing Development (Control and Licensing) Rules 2008 (hereinafter referred to as “the Housing Rules”) in particular Rule 12 subject to the variations as permitted below. Further variations are permitted only by the Controller in writing. The headings are for ease of reference only.
 - (a) **The Parcel sold is free from industrial or agricultural conditions and residential use permitted (in the case of apartments only)**

The Parcel sold to the Purchaser is free from -

 - (i) any agricultural or industrial condition expressed or implied; and
 - (ii) any restriction against the construction of the Parcel.
 - (b) **No subsequent charges over the Parcel without Purchaser’s consent**

Immediately after this Agreement has been signed the Developer shall not subject the Parcel sold to the Purchaser to any encumbrance without the prior approval of the Purchaser.
 - (c) **The Parcel free from encumbrances upon delivery of Occupation Certificate**

The Parcel shall be free from encumbrances immediately prior to the issuance of Occupation Certificate of the Parcel to the Purchaser.
 - (d) **Purchase price**

The purchase price is stated in item 5 above.
 - (e) **Payment of the purchase price**

The purchase price shall be paid in the instalments and manner stipulated in the Second Schedule.
 - (f) **The layout plan and area of the Parcel**

The layout plan particularly specifying the measurements, boundaries and area of the Parcel and the position of the Parcel in the Project is stipulated in item 4 and in the Fourth Schedule.
 - (g) **Purchase price adjustment**
 - (i) No error or misstatement as to the description of the area of the Parcel shall annul this sale.

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

(h) Plans approved and cannot be changed

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

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

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

(j) Conformity with written laws

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

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

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

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

(l) Utility connection costs

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

(ii) The Purchaser shall be liable for and shall pay within fourteen (14) days from date of Occupation Certificate and as a condition for the collection of the keys to the Parcel the deposits for the installation of the water, electricity and other utility meters and services.

(m) Developer to bear subdivision costs

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

(n) Developer to procure Occupation Certificate

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

(o) Completion twenty-four (24) months

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

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

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

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

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

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

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

(s) Payment of outgoings

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

(t) Penalties to be paid by the Purchaser

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

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

(u) **Right of access**

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

(v) **No increase in price**

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

2. **Loans**

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

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

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

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

4. **Time essence of contract**

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

5. **Consent to assignment or subsale**

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

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

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

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

7. Maintenance of services

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

8. Manner of delivery of vacant possession

(a) After the issuance of the Occupation Certificate by the Appropriate Authority and provided the Purchaser has paid all moneys and performed and observed the terms and covenants on his part to be performed and observed under this Agreement, the Developer shall let the Purchaser take possession (and keys to) of the Parcel.

(b) Upon the expiry of fourteen (14) days from the date of a notice from the Developer requesting the Purchaser to take possession of the Parcel (whether or not the Purchaser has actually entered into possession or occupation of the Parcel) the Purchaser shall be deemed to have taken delivery of vacant possession whereupon all risk shall pass to the Purchaser.

9. Insurance

(a) It is the responsibility of the Developer to insure the Project and the Parcel at its cost until possession to the Parcel is delivered to the Purchaser or the management corporation is formed. Such responsibility will be shared between the Developer and the purchasers of the Project after the Occupation Certificate is issued. The perils insured shall be not less than that prescribed by the Land (Subsidiary Title) Enactment 1972.

(b) After issuance of the Occupation Certificate the Purchaser shall pay a fair and justifiable proportion of the insurance premium determined by the provisional share units, if known. If such share units is not known, then as determined by the Developer's licensed land surveyor. Such premium shall be paid within fourteen (14) days of the service of notice to the Purchaser to do so.

10. Lodgment of caveat

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

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

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

11. **Service of documents**

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

12. **Stamp duty and registration fees**

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

13. **Binding agreement**

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

14. Waiver

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

15. Indemnity by Purchaser

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

16. Phased Development

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

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

17. Common facilities and services

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

18. Payment of Service Fee

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

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

19. Sinking fund

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

20. New laws affecting the Project

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

21. Management office

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

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

22. Special terms

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

23. Principal and secondary instruments

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

24. Definitions

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

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

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

SECOND SCHEDULE
PAYMENT SCHEDULE

	Percentage of Purchase Price to be paid
1. Execution of this Agreement including booking fee, if any.	10%
2. (a) The work below ground level including piling and foundation of the Building comprising the said Parcel.	10%
(b) The reinforced concrete framework and floor slab of the Parcel.	15%
(c) The walls of the Parcel with door and window frames placed in position.	15%
(d) The roofing/ceiling, electrical wiring, plumbing (without fittings), gas piping (if any) and internal telephone trunking and cabling to the Parcel.	10%
(e) The internal and external plastering of the Parcel.	10%
(f) The sewerage works serving the Building.	5%
(g) The drains serving the Building.	5%
(h) The roads serving the Building.	5%
3. On issuance of the Certificate of Practical Completion.	7.5%
4. Upon issuance of the Occupation Certificate, seven point five per centum (7.5%) of the purchase price shall be paid, out of which,	
(a) to be released to the Developer; and	5%
(b) to be released from the Project Account to the Developer upon written certification from the registered surveyor that the index and storey plans under the Land (Subsidiary Title) Enactment 1972 has been submitted to and accepted by the Appropriate Authority.	2.5%
TOTAL	<hr style="border: 0.5px solid black;"/> 100% <hr style="border: 0.5px solid black;"/>

Conditions:

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

THIRD SCHEDULE
SPECIFICATIONS, SERVICES AND FACILITIES

FOURTH SCHEDULE
PLANS

FIFTH SCHEDULE
SPECIAL TERMS
[if any]

SIXTH SCHEDULE
DEED OF MUTUAL COVENANTS

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

1. **Covenants**

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

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

2. Covenants on right and liberties of the Other Purchasers

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

3. Service Fee and Deposits

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

4. Covenants of the Purchaser

The Purchaser shall -

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

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

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

5. **Developer's covenants and entitlement**

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

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

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

6. Upkeep and maintenance of Parcel

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

7. Further covenants

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

8. Waiver and indulgence

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

9. Additional easements

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

(a) Support

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

(b) Utility services drainage

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

(c) Encroachments

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

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

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

(d) Ingress and egress

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

10. Right to impose interest and disconnect utilities

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

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

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

11. Indemnity against public liability claims

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

12. Facilities

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

