

MAYER • BROWN
JSM

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Dear Sirs,

Re: Discovery Bay Road and Passageways at Villages

We refer to our emails dated 19th March 2010 and 12th May 2010, and your email dated 12th May 2010.

As requested, we have consolidated our advice on the following issues, as set out in the schedule to this letter, for your consideration:-

1. Nature of the "extensions" to Discovery Bay Road - see Part II of the schedule to this letter.
2. Nature of the passageways of the villages of Discovery Bay (other than No.13 Parkland Drive, DB Plaza (Block C), Bijou Hamlet, La Costa, Siena One, Siena Two A, Siena Two B and Chianti) - see Part III of the schedule to this letter.

Please note that in providing the advice, we have reviewed the Deed of Mutual Covenant, the Sub-Deeds of Mutual Covenant, and the Sub-Sub-Deeds of Mutual Covenant as set out in Part I of the schedule to this letter.

Please do not hesitate to contact our Mr. F.K. Au at 2843 4225 or our Ms. Pheona Chow at 2843 2556 if we can assist further.

Yours faithfully,



Mayer Brown JSM

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SCHEDULE

PART I

- | | | |
|-----|-------------------|--|
| 1. | Discovery Bay | Deed of Mutual Covenant dated 30th September 1982 with Memorial No. IS112018; |
| 2. | Beach Village | Sub-Deed of Mutual Covenant dated 10th October 1982 with Memorial No. IS112089; |
| 3. | Headland Village | (a) Sub-Deed of Mutual Covenant dated 7th October 1982 with Memorial No. IS112091;
(b) Sub-Sub-Deed of Mutual Covenant dated 9th February 1989 with Memorial No. IS149750;
(c) Sub-Sub-Deed of Mutual Covenant dated 4th November 1987 with Memorial No. IS136799; |
| 4. | Parkridge Village | (a) Sub-Deed of Mutual Covenant dated 30th September 1982 with Memorial No. IS112092;
(b) Sub-Sub-Deed of Mutual Covenant dated 4th November 1987 with Memorial No. IS136799; |
| 5. | Midvale Village | Sub-Deed of Mutual Covenant dated 21st October 1985 with Memorial No. IS123154; |
| 6. | Parkvale Village | Sub-Deed of Mutual Covenant dated 6th January 1988 with Memorial No. IS138138; |
| 7. | Hillgrove Village | Sub-Deed of Mutual Covenant dated 15th June 1988 with Memorial No. IS141831; |
| 8. | Peninsula Village | Sub-Deed of Mutual Covenant dated 13th June 1990 with Memorial No. IS162615; |
| 9. | Greenvale Village | (a) Sub-Deed of Mutual Covenant dated 26th July 1990 with Memorial No. IS164194;
(b) Sub-Sub-Deed of Mutual Covenant dated 20th June 1994 with Memorial No. IS213300;
(c) Sub-Sub-Deed of Mutual Covenant dated 28th January 1992 with Memorial No. IS185073; |
| 10. | La Vista | Sub-Deed of Mutual Covenant dated 10th November 1994 with Memorial No. IS217149; |
| 11. | La Serene | Sub-Deed of Mutual Covenant dated 20th May 2000 with Memorial No. IS282962; |
| 12. | Neo Horizon | Sub-Deed of Mutual Covenant dated 1st September 2000 with Memorial No. IS285848; |

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PART II
"Extensions" to Discovery Bay Road

1. At the time the Deed of Mutual Covenant of Discovery Bay Memorial No. IS112018 ("**Principal DMC**") was entered into, the extent of Discovery Bay Road was as shown and marked blue ("**Blue Road**") on the City Site Plan annexed to the Principal DMC.
2. In the process of the development of Discovery Bay, Discovery Bay Road was "extended", (a) on the north side, beyond Stage III to reach Stages V, X and XIII and (b) on the east side, beyond Stage IIX to reach Stage IV (such extensions "**the Extensions**").

Whether the Extensions form part of the "Major Roads" as defined in the Principal DMC

3. "Major Roads" is defined in page 5 of the Principal DMC to mean *"all those roads shown for identification on City Site Plan attached [to the Principal DMC] and thereon coloured blue."* As mentioned in paragraphs 1 and 2 above, since the Extensions are not shown on the City Site Plan annexed to the Principal DMC as forming part of the Blue Road, prima facie the Extensions are not part of the "Major Roads".
4. Clause 8(h) of Section I on page 12 of the Principal DMC provides that Hong Kong Resort Company Limited ("**HKR**") has a right to alter the Major Roads provided such alteration is approved by the Secretary for the New Territories. It is arguable that the meaning of "alter" may cover "extend" since an extension would not change or replace the subject matter as a whole. However, even if "alter" were to be construed as including "extend" we are instructed that no specific approval for the extension has been sought and obtained from the Secretary for the New Territories or his successor for the Extensions. Accordingly, the Extensions would not have become part of the "Major Roads" by the operation of Clause 8(h).

Whether the Extensions form part of the "City Common Areas" as defined in the Principal DMC

5. "City Common Areas" is defined in page 2 of the Principal DMC to mean, among other things, *"the major roads and passageways... not within any buildings or villages..."*. It is to be noted that (a) the expressions "major roads" and "passageways" were used in the lower case and (b) the definition does not specifically include the defined term "Major Roads".
6. Under Clause 8(f) of Section I on page 11 of the Principal DMC, HKR has the right at any time by Deed Poll or Sub-Deed of Mutual Covenant to designate any part of parts of the lot ("**Lot**") on which Discovery Bay was developed to be part of, among other things, the City Common Areas, City Retained Areas and City Common Facilities as it shall in its absolute discretion think fit. If the Manager is minded, for the purpose of proper administration and management of Discovery Bay, to include the entire Discovery Bay Road (comprising the Blue Road and the Extensions) as part of the City Common Areas, this can be achieved by way of HKR exercising its right under Clause 8(f) through the execution of a Deed Poll.



PART III
Nature of Passageways At Villages of Discovery Bay

(1) Beach Village

(Sub-Deed of Mutual Covenant dated 10th October 1982 with Memorial No. IS112089)

1. Definition of "Passageways" under the Sub-DMC :-

All those portions of the Village as are shown on the Village Plan annexed to the Sub-DMC and thereon coloured yellow. [See Page 2 of the Sub-DMC.]

2. Definition of "Village Retained Areas" under the Sub-DMC :-

All those portions of the Village as are shown and coloured brown on the Village Plan annexed to the Sub-DMC and the storerooms in each Low Rise Building. [See Page 2 of the Sub-DMC.]

3. Definition of "Village Common Areas" under the Sub-DMC :-

Those parts of the Village Retained Areas as shall be designated Village Common Areas by HKR from time to time in accordance with the provisions of the Principal DMC or the Sub-DMC. [See Page 2 of the Sub-DMC.]

4. Definition of "City Common Areas" under the Principal DMC :-

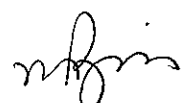
The tunnel, the major roads and passageways, footpaths, steps and staircases not within any buildings or villages, driveways and pavements, pumping stations, conservation areas, dam and reservoir and refuse disposal areas, salt and fresh water storage and treatment areas, sewage treatment areas, and such part or parts of the Service Area as shall be used for the benefit of the City. [See Page 2 of the Principal DMC.]

5. Right of HKR under the Principal DMC :-

(a) Under **Clause 8(f)** of **Section I** on page 11 of the Principal DMC ("**Clause 8(f)**"), HKR has the right at any time by **Deed Poll** or Sub-Deed of Mutual Covenant to designate any part or parts of the Lot to be part of the City Common Areas, City Retained Areas, City Common Facilities, Village Common Areas, Village Retained Areas and Village Common Facilities (collectively "**Categories**") on such terms and conditions as HKR shall in its absolute discretion think fit.

(b) However, the right of designation of HKR under Clause 8(f) does not cover those parts of the Lot which are covered by the defined terms "City Common Areas", "City Retained Areas", "City Common Facilities", "Village Common Areas", "Village Retained Areas" and "Village Common Facilities" contained in the Principal DMC. Under the Principal DMC :-

(i) "Village Common Areas" was defined in page 3 of the Principal DMC to mean all those part or parts of a Village as are from time to time designated by HKR as Village Common Areas in accordance with the provisions of the Principal DMC or any Sub-Deed of Mutual Covenant governing the Village.



- (ii) "Village Retained Areas" was defined in page 4 of the Principal DMC to mean all open areas and spaces in a Village other than the Village Common Areas and other spaces designated as such by the Sub-Deed of Mutual Covenant governing the Village.

6. Advice of Mayer Brown JSM :-

- (a) The Passageways are neither coloured brown nor do they form part of the storerooms as referred to in the definition of Village Retained Areas. Accordingly, the Passageways are not part of the Village Retained Areas.
- (b) The Passageways are not part of the Village Retained Areas and we are instructed that the Passageways have not been designated as part of the Village Common Areas. Accordingly, the Passageways are not part of the Village Common Areas.
- (c) "Passageways" was defined in page 2 of the Principal DMC to mean all those parts of the Lot as are designated or to be designated by HKR as passageways including covered walkways. The Passageways (as defined in the Sub-DMC) are part of the "Passageways" as defined in the Principal DMC. However, in the definition of "City Common Areas", the expression "passageways" were used in the lower case and the definition does not specifically include "Passageways" as defined in the Principal DMC. It is arguable that the Passageways (defined in the Sub-DMC) are not part of the City Common Areas.
- (d) Under Clause 8(f), HKR has a right to designate any part of the Lot (which includes the Village) to be part of any of the Categories as HKR shall in its absolute discretion think fit. HKR may consider exercising its right under Clause 8(f) to designate the Passageways or any part thereof as City Common Areas or Village Common Areas as it considers appropriate.



(2) Headland Village

(Sub-Deed of Mutual Covenant dated 7th October 1982 with Memorial No. IS112091)

1. Definition of "Passageways" under the Sub-DMC :-

All those portions of the Village as are shown on the Village Plan annexed to the Sub-DMC and thereon coloured yellow. [See Page 2 of the Sub-DMC.]

2. Definition of "Village Retained Areas" under the Sub-DMC :-

All those portions of the Village as are shown and coloured brown on the Village Plan annexed to the Sub-DMC. [See Page 2 of the Sub-DMC.]

3. Definition of "Village Common Areas" under the Sub-DMC :-

Those parts of the Village Retained Areas as shall be designated Village Common Areas by HKR from time to time in accordance with the provisions of the Principal DMC or the Sub-DMC. [See Page 2 of the Sub-DMC.]

4. Definition of "City Common Areas" under the Principal DMC :-


See paragraph 4 on page 5 above.

5. Right of HKR under the Principal DMC :-

See paragraph 5 on pages 5 and 6 above.

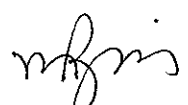
6. Advice of Mayer Brown JSM :-

- (a) The Passageways are not coloured brown on the Village Plan annexed to the Sub-DMC. Accordingly, the Passageways are not part of the Village Retained Areas.
- (b) The Passageways are not part of the Village Retained Areas and we are instructed that the Passageways have not been designated as part of the Village Common Areas. Accordingly, the Passageways are not part of the Village Common Areas.
- (c) "Passageways" was defined in page 2 of the Principal DMC to mean all those parts of the Lot as are designated or to be designated by HKR as passageways including covered walkways. The Passageways (as defined in the Sub-DMC) are part of the "Passageways" as defined in the Principal DMC. However, in the definition of "City Common Areas", the expression "passageways" were used in the lower case and the definition does not specifically include "Passageways" as defined in the Principal DMC. It is arguable that the Passageways (defined in the Sub-DMC) are not part of the City Common Areas.
- (d) Under Clause 8(f), HKR has a right to designate any part of the Lot (which includes the Village) to be part of any of the Categories as HKR shall in its absolute discretion think fit. HKR may consider exercising its right under Clause 8(f) to designate the Passageways or



any part thereof as City Common Areas or Village Common Areas as it considers appropriate.

- (e) (i) It is observed that at the time the Sub-DMC was entered into, only Headland Drive was defined as "Passageways". The land covering Seabee Lane was not part of the Passageways and was part of the Village Retained Areas (coloured brown on the Village Plan annexed to the Sub-DMC).
- (ii) Subsequent to the Sub-DMC, a Sub-Sub-Deed of Mutual Covenant dated 9th February 1989 with Memorial No.IS149750 was entered into in respect of the development at the outer ring of the Village.
- (iii) The Sub-Sub DMC amended or supplemented the definition of "Passageways" by including Seabee Lane as part of the Passageways. Accordingly, our advice set out in paragraphs 6(a) to (d) above would apply to Seabee Lane.
- (f) (i) Subsequent to the Sub-DMC, a Sub-Sub-Deed of Mutual Covenant dated 4th November 1987 with Memorial No.IS136799 was entered into in respect of a development known as Nos.9 and 11 Parkland Drive.
- (ii) It is mentioned in recital (2) on page 2 of the Sub-Sub-DMC that Nos.9 and 11 Parkland Drive was developed on a portion of the Village Retained Areas of the Village (being areaa coloured brown on the Village Plan annexed to the Sub-DMC).
- (iii) The Sub-Sub DMC contains a definition of "Parkland Drive" which means all that access road as partly shown on the plan annexed to the Sub-Sub-DMC and coloured yellow and yellow hatched black thereon. It is observed that only the yellow hatched black portion of Parkland Drive ("Yellow Hatched Black Portion") is located within the Village and the yellow portion of Parkland Drive is located outside the Village. Since the Sub-Sub-DMC did not expressly deal with the nature of Parkland Drive or any part of it, prima facie the Yellow Hatched Black Portion remains as part of the Village Retained Areas.
- (iv) As mentioned in paragraph 5(b) on page 5 above, the right of designation of HKR under Clause 8(f) does not cover those part of the Lot already covered by the defined term "Village Retained Areas" contained in the Principal DMC. The defined term includes, as mentioned in paragraph 5(b)(ii) on page 6 above, spaces designated as Village Retained Areas by the Sub-Deed of Mutual Covenant governing a Village. Since the Yellow Hatched Black Portion has already been designated as Village Retained Areas under the Sub-DMC, HKR would not have a right under Clause 8(f) to re-designate the Yellow Hatched Black Portion to be part of another Category.
- (v) However, since "Village Common Areas" was defined under the Sub-DMC to mean those parts of the Village Retained Areas as shall be designated as such by HKR from time to time in accordance with the provisions of the Principal DMC or the Sub-DMC, it is arguable that HKR will have a right under the Sub-DMC (and not under Clause 8(f)) to designate the Yellow Hatched Black Portion as part of the Village Common Areas.



(3) Parkridge Village

(Sub-Deed of Mutual Covenant dated 30th September 1982 with Memorial No. IS112092)

1. Definition of "Passageways" under the Sub-DMC :-

All those portions of the Village as are shown on the Village Plan annexed to the Sub-DMC and thereon coloured yellow. [See Page 4 of the Sub-DMC.]

2. Definition of "Village Retained Areas" under the Sub-DMC :-

All those portions of the Village as are shown and coloured brown on the Village Plan annexed to the Sub-DMC and the covered landscaped areas on the ground floor of the Buildings. [See Page 2 of the Sub-DMC.]

3. Definition of "Village Common Areas" under the Sub-DMC :-

Those parts of the Village Retained Areas as shall be designated [Village Common Areas] by HKR from time to time in accordance with the provisions of the Principal DMC or the Sub-DMC. [See Page 2 of the Sub-DMC.]

4. Definition of "City Common Areas" under the Principal DMC :-

See paragraph 4 on page 5 above.

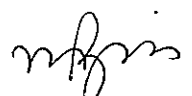
5. Right of HKR under the Principal DMC :-

See paragraph 5 on pages 5 and 6 above.

6. Advice of Mayer Brown JSM :-

- (a) The Passageways are neither coloured brown nor do they form part of the covered landscaped areas as referred to in the definition of Village Retained Areas. Accordingly, the Passageways are **not** part of the **Village Retained Areas**.
- (b) The Passageways are not part of the Village Retained Areas and we are instructed that the Passageways have not been designated as part of the Village Common Areas. Accordingly, the Passageways are **not** part of the **Village Common Areas**.
- (c) "Passageways" was defined in page 2 of the Principal DMC to mean all those parts of the Lot as are designated or to be designated by HKR as passageways including covered walkways. The Passageways (as defined in the Sub-DMC) are part of the "Passageways" as defined in the Principal DMC. However, in the definition of "City Common Areas", the expression "passageways" were used in the lower case and the definition does not specifically include "Passageways" as defined in the Principal DMC. It is arguable that the Passageways (defined in the Sub-DMC) are **not** part of the **City Common Areas**.

- (d) Under Clause 8(f), HKR has a right to designate any part of the Lot (which includes the Village) to be part of any of the Categories as HKR shall in its absolute discretion think fit. HKR may consider exercising its right under Clause 8(f) to designate the Passageways or any part thereof as City Common Areas or Village Common Areas as it considers appropriate.
- (e) (i) It is observed that at the time the Sub-DMC was entered into, only Parkridge Crescent was defined as "Passageways". The land covering the passageway alongside the development now known as Nos.1, 3, 5 and 7 Parkland Drive was not part of the Passageways and was part of the Village Retained Areas (coloured brown on the Village Plan annexed to the Sub-DMC).
- (ii) Subsequent to the Sub-DMC, a Sub-Sub-Deed of Mutual Covenant dated 4th November 1987 with Memorial No.IS136799 was entered into in respect of the said Nos.1, 3, 5 and 7 Parkland Drive.
- (iii) The Sub-Sub DMC contains a definition of "**Parkland Drive**" which means all that access road as partly shown on the plan annexed to the Sub-Sub-DMC and coloured yellow and yellow hatched black thereon. It is noted that only the yellow hatched black portion of Parkland Drive ("**Yellow Hatched Black Portion**") is located within the Village and the yellow portion of Parkland Drive is located outside the Village. However, the Sub-Sub-DMC did not expressly deal with the nature of Parkland Drive or any part of it. Accordingly, prima facie the Yellow Hatched Black Portion remains as part of the Village Retained Areas.
- (iv) As mentioned in paragraph 5(b) on page 5 above, the right of designation of HKR under Clause 8(f) does not cover those part of the Lot already covered by the defined term "Village Retained Areas" contained in the Principal DMC. The defined term includes, as mentioned in paragraph 5(b)(ii) on page 6 above, spaces designated as Village Retained Areas by the Sub-Deed of Mutual Covenant governing a Village. Since the Yellow Hatched Black Portion has already been designated as Village Retained Areas under the Sub-DMC, HKR would not have a right under Clause 8(f) to re-designate the Yellow Hatched Black Portion to be part of another Category.
- (v) However, since "Village Common Areas" was defined under the Sub-DMC to mean those parts of the Village Retained Areas as shall be designated as such by HKR from time to time in accordance with the provisions of the Principal DMC or the Sub-DMC, it is arguable that HKR will have a right under the Sub-DMC (and not under Clause 8(f)) to designate the Yellow Hatched Black Portion as part of the Village Common Areas.



(4) Midvale Village

(Sub-Deed of Mutual Covenant dated 21st October 1985 with Memorial No. IS123154)

1. Definition of "Passageways" under the Sub-DMC :-

All those portions of the Village as are shown on the Village Plan annexed to the Sub-DMC and thereon coloured yellow. [See Page 2 of the Sub-DMC.]

2. Definition of "Village Retained Areas" under the Sub-DMC :-

All those portions of the Village as are shown and coloured brown on the Village Plan annexed to the Sub-DMC and the storerooms in each Low Rise Building and the covered landscaped areas on the ground floor of the High Rise Building. [See Page 2 of the Sub-DMC.]

3. Definition of "Village Common Areas" under the Sub-DMC :-

Those parts of the Village Retained Areas as shall be designated Village Common Areas by HKR from time to time in accordance with the provisions of the Principal DMC or the Sub-DMC. [See Page 3 of the Sub-DMC.]

4. Definition of "City Common Areas" under the Principal DMC :-

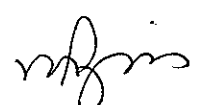
See paragraph 4 on page 5 above.

5. Right of HKR under the Principal DMC :-

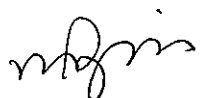
See paragraph 5 on pages 5 and 6 above.

6. Advice of Mayer Brown JSM :-

- (a) The Passageways are neither coloured brown nor do they form part of the storerooms or the covered landscaped areas as referred to in the definition of Village Retained Areas. Accordingly, the Passageways are **not** part of the **Village Retained Areas**.
- (b) The Passageways are not part of the Village Retained Areas and we are instructed that the Passageways have not been designated as part of the Village Common Areas. Accordingly, the Passageways are **not** part of the **Village Common Areas**.
- (c) "Passageways" was defined in page 2 of the Principal DMC to mean all those parts of the Lot as are designated or to be designated by HKR as passageways including covered walkways. The Passageways (as defined in the Sub-DMC) are part of the "Passageways" as defined in the Principal DMC. However, in the definition of "City Common Areas", the expression "passageways" were used in the lower case and the definition does not specifically include "Passageways" as defined in the Principal DMC. It is arguable that the Passageways (defined in the Sub-DMC) are **not** part of the **City Common Areas**.



- (d) Under Clause 8(f), HKR has a right to designate any part of the Lot (which includes the Village) to be part of any of the Categories as HKR shall in its absolute discretion think fit. HKR may consider exercising its right under Clause 8(f) to designate the Passageways or any part thereof as City Common Areas or Village Common Areas as it considers appropriate.

A handwritten signature in black ink, appearing to be 'mbj' or similar, located in the bottom right corner of the page.

(5) Parkvale Village

(Sub-Deed of Mutual Covenant dated 6th January 1988 with Memorial No. IS138138)

1. Definition of "Passageways" under the Sub-DMC :-

All those portions of the Village as are shown on the Village Plan annexed to the Sub-DMC and thereon coloured yellow. [See Page 2 of the Sub-DMC.]

2. Definition of "Village Retained Areas" under the Sub-DMC :-

All those portions of the Village as are shown and coloured brown on the Village Plan annexed to the Sub-DMC and the storerooms in each Low Rise Building and the covered landscaped areas on the ground floor of the High Rise Building. [See Page 2 of the Sub-DMC.]

3. Definition of "Village Common Areas" under the Sub-DMC :-

Those parts of the Village Retained Areas as shall be designated Village Common Areas by HKR from time to time in accordance with the provisions of the Principal DMC or the Sub-DMC. [See Pages 3 and 4 of the Sub-DMC.]

4. Definition of "City Common Areas" under the Principal DMC :-

See paragraph 4 on page 5 above.

5. Right of HKR under the Principal DMC :-

See paragraph 5 on pages 5 and 6 above.

6. Advice of Mayer Brown JSM :-

- (a) The Passageways are neither coloured brown nor do they form part of the storerooms or the covered landscaped areas as referred to in the definition of Village Retained Areas. Accordingly, the Passageways are not part of the Village Retained Areas.
- (b) The Passageways are not part of the Village Retained Areas and we are instructed that the Passageways have not been designated as part of the Village Common Areas. Accordingly, the Passageways are not part of the Village Common Areas.
- (c) "Passageways" was defined in page 2 of the Principal DMC to mean all those parts of the Lot as are designated or to be designated by HKR as passageways including covered walkways. The Passageways (as defined in the Sub-DMC) are part of the "Passageways" as defined in the Principal DMC. However, in the definition of "City Common Areas", the expression "passageways" were used in the lower case and the definition does not specifically include "Passageways" as defined in the Principal DMC. It is arguable that the Passageways (defined in the Sub-DMC) are not part of the City Common Areas.



- (d) Under Clause 8(f), HKR has a right to designate any part of the Lot (including the Village) to be part of any of the Categories as HKR shall in its absolute discretion think fit. HKR may consider exercising its right under Clause 8(f) to deal with and designate the classification of the Passageways as it considers appropriate.
- (e) (i) It is observed that the main road ("**Partial Main Road**") at the Village (i.e. such part of Parkvale Drive linking Discovery Valley Road and Middle Drive) does not form part of the Village because the Partial Main Road is not coloured orange on the Site Plan annexed to the Sub-DMC.
- (ii) Assuming that the Partial Main Road is not covered by any other Sub-Deed of Mutual Covenant of Discovery Bay, then it is arguable that the Partial Main Road is part of "City Common Areas". This is because "City Common Areas" were defined in the Principal DMC to mean, among other things, "*passageways... not within any... villages*" (see paragraph 4 on page 5 above). HKR may consider confirming the same by exercising its right under Clause 8(f).



(6) Hillgrove Village

(Sub-Deed of Mutual Covenant dated 15th June 1988 with Memorial No. IS141831)

1. Definition of "Passageways" under the Sub-DMC :-

All those portions of the Village as are shown on the Village Plan annexed to the Sub-DMC and thereon coloured yellow. [See Page 2 of the Sub-DMC.]

2. Definition of "Village Retained Areas" under the Sub-DMC :-

All those portions of the Village as are shown and coloured brown on the Village Plan annexed to the Sub-DMC and the covered landscaped areas on the ground floor of the Building. [See Page 2 of the Sub-DMC.]

3. Definition of "Village Common Areas" under the Sub-DMC :-

Those parts of the Village Retained Areas as shall be designated Village Common Areas by HKR from time to time in accordance with the provisions of the Principal DMC or the Sub-DMC. [See Page 3 of the Sub-DMC.]

4. Definition of "City Common Areas" under the Principal DMC :-

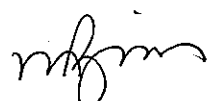
See paragraph 4 on page 5 above.

5. Right of HKR under the Principal DMC :-

See paragraph 5 on pages 5 and 6 above.

6. Advice of Mayer Brown JSM :-

- (a) The Passageways are neither coloured brown nor do they form part of the covered landscaped areas as referred to in the definition of Village Retained Areas. Accordingly, the Passageways are not part of the Village Retained Areas.
- (b) The Passageways are not part of the Village Retained Areas and we are instructed that the Passageways have not been designated as part of the Village Common Areas. Accordingly, the Passageways are not part of the Village Common Areas.
- (c) "Passageways" was defined in page 2 of the Principal DMC to mean all those parts of the Lot as are designated or to be designated by HKR as passageways including covered walkways. The Passageways (as defined in the Sub-DMC) are part of the "Passageways" as defined in the Principal DMC. However, in the definition of "City Common Areas", the expression "passageways" were used in the lower case and the definition does not specifically include "Passageways" as defined in the Principal DMC. It is arguable that the Passageways (defined in the Sub-DMC) are not part of the City Common Areas.



- (d) Under Clause 8(f), HKR has a right to designate any part of the Lot (which includes the Village) to be part of any of the Categories as HKR shall in its absolute discretion think fit. HKR may consider exercising its right under Clause 8(f) to designate the Passageways or any part thereof as City Common Areas or Village Common Areas as it considers appropriate.

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(7) Peninsula Village

(Sub-Deed of Mutual Covenant dated 13th June 1990 with Memorial No. IS162615)

1. Definition of "Passageways" under the Sub-DMC :-

All those portions of the Village as are shown on the Village Plan annexed to the Sub-DMC and thereon **coloured yellow** subject to amendment of the Master Plans. *[See Page 2 of the Sub-DMC.]*

2. Definition of "Village Retained Areas" under the Sub-DMC :-

All those portions of the Village as are shown and coloured brown on the Village Plan annexed to the Sub-DMC and the covered landscaped areas on the ground floor of the High Rise Building. *[See Page 2 of the Sub-DMC.]*

3. Definition of "Village Common Areas" under the Sub-DMC :-

Those parts of the Village Retained Areas as shall be designated Village Common Areas by HKR from time to time in accordance with the provisions of the Principal DMC or the Sub-DMC. *[See Page 4 of the Sub-DMC.]*

4. Definition of "City Common Areas" under the Principal DMC :-

See paragraph 4 on page 5 above.

5. Right of HKR under the Principal DMC :-

See paragraph 5 on pages 5 and 6 above.

6. Advice of Mayer Brown JSM :-

- (a) The Passageways are neither coloured brown nor do they form part of the covered landscaped areas as referred to in the definition of Village Retained Areas. Accordingly, the Passageways are **not** part of the Village Retained Areas.
- (b) The Passageways are not part of the Village Retained Areas and we are instructed that the Passageways have not been designated as part of the Village Common Areas. Accordingly, the Passageways are **not** part of the Village Common Areas.
- (c) "Passageways" was defined in page 2 of the Principal DMC to mean all those parts of the Lot as are designated or to be designated by HKR as passageways including covered walkways. The Passageways (as defined in the Sub-DMC) are part of the "Passageways" as defined in the Principal DMC. However, in the definition of "City Common Areas", the expression "passageways" were used in the lower case and the definition does not specifically include "Passageways" as defined in the Principal DMC. It is arguable that the Passageways (defined in the Sub-DMC) are **not** part of the City Common Areas.



- (d) Under Clause 8(f), HKR has a right to designate any part of the Lot (which includes the Village) to be part of any of the Categories as HKR shall in its absolute discretion think fit. HKR may consider exercising its right under Clause 8(f) to designate the Passageways or any part thereof as City Common Areas or Village Common Areas as it considers appropriate.
- (e) (i) We are instructed that there is a passageway now known as Capevale Drive ("Capevale Drive") alongside a development comprising Jovial Court, Haven Court and Verdant Court.
- (ii) Since Capevale Drive is not coloured yellow on the Village Plan annexed to the Sub-DMC, it is not part of the Passageways. Accordingly, our analysis set out in paragraphs 6(a) to (e) above does not apply to Capevale Drive.
- (iii) Capevale Drive is neither coloured brown nor do they form part of the covered landscaped areas as referred to in the definition of Village Retained Areas. Accordingly, Capevale Drive is not part of the Village Retained Areas.
- (iv) Capevale Drive is not part of the Village Retained Areas and we are instructed that Capevale Drive has not been designated as part of the Village Common Areas. Accordingly, Capevale Drive is not part of the Village Common Areas.
- (v) "Reserved Development Areas" is defined under the Sub-DMC to mean all those portions of the Village as are shown and coloured purple on the Village Plan annexed to the Sub-DMC. Since Capevale Village is not coloured purple, Capevale Drive is not part of the Reserved Development Areas.
- (vi) "Village" is defined under the Sub-DMC to mean all that part of the Lot as is shown on the Site Plan annexed to the Sub-DMC and thereon coloured orange and the buildings constructed or to be constructed thereon known as Peninsular Village. It is not entirely clear from the Site Plan and Village Plan annexed to the Sub-DMC whether Capevale Drive forms part of orange area/the Village, you may consider instructing your authorised person to confirm the same.
- (vii) Under Clause 8(f), HKR has a right to designate any part of the Lot (which includes the Village) to be part of any of the Categories as HKR shall in its absolute discretion think fit. If Capevale Drive is part of the Village, HKR may consider exercising its right under Clause 8(f) to designate Capevale Drive or any part thereof as City Common Areas or Village Common Areas as it considers appropriate.
- (viii) If the authorised person advises that Capevale Drive is not part of the Village and is not covered by any other Sub-Deed of Mutual Covenant of Discovery Bay, then it is arguable that Capevale Drive is part of "City Common Areas". This is because "City Common Areas" were defined in the Principal DMC to mean, among other things, "*passageways... not within any... villages*" (see paragraph 4 on page 5 above). HKR may consider confirming the same by exercising its right under Clause 8(f).



(8) Greenvale Village

(Sub-Deed of Mutual Covenant dated 26th July 1990 with Memorial No. IS164194)

1. Definition of "Passageways" under the Sub-DMC :-

All those portions of the Village as are shown on the Village Plan annexed to the Sub-DMC and thereon **coloured yellow** subject to amendment of the Master Plans. *[See Page 2 of the Sub-DMC.]*

2. Definition of "Village Retained Areas" under the Sub-DMC :-

All those portions of the Village as are shown and coloured brown on the Village Plan annexed to the Sub-DMC and the storerooms (if any) in each Low Rise Building and the covered landscaped areas on the ground floor of the High Rise Building. *[See Page 2 of the Sub-DMC.]*

3. Definition of "Village Common Areas" under the Sub-DMC :-

Those parts of the Village Retained Areas as shall be designated as Village Common Areas by HKR from time to time in accordance with the provisions of the Principal DMC or the Sub-DMC. *[See Page 3 of the Sub-DMC.]*

4. Definition of "City Common Areas" under the Principal DMC :-

See paragraph 4 on page 5 above.

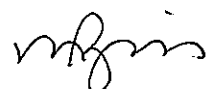
5. Right of HKR under the Principal DMC :-

See paragraph 5 on pages 5 and 6 above.

6. Advice of Mayer Brown JSM :-

- (a) The Passageways are neither coloured brown nor do they form part of the storerooms or covered landscaped areas as referred to in the definition of Village Retained Areas. Accordingly, the Passageways are **not** part of the **Village Retained Areas**.
- (b) The Passageways are not part of the Village Retained Areas and we are instructed that the Passageways have not been designated as part of the Village Common Areas. Accordingly, the Passageways are **not** part of the **Village Common Areas**.
- (c) "Passageways" was defined in page 2 of the Principal DMC to mean all those parts of the Lot as are designated or to be designated by HKR as passageways including covered walkways. The Passageways (as defined in the Sub-DMC) are part of the "Passageways" as defined in the Principal DMC. However, in the definition of "City Common Areas", the expression "passageways" were used in the lower case and the definition does not specifically include "Passageways" as defined in the Principal DMC. It is arguable that the Passageways (defined in the Sub-DMC) are **not** part of the **City Common Areas**.

- (d) Under Clause 8(f), HKR has a right to designate any part of the Lot (which includes the Village) to be part of any of the Categories as HKR shall in its absolute discretion think fit. HKR may consider exercising its right under Clause 8(f) to designate the Passageways or any part thereof as City Common Areas or Village Common Areas as it considers appropriate.
- (e) (i) It is observed that at the time the Sub-DMC was entered into, only the passageways next to Greenery, Greenburg and Greenfield Courts were defined as "Passageways". The land covering the development of Greenish, Greenland, Greendale, Greenwood, Greenmont and Greenbelt Courts (collectively "**Subsequent Developments**") was not part of the Passageways and was part of the **Reserved Development Areas** (coloured purple on the Village Plan annexed to the Sub-DMC).
- (ii) Subsequent to the Sub-DMC, a Sub-Sub-Deed of Mutual Covenant dated 20th June 1994 with Memorial No.IS213300 and a Sub-Sub-Deed of Mutual Covenant dated 28th January 1992 with Memorial No.IS185073 were entered into in respect of the Subsequent Developments (collectively "**Sub-Sub DMCs**").
- (iii) The plans annexed to the Sub-Sub DMCs show that there were some passageways ("**Subsequent Passageways**") within the Subsequent Developments. However, the Sub-Sub-DMCs did not amend or supplement the definition of "Passageways" under the Sub-DMC or otherwise dealt with the nature of the Subsequent Passageways. Accordingly, prima facie the Subsequent Passageways remain part of the Reserved Development Areas.
- (iv) As mentioned in paragraph 5(b) on page 5 above, the right of designation of HKR under Clause 8(f) does not cover those part of the Lot already covered by the defined terms "Village Retained Areas" and "Village Common Areas" contained in the Principal DMC. The defined term includes, as mentioned in paragraph 5(b)(ii) on page 6 above, spaces designated as Village Retained Areas by the Sub-Deed of Mutual Covenant governing a Village. Since the Subsequent Passageways were neither the Village Common Areas nor the Village Retained Areas, it is arguable that HKR would have a right under Clause 8(f) to designate the Subsequent Passageways to be part of City Common Areas or Village Common Areas as HKR shall consider appropriate.



(9) La Vista

(Sub-Deed of Mutual Covenant dated 10th November 1994 with Memorial No. IS217149)

1. Definition of "Passageways" under the Sub-DMC :-

All those portions of the Village as are shown on the Village Plan annexed to the Sub-DMC and thereon **coloured yellow** and subject to amendment of the Master Plan. [*See Page 2 of the Sub-DMC.*]

2. Definition of "Village Common Areas" under the Sub-DMC :-

All those **Passageways** and those parts of the Village Retained Areas which shall be designated as Village Common Areas by HKR from time to time in accordance with the provisions of the Principal DMC or the Sub-DMC. [*See Page 3 of the Sub-DMC.*]

3. Right of HKR under the Principal DMC :-

See paragraph 5 at pages 5 and 6 1 above.

4. Advice of Mayer Brown JSM :-

(a) The **Passageways** are expressly defined as part of the **Village Common Areas**.

(b) As mentioned in paragraph 5(b) on page 5 above, the right of designation of HKR under Clause 8(f) does not cover those part of the Lot already covered by the defined term "Village Common Areas" contained in the Principal DMC. The defined term includes, as mentioned in paragraph 5(b)(i) on page 5 above, all those part or parts of a Village as are from time to time designated by HKR as Village Common Areas in accordance with the provisions of the Principal DMC or any Sub-Deed of Mutual Covenant governing the Village. Since the Passageways have already been designated as Village Common Areas under the Sub-DMC, HKR would not have a right under Clause 8(f) to re-designate the Passageways to be part of another Category.



(10) La Serene

(Sub-Deed of Mutual Covenant dated 20th May 2000 with Memorial No. IS282962)

1. Definition of "Passageways" under the Sub-DMC :-

All those portions of the Village as are shown on the Village Plan annexed to the Sub-DMC and thereon coloured yellow subject to amendment of the Master Plans. [See Page 2 of the Sub-DMC.]

2. Definition of "Village Retained Areas" under the Sub-DMC :-

All those portions of the Village as are shown and coloured brown on the Village Plan annexed to the Sub-DMC. [See Page 2 of the Sub-DMC.]

3. Definition of "Village Common Areas" under the Sub-DMC :-

Mean and include (subject to the Principal DMC and the Sub-DMC) all those **Passageways**, the entrances and halls, covered landscaped area, covered children's play area, lift lobbies, passages, staircases, corridors, landings, hopper's rooms (if any), entry courts, portions of roofs (other than those which have been exclusively assigned together with the Residential Units), flat roofs (other than those which have been exclusively assigned together with the Residential Units), pitched roofs and top roofs, platforms serving more than one Residential Units and the external walls of each of the Low Rise Buildings and the Mid Rise Buildings. [See Page 3 of the Sub-DMC.]

4. Right of HKR under the Principal DMC :-

See paragraph 5 on pages 5 and 6 above.

5. Advice of Mayer Brown JSM :-

(a) The Passageways are expressly defined as part of the Village Common Areas.

(b) As mentioned in paragraph 5(b) on page 5 above, the right of designation of HKR under Clause 8(f) does not cover those part of the Lot already covered by the defined term "Village Common Areas" contained in the Principal DMC. The defined term includes, as mentioned in paragraph 5(b) on page 5(i) above, all those part or parts of a Village as are from time to time designated by HKR as Village Common Areas in accordance with the provisions of the Principal DMC or any Sub-Deed of Mutual Covenant governing the Village. Since the Passageways have already been designated as Village Common Areas under the Sub-DMC, HKR would not have a right under Clause 8(f) to re-designate the Passageways to be part of another Category.



(11) Neo Horizon

(Sub-Deed of Mutual Covenant dated 1st September 2000 with Memorial No. IS285848)

1. Definition of "Passageways" under the Sub-DMC :-

All those portions of the Village as are shown on the Village Plan annexed to the Sub-DMC and thereon **coloured yellow** subject to amendment of the Master Plans. [*See Page 2 of the Sub-DMC.*]

2. Definition of "Village Retained Areas" under the Sub-DMC :-

All those portions of the Village as are shown and coloured brown on the Village Plan annexed to the Sub-DMC. [*See Page 4 of the Sub-DMC.*]

3. Definition of "Village Common Areas" under the Sub-DMC :-

Mean and include (subject to the Principal DMC) the entrances and halls, lift lobbies, roof (other than those which have been exclusively assigned together with the Residential Units), sky roof on 18th Floors of the Buildings, staircases, corridors, landings, passages, yards and the external walls of each of the High Rise Buildings, the slopes and retaining walls within the Village and the areas that does not serve individually as shown for identification purpose only on the plans annexed to the Sub-DMC and thereon coloured green.. [*See Page 3 of the Sub-DMC.*]

4. Definition of "City Common Areas" under the Principal DMC :-

See paragraph 4 on page 5 above.

5. Right of HKR under the Principal DMC :-

See paragraph 5 on pages 5 and 6 above.

6. Advice of Mayer Brown JSM :-

- (a) The Passageways are not coloured brown on the Village Plan annexed to the Sub-DMC. Accordingly, the Passageways are not part of the Village Retained Areas.
- (b) The Passageways are not part of the areas as mentioned in the definition of Village Common Areas. Accordingly, the Passageways are not part of the Village Common Areas.
- (c) "Passageways" was defined in page 2 of the Principal DMC to mean all those parts of the Lot as are designated or to be designated by HKR as passageways including covered walkways. The Passageways (as defined in the Sub-DMC) are part of the "Passageways" as defined in the Principal DMC. However, in the definition of "City Common Areas", the expression "passageways" were used in the lower case and the definition does not specifically include "Passageways" as defined in the Principal DMC. It is arguable that the Passageways (defined in the Sub-DMC) are not part of the City Common Areas.



- (d) Under Clause 8(f), HKR has a right to designate any part of the Lot (which includes the Village) to be part of any of the Categories as HKR shall in its absolute discretion think fit. HKR may consider exercising its right under Clause 8(f) to designate the Passageways or any part thereof as City Common Areas or Village Common Areas as it considers appropriate.

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