

15 SUMMARY OF LAND GRANT 批地文件的摘要

- 發展項目位於沙田市地段第539號（「該地段」）。
- 「該地段」的批租年期為2004年11月23日開始50年。
- 「批地文件」之特別批地條款第(5)條訂明：-
 - 在批地條款中，下列字詞具有下列涵義：-
 - 「公共邊界」指「該地段」與「毗鄰土地」的公共邊界，在附圖I中標示為RS；
 - 「裝置」指排水渠、水道、污水管、明渠、水管、電纜管井、沙井、地下水缸、檢查井、抽水站、電纜、電鉛、電線、喉管、導管、電線、電錶及其他設備安裝與裝置；
 - 「毗鄰土地」指在附圖I中以黑色點標明顯示的整塊或整幅土地，包括現時或將來以任何用途或目的興建在其或其任何部份之上的任何建築物（除文意另有規定外）；
 - 「上述目的」指下列目的：-
 - 為從各個設置在「該地段」外的主要之公共供應點並通過「該地段」向「毗鄰土地」或其任何部份自由和不間斷地流動、供應和運送「公共設施」；及
 - 為從「毗鄰土地」或其任何部份通過「該地段」自由和不間斷地流動、排放及運送雨水和已經/或未經處理的污水至位於「該地段」外的政府或公共排水渠或污水渠；
 - 「公共設施」指「毗鄰土地」或其任何部份不時合理地需要之該等數量、水壓或電壓的公共設施，包括但不限於淡水、沖廁水、消防供水、電、煤氣、電話及電訊設備。
 - 由此協議日期起及在現協定批授的年期內，而儘管有任何建築物、建造、發展項目或其他工程將會或已經在「該地段」上進行，「承批人」須自費及在任何方面令「署長」滿意的條件上根據「署長」以書面規定或批准的位置、水平、沿途路徑與路線、在「該地段」邊界位置（在附圖I中標示為UV）與水平、至部份「公共邊界」位置與水平、以「署長」要求或批准的方式、物料、標準、設計及寬度與實際高度提供、塑造、建造及保養該等安全、持續及通暢之該等人車出入路面、及受「署長」可能不時以書面規定或批准改善、提升、更新或更換該等人車出入路面或更改或遷移其地點、路徑、路線、水平、寬度、出入口處所限（該等人車出入路面包括該等改善、提升、更新、更換、更改或遷移，以下統稱「出入路面」），以使富健街與「毗鄰土地」連接，但規定：除非及直至「署長」依據本特別批地條款第(5)(b)條規定或批准的其他人車出入路面已塑造、提供或建成，「出入路面」須當作為現存的人車出入路面。為識別起見，「出入路面」在隨附於本特別批地條款第(5)(b)條提及之「地役權契據及契諾」的地下及地庫圖則中以黃色顯示。
 - 在現協定批授的年期內，訂明了豁除和保留的權利，而「承批人」進一步契諾准許：
 - 「署長」、其員工、承建商及其工人及其他被授權的人士，不論是否駕駛車輛及攜有工具、設備、機器及建築材料，在現協定批授的年期內日與夜均有權為任何有關「毗鄰土地」或其任何部份之目的自由及不被干擾地不時及在任何時間經過及重覆經過、靠近、越過、沿著、經由及通過「出入路面」或由「毗鄰土地」往返富健街；
 - 給予政府、「毗鄰土地」或其任何部份當時或不時的租客及承租人權利讓政府、其「毗鄰土地」或其任何部份當時及不時的租客及承租人、分租客及分租承租人及佔用人、其員工、訪客、許可人士、承建商、工人及其他由上述人士授權的人士在現協定批授的年期內不時及任何時間為任何與「毗鄰土地」或其任何部份之使用及享用相關的目的，不論是否駕駛任何類別之車輛、及有否工具、設備、機器及建築材料，在日與夜自由及不被干擾地經過及重覆經過、靠近、越過、沿著、經由及通過「出入路面」或由「毗鄰土地」往返富健街；
 - 對政府、「毗鄰土地」或其任何部份當時及不時的租客及承租人以「毗鄰土地」或其任何部份之權益及享用為目的：-
 - 給予政府、「毗鄰土地」或其任何部份當時及不時的租客及承租人自由及不被干擾的權利及自主地為著「上述目的」根據「署長」以規定或批准在「該地段」內、中、上、外、下、周遭及通過其的位置、水平、沿途路徑與路線、規劃、方式、物料、尺寸、標準及設計鋪設、裝置、更改、改道、移走、更新、代替、提升或擴大裝置系統（為「上述目的」而已供應或已安裝、將額外或作替換供應或安裝在「該地段」內的裝置系統，應包括上述更改、改道、更新、代替、提升及擴大，以下統稱「系統」）；
 - 給予政府、「毗鄰土地」或其任何部份當時及不時的租客及承租人自由及不被干擾的權利及自主地檢查、操作、潔淨、保養及維修「系統」或其任何部份；
 - 給予政府、「毗鄰土地」或其任何部份當時及不時的租客及承租人自由及不被干擾的權利及自主地取得及將「公共設施」從有關「公共設施」主要公共供應點以「系統」通過「該地段」運送至「毗鄰土地」、以及排放及運送雨水及已或未經處理的污水及廢水至政府或公共排水渠或污水渠；及

(IV) 給予政府、「毗鄰土地」或其任何部份當時及不時的租客及承租人、其僱員、員工、訪客、許可人士、承建商、工人及其他由上述人士不時授權的人士權利在現協定批授的年期內之所有合理時間（緊急情況下除外）為行使本特別批地條款第(5)(c)(iii)條之權利及自由的目的進入「該地段」。

- 「毗鄰土地」現時根據於新界沙田土地註冊處登記為沙田市地段第168號餘段部份，而有關政府批地文件之相關登記業主簡稱為「毗鄰土地業主」。在此協議簽訂時，「承批人」須與「毗鄰土地業主」簽署一份「地役權契據及契諾」。「地役權契據及契諾」之條款及細則需根據「署長」為直接授予「毗鄰土地業主」及其業權繼承人及使用及享用「毗鄰土地」及其任何部份為目的通過「該地段」的自由通行權、自由流動權、「公共設施」之供應、及經「該地段」排放雨水、已或未經處理的污水和廢水的權利（以下簡稱「地役權契據及契諾」，其包括「署長」可批准之修訂、更改或補充）。未經「署長」事先書面同意，「承批人」不得對「地役權契據及契諾」之條款作修訂、更改或補充。
 - 「承批人」須遵從及遵守「地役權契據及契諾」，並須對政府就由「地役權契據及契諾」直接或間接引致的所有責任、申索、費用、要求、行動或其他程序作出彌償。
 - 不論此文件有何規定，根據本特別批地條款第(5)條而屬例外情況及被保留予「毗鄰土地」及其任何部份之政府現時及不時之租客及承租人之權利及自由，對「毗鄰土地業主」、其業權繼承人及「毗鄰土地」及其任何部份之受讓人而言，須被視為屬例外情況及被保留，前提是在「地役權契據及契諾」存續及對其具有約束力期間，「毗鄰土地業主」、其業權繼承人及受讓人遵從及遵守「地役權契據及契諾」的條款、條件、契諾及責任。為免生疑問，本次條(d)(iii)不影響政府、其其他租客及承租人行使根據本特別批地條款第(5)條而屬例外情況及被保留的權利及自由。
 - 在現協定批授的年期內，「承批人」須自費對「出入路面」進行管理、保養、維修、維持其修葺妥善及狀況良好、潔淨及不受妨礙，以令「署長」滿意。「承批人」不得對「出入路面」及「系統」作任何行為或容許任何行為而妨礙或影響其安全，及在不影響前述條文的概括性原則下，「承批人」須在「該地段」進行任何建築、興建、發展或其他工程時，在任何方面採取措施及預防措施以確保「出入路面」上或貫穿其之人車出入路面的安全及不受妨礙、通過「系統」及「公共設施」之自由流動、供應及傳送、及雨水、已或未經處理的污水和廢水之自由流動、排放及傳送，以令「署長」滿意。本次條(c)並不影響「地役權契據及契諾」的相關人士對其權利及責任之執行或執行權利及責任。
 - 不論此文件有何規定，政府及「署長」不因「承批人」根據本特別批地條款第(5)條履行其義務、或政府或其他人士行使根據本特別批地條款第(5)條或「地役權契據及契諾」而屬例外情況、被保留或授予的權利及自由、或「署長」在其絕對酌情權下根據本特別批地條款第(5)條或為其施加任何要求或賦予或拒絕賦予任何批准或同意對「承批人」或任何其他人士造成的任何損失、損壞、滋擾或擾亂等負任何義務或責任，而「承批人」亦不得就任何該等損失、損害、滋擾或擾亂對政府或「署長」或其授權員工作任何申索。
 - 「批地文件」之特別批地條款第(6)條訂明：-
 - 「該地段」連同正確使用和享受「該地段」的權利被批予給「承批人」和其僱工、訪客，工人及其他不時和在現批予的年期任何時間內獲「承批人」授權的人士，以讓其在「署長」批准之範圍內經過及重覆經過、靠近、沿著、越過、經由及通過在附圖I中以啡色顯示的區域（以下簡稱「啡色區域」）的權利。
 - 「承批人」必須於此協議日期之48個月內或「署長」指明之其他期限內，自費在「啡色區域」以「署長」要求或批准的方式、物料及標準，及對「該地段」附近任何其他被授予「啡色區域」之任何部份通行權之業主造成最少干擾的條件下，建造一條連同相關街道設施、交通輔助設備、街燈、污水管、排水渠及其他構築物的道路。
 - 「承批人」必須自費維持、保養及維修「啡色區域」及任何組成其部份或其附屬之部份，以令「署長」滿意，而「承批人」須全部負責，猶如其為該部份之絕對擁有人一樣。
 - 任何公共道路之改動而涉及部份「啡色區域」的通行權或影響其坡度，將不會賦予「承批人」任何申索，而「承批人」須自費就「啡色區域」進行所有後續改動以使「署長」滿意。
 - 此特別批地條款次條(a)給予的通道權並不給予「承批人」於「啡色區域」獨佔權。政府有權利將通道權批予「啡色區域」附近任何其他地段之業主，或為公眾街道接管整個「啡色區域」或其任何部份，並不支付任何賠償予「承批人」及其他被給予整個或部份「啡色區域」的通道權之業主。
 - 若「承批人」不履行其在此特別批地條款次條款(b)及(c)下的責任，政府可進行必需的建設，維修及修葺工程，費用由「承批人」在政府要求時支付，該費用的總數由「署長」決定，其決定為最終決定並對「承批人」具有約束力。

(g) 不論此特別批地條款次條(a)給予的通道權，在給予「承批人」不少於14天事先書面通知的情況下（緊急情況下除外），政府有全面的權利及權力由「署長」絕對酌情權下決定於「啡色區域」上面、跨越、下面或與其毗連的任何現有或將來政府的或其他的排水渠、暗渠、排水溝或水道、污水渠、明渠、水管、喉管、電纜、電線、線纜、公用設施服務或其他工程或裝置（以下統稱「該服務」）作出敷設、裝置、重新敷設、改道、移走、重新提供、代替、檢查、操作、維修、保養及更新，並修復任何及全部由其造成之損失。「署長」、其員工、承建商及其其他授權的人士、其工人，不論是否攜有工具、設備、作業裝置、機器或汽車，均有權就上述目的在任何時間自由出入及再出入「啡色區域」。除非經「署長」事先書面批准，「承批人」不得擾亂或允許任何人擾亂「該服務」。除為任何上述權利及權力之行使而引致的任何及全部損壞作出修復外，政府、「署長」、其員工、承建商及任何其他由其、其工人授權的人士無須就行使本次條所賦予的進入權導致或引致「承批人」招致或蒙受的任何損失、損害、滋擾或騷擾承擔任何責任，而「承批人」亦不得對其有任何申索或反對。

- 「批地文件」之特別批地條款第(7)條訂明「承批人」應在「該地段」建造一座或多座建築物以作發展，有關工程必須全面遵從「批地條款」及香港現時或於任何時間生效的所有關乎建築、衛生及規劃之條例、附例及規例。此等建築物必須在2010年6月30日或之前建成並適宜居住。
- 「批地文件」之特別批地條款第(8)條訂明「該地段」或其任何部份或現已或將會建於該處的任何建築物，除作私人住宅用途外，不可作任何其他用途。
- 「批地文件」之特別批地條款第(12)條訂明在「該地段」或其附近生長的任何樹木不得在沒有「署長」書面批准的情況下被干擾。「署長」可在作出批准的時候，施加他認為適當的移栽，補償美化或重植的條件。
- 「批地文件」之特別批地條款第(13)條訂明「承批人」應自費在「該地段」無建築結構的範圍及平台（如有者）作環境美化及栽種樹木和灌木，其後並需維持，以保持該處清潔、整潔、整齊及健康，以全面令「署長」滿意。
- 「批地文件」之特別批地條款第(23)條訂明，其中包括下列：-
 - 車位（即「住宅停車位」）應依停泊根據《道路交通條例》、其任何附屬規例及修訂法例持牌而屬於現已或將會建於「該地段」之一座或多座建築物住宅單位的各居民及彼等真正來賓、訪客或到訪者的車輛。
 - 額外車位（即「訪客停車位」）應被提供以供停泊根據《道路交通條例》、其任何附屬規例及修訂法例持牌而屬於現已或將會建於「該地段」之一座或多座建築物各居民之真正來賓、訪客或到訪者的車輛。
 - 根據本特別批地條款次條(a)(i)及(a)(iii)提供的車位除作分別在該次條款訂明的用途外不可作任何其他用途，其中特別禁止用於存放、陳列或展示車輛招售等。
 - 車位（即「電單車停車位」）應被提供以供停泊根據《道路交通條例》、其任何附屬規例及修訂法例持牌而屬於現已或將會建於「該地段」之一座或多座建築物內各居民及彼等真正來賓、訪客或到訪者的電單車。
 - 根據本特別批地條款次條(b)(i)提供的車位除作該次條款訂明的用途外不可作任何其他用途，其中特別禁止用於存放、陳列或展示車輛招售等用途。

- 「批地文件」之特別批地條款第(24)條訂明，其中包括下列：-
 - 「住宅停車位」及「電單車停車位」不可：-
 - 轉讓，除非：
 - 連同一併轉讓現已或將會建於「該地段」各建築物之一個或多個住宅單位的不分割業權份數及其專有使用及佔用權；或
 - 承讓人現時已擁有現已或將會建於「該地段」各建築物之一個或多個住宅單位的不分割業權份數及其專有使用及佔用權；或
 - 分租（租予現已或將會建於「該地段」各建築物內住宅單位之居民除外）。但於任何情況下，轉讓給「該地段」上現有或將建立的建築物內任何一單位的業主或轉租給任何一單位的居民的「住宅停車位」及「電單車停車位」的總數將不超過三個。
 - 不論此特別批地條款次條款(a)，「承批人」可在獲得「署長」書面批准的情況下以所有「住宅停車位」及「電單車停車位」為一整體轉讓給「承批人」的全資附屬公司。

- 「批地文件」之特別批地條款第(28)條訂明：-
 - 凡現有或曾有切割、搬遷或劃定任何土地，或任何建築或填充或任何種類的斜坡治理工程，不論有否「署長」的書面許可，如果是在「該地段」內或任何政府土地進行以平整、使成水平或發展「該地段」或其任何部分或任何其他「承批人」在「批地條款」下須作出的工程，或用於任何其他目的，「承批人」須自費開展和構建該斜坡治理工程、擋土牆或其他支持、保護、排水或配套或其他有必要的工程以可能在當時或在其後任何時間保護和支持「該地段」內的土地，及任何相鄰或毗鄰政府或租賃土地，以避免和防止任何此後發生的泥土傾瀉、山泥傾瀉或地陷。「承批人」須在現批予的年期內任何時間自費保養上述土地、斜坡治理工程、擋土牆或其他支持、保護、排水或配套或其他工程於良好及大幅的維修和狀態下使「署長」滿意。
 - 「批地文件」之特別批地條款第(36)條訂明：-
如「署長」認為有必要截取和傳送所有下降或流動到「該地段」的暴風雨雨水或雨水到最近的河道、集水井、渠道或雨水渠，「承批人」須自費構建和保養該雨水渠和渠道以令「署長」滿意，不論該雨水渠和渠道位於「該地段」的邊界內或政府土地上。「承批人」將自行承擔責任，並為所有暴風雨雨水或雨水造成的損失及滋擾產生的所有訴訟，索賠和要求向政府及其官員作出賠償。
 - 「批地文件」之特別批地條款第(37)條訂明：-
 - 由「承批人」，其受僱人或代理人對任何在「該地段」內或毗鄰地段的明渠、污水渠、暴風雨雨水渠或主管造成的任何損壞或阻塞將由政府修復，但由「承批人」支付，所需費用由「承批人」在政府要求時支付。
 - 不論此特別批地條款次條(a)，「承批人」須在「署長」要求下自費修復「署長」指明的損壞或阻塞及在各方面使「署長」滿意。

註：-

- 「批地文件」指編號為新批地第13196號的地契文件，並經由一份日期為2008年4月28日及於土地註冊處以註冊摘要編號08050200170019註冊的批地條款修訂書作出修改。
- 據特別批地條款第(5)(d)(i)條，「承批人」已訂立一份「地役權契據及契諾」賦予權利予毗鄰土地註冊業主。該「地役權契據及契諾」訂定於2004年11月23日及於土地註冊處以註冊摘要編號ST1392790註冊。
- 據「地役權契據及契諾」條文第10條，「承批人」及毗鄰土地之註冊業主已訂定一份「確認契約」。此「確認契約」訂於2009年11月18日及於土地註冊處以註冊摘要編號09112700430092註冊。
- 此批地文件的摘要所提及的「署長」意指地政總署署長。

SUMMARY OF LAND GRANT

批地文件的摘要

1. The development is situated on Sha Tin Town Lot No. 539 (“the lot”).
2. The lot was granted for a term of 50 years commencing from 23rd November 2004.
3. Special Condition No.(5) of the Land Grant stipulates that:-
 - (a) For the purposes of these Conditions, the following expressions shall have the following meanings ascribed to them:-
 - (i) "Common Boundary" means the common boundary of the lot and the Adjoining Land as marked RS on Plan I annexed hereto;
 - (ii) "Devices" means drains, waterways, sewers, nullahs, pipes, drawpits, manholes, underground detention tanks, inspection chambers, pumping stations, cables, leads, wires, ducts, conduits, lines, meters and other equipment installations and devices;
 - (iii) "the Adjoining Land" means all that piece or parcel of land shown stippled black on Plan I annexed hereto which expression shall, unless the context otherwise requires, include any building or buildings which may now or at any time hereafter be erected thereon or on any part thereof and for any use or purpose whatsoever;
 - (iv) "the said Purposes" means the purposes of :-
 - (I) the free and uninterrupted flow, supply and conveyance of Utilities from the respective Utilities main public supply points located outside the lot to the Adjoining Land or any part thereof through the lot; and
 - (II) the free and uninterrupted flow, discharge and conveyance of rainwater and treated or untreated effluent and sewage from the Adjoining Land or any part thereof through the lot to the Government or public drains or sewers located outside the lot;
 - (v) "Utilities" means utility services in such quantities and at such pressures or voltages as the Adjoining Land or any part thereof may reasonably require from time to time including but not limited to fresh water, flushing water, water for fire fighting purposes, electricity, gas, telephone and telecommunication installations.
 - (b) The Grantee shall, at all times as from the date of this Agreement and throughout the term hereby agreed to be granted and notwithstanding any building, construction, development or other works to be or being carried out on the lot, at his own expense and in all respects to the satisfaction of the Director provide, form, construct and maintain such safe, continuous and unobstructed pedestrian and vehicular access roadways within and running through the lot at such positions and levels and along such routes and alignments commencing from such points and levels at that part of the boundary of the lot marked UV on Plan I annexed hereto to such points and levels at such parts of the Common Boundary in such manner, with such materials and to such standard and design and of such widths and clearance heights as may be required or approved in writing by the Director, subject to such improvement, upgrading, renewal or replacement thereof or such alteration or diversions as to the positions, routes, alignments, levels, widths, access points or other aspects as the Director may from time to time require or approve in writing (such pedestrian and vehicular access roadways including such improvement, upgrading, renewal, replacement, alterations or diversions being hereinafter referred to as "the Access Roadway") so as to connect Fu Kin Street with the Adjoining Land provided that unless and until such other pedestrian and vehicular access roadways as required or approved by the Director under this Special Condition No.(5)(b) shall have been formed, provided or constructed, the Access Roadway shall be deemed to be the existing pedestrian and vehicular access roadways which are for identification purpose only shown on the ground floor and basement floor plans annexed to the Deed of Grant and Covenant referred to in Special Condition No.(5)(d) hereof and coloured yellow thereon.
 - (c) Throughout the term hereby agreed to be granted, there is excepted and reserved unto, and the Grantee further covenants to permit,
 - (i) the Director, its or their officers, contractors, workmen and other persons authorized by the Government the free and uninterrupted right from time to time and at all times during the term hereby agreed to be granted for all purposes connected with the Adjoining Land or any part thereof to pass and repass by day and by night with or without vehicles of any description and with or without tools, equipment, machinery and building materials, on, over, along, by and through the Access Roadway to or from the Adjoining Land from or to Fu Kin Street;
 - (ii) the Government, its tenants and lessees for the time being and from time to time of the Adjoining Land or any part thereof the free and uninterrupted right for the Government, its tenants and lessees, sub-tenants and sub-lessees and the occupiers for the time being and from time to time of the Adjoining Land or any part thereof, their servants, visitors, licensees, contractors, workmen and other persons authorized by them from time to time and at all times during the term hereby agreed to be granted for all purposes connected with the use and proper enjoyment of the Adjoining Land or any part thereof to pass and repass by day and by night with or without vehicles of any description and with or without tools, equipment, machinery and building materials, on, over, along, by and through the Access Roadway to or from the Adjoining Land from or to Fu Kin Street;
 - (iii) the Government, its tenants and lessees for the time being and from time to time of the Adjoining Land or any part thereof for the benefit and enjoyment of the Adjoining Land or any part thereof:-
 - (I) the free and uninterrupted right and liberty for the Government, its tenants and lessees for the time being and from time to time of the Adjoining Land or any part thereof to lay, install, alter, divert, remove, renew, replace, upgrade and enlarge such system of Devices within, in, on, over, under, along or through such part or parts of the lot and at such positions, levels and along such routes and alignments and with such layout and in such manner, with such materials and of such sizes and to such standard and design as the Director may require or approve for the said Purposes (such system of Devices as are currently laid or installed within the lot for the said Purposes and as may hereafter, in addition thereto or in substitution thereof, be laid or installed within the lot for the said Purposes including such alteration, diversion, renewal, replacement, upgrading and enlargement being hereinafter referred to as "the System");
 - (II) the free and uninterrupted right and liberty for the Government, its tenants and lessees for the time being and from time to time of the Adjoining Land or any part thereof to inspect, operate, cleanse, maintain and repair the System or any part thereof;
 - (III) the free and uninterrupted right and liberty for the Government, its tenants and lessees for the time being and from time to time of the Adjoining Land or any part thereof to obtain and to convey supply of Utilities from the relevant Utilities main public supply points across the lot by the System to the Adjoining Land and to discharge and to convey rainwater and treated or untreated effluent and sewage from the Adjoining Land through the lot by the System to the Government or public drains or sewers; and
 - (IV) the free and uninterrupted right for the Government, its tenants and lessees for the time being and from time to time of the Adjoining Land or any part thereof, their employees, servants, visitors, licensees, contractors, workmen and other persons authorized by them from time to time and at all reasonable times (except in case of emergency) during the term hereby agreed to be granted to enter upon the lot for the purpose of exercising the rights and liberties conferred under this Special Condition No.(5)(c)(iii).
 - (d) (i) Immediately upon execution of this Agreement, the Grantee shall execute in favour of the registered owner of the Adjoining Land now held from the Government under the relevant Government Grant and registered in the Sha Tin New Territories Land Registry as The Remaining Portion of Sha Tin Town Lot No.168 (hereinafter referred to as "the Adjoining Land Owner") a Deed of Grant and Covenant on such terms and conditions as the Director may require or approve for the direct grant unto the Adjoining Land Owner, its successors in title and assigns free right of way through the lot and right of free flow and supply of the Utilities and the discharge of rainwater and treated or untreated effluent and sewage through the lot for the use and enjoyment of the Adjoining Land or any part thereof (hereinafter referred to as "the Deed of Grant and Covenant" which expression shall include such amendments, variations or supplements as may be approved by the Director). The Grantee shall not amend or vary or supplement the terms of the Deed of Grant and Covenant without the prior written consent of the Director.
 - (ii) The Grantee shall duly observe and comply with the Deed of Grant and Covenant and shall indemnify the Government against all liability, claims, costs, demands, actions or other proceedings whatsoever arising from directly or indirectly out of or in connection with the Deed of Grant and Covenant.
 - (iii) Notwithstanding anything herein contained, the rights and liberties excepted and reserved unto the Government's tenants and lessees for the time being and from time to time of the Adjoining Land or any part thereof under this Special Condition No.(5) shall, insofar as the Adjoining Land Owner, its successors and assigns of the Adjoining Land or any part thereof are concerned, be deemed to be so excepted and reserved subject to the Adjoining Land Owner, its successors and assigns observing and complying with the terms, conditions, covenants and obligations under the Deed of Grant and Covenant so long as the Deed of Grant and Covenant is subsisting and binding on them. For the avoidance of doubt, nothing in this sub-clause (d)(iii) shall affect the exercise by the Government and its other tenants and lessees of the rights and liberties excepted and reserved under this Special Condition No.(5).
 - (e) The Grantee shall throughout the term hereby agreed to be granted at his own expense manage, maintain, repair and keep or cause to be managed, maintained, repaired and kept the Access Roadway in good substantial repair and condition and cleansed and unobstructed to the satisfaction of the Director. The Grantee shall not do or suffer anything to be done that may obstruct or affect the safety of the Access Roadway and the System and without prejudice to the generality of the foregoing, the Grantee shall, in carrying out any building, construction, development or other works on the lot, take all necessary measures and precautions in all respects to the satisfaction of the Director to ensure a safe and unobstructed pedestrian and vehicular passage over and along the Access Roadway and the free flow, supply and conveyance of Utilities and the free flow, discharge and conveyance of rainwater and treated or untreated effluent and sewage through the System. Nothing in this sub-clause (e) shall prejudice the enforcement of the rights and obligations of or by the parties under the Deed of Grant and Covenant.
 - (f) Notwithstanding anything herein contained, the Government and the Director shall have no obligation or liability whatsoever in respect of any loss, damage, nuisance or disturbance whatsoever caused to or suffered by the Grantee or any other person whether arising out of or incidental to the fulfilment of the Grantee's obligations under this Special Condition No.(5) or the exercise by the Government or any person of the rights and liberties excepted or reserved or granted under this Special Condition No.(5) or the Deed of Grant and Covenant or the Director imposing any requirement or giving or refusing to give at his absolute discretion any approval or consent under or for the purpose of this Special Condition No.(5) or the Deed of Grant and Covenant, and no claim for compensation shall be made against the Government or the Director or his authorized officer by the Grantee in respect of any such loss, damage, nuisance or disturbance.
 4. Special Condition No.(6) of the Land Grant stipulates that:-
 - (a) The lot is granted together with a right for the Grantee and his servants, visitors, workmen and other persons authorized by him in that behalf from time to time and at all times during the term hereby granted for all purposes connected with the proper use and enjoyment of the lot to pass and repass, on, along, over, by and through the area shown coloured brown on Plan I annexed hereto (hereinafter referred to as "the Brown Area") at such levels as may be approved by the Director.
 - (b) The Grantee shall within 48 calendar months from the date of this Agreement or within such other time limit as may be specified by the Director, at his own expense, in such manner, with such materials and to such standards as the Director shall require or approve, construct a paved way with the associated street furnitures, traffic aids, street lighting, sewers, drains and other structures on the Brown Area with minimum disturbance to the owners of any other lots in the vicinity to whom rights of way over the whole or any portion of the Brown Area may have been granted.
 - (c) The Grantee shall at his own expense uphold, maintain and repair the Brown Area and everything forming a portion of or pertaining to it, all to be done to the satisfaction of the Director and the Grantee shall be responsible for the whole as if he were the absolute owner thereof.
 - (d) Any alteration to any public road absorbing a portion of the Brown Area over and along which a right of way is given or affecting the gradient thereof, shall not give rise to any claim by the Grantee who shall at his own expense carry out all consequent alterations to the Brown Area constructed by him to the satisfaction of the Director.
 - (e) The grant of the right of way referred to in sub-clause (a) of this Special Condition shall not give the Grantee the exclusive right over the Brown Area. The Government shall have the right to grant rights of way over the Brown Area to the owners of any other lots in the vicinity now or at any time in the future, or to take over the whole or any portion of the Brown Area for the purposes of a public street without payment of any compensation to the Grantee or to other owners to whom rights of way over the whole or any portion of the Brown Area may have been granted.
 - (f) In the event of the non-fulfilment of the Grantee's obligations under sub-clauses (b) and (c) of this Special Condition, the Government may carry out the necessary construction, maintenance and repair works at the cost of the Grantee who shall pay to the Government on demand a sum equal to the cost thereof, such sum to be determined by the Director whose determination shall be final and shall be binding upon the Grantee.
 - (g) Notwithstanding the grant of the right of way referred to in sub-clause (a) of this Special Condition, the Government shall have the full right and power, upon giving to the Grantee, not less than fourteen days written notice (save in case of emergency) to lay, install, relay, divert, remove, re-provision, replace, inspect, operate, repair, maintain and renew any Government or other drain, culvert, waterway or watercourse, sewer, nullah, water main, pipe, cable, wire, line, utility service or other works or installations (all together hereinafter referred to as "the services") which are now or may hereafter be upon, over, under or adjacent to the Brown Area as the Director may in his absolute discretion deem fit, making good any and all damages cause thereby, and the Director, his officers, contractors and any other persons authorized by him, his or their workmen with or without tools, equipment, plant, machinery or motor vehicles shall have the right of free ingress, egress and regress at all times to and from the Brown Area for the purposes aforesaid. The Grantee shall not disturb or allow anybody to disturb the services without prior written approval from the Director. Save in respect of making good any and all damage caused by any exercise of the aforesaid rights and powers, the Government, the Director, his officers, contractors and any other persons authorized by him, his or their workmen shall have no liability in respect of any loss, damage, nuisance or disturbance whatsoever caused to or suffered by the Grantee arising out of or incidental to the exercise of the rights conferred under this sub-clause, and no claim nor objection shall be made against him or them by the Grantee.
 5. Special Condition No. (7) of the Land Grant stipulates that the Grantee shall develop the lot by the erection thereon of a building or buildings complying in all respects with these Conditions and all Ordinances, bye-laws and regulations relating to building, sanitation and planning which are or may at any time be in force in Hong Kong, such building or buildings to be completed and made fit for occupation on or before the 30th day of June, 2010.
 6. Special Condition No.(8) of the Land Grant stipulates that the lot or any part thereof or any building or part of any building erected or to be erected thereon shall not be used for any purpose other than for private residential purposes.
 7. Special Condition No.(12) of the Land Grant stipulates that no tree growing on the lot or adjacent thereto shall be interfered with without the prior written consent of the Director who may, in granting consent, impose such conditions as to transplanting, compensatory landscaping or replanting as he may deem appropriate.
 8. Special Condition No.(13) of the Land Grant stipulates that the Grantee shall at his own expense landscape and plant with trees and shrubs any portion of the lot and podium (if any) not built upon and thereafter maintain and keep the same in a clean, neat, tidy and healthy condition all to the satisfaction of the Director.
 9. Special Condition No.(23) of the Land Grant stipulates, inter alia, as follows:-
 - (a) (i) Spaces (i.e. Residential Parking Spaces) shall be provided for the parking of motor vehicles licensed under the Road Traffic Ordinance, any regulations made thereunder and any amending legislation, and belonging to the residents of the residential units in the building or buildings erected or to be erected on the lot and their bona fide guests, visitors or invitees.
 - (iii) Additional spaces (i.e. visitors' parking spaces) for the parking of motor vehicles licensed under the Road Traffic Ordinance, any regulations made thereunder and any amending legislation, and belonging to the bona fide guests, visitors or invitees of the residents of the building or buildings erected or to be erected on the lot shall be provided.
 - (iv) The spaces provided under sub-clauses (a)(i) and (a)(iii) of this Special Condition shall not be used for any purpose other than those respectively stipulated therein and in particular the said spaces shall not be used for the storage, display or exhibiting of motor vehicles for sale or otherwise.
 - (b) (i) Spaces (i.e. Motor Cycle Parking Spaces) shall be provided for the parking of motor cycles licensed under the Road Traffic Ordinance, any regulations made thereunder and any amending legislation, and belonging to the residents of the building or buildings erected or to be erected on the lot and their bona fide guests, visitors or invitees.
 - (ii) The spaces provided under sub-clause (b)(i) of this Special Condition shall not be used for any purpose other than for the purpose set out therein and in particular the said spaces shall not be used for the storage, display or exhibiting of motor vehicles for sale or otherwise.
 - (d) (i) Spaces shall be provided for the loading and unloading of goods vehicles.
 - (ii) The spaces provided under sub-clause (d)(i) of this Special Condition shall not be used for any purpose other than for the loading and unloading of goods vehicles in connection with the building or buildings erected or to be erected on the lot.
 10. Special Condition No.(24) of the Land Grant stipulates, inter alia, as follows:-
 - (a) The Residential Parking Spaces and the Motor Cycle Parking Spaces shall not be:-
 - (i) assigned except
 - (I) together with undivided shares in the lot giving the right of exclusive use and possession of a residential unit or units in the building or buildings erected or to be erected on the lot or
 - (II) to a person who is already the owner of undivided shares in the lot with the right of exclusive use and possession of a residential unit or units in the building or buildings erected or to be erected on the lot; or
 - (ii) underlet except to the residents of the residential units in the building or buildings erected or to be erected on the lot.
 - Provided that in any event not more than three in number of the total of the Residential Parking Spaces and the Motor Cycle Parking Spaces shall be assigned to the owner or underlet to the resident of any one residential unit in the building or buildings erected or to be erected on the lot.
 - (b) Notwithstanding sub-clause (a) of this Special Condition, the Grantee may, with the prior written consent of the Director, assign all the Residential Parking Spaces and the Motor Cycle Parking Spaces as a whole, but only to a wholly-owned subsidiary company of the Grantee.
 11. Special Condition No. (28) stipulates, inter alia, as follows:-
 - (a) Where there is or has been any cutting away, removal or setting back of any land, or any building up or filling in or any slope treatment works of any kind whatsoever, whether with or without the prior written consent of the Director, either within the lot or on any Government land, which is or was done for the purpose of or in connection with the formation, levelling or development of the lot or any part thereof or any other works required to be done by the Grantee under these Conditions, or for any other purpose, the Grantee shall at his own expense carry out and construct such slope treatment works, retaining walls or other support, protection, drainage or ancillary or other works as shall or may then or at any time thereafter be necessary to protect and support such land within the lot and also any adjacent or adjoining Government or leased land and to obviate and prevent any falling away, landslip or subsidence occurring thereafter. The Grantee shall at all times during the term hereby agreed to be granted maintain at his own expense the said land, slope treatment works, retaining walls or other support, protection, drainage or ancillary or other works in good and substantial repair and condition to the satisfaction of the Director.

12. Special Condition No.(36) stipulates that:-

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

13. Special Condition No. (37) stipulates that:-

(a) Any damage or obstruction caused by the Grantee, his servants or agents to any nullah, sewer, storm-water drain or water main within or adjoining the lot shall be made good by the Government at the cost of the Grantee, and the amount due in respect thereof shall be paid on demand to the Government by the Grantee.

(b) Notwithstanding sub-clause (a) of this Special Condition, the Grantee shall, at the request of the Director, make good such damage or obstruction as specified by the Director at his own expense and in all respects to the satisfaction of the Director.

Remarks :-

- (1) The Land Grant means the New Grant No.13196 as varied or modified by a Modification Letter dated 28th April 2008 and registered in the Land Registry by Memorial No.08050200170019.
- (2) Pursuant to Special Condition No.(5)(d)(i) of the Land Grant, the Grantee had executed a Deed of Grant and Covenant in favour of the registered owner of the Adjoining Land. Such Deed of Grant and Covenant was dated 23rd November 2004 and registered in the Land Registry by Memorial No.ST1392790.
- (3) Pursuant to Clause 10 of the Deed of Grant and Covenant, the Grantee and the registered owner of the Adjoining Land had executed a Confirmatory Deed. Such Confirmatory Deed was dated 18th November 2009 and registered in the Land Registry by Memorial No.09112700430092.
- (4) The "Director" as mentioned in this Summary of Land Grant means the Director of Lands.