

This Buyer's Guide provides homebuyers with basic information and guidelines on the process of buying a home, be it an uncompleted home or a completed home. Important considerations which homebuyers should take into account before acquiring interest in the home, are included in this buyer's guide as well.

1. Guide for Buying Home From Developer
2. Guide for Buying and Selling Completed Home
3. Housing Loan Guides
4. Statutory Sale and Purchase Agreement
  - a. Schedule G - Land and Building
  - b. Schedule H - Strata Building/Land Parcels



# **GUIDE FOR BUYING HOME FROM DEVELOPER**

## A. INTRODUCTION

Upon execution of the Sale and Purchase Agreement, the homebuyer acquires an interest on the house. The homebuyer may obtain a loan from the bank to finance his/her acquisition of the house.



## B. PROPERTY OWNERSHIP

A house is issued a document of title for the piece of land on which the house is erected which is called the Individual Title. The Gated and Guarded Community Scheme will be issued the land parcel title. On the other hand, the Strata Title is issued for the specific area on the specific floor of the building i.e. the apartment, condominium, town villa or service apartment.

Two (2) categories of land tenure:

- i. Freehold - the homebuyer acquires a perpetual ownership;
- ii. Leasehold - the homebuyer acquires an ownership for a certain period. Once the lease has expired, the homebuyer has to renew it, otherwise the ownership will be reverted to the State Authority.

Land parcel title or strata title, either freehold or leasehold, will only be issued approximately prior to completion of the house, apartment, condominium, town villa or service apartment.

Land search can be done at the relevant land office or registries in order to know the categories of land, proof of ownership or to obtain any other information related to the land. This is done by the lawyer. Homebuyers must ensure their lawyers do the land search.

Bankruptcy/Winding up search on the landowner and the developer must also be done.



### C. FOREIGN INVESTMENT COMMITTEE ("FIC") APPROVAL

Foreign homebuyer is NOT ALLOWED to acquire:

- i. Properties valued less than RM1,000,000.00 per unit;
- ii. Residential units under the category of low and low-medium cost as determined by the State Authority;
- iii. Properties built on Malay Reserved Land; and
- iv. Properties allocated to Bumiputera interest in any property development project as determined by the State Authority.

However, the acquisition of residential unit by foreign homebuyer valued at RM1,000,000.00 and above, does not require the FIC approval of the Economic Planning Unit, Prime Minister Department.

Even though, no FIC approval is needed from the Economic Planning Unit, Prime Minister Department, it still falls under the purview of the State Authority wherein the State Authority's Approval is required.



## D. STATE AUTHORITY'S APPROVAL

Some lands or houses are subjected to certain limitations of interest in the title which requires the State Authority's Approval. These limitations can be found on land which:

- i. State Authority consent and/or Executive Committee Board consent to transfer, charge and/or lease. This is commonly found in leasehold properties. This is also known as restriction-in-interest;
- ii. State Authority approval for Malay Reserved Land
- iii. Customary Land in Malacca and Negeri Sembilan; and
- iv. Natives land in Sabah and Sarawak.



Besides, any acquisition of house or land by foreign homebuyer requires the State Authority's approval, regardless of the value.

In a recent development in Selangor, the Selangor State Government has introduced a new concept of affordable housing or "Rumah Mampu Milik" that gives more relief in terms of size, design or community. This is known as "Rumah Selangorku". Pricing and the size of the home that is different from what has been established can be reconsidered depending on its location and additional facilities, provided that the price of the house is not more than RM250,000.00 per unit and is not less than 850 square feet in size. The Selangor State Government through Lembaga Perumahan dan Hartanah Selangor (**LPHS**) has reviewed and conducted research for the improvement of the new ownership policy in the current situation, especially in terms of the applicant's household income and the ownership of "Rumah Selangorku" of which involving the following:

- i. RUMAH SELANGORKU Type A (Ranging price not more than RM45,000.00 per unit):
  - a. Total monthly household income of applicants increased from RM2,500.00 to RM3,000.00;
  - b. Holding ownership for 5 years before the property can be sold; and
  - c. Homebuyer who wants to purchase must be registered with the LPHS.
- ii. RUMAH SELANGORKU Type B, C & D (Ranging price between RM100,000.00 to RM250,000.00 per unit):
  - a. Total monthly household income of applicant increased from RM5,000.00 to RM8,000.00;
  - b. Holding ownership for 5 years before the property can be sold; and
  - c. Homebuyer who wants to purchase must be registered with the LPHS.

## E. STAMP DUTY

In the case that the homebuyer wants to make a transfer of ownership of house, the homebuyer will be required to pay stamp duty based on the following scale:

- i. 1% on the first RM100,000.00 of the purchase price;
- ii. 2% on any amount in excess of RM100,000.00 but not exceeding RM500,000.00; and
- iii. 3% on any amount in excess of RM500,000.00.

The prescribed rate of stamp duty on loan documentation is 0.5% of the loan amount.



## F. REAL PROPERTY GAINS TAX ("RPGT")

No RPGT is imposed on the Housing Developer.

- i. However, upon selling a house from which the homebuyer makes a capital gain or profit, the homebuyer has to pay RPGT based on the capital gain or profit.
- ii. The RPGT rates for the disposal of real property and shares that will take place on or after 1 January 2014 will be as follows:

REAL PROPERTY GAINS TAX FOR 2014	Tax Rates		
	Personal (citizen & PR)	Company	Foreigners
Disposed within 3 years	30%	30%	30%
Disposed in 4th year	20%	20%	30%
Disposed in 5th year	15%	15%	30%
Disposed after 5 years	0%	5%	5%

- iii. Effective from 1 January 2015 onwards, the new homebuyer (an acquirer of a house) must withhold 3% of the total value of the purchase price (retention sum) to be paid to the Inland Revenue Board within sixty (60) days from the date of disposal. Once the RPGT return is submitted, any underpayment or overpayment (between the 3% retained by the buyer and the actual RPGT payable) will be payable by the seller or refunded to the seller.
- iv. In addition, RPGT will come under the self-assessment system from the year 2016 onwards. This means that under the self-assessment system, the seller will need to pay the balance RPGT, i.e. the difference between the RPGT liability and the 3% retained for remittance to the Government once the disposal is completed (i.e. upon full and final settlement of purchase price to the owner) and not at the point when the Notice of Assessment is issued (which is the current practice).

## G. LEGAL FEES

Generally, legal fees are borne by the Homebuyer. However, certain Housing Developers and financial institutions (legal fees for loan only) may offer to pay the legal fees on the legal documentation as part of their marketing package. In addition, some financial institutions also extend financing for the loan documentation fees.

The Lawyer's fee is subject to Solicitors Remuneration Order 2006.



## H. FINANCING INFORMATION

The homebuyer may apply to any bank and other financial institution which offers different packages of housing loan to assist the Homebuyer in their purchase.

Bank Negara Malaysia (BNM) has announced that the homebuyer can only obtain housing loan up to 70% for any individuals (not applicable to the Company) who are currently having two outstanding mortgage loans and intend to take on the third loan. The BNM ruling is also applicable to any loan applications by joint homebuyers, if anyone of the homebuyer has two outstanding mortgage loans. For example, Mr. A & Ms. B have jointly purchased a new house and have applied for a bank loan together. If Mr. A has two existing outstanding mortgage loans, the new loan is only entitled to a maximum of 70% margin.



For houses under construction, the financial institution will release the progressive payment to the housing developer based on the claim made upon the completion of each construction stage as certified by the Architect.

The homebuyer can also withdraw his/her saving from the Employees Provident Fund (EPF) to assist in their purchase of a house prior to attaining the age of 50.

## I. LEGAL PROTECTION FOR HOMEBUYER

The Housing Development [Control & Licensing] Act, 1966 and its Regulations provide various legal protection for homebuyer.

Prior to any sale of house to homebuyer, the housing developer is required to obtain the following:

- i. Housing Developer's Licensing
- ii. Sale and Advertisement Permit;

This is to ensure that the Housing Developer has obtained all approvals before selling the houses.

The homebuyer is required to sign the Statutory Sale and Purchase Agreement, which is the sale agreement approved by the Government as follows:

- i. Schedule G (for purchases of landed houses)
- ii. Schedule H (for purchases of strata houses i.e. flat, condominium and apartments).

Under the Statutory Sale and Purchase Agreement, the salient terms are as follows:

- i. Fixed delivery of vacant possession of the house, either twenty four (24) months or thirty six (36) months from the date of the Statutory Sale and Purchase Agreement. The delivery of vacant possession by the housing developer shall be supported by a certificate of completion and compliance certifying that the house is safe and fit for occupation and includes the handing over of the keys to the homebuyer;
- ii. If there is a failure to deliver vacant possession within the specific period, the housing developer must pay late delivery charges at 10% per annum on the purchase price of the house;
- iii. If there is any defects or faults in the house which shall become apparent within twenty four (24) months or thirty six (36) months from the date of the delivery of vacant possession, the housing developer shall make good at no cost and expenses of the homebuyer. Payment of the last 5% of the purchase price will be held by a firm of solicitors as stakeholders during this period of twenty four (24) months;
- iv. Payment of the purchase price of the house by progressive installments based on work done on the house must be supported with the Architect's certificate (s) of the Project;
- v. Upon default by the purchaser/homebuyer and determination of the Statutory Sale and Purchase Agreement, the housing developer is entitled:
  - a. To deal with or otherwise dispose the house in such manner as the housing developer shall see fit as if the Statutory Sale and Purchase Agreement had not been entered into;
  - b. The installments previously paid by the purchaser/homebuyer to the housing developer, excluding any interest paid, shall be dealt with and disposed of as follows:
    - Firstly, all interest calculated in accordance to the Statutory Sale and Purchase Agreement owing shall be paid to the housing developer;
    - Secondly, a sum equal to ten percent (10%) of the purchase price thereof shall be forfeited to the housing developer. [If strata/land parcel house, the housing developer shall entitle to forfeit up to 20% of the purchase price if the house had completed more than 50%]; and
    - Lastly, the residue thereof shall be refunded to the purchaser/homebuyer.
- vi. Neither party shall have any further claim against the other for costs, damages, compensations or otherwise under the Statutory Sale and Purchase Agreement; and
- vii. Each party shall pay its own costs in the matter.

Tribunal for homebuyer claims was established to handle claims against the housing developer by the homebuyer arising from the terms of the Statutory Sale and Purchase Agreement. This legal procedure is simple, fast and cheap.

The housing developer must open and maintain a Housing Development Account with a bank, where all purchase price or purchase money must be paid into this Housing Development Account and that any payments from this Account must be in accordance with the purpose(s) stated in the Housing Development (Housing Development Account) Regulations, 1991 otherwise the housing developer would not be able to make any payments from the Housing Development Account. In addition, the payments are paid vide the financial institution upon request made by the housing developer.

Any housing developer guilty of an offence under the Housing Development [Control and Licensing] Act, 1966 shall be:

- i. liable to a fine which shall not be less than Ringgit Malaysia Fifty Thousand (RM50,000.00) but which shall not exceed Ringgit Malaysia Two Hundred and Fifty Thousand (RM250,000.00); OR
- ii. imprisonment for a term not exceeding three (3) years; OR
- iii. both.

## J. SUMMARY

The housing law protects the homebuyer under various legislations and regulations.

The housing industry is directly supervised and regulated by the Ministry of Urban Wellbeing, Housing and Local Government.

However, some legal requirements will be different if purchase a home from the secondary market or a completed home. In this case, it is advisable that the homebuyer engages a lawyer to assist him/her to acquire the home.



# **GUIDE FOR BUYING AND SELLING COMPLETED HOME**

## OVERVIEW

### A. INTRODUCTION

The parties that involve in the sale and purchase transaction for buying and selling completed home is as follows:

- i. The seller, being the party that sells a house, has to own the house; otherwise he/she has no legal capacity to sell the house.
- ii. The homebuyer, being the party that buys a house has to pay the purchase price of a house in the manner provided in the sale and purchase agreement.
- iii. The seller's lawyer is acting for the seller in the perfection of the transfer and to ensure that the selling price is received by the seller within the completion date or the extended completion date, as the case may be.
- iv. The homebuyer's lawyer is acting for the homebuyer in the perfection of transfer and to ensure that the house is properly conveyed to the homebuyer within the completion date or the extended completion date, as the case may be.
- v. The seller's financier is also a party involved if the seller has not fully settled his/her housing loan at the time of sale. The homebuyer's financier is a party that gives loan to the homebuyer to finance the purchase of the house.
- vi. The homebuyer's financier lawyer is acting for the homebuyer's financier to perfect the loan documentation for the loan.



Upon execution of the sale and purchase agreement, the homebuyer acquires an interest on the house.

The homebuyer may obtain a loan from the bank to finance his/her acquisition of the house.

## B. PROPERTY OWNERSHIP

A house is issued a document of title for the piece of land on which the house is erected. It is called as individual title except the Gated and Guarded Community Scheme will be issued land parcel title. Whereas, strata title is issued for the specific area on the specific floor of the building i.e. the apartment, condominium, town villa or service apartment.

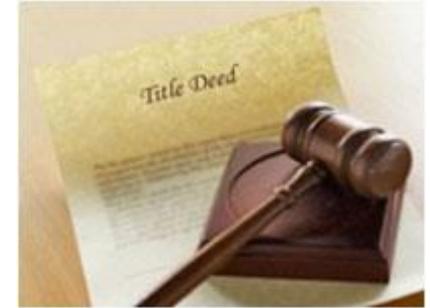
There are two (2) categories of document of titles:

- i. Freehold - the homebuyer acquires a perpetual ownership; and
- ii. Leasehold - the homebuyer acquires an ownership for a certain period. Once the lease has expired, the homebuyer has to renew it, otherwise the ownership will revert to the State Authority.

Land parcel or strata title, either freehold or leasehold, will only be issued prior to the completion of the house, apartment, condominium, town villa or service apartment.

Land search can be done at the relevant land office or registries in order to know the categories of land, proof of ownership or to obtain any other information of the land. This is done by the lawyer. Homebuyer must ensure his/her lawyer does the land search.

Bankruptcy/Winding up search on the landowner and the developer (if title not yet issue) must also be done.



## C. FOREIGN INVESTMENT COMMITTEE ("FIC") APPROVAL

Foreign homebuyer is NOT ALLOWED to acquire:

- i. Properties valued less than RM1,000,000.00 per unit;
- ii. Residential units under the category of low and low-medium cost as determined by the State Authority;
- iii. Properties built on malay reserved land; and
- iv. Properties allocated to bumiputera interest in any property development project as determined by the State Authority.

However, acquisition of residential unit by foreign homebuyer valued at RM1,000,000.00 and above, do not require the FIC approval from the Economic Planning Unit, Prime Minister Department.

Even though there is no FIC approval needed from Economic Planning Unit, Prime Minister Department, it is still required the State Authority's Approval.



#### **D. STATE AUTHORITY'S APPROVAL**

Some land or house is subject to certain limitations of interest in the title which requires the State Authority's Approval. These limitations could be found on land which:

- i. State Authority and/or Executive Committee Board consent to transfer, charge and/or lease. This is commonly found in a leasehold property. This is also known as the restriction-in-interest;
- ii. State Authority approval for Malay reserved land;
- iii. Customary land in Malacca and Negeri Sembilan; and
- iv. Natives land in Sabah and Sarawak.

Besides, any acquisition of a house or land by foreign homebuyer requires the State Authority's Approval, irrespective of the value.



## BUYING A HOUSE

### A. INTRODUCTION

When buying a house, these are the things that need to be taken into consideration by a homebuyer:

- i. Information on the land where a house is erected.
- ii. The initial cash flow in which the homebuyer has to spend to acquire a house, such as legal fees and stamp duty for sale and purchase agreement, loan agreement and including any other disbursements such as registration fees for transfer, land search and etc.
- iii. Information about financing the purchase of the house from financial institution.
- iv. Documents that need to be executed in getting the homebuyer to be registered as the owner of a house.
- v. Legal process of acquiring a house.

The above matters will be elaborated further in the following part.

### B. INFORMATION OF THE LAND WHERE A HOUSE IS ERECTED

Prior to execution of the sale and purchase agreement, the homebuyer/homebuyer's lawyer should check the seller's title to ensure he/she is the actual owner of a land where a house is erected.

If the house/apartment does not have strata title issued, then the homebuyer should get evidence of the seller's ownership i.e. a copy of the sale & purchase agreement (SPA) made by the seller with the developer when he/she purchased the house/apartment. If the seller is a Second/Third hand owner, then he/she would have to give the homebuyer:

- i. 1st SPA made by 1st owner with developer;
- ii. 2nd SPA made between 1st owner and 2nd owner (if 2nd hand); and
- iii. 3rd SPA between 2nd owner and 3rd owner, (if 3rd hand).

With the available informations, write to the developer to confirm the ownership of house/apartment.



## C. THE INITIAL CASH FLOWS

Legal fees for sale and purchase agreement as well as loan documents pursuant to Solicitors' Remuneration Order are as follows:

- i. For the first RM150,000.00, the legal fees payable is 1%
- ii. For the next RM850,000.00, the legal fees payable is 0.7%
- iii. For the next RM2,000,000.00, the legal fees payable is 0.6%
- iv. For the next RM2,000,000.00, the legal fees payable is 0.5%
- v. For the next RM2,500,000.00, the legal fees payable is 0.4%
- vi. In excess of RM7,500,000.00, if any, it is negotiable (provided that the excess does not exceed 0.4%)



For instance, if the purchase price is RM500,000.00, then the calculation will be as follows:

**Total legal fees payable:**

$$(RM150,000.00 \times 1\%) + (RM350,000.00 \times 0.7\%) = RM 3,950.00$$

According to the Solicitors' Remuneration Order, lawyers are strictly not allowed to give discount in conveyancing matter. Some sellers do not appoint a lawyer and therefore can save on the legal fees. This is possible because the homebuyer's lawyer will draft the sale and purchase agreement. However, not using a lawyer is not recommended unless the seller and homebuyer really know what they are doing. The sale and purchase agreement may seem simple enough to read but one might be surprised by how often a lawyer can point out something one might not notice that could have a material impact.

Stamp duty for transfer:

- i. 1% on the first RM100,000.00 of the purchase price;
- ii. 2% on any amount in excess of RM100,000.00 but not exceeding RM500,000.00; and
- iii. 3% on any amount in excess of RM500,000.00.

The homebuyer has to pay stamp duty within thirty (30) days from the date of the Assessment Notice (Notis Taksiran) issued by Inland Revenue Department failing which penalty will be imposed.

Stamp duty for loan:

- i. loan sum x 0.5% for principal loan agreement; and
- ii. RM10.00 for each copy.

Other disbursement charges including land search, bankruptcy/winding up search, registration of transfer, caveat, travelling charges, telephone and facsimile charges, adjudication and affirming fees, miscellaneous charges and any other expenses might amount to approximately RM600.00 to RM1,500.00 depending on the types of property.

#### D. FINANCING INFORMATION

The homebuyer may apply to any bank or any financial institution which offers different packages of housing loan to assist the homebuyer in their purchase.

Bank Negara Malaysia (BNM) has announced that a homebuyer can only obtain a housing loan up to 70% for any individuals (not applicable to the Company) who are currently having two outstanding mortgage loans and intend to take on a third loan. The BNM ruling is also applicable to any loan applications from joint homebuyers, if anyone of the homebuyers have two outstanding mortgage loans. For example, Mr. A & Ms. B have jointly purchased a new house and applied for a bank loan together. If Mr. A has two existing outstanding mortgage loans, the new loan is only entitled to a maximum of the 70% margin.

The homebuyer can also withdraw their savings from Employees Provident Fund (EPF) to assist in their purchase of a house prior to reaching the age of 50.



## E. DOCUMENTS THAT NEED TO BE EXECUTED BY THE HOMEBUYER

These are the documents that need to be executed by the homebuyer to get him/her as the registered owner of the house:



### i. Sale and Purchase Agreement:

When a homebuyer buys a house from a seller who is not a developer, the terms and conditions of the sale and purchase agreement are not prescribed by statutes. The standard terms which are not prescribed by statutes are:

- a. 10% of the purchase price has to be paid upon signing the sale and purchase agreement;
- b. balance of the purchase price has to be paid within three (3) months from the date of sale and purchase agreement (or the date the State's Authority consent is obtained);
- c. If the balance of the purchase price is not paid within three (3) months thereof, the seller will automatically grant the homebuyer an extension of one (1) month to pay the balance during such period provided that the homebuyer has to pay interest at 8% per annum on any balance outstanding;
- d. Vacant possession of the house will be delivered after the purchase price is paid in full.

### ii. CKHT form:

The CKHT forms are required to be submitted by the seller (CKHT Form 1A) and the homebuyer (CKHT Form 2A) to the Inland Revenue Department within sixty (60) days from the date of sale and purchase agreement (or the date the State's Authority consent is obtained).

### iii. Transfer form (Form 14A) - if the title has been issued.

### iv. Deed of Assignment between seller and homebuyer - if the title has not been issued.

### v. Application for consent to transfer and charge - if the State's Authority consent is required.

### vi. Any other documents for perfecting the sale and purchase of a house will be advised by lawyers (if any).

## F. LEGAL PROCESS

Legal process for selling and buying completed home are as follows:

- i. Execution of documents by homebuyer. After the terms in the sale and purchase agreement has been agreed upon by the seller's lawyer and the homebuyer's lawyer, the homebuyer may proceed to execute the documents. The homebuyer may also execute the loan documents (if obtain loan) with the homebuyer's financier lawyer.
- ii. Upon execution of the sale and purchase agreement ("SPA"), the homebuyer has to pay a 10% deposit to the seller's lawyer, as stakeholder.
- iii. The homebuyer's lawyer will forward the duly executed documents to the seller's lawyer together with the 10% deposit. The seller's lawyer will arrange the seller to execute SPA and release the 10% deposit to the seller.
- iv. the seller executed the documents and forwards it to homebuyer's lawyer, the homebuyer's lawyer will stamped the SPA accordingly.
- v. Upon stamping the SPA, one original and one copy of SPA will be given to the homebuyer, one copy to the seller and one copy for the lawyer's file.
- vi. If the land is subjected to State Authority's approval, then the seller's lawyer will submit an application for the consent to transfer. It might take two (2) months to three (3) months to obtain such approval depending on the practice of relevant land office.
- vii. completion date will start from the date of SPA or the date of the State's Authority consent.
- viii. If the title has not been issued, the completion date will start after the homebuyer's lawyer obtains the letter of confirmation of the seller's ownership and the consent to transfer the beneficial interest from the developer.
- ix. In the meantime, the seller and the homebuyer have to submit their CKHT form to the Inland Revenue Department.
- x. If the seller has the existing loan secured on the house, then the seller's lawyer has to obtain the redemption statement from the seller's financier in order to redeem the house. Upon obtaining the same, the seller's lawyer has to forward it to the homebuyer's lawyer (if cash homebuyer) or homebuyer's financier lawyer (if the homebuyer is taking loan).
- xi. Upon receiving the redemption statement, the homebuyer's lawyer or homebuyer's financier lawyer will advise their client to pay the redemption sum and thereafter forwarded the said redemption sum to the seller's financier for settlement of redemption of the house.
- xii. After the house has been redeemed to the seller's financier, the seller's financier has to release the original title, duly executed discharge of charge (if there is title) or deed of receipt and re-assignment (if there is no title) and any other relevant documents for the perfection of transfer.



- xiii. At the same time, the homebuyer's lawyer has to submit the Transfer Form 14A (MOT) (if title issued) or deed of assignment (if title not yet issued) for adjudication. It will take about one (1) to three (3) weeks to obtain the Assessment Notice (Notis Taksiran). After receiving the same, the homebuyer's lawyer will stamp the MOT or deed of assignment at the stamp office accordingly.
- xiv. In the case where the title has been issued:
  - a. If the homebuyer is a cash buyer, the homebuyer's lawyer will proceed to register the MOT and discharge of charge in the land office when the balance purchase price has been forwarded to the seller's lawyer as stakeholder for the parties thereto.
  - b. However, if the homebuyer is having a loan, then the registration of MOT and discharge of charge will be done by the homebuyer's financier lawyer in order to register their loan documents as well which will be done when the seller is in receipt of the homebuyer's financier's letter of undertaking to refund.
  - c. Upon registration of the same, the seller's lawyer/the homebuyer's financier is obliged to release the balance of 90% purchase price (less redemption sum, if any) to the seller so that the seller can release the keys to the homebuyer upon settlement of the purchase price.
- xv. In the case where the title has not yet been issued:
  - a. If the homebuyer is a cash buyer, the homebuyer's lawyer has to serve the deed of assignment and the deed of receipt and re-assignment (if any) to the developer for the notification of assignment.
  - b. If the homebuyer is having a loan, the homebuyer's lawyer has to forward to the homebuyer's financier lawyer an original copy of the Notice of Assignment duly acknowledged receipt by the developer.
  - c. Upon serving the Notice of Assignment, the lawyer will advise the homebuyer/the homebuyer's financier to release the balance of 90% purchase price (less Redemption Sum, if any) to the seller so that the seller can release the keys to the homebuyer upon settlement of the purchase price.

The completion of the above legal procedure will usually take place within three (3) months of the SPA date or the date of the State's Authority Approval. However, it may be faster if the homebuyer is a cash buyer or the seller does not have any existing loan secured on the house.

## SELLING A HOUSE

### A. INTRODUCTION

In selling a house, these are the things that need to be taken into consideration by the seller:

- i. Redemption of a house.
- ii. The initial cash flow in which the seller has to spend to dispose a house such as RPQT, legal fees for Sale and Purchase Agreement and other disbursement fees.
- iii. that need to be executed in getting the homebuyer to be registered as the owner of a house.

The above matters will be elaborated further in the following part.



### B. REDEMPTION

During the time of sale, if the house is still charged or assigned to a bank or financial institution for the loan granted to assist the purchase of the house, a redemption statement stating the amount due needs to be obtained from the financier concerned.

Usually, the redemption of the house is incorporated into the sale and purchase agreement so that part of the proceeds from the sale will be utilised for that purpose.



### C. THE INITIAL CASH FLOWS

Legal fees for sale and purchase agreement pursuant to Solicitors' Remuneration Order are as follows:

- i. For the first RM150,000.00, the legal fees payable is 1%
- ii. For the next RM850,000.00, the legal fees payable is 0.7%
- iii. For the next RM2,000,000, the legal fees payable is 0.6%
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- vi. In excess of RM7,500,000.00, if any, it is negotiable (provided the excess does not exceed 0.4%)

For instance, if the purchase price is RM500,000.00, then the calculation will be follows:

**Total legal fees payable:**

$$(RM150,000.00 \times 1\%) + (RM350,000.00 \times 0.7\%) = RM 3,950.00$$

According to the Solicitors' Remuneration Order, lawyers are strictly not allowed to give discount in conveyancing matter. Some sellers do not appoint a lawyer and therefore can save on the legal fees. This is possible because the homebuyer's lawyer will draft the sale and purchase agreement. However, not using a lawyer is not recommended unless the seller and homebuyer really know what they are doing. The sale and purchase agreement may seem simple enough to read but one might be surprised by how often a lawyer will point out something one might not notice that could have a material impact.

The seller is not obliged to pay the stamp duty throughout the selling of the house.

Other disbursement charges including land search, bankruptcy/winding up search, registration of discharge of charge, application of consent to transfer (if any), travelling charges, telephone and facsimile charges, adjudication and affirming fees, miscellaneous charges and other expenses will amount to approximately RM300.00 to RM1,000.00.



#### D. REAL PROPERTY GAINS TAX ("RPGT")

Upon selling a house and make a capital gain or profit, the seller has to pay RPGT on the capital gain or profit.

The RPGT rates for the disposal of real property in real property gains tax taking place on or after 1 January 2014 will be as follows:

REAL PROPERTY GAINS TAX FOR 2014	Tax Rates		
	Personal (citizen & PR)	Company	Foreigners
Disposed within 3 years	30%	30%	30%
Disposed in 4th year	20%	20%	30%
Disposed in 5th year	15%	15%	30%
Disposed after 5 years	0%	5%	5%



Effective from 1 January 2015 onwards, the new homebuyer (an acquirer of a house) must withhold 3% of the total value of the purchase price (retention sum) to be paid to the Inland Revenue Board within sixty (60) days from the date of disposal. Once the RPGT return is submitted, any underpayment or overpayment (between the 3% retained by the homebuyer and the actual RPGT payable) will be payable by the seller or refunded to the seller.

Payment of RPGT is also normally incorporated in the sale and purchase agreement.

#### E. DOCUMENTS THAT NEED TO BE EXECUTED BY THE SELLER

The seller also has to execute the same documents being executed by the homebuyer with the exception of if the seller has the existing loan secured on the house. If this is the case, the seller has to execute the deed of receipt and re-assignment (if title not yet issued), or he/she has to get the financier to execute the discharge of charge (if title issued).



## F. SUMMARY

This brief overview should help put you on the path towards filling in any gaps in your home-buying knowledge. Remember that the more you educate yourself about the process beforehand, the less stressful it will be, and the more likely you will be able to get the home you want. For further information, please consult the expert advice of a solicitor or conveyancer for comprehensive details regarding your personal situation.



# **HOUSING LOAN GUIDES**

## A. INTRODUCTION

Understanding the steps involved in securing a housing loan will help homebuyer save time and avoid unnecessary anxiety. This information gives the homebuyer an overview into the various issues related to funding of an acquisition of a house and the requirements of obtaining a housing loan.

However, these guidelines will serve as a general guide and may vary from time to time and may vary from one financial institution to the other. Therefore, it will be good practice to check and/or verify with the financial institution who finances the acquisition of the house.



## B. FUNDING

The Homebuyer should have sufficient funding to pay the deposit and related costs for buying a house. It is estimated minimum 10% of the purchase price is needed as a deposit, which payable upon signing of the sale and purchase agreement and another 3% - 5% for related costs, such as legal fees and stamp duties for sale and purchase agreement and loan documents.



### C. RELATED COSTS

There are related costs involved, such as legal fees and disbursement. This includes stamp duty that the homebuyer/borrower has to pay in the process of acquiring a house.

TYPE	RATE
<u>Legal Fee</u> <ul style="list-style-type: none"> <li>• Sale &amp; Purchase Agreement and Loan Documents</li> </ul>	<u>Purchase Price/Loan Sum</u> First RM150,000 1% Next RM850,000 0.7% Next RM2,000,000 0.6% Next RM2,000,000 0.5% Next RM2,500,000 0.4% Next in excess of RM7,500,000.00 if any, it is negotiable provided the excess does not exceed 0.4%.
<u>Stamp Duty</u> <ul style="list-style-type: none"> <li>• Loan Agreement</li> <li>• Memorandum of Transfer (MOT) of Title or Deed of Assignment</li> </ul>	1. 0.5% of the loan amount;  1. 1% for the first RM100,000.00 of the purchase price; 2. 2% on any amount in excess of RM100,000.00 but not exceeding RM500,000.00; 3. 3% on any amount in excess of RM500,000.00.
<u>Disbursement Fee</u> Include fees for registration of MOT and charge, land search, bankruptcy search, etc.	These fees vary by state, land office and type of property. They are ranging from RM500.00 to RM1,000.00.
<u>Processing Fee</u> One-time fee charged by the financial institution for loan processing	Normally, no processing fee will be charged by financial institution. If the financial institution charges a processing fee, it will be range from RM100.00 - RM200.00.

After buying the house, the homebuyer must also take note of other expenses such as monthly service charges for apartment, condo, flat, assessment, quit rent and utilities bills.

#### D. EMPLOYEES PROVIDENT FUND (EPF) WITHDRAWAL

A homebuyer can withdraw from EPF account 2 to make the initial down payment and the homebuyer may enquire from EPF office for the withdrawal eligibility.



#### E. LOAN PROCESSING BY FINANCIAL INSTITUTION

The financial institution may offer suitable loan package that suits a homebuyer's or Borrower's needs. It usually takes about one (1) to two (2) weeks for a loan application to be approved provided all required documents are submitted to the financial institution.

Basic documents for housing loan application:

- i. Photocopy Identity Card
- ii. three (3) month's salary slip
- iii. Latest income tax return form (Confirmation Notice) or EA form
- iv. Sale and Purchase Agreement/deposit or booking form/letter of offer from the housing developer
- v. Photocopy of the land title (if any)
- vi. Six (6) months latest bank statements either current/savings/fixed deposits account, if without income tax return or EA form.

For the Self-employed:

- i. Provide business registration documents
- ii. Latest three (3) months bank statements
- iii. Latest financial statements from the company/sole proprietor firm
- iv. Other supporting documents to support business income, i.e. Profit and Loss Account, latest Audited Account and Balance Sheets etc.

Upon the housing loan being approved and accepted by the homebuyer/borrower, the financial institution will appoint the lawyer from a list of panel lawyers (borrower may choose the lawyer) to draw-up the loan documents for the homebuyer/borrower and the financial institution to sign and thereafter to drawdown the housing loan based on the terms and conditions of the duly executed sale and purchase agreement between the developer/vendor and the homebuyer and the loan agreement between the homebuyer/borrower and the financial institution. The homebuyer/borrower should get a copy of the loan documents from the lawyer.



## F. LOAN REPAYMENT CAPACITY

The monthly loan installment repayment should not be more than 1/3 of the borrower's gross monthly income. However, the financial institution will take into consideration the homebuyer's savings or fixed deposit account. Please take note that the monthly repayment may increase substantially when the interest rate goes up, particularly for housing loan with floating rate, e.g. Based Lending Rate (BLR) plus 1%/1.5%.

However, the financial institution would allow the borrower to continue paying the fixed amount of monthly installments throughout the loan's tenure and will make necessary adjustments whenever a variation in interest rate is encountered by either prolonging or shortening the repayment period.



## G. MARGIN OF FINANCE

The margin of finance can go as high as 100% of the value of the house, but usually the margin of finance will range ranging from 80% - 90% of the value of the house.

## H. LOAN TENURE

The tenure of a loan can be reach up to 30 years or until the borrower reaches age 65, whichever is earlier.



## I. LOAN FEATURES

Each financial institution packages its housing loans differently. Generally, housing loan packages can be in the form of a Term Loan, Overdraft, or a combination of both Term Loan and Overdraft or Flexi Loan/Flexi Mortgage.

- i. Term Loan:
  - a. A facility with regular predetermined monthly installments.
  - b. Installment is fixed for a period of time.
  - c. Installment payment consists of the loan amount plus the interest.
- ii. Overdraft Facility:
  - a. A facility with credit line granted based on a predetermined limit.
  - b. fixed monthly installments as the interest is calculated based on the daily outstanding balance.
  - c. Allows flexibility to repay the loan anytime and freedom to re-use the money.
  - d. Interest charged is higher than term loan.
- iii. Term Loan and Overdraft Combined:
  - a. A facility that combines Term Loan and Overdraft.
  - b. Regular loan installment on the term loan portion is required.
  - c. Flexibility on the repayment of overdraft portion.
- iv. Flexi Loan/Mortgage or Others:
  - a. A combination of fixed term loan with an element of overdraft facility but the housing loan amount reduces on a monthly basis.



## J. PREPAYMENT FEE

Normally, the financial institution will impose a prepayment fee, which at a fixed rate, i.e. 1% of the prepayment amount. However, it is extremely useful in the long term to reduce interest charges.



## **K. EARLY REPAYMENT OF LOAN**

Financial institution always discourage the borrower to fully repay the housing loan within three (3) to five (5) years from the date of the 1st drawdown of the housing loan. Thus, the borrower must maintain the housing loan for a minimum period with the financial institution. This is commonly known as "the lock-in period". However, the financial institution may impose a penalty on full repayment of the housing loan during the lock-in period at a fixed rate ranging from 2% to 3% of the total loan repayment amount.

This imposition of the penalty charged by the financial institution is primarily due to the disruption of the financial institution's cash flow planning and profitability.



## **L. VALUATION REPORT**

A purchase of a fully completed house from an owner requires a valuation report. The financial institution will appoint a property valuer from its panel of valuers to evaluate the property to ensure that the purchase price commensurates with the market value of the house.

On the other hand, a purchase from the developer will not require a valuation report.



## M. INSURANCE

It is vital to take insurance coverage for the purchased house. There are two (2) important insurance policies worth considering:

i. Fire Insurance and Others Policy:

It provides insurance coverage for the house against mishaps or disasters. For properties with strata titles, the homebuyer does not need to take insurance coverage against fire or mishaps or disasters because the Management Corporation (MC) or the Joint Management Body (JMB) or the developer will have taken up insurance coverage on the entire building. However, the homebuyer may need to insure moveable assets against theft/burglary.

ii. The Mortgage Reducing Term Assurance or MRTA:

This policy provides for full settlement of the outstanding balance of the housing loan with the financial institution upon the death of the Borrower. Premiums can usually be included in the loan amount. There are no monthly or yearly premiums to be paid. Early termination of housing loan will generally have option to request for a refund for the balance of the unexpired period.



## N. LOAN DISBURSEMENT

Upon completion of the loan documentation, the financial institution will release the housing loan based on the terms and conditions of the sale and purchase agreement and the loan agreement.

The borrower will receive a notice from the financial institution in regards to the date of release of the housing loan and the commencement of the monthly installment payment.

## O. RIGHTS OF THE BORROWER AND THE FINANCIAL INSTITUTION

### i. Borrower:

- a. Have access to all information that would affect the borrowing decision
- b. be consulted on changes of the terms and conditions of the loan
- c. To have access to information on the loan account
- d. To take legal action in the event of a breach of the Loan Agreement

### ii. Financial Institution:

- a. To have all relevant disclosure of information on Borrower's credit standing
- b. To have correct and truthful information on the Borrower
- c. To have the timely repayment of interest/installments of the loan by the Borrower
- d. To have the right to take legal action upon default of the terms and conditions of the Loan Agreement by the Borrower



## P. CONCLUSION

Under any circumstances, the borrower should check and/or verify with the officer of the financial institution on the related issues stated above to ensure certainty of the terms of the loan and the funds involved to acquire a home.



# **STATUTORY SALE AND PURCHASE AGREEMENT**

# **SCHEDULE G**

**SCHEDULE G**

HOUSING DEVELOPMENT (CONTROL AND LICENSING) ACT 1966

HOUSING DEVELOPMENT (CONTROL AND LICENSING) REGULATIONS 1989

(Subregulation 11(1))

**SALE AND PURCHASE AGREEMENT (LAND AND BUILDING)**

AN AGREEMENT made this ..... day of ..... BETWEEN  
 ..... a company  
 incorporated in Malaysia and duly licensed under the Housing Development (Control and Licensing)  
 Act 1966 (License No.: .....) with its registered office at  
 .....  
 .....  
 (hereinafter called "the Vendor") of the \*one/first part AND  
 ..... NRIC No.  
 ..... of .....  
 ..... (hereinafter called "the Purchaser") of the  
 \*other/second part AND .....  
 ..... NRIC No.  
 ..... of .....  
 (hereinafter called "the Proprietor") of the third part.

**Preamble**

WHEREAS the \*Proprietor/Vendor is the registered and beneficial owner of all that \*freehold  
 land/leasehold land of ..... years expiring on  
 ..... held under ..... (description of title) and  
 No. of Title ..... \*Lot No./L.O. No.  
 ..... Section ..... in the  
 \*Town/Village/Mukim ..... District of  
 ..... State of ..... in an area  
 measuring approximately ..... hectares/square metres (hereinafter  
 referred to as "the said Land")\* and has granted the Vendor the absolute right to develop the said  
 Land as a housing development and to sell the said Land;

\*AND WHEREAS the Proprietor hereby agrees to the sale of the said Land for the purpose of  
 this Agreement;

AND WHEREAS the said Land is charged to ..... with its  
 registered office at ..... as security  
 for the loan granted to the Vendor;

AND WHEREAS the Vendor has, at its own cost and expense, obtained the approval of the  
 Appropriate Authority for the subdivision of the said Land into building lots in accordance with the  
 approved Layout Plan a copy of which is annexed as the First Schedule (hereinafter referred to as  
 "the Layout Plan") and separate documents of title have \*since been/not yet been issued by the  
 Appropriate Authority;

AND WHEREAS the Vendor has, at its own cost and expense, obtained the approval of the  
 building plans (hereinafter referred to as "the Building Plan") from the Appropriate Authority, a copy  
 of which is annexed as the Second Schedule;

AND WHEREAS the Vendor is developing the said Land as a housing development known as ..... \*Phase ..... (Advertisement and Sale Permit No.: .....);

AND WHEREAS the Vendor has agreed to sell and the Purchaser has agreed to purchase all that piece of land with vacant possession distinguished as \*Plot/Lot No.: ..... and which is more particularly delineated and shaded RED in the Layout Plan measuring approximately ..... square metres in area (hereinafter referred to as "the said Lot") TOGETHER with a ..... to be erected thereon (hereinafter referred to as "the said Building") described in the Vendor's plan as Type ..... specified in the Second Schedule (the said Lot and Building are hereinafter collectively referred to as "the said Property"), subject to the terms and conditions hereinafter contained;

NOW IT IS HEREBY AGREED as follows:

**Property free from agricultural, industrial and building restrictions**

1. The Vendor hereby agrees to sell and the Purchaser agrees to purchase the said Property free from any agricultural or industrial conditions expressed or implied and any restrictions against the building of housing accommodation thereon and all encumbrances other than those imposed by the provisions hereto/ already subsisting at the date hereof (if any) and any conditions expressed or implied affecting the title of the said Property.

**Property free from encumbrances before the Purchaser takes vacant possession of the said Building**

2. (1) The \*Proprietor and the Vendor shall not immediately and at any time after the date of execution of this Agreement subject the said Land to any encumbrances without the prior approval of the Purchaser and the \*Proprietor and the Vendor hereby undertakes that the said Property shall be free from encumbrances immediately prior to the Purchaser taking vacant possession of the said Building.

(2) The Purchaser shall grant such approval to the \*Proprietor and the Vendor encumbering the said Land for the purpose of obtaining credit facilities from any bank and/or financial institution only if the Purchaser has first received confirmation in writing from the relevant bank and/or financial institution disclaiming their rights and interests over the said Property and undertaking to exclude the said Property from any foreclosure proceedings which such bank and/or financial institution may take against the \*Proprietor and Vendor and/or the said Land.

(3) In the event the said Land shall be encumbered to any bank and/or financial institution by the \*Proprietor/Vendor, the \*Proprietor/Vendor shall immediately after the date of this Agreement deliver or cause to be delivered to the Purchaser and/or the Financier (as hereinafter defined) a copy of the redemption statement and undertaking letter issued by such bank and/or financial institution in respect of the said Lot and shall authorise the Purchaser to pay such portion of the purchase price or the Financier to release such portion of the Loan, as the case may be, equivalent to the amount of the redemption sum payable in respect of the said Lot directly to such bank and/or financial institution and thereafter the balance purchase price or the balance Loan to the Vendor provided all such payments and releases are made progressively at the time and in the manner prescribed in the Third Schedule.

**Purchase price**

3. The purchase price of the said Property is Ringgit Malaysia ..... (RM .....) only and shall be payable in the manner hereinafter provided.

## **Schedule of payments**

4. (1) The purchase price shall be paid by the Purchaser to the Vendor by instalments and at the time and in the manner as prescribed in the Third Schedule. The Vendor is not bound to commence or complete the works in the order referred to in the Third Schedule and the Purchaser shall pay the instalments according to the stage of works completed by the Vendor provided that any damage to the completed works by subsequent stage of works shall be repaired and made good by the Vendor at its own cost and expense before the Purchaser takes vacant possession of the said Building.

(2) Every notice referred to in the Third Schedule requesting for payment shall be supported by a certificate signed by the Vendor's architect or engineer in charge of the housing development and every such certificate so signed shall be proof of the fact that the works therein referred to have been completed.

## **Loan**

5. (1) If the Purchaser is desirous of obtaining a loan to finance the payment of the purchase price of the said Property the Purchaser shall, within fourteen (14) days after receipt of a stamped copy of the Agreement, make a written application for such loan to the Vendor who shall use its best endeavours to obtain for the Purchaser from a bank, finance company, building society or a financial institution (hereinafter called "the Financier") a loan (hereinafter called "the Loan") and if the Loan is obtained the Purchaser shall, within a reasonable time, execute all necessary forms and documents and pay all fees, legal costs and stamp duty in respect thereof.

(2) The Purchaser shall utilise the whole of the Loan towards the payment of the purchase price of the said Property at the time and in the manner set out in the Third Schedule.

(3) If the Purchaser fails to obtain the Loan due to his ineligibility of income and has produced proof of such ineligibility to the Vendor, the Purchaser shall then be liable to pay to the Vendor only one per centum (1%) of the purchase price and this Agreement shall subsequently be terminated. In such an event, the Vendor shall, within twenty-one (21) days of the date of the termination, refund to the Purchaser the balance of any amount paid by the Purchaser.

(4) Subject to subclause (3), if the Purchaser fails to accept the Loan or defaults in complying with the necessary requirements for the application or is disqualified as a result of which the Loan is withdrawn by the Financier, as the case may be, the Purchaser shall then be liable to pay to the Vendor the whole of the purchase price or such part thereof as shall then remain outstanding.

(5) In the event that the Vendor shall not be able to obtain any loan for the Purchaser, the Vendor shall, within fourteen (14) days after receipt of notification of rejection of the loan, inform the Purchaser of the same and the Vendor shall not in any way be liable to the Purchaser for any loss, damage, cost or expense howsoever arising or incurred and such failure to obtain the loan shall not be a ground for any delay in the payment or for any non-payment on due dates of any of the instalments of the purchase price as set out in the Third Schedule.

(6) If required by the Financier and upon receipt by the Vendor of an unconditional undertaking from the Financier to pay the loan sum in the manner set out in the Third Schedule, the Vendor shall forward to the Financier an undertaking to refund the loan sum in the event the Memorandum of Transfer of the said Property cannot be registered in favour of the Purchaser for any reason which is not attributable to the Purchaser.

### **Loans from Federal or State Government or statutory authority**

6. (1) If the Purchaser is desirous of obtaining a loan from the Government of Malaysia or any State Government in Malaysia or any statutory authority which provides loan facilities, the Purchaser shall, within fourteen (14) days after receipt of a stamped copy of the Agreement, inform the Vendor of the same in writing and the Purchaser shall do all acts and things necessary to secure the loan.

(2) If the Purchaser fails to obtain the loan for any reason whatsoever, the Purchaser shall then be liable to pay to the Vendor the whole of the purchase price or such part thereof as shall then remain outstanding.

### **Purchaser's right to initiate and maintain action**

7. The Purchaser shall be entitled on his own volition in his own name to initiate, commence, institute and maintain in any court or tribunal any action, suit or proceeding against the \*Proprietor and/or Vendor or any other person in respect of any matter arising out of this Agreement provided the Purchaser's Financier under a deed of absolute assignment is notified in writing either before or within fourteen (14) days after the action, suit or proceeding against the \*Proprietor and/or Vendor or any such other person has been filed before any court or tribunal.

### **Time essence of contract**

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

### **Interest on late payment**

9. (1) Without prejudice to the Vendor's right under clause 10, if any of the instalments set out in the Third Schedule shall remain unpaid by the Purchaser at the expiration of the said period of twenty-one (21) working days, interest on such unpaid instalment shall commence immediately thereafter and be payable by the Purchaser and such interest shall be calculated from day to day at the rate of ten per centum (10%) per annum.

(2) The Vendor shall not be entitled to charge interest on the late payment in respect of any instalment if the delay in payment of such instalment is due to any one or more of the following:

- (a) the relevant progressive claim notice referred to in the Third Schedule furnished by the Vendor to the Purchaser and/or the Financier is not complete or is not in compliance with the requirement of subclause 4(2);
- (b) in the event the said Land is encumbered to any bank and/or financial institution by the Vendor, such bank and/or financial institution shall delay or fail to issue and deliver the redemption statement and undertaking letter in respect of the said Lot to the Purchaser or the Financier;
- (c) in the event the said Land is encumbered to any bank and/or financial institution by the Vendor, the Financier shall refuse to release the relevant portion of the Loan equivalent to the progressive payment due on the ground that such progressive payment is insufficient to settle the full redemption sum payable in respect of the said Lot; or
- (d) in the event the separate document of title to the said Lot has been issued on the date of this Agreement and the Purchaser has obtained a loan from the Financier, the Vendor shall delay or fail to execute and deliver a valid and registrable Memorandum of Transfer of the said Property to the Purchaser.

## **Default by Purchaser and determination of Agreement**

10. (1) If the Purchaser-
- (a) subject to subclause (3), fails to pay any instalment payable under subclause 4(1) in accordance with the Third Schedule or any part thereof and any interest payable under clause 9 for any period in excess of twenty-eight (28) days after the due date of the instalment or interest;
  - (b) subject to subclause (3), fails to pay any sum or sums payable under this Agreement for any period in excess of twenty-eight (28) days after the due date of such sum;
  - (c) commits any breach of or fails to perform or observe any material terms or conditions or covenants of this Agreement; or
  - (d) before payment in full of the purchase price of the said Property, commits an act of bankruptcy or enters into any composition or arrangement with his creditors or, being a company, enters into liquidation, whether voluntary or otherwise,

the Vendor may, subject to subclause (2), annul the sale of the said Property and forthwith terminate this Agreement and in such an event-

- (i) the Vendor shall be entitled to deal with or otherwise dispose of the said Property in such manner as the Vendor shall see fit as if this Agreement had not been entered into;
- (ii) the instalments previously paid by the Purchaser to the Vendor, excluding any interest paid, shall be dealt with and disposed of as follows:
  - (a) firstly, all interest calculated in accordance with clause 9 owing and unpaid shall be paid to the Vendor;
  - (b) secondly, a sum equal to ten per centum (10%) of the purchase price thereof shall be forfeited to the Vendor; and
  - (c) lastly, the residue thereof shall be refunded to the Purchaser;
- (iii) neither party hereto shall have any further claim against the other for costs, damages, compensation or otherwise under this Agreement; and
- (iv) each party hereto shall pay its own costs in the matter.

(2) Upon the occurrence of any of the events set out in paragraph 10(1)(a), (b), (c) or (d), the Vendor shall give the Purchaser or his solicitors not less than fourteen (14) days notice in writing by A.R. Registered post to treat this Agreement as having been repudiated by the Purchaser and unless in the meanwhile such default and/or breach alleged is rectified or such unpaid instalments and interest are paid or subclause (3) shall apply, this Agreement shall, at the expiration of the said notice at the option of the Vendor be deemed to be terminated.

(3) If the Purchaser shall have before the expiry of the said fourteen (14) days notice obtained approval of the Loan and paid the difference between the purchase price and the Loan and delivered to the Vendor the undertaking letter from the Financier to release the Loan to the Vendor, the Vendor then shall not annul the sale of the said Property and terminate this Agreement unless the Financier shall default in its undertaking to release the Loan to the Vendor or fail to make the first disbursement of the Loan to the Vendor within thirty (30) days from the expiry of the said fourteen (14) days notice.

### **Separate document of title/transfer of title**

11. (1) Upon the execution of this Agreement the \*Proprietor/Vendor shall, at its own cost and expense and as expeditiously as possible, obtain the issue of a separate document of title to the said Lot.

(2) Upon the issue of the separate document of title to the said Lot and subject to the payment of the purchase price by the Purchaser to the Vendor in accordance to clause 4(1) and the observance of all the terms and conditions herein provided, the Vendor shall, within twenty-one (21) days, execute or cause the Proprietor to execute a valid and registrable Memorandum of Transfer of the said Property in favour of the Purchaser and the Vendor shall forward the same together with the separate document of title to the Purchaser.

### **Position and area of the Lot**

12. (1) The position of the said Lot in relation to the other lots shown in the Layout Plan in the First Schedule and the measurements, boundaries and/or area of the said Lot as given in this Agreement are believed but not guaranteed to be correct and if the measurements, boundaries and/or area of the said Lot shown in the Layout Plan shall be different from its measurements, boundaries and/or area as shown in the final document of title when issued, the purchase price of the said Lot calculated at the rate of Ringgit Malaysia ..... (RM .....) only per square metre shall be adjusted accordingly.

(2) The Vendor may only claim from the Purchaser any payment resulting from the adjustment up to a maximum which is equivalent to the value of two per centum (2%) of the total area of the said Lot as shown in the final document of title.

(3) Any payment resulting from the adjustment and required to be paid by the Vendor or the Purchaser, as the case may be, shall be so paid within fourteen (14) days of the issue of the final document of title.

(4) Where the Layout Plan of the housing development, including the said Lot, has been approved by the Appropriate Authority, no alteration to the Layout Plan shall be made or carried out except as may be required or approved by the Appropriate Authority. Such alteration shall not annul the Agreement or be the subject of any claim for damages or compensation by or against any party to the Agreement except where the alteration to the Layout Plan results in a change of the land area or the built-up area.

### **Materials and workmanship to conform to description**

13. The said Building shall be constructed in a good and workmanlike manner in accordance with the description set out in the Fourth Schedule and in accordance with the plans approved by the Appropriate Authority as in the Second Schedule, which descriptions and plans have been accepted and approved by the Purchaser, as the Purchaser hereby acknowledges. No changes thereto or deviations therefrom shall be made without the consent in writing of the Purchaser except such 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 out by the Vendor, the Purchaser shall be entitled to a corresponding reduction in the purchase price herein or to damages, as the case may be.

### **Restriction against variation by Purchaser**

14. (1) The Purchaser shall not carry out or cause to be carried out any variation to the said Building and description therein or any alteration or addition to the said Building or install or caused to be installed any fixtures or fittings therein which would involve the amendment of the approved Building Plan or the submission of further plans without the prior written consent of the Vendor until the relevant certificate of completion and compliance has been issued.

(2) Where the Vendor agrees to carry out such alterations or additional works for the Purchaser the Vendor shall annex to this Agreement an inventory list of such permissible alterations or additional items with a prefixed schedule of rates or charges in respect thereof and the Purchaser shall pay for the cost of such alterations or additional works within twenty-one (21) working days of the Vendor's request in writing for such payment.

### **# Restriction against change to colour code**

15. Notwithstanding the provisions of clause 14, the Purchaser shall not carry out or cause to be carried out any change in the colour of the exterior of the said Building without the prior written consent of the Appropriate Authority.

### **Infrastructure and maintenance**

16. (1) The Vendor shall, at its own cost and expenses, construct or cause to be constructed the infrastructure, including the roads, driveways, drains, culverts, water mains and sewerage plants serving the said housing development, in accordance with the requirements and standards of the Appropriate Authority. The Vendor shall also bear all costs and expenses charged by the Appropriate Authority in connection with the provision of facilities and amenities including but not limited to street lighting. On completion of the construction of the infrastructure the Vendor shall do everything possible within its power to have the same taken over and maintained by the Appropriate Authority but until they are so taken over the Purchaser shall, from the date he takes vacant possession or is deemed to have taken vacant possession of the said Property contribute from time to time a fair and justifiable proportion of the cost and expense of their maintenance, upkeep and repair but excluding the cost and expense of maintaining, upkeeping and repairing the areas reserved for roads, open spaces, electricity, substations, sewerage treatment systems and other communal amenities. Apportionment of an appropriate contribution shall be made by a quantity surveyor, architect or engineer appointed by the Vendor or with the approval of the Controller any other competent person appointed by the Vendor.

(2) Every written notice to the Purchaser requesting for the payment of such contribution from the Vendor shall be supported by a statement issued by the Vendor which shall include a list and description of the infrastructure, the expenditure incurred in the maintenance, upkeep and repair of the infrastructure and the amount of such contribution due to the Vendor in respect thereof.

### **Payment of outgoings**

17. The Purchaser shall be liable for all outgoings including quit rent, rates, taxes, assessment and other charges in respect of the said Property as from the date he takes vacant possession of the said Building or from the date the said Property is transferred to the Purchaser, whichever is earlier and in the event separate document of title to the said Lot has not yet been issued and the said Property is not transferred to the Purchaser on the date he takes vacant possession of the said Building, the Purchaser shall indemnify the Vendor for such outgoings in respect of the said Lot in such proportion as the area of the said Lot bears to the total area of the said Land excluding areas reserved for roads, open spaces, electricity, substations, sewerage treatment systems and other communal amenities and shall continue to pay the same from the date he takes vacant possession of the said Building until the said Property is transferred to him.

## **Maintenance of services**

18. (1) The Vendor shall provide services, including refuse collection, cleaning of public drains and grass cutting on the road reserves, as from the date the Purchaser takes vacant possession of the said Building until such services are taken over by the Appropriate Authority but until they are so taken over the Purchaser shall, from the date he takes vacant possession of the said Property, contribute from time to time a fair and justifiable proportion of the cost and expense of such services, such apportionment to be made by a quantity surveyor, architect or engineer appointed by the Vendor or with the approval of the Controller any other competent person appointed by the Vendor.

(2) The Purchaser shall pay six (6) months' advance in respect of such contribution on the date he takes vacant possession of the said Building and any payment thereafter shall be payable monthly in advance. Every written notice to the Purchaser requesting for the payment of such contribution from the Vendor shall be supported by a statement issued by the Vendor which shall include a list and description of the services provided, the expenditure incurred and the amount of such contribution due to the Vendor in respect thereof. Upon such services having been taken over by the Appropriate Authority, the Vendor shall, within twenty- ne (21) days after the date of the notification issued by the Appropriate Authority of such taking over, refund to the Purchaser the balance of the amount of such contribution paid by the Purchaser after deducting the amount due to the Appropriate Authority.

## **Water, electricity, gas piping, telephone trunking**

19. (1) The Vendor shall, at its own cost and expense, lay or cause to be laid all necessary water, electricity and sewerage mains, gas piping (if any) and internal telephone trunking and cabling, to serve the said housing development and at its own costs and expense undertake to apply for the connection of internal water, electricity, sanitary and gas installations (if any) of the said Building to the water, electricity and sewerage mains of the Appropriate Authority, and the gas mains of the relevant authority.

(2) The Purchaser shall be liable for and shall pay, within fourteen (14) days after the receipt of a notice requesting for payment from the Vendor, the deposits for the installation of water, electricity and gas meters and the Vendor shall bear all other costs, if any.

(3) The Purchaser may apply for telephone service and shall be liable for and shall pay the deposit for such service.

## **Compliance with written laws**

20. The Vendor shall, in relation to the said Building to be erected, conform to the provisions and requirements of any written law for the time being in force affecting the said housing development and shall keep the Purchaser indemnified against all fines, penalties or losses incurred by reason of any breach of the provisions of any written laws.

## **New laws affecting housing development**

21. The Purchaser shall not be liable to indemnify the Vendor in the event of an introduction of new laws or the amendment of existing laws which shall impose on the Vendor additional fees, charges or taxes, the payment of which shall be necessary for continuing and completing the development of the said housing development or any part or parts thereof in accordance with the Layout Plan, Building Plan and description referred to in such Plans and the due observance and performance by the Vendor of its obligation and liabilities under this Agreement.

### **Time for delivery of vacant possession**

22. (1) Vacant possession of the said Building shall be delivered to the Purchaser in the manner stipulated in clause 23 within twenty-four (24) calendar months from the date of this Agreement.

(2) If the Vendor fails to deliver vacant possession of the said Building in the manner stipulated in clause 23 within the time stipulated in subclause (1), the Vendor shall be liable to pay to the Purchaser liquidated damages calculated from day to day at the rate of ten per centum (10%) per annum of the purchase price from the expiry date of the delivery of vacant possession in subclause (1) until the date the Purchaser takes vacant possession of the said Building. Such liquidated damages shall be paid by the Vendor to the Purchaser immediately upon the date the Purchaser takes vacant possession of the said Building.

(3) For the avoidance of doubt, any cause of action to claim liquidated damages by the Purchaser under this clause shall accrue on the date the Purchaser takes vacant possession of the said Building.

### **Manner of delivery of vacant possession**

23. (1) The Vendor shall let the Purchaser into possession of the said Property upon the following:

- (a) the issuance of a certificate of completion and compliance certifying that the said Building has been duly constructed and completed in conformity with the approved plans and the requirements of the Street, Drainage and Building Act 1974 and any by-laws made thereunder;
- (b) water and electricity supply are ready for connection to the said Building; and
- (c) the Purchaser having paid all monies payable under subclause 4(1) in accordance with the Third Schedule and all other monies due under this Agreement and the Purchaser having performed and observed all the terms and covenants on his part under this Agreement.

(2) The delivery of vacant possession by the Vendor shall be supported by a certificate of completion and compliance certifying that the said Building is safe and fit for occupation and includes the handing over of the keys of the said Building to the Purchaser.

(3) Upon the expiry of fourteen (14) days from the date of a notice from the Vendor requesting the Purchaser to take possession of the said Property, whether or not the Purchaser has actually entered into possession or occupation of the said Property, the Purchaser shall be deemed to have taken delivery of vacant possession.

### **Vendor to obtain the certificate of completion and compliance**

24. The Vendor shall, at its own cost and expenses, duly comply with all the requirements of the Appropriate Authority which are necessary for the issuance of the certificate of completion and compliance in respect of the said Building.

## **Defect liability period**

25. (1) Any defect, shrinkage or other faults in the said Building which shall become apparent within a period of twenty-four (24) calendar months after the date the Purchaser takes vacant possession of the said Building and which are due to defective workmanship or materials or; the said Building not having been constructed in accordance with the plans and description as specified in the Second and Fourth Schedule as approved or amended by the Appropriate Authority, shall be repaired and made good by the Vendor at its own cost and expense within thirty (30) days of the Vendor having received written notice thereof from the Purchaser.

(2) If the said defect, shrinkage or other faults in the said Building have not been made good by the Vendor within the said period of thirty (30) days under subclause (1), the Purchaser shall be entitled to carry out the works to repair and make good the said defect, shrinkage or other faults himself and to recover from the Vendor the costs of repairing and making good the same and the Purchaser may deduct such costs from any sum which has been held by the Vendor's solicitors as stakeholder for the Vendor under item 5 of the Third Schedule provided that the Purchaser shall, at any time after the expiry of the said period of thirty (30) days, notify the Vendor of the cost of repairing and making good the said defect, shrinkage or other faults before the commencement of the works and shall give the Vendor an opportunity to carry out the works himself within fourteen (14) days from the date the Purchaser has notified the Vendor of his intention to carry out the said works and provided further that the Purchaser shall carry out and commence the said works as soon as practicable after the Vendor's failure to carry out the said works within the said period of fourteen (14) days. In such an event, the Vendor's solicitors shall release such costs to the Purchaser from the stakeholder sum held by the Vendor's solicitors under item 5 of the Third Schedule within fourteen (14) days after receipt by the Vendor's solicitors of the Purchaser's written demand specifying the amount of such costs.

(3) Subject to subclause (2), where the Purchaser has, before the expiry of eight (8) months or twenty-four (24) months after the date the Purchaser takes vacant possession of the said Building as set out in item 5(a) and item 5(b) respectively of the Third Schedule, duly served on the Vendor's solicitors a copy of the written notice from the Purchaser to the Vendor under subclause (1) to rectify the said defect, shrinkage or other faults in the said Building, the Vendor's solicitors shall not release to the Vendor the relevant sum held by the Vendor's solicitors as stakeholder pursuant to item 5(a) and/ or item 5(b) of the Third Schedule, as the case may be, until the Vendor's solicitors shall have received a certificate signed by the Vendor's architect certifying that the said defect, shrinkage or other faults in the said Building have been repaired and made good by the Vendor.

## **Common rights of Purchaser**

26. (1) The Vendor confirms that the said Lot and all other lots shown in the Layout Plan are sold together with free rights and liberties for the Purchaser, his personal representatives, successors in title, his assigns and his servants, agents, licencees and invitees in common with the Vendor and all other persons having the like rights and liberties to use without or with vehicles of every description at all times and for all purposes whatsoever connected with the use and enjoyment of the said Property to pass and repass along, over and upon all roads serving the said housing development and to make all necessary connections and thereafter to use in a proper manner the drains, pipes, cables and wires laid or constructed by the Vendor under or over such roads.

(2) The Vendor hereby undertakes that the purchasers of the lots comprised in said housing development shall enter into similar covenants and hereby further undertakes to ensure that in the event of any transfer of the said Property from the Purchaser to a subsequent purchaser, the latter shall undertake to be bound by the covenants of this clause which shall continue to apply notwithstanding the completion of this Agreement.

## **Service of documents**

27. (1) Any notice, request or demand required 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-

(a) if it is sent by the party or his solicitors by registered post addressed to the other party's address hereinbefore mentioned and in such case the notice, request or demand shall be deemed to have been received upon the expiry of a period of five (5) days of posting of such registered letter; or

(b) if it is given by the party or his solicitors by hand to the other party or his solicitors.

(2) Any change of address by either party shall be communicated to the other.

## **Stamp duty and registration fee**

28. The stamp duty and registration fee for this Agreement and the subsequent transfer of the said Property referred to in subclause 11(2) shall be borne and paid by the Purchaser but each party shall bear its own solicitor's costs.

## **Assignment**

29. The Purchaser may assign all his rights, interest and title in and to the said Property to third parties without the consent of the Proprietor or the Vendor, and the Purchaser shall give notice of the assignment to the Proprietor or the Vendor provided-

(a) the Purchaser has fully paid the purchase price and duly complied with all the terms and conditions and stipulations on the Purchaser's part contained herein; or

(b) before the full payment of the purchase price, the Vendor and the Financier have given to each other the undertaking required under subclause 5(6).

## **Schedules**

30. The First, Second, Third and Fourth Schedules shall form part of this Agreement and shall be read, taken and construed as an essential part of this Agreement.

## **Interpretation**

31. In this Agreement, where the context so admits:-

(a) "Appropriate Authority" means any authority for the time being authorised under any written law in force in Peninsular Malaysia to approve subdivision of land, building plans, the issue of documents of title and to enforce any other laws related thereto and includes any corporations or private agencies licensed by the Appropriate Authority to provide water, electricity, telephone, sewerage services and other related services;

(b) "certificate of completion and compliance" means the certificate of completion and compliance given or granted under the Street, Drainage and Building Act 1974 and any by-laws made under that Act certifying that the housing accommodation has been completed and is safe and fit for occupation but does not include partial certificate of completion and compliance;

(c) "Controller" means the Controller of Housing appointed under the Housing Development (Control and Licensing) Act 1966;

- (d) "Purchaser" includes his heirs, personal representatives, successors in title and 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;
- (e) "ready for connection" means electrical points and water fittings and fixtures have been installed by the Vendor and tested and commissioned by the Appropriate Authority or its authorised agent and supply is available for tapping into individual building units;
- (f) "Vendor" includes its successors in title and assigns; and
- (g) 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.

**Persons to be bound by Agreement**

32. This Agreement shall be binding upon the successors in title and assigns of the Vendor, the heirs, personal representatives, successors in title and assigns of the Purchaser \*and the Proprietor.

**FIRST SCHEDULE**

(Copy of approved Layout Plan attached)

Approved Layout Plan Reference No.:

Name of Appropriate Authority:

**SECOND SCHEDULE**

(Copy of approved Building Plan attached)

Approved Building Plan Reference No.:

Name of Appropriate Authority:

- |     |                       |          |
|-----|-----------------------|----------|
| 1.  | Floor Plan .....      | Attached |
| 2.  | Section Plan .....    | Attached |
| 3.  | Front Elevation ..... | Attached |
| 4.  | Back Elevation .....  | Attached |
| *5. | Side Elevation .....  | Attached |

**THIRD SCHEDULE**  
(Clause 4)  
**SCHEDULE OF PAYMENT OF PURCHASE PRICE**

<i>Instalments Payable</i>		%	<i>Amount</i>
1.	Immediately upon the signing of this Agreement	10	RM
2.	Within twenty-one (21) working days after receipt by the Purchaser of the Vendor's written notice of the completion of :-		
	(a) the foundation of the said Building	10	RM
	(b) the structural framework of the said Building	15	RM
	(c) the walls of the said Building with door and window frames placed in position	10	RM
	(d) the roofing, electrical wiring, plumbing (without fittings), gas piping (if any) and internal telephone trunking and cabling to the said Building	10	RM
	(e) the internal and external finishes of the said Building including the wall finishes	10	RM
	(f) the sewerage works serving the said Building	5	RM
	(g) the drains serving the said Building	5	RM
	(h) the roads serving the said Building	5	RM
3.	On the date the Purchaser takes vacant possession of the said Building, with water and electricity supply ready for connection	12.5	RM
4.	On the date the Purchaser takes vacant possession of the said Building as in item 3 as follows:		
	(a) where separate document of title to the said Lot has been issued and the *Proprietor/Vendor has executed and delivered to the Purchaser or the Purchaser's solicitors a valid and registrable Memorandum of Transfer of the said Property in favour of the Purchaser together with the original issue document of title to the said Lot, to be paid direct to the Vendor; or	2.5	RM
	(b) where separate document of title to the said Lot has not yet been issued, to be held by the Vendor's solicitors as stakeholder for payment to the Vendor within twenty-one (21) working days after receipt by the Purchaser or the Purchaser's solicitors of the original issue document of title to the said Lot together with a valid and registrable Memorandum of Transfer of the said Property in favour of the Purchaser executed by the *Proprietor/Vendor		

5 On the date the Purchaser takes vacant possession of the said Building as in item 3 and to be held by the Vendor's solicitor as stakeholder for payment to the Vendor as follows: 5 RM

(a) two point five per centum (2.5%) at the expiry of eight (8) months after the date the Purchaser takes vacant possession of the said Building; and

(b) two point five per centum (2.5%) at the expiry of twenty-four (24) months after the date the Purchaser takes vacant possession of the said Building.

TOTAL 100 RM

## FOURTH SCHEDULE

(Clause 13)

### BUILDING DESCRIPTION

- (a) Structure:
- (b) Wall:
- (c) Roofing covering:
- (d) Roof framing:
- (e) Ceiling:
- (f) Windows:
- (g) Doors:
- (h) Ironmongery: (i) Wall finishes:
- (j) Floor finishes:
- (k) Sanitary and plumbing fittings:
- (l) Electrical installation:
- (m) Internal telephone trunking and cabling:
- \*(n) Fencing:
- \*(o) Turfing:
- \*(p) Gas piping:

Note: The Vendor shall at its own cost and expense install or construct all of the items listed above in accordance to the description set out save for the item or items marked with an \* which may be deleted if not applicable

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

Signed by: .....  
.....  
for and on behalf of the abovenamed Vendor  
in the presence of:  
.....  
NRIC No.: .....



Signed by the abovenamed Purchaser in the  
presence of:  
.....  
NRIC No.: .....



\*Signed by the abovenamed Proprietor in the  
presence of:  
.....  
NRIC No.: .....



---

\* Delete whichever is not applicable

# This applies only to Wilayah Persekutuan Putrajaya as described in section 10 of the Perbadanan Putrajaya Act 1995.

# **SCHEDULE H**

**SCHEDULE H**

HOUSING DEVELOPMENT (CONTROL AND LICENSING) ACT 1966

HOUSING DEVELOPMENT (CONTROL AND LICENSING) REGULATIONS 1989

(Subregulation 11(1))

**SALE AND PURCHASE AGREEMENT (BUILDING OR LAND INTENDED FOR  
SUBDIVISION INTO PARCELS)**

AN AGREEMENT made this ..... day of ..... BETWEEN  
..... a company  
incorporated in Malaysia and duly licensed under the Housing Development (Control and Licensing)  
Act 1966 (License No.: .....) with its registered office at  
.....  
.....  
(hereinafter called "the Vendor") of the \*one/first part AND  
..... NRIC No.  
..... of .....  
.....  
..... (hereinafter called "the Purchaser") of the  
\*other/second part AND .....  
..... NRIC No.  
..... of .....  
.....  
(hereinafter called "the Proprietor") of the third part.

**Preamble**

WHEREAS the \*Proprietor/Vendor is the registered and beneficial owner of all that \*freehold  
land/leasehold land of ..... years expiring on  
..... held under  
..... (description of title) and No. of Title  
..... \*Lot No./L.O. No. .... Section  
..... in the \*Town/Village/Mukim  
..... District of ..... State of  
..... in an area measuring approximately  
..... hectares/square metres (hereinafter referred to as "the said Land")\*  
and has granted the Vendor the absolute right to develop the said Land as a housing development  
and to sell the said Land;

\*AND WHEREAS the Proprietor hereby agrees to the sale of the said Land for the purpose of  
this Agreement;

AND WHEREAS the said Land is charged to ..... with its  
registered office at ..... as security for  
the loan granted to the Vendor;

AND WHEREAS the Vendor has, at its own cost and expense, obtained the approval of the  
building plans (hereinafter referred to as "the Building Plan") from the Appropriate Authority (A copy  
of the Site Plan, Layout Plan, Floor Plan and \*Storey Plan/Delineation Plan as certified by the Vendor's  
architect are annexed in the First Schedule);

AND WHEREAS the Vendor is developing the said Land as a housing development known as .....  
.....\*Phase ..... complete  
thereon with the common facilities as in the Second Schedule (Advertisement and Sale Permit No.:  
.....);

AND WHEREAS the Vendor has agreed to sell and the Purchaser has agreed to purchase a parcel with vacant possession distinguished as Parcel No.: ..... which is delineated and shaded GREEN in the \*Storey Plan/Delineation Plan, measuring ..... square metres \*within Storey No.: ..... of Building No.: ...../of Land Parcel No.: .....which is in turn delineated and shaded RED in the Site Plan (hereinafter referred to as "the said Building") \*with accessory parcel with vacant possession distinguished as accessory parcel No.: .....of \*Building/Land Parcel No.: ..... (which is delineated and shaded BLUE in the Accessory Parcel Plan annexed in the First Schedule) (hereinafter referred to as "the said Parcel") subject to the terms and conditions hereinafter contained;

NOW IT IS HEREBY AGREED as follows:

**Parcel free from agricultural, industrial and building restrictions**

1. The Vendor hereby agrees to sell and the Purchaser agrees to purchase the said Parcel free from any agricultural or industrial conditions expressed or implied and any restrictions against the building of housing accommodation thereon and all encumbrances other than those imposed by the provisions hereto/ already subsisting at the date hereof (if any) and any conditions expressed or implied affecting the title of the said Parcel.

**Parcel free from encumbrances before the Purchaser takes vacant possession of the said Parcel**

2. (1) The \*Proprietor and the Vendor shall not immediately and at any time after the date of execution of this Agreement subject the said Land to any encumbrances without the prior approval of the Purchaser and the \*Proprietor and the Vendor hereby undertakes that the said Parcel shall be free from encumbrances immediately prior to the Purchaser taking vacant possession of the said Parcel.

(2) The Purchaser shall grant such approval to the \*Proprietor and the Vendor encumbering the said Land for the purpose of obtaining credit facilities from any bank and/or financial institution only if the Purchaser shall have first received confirmation in writing from the relevant bank and/or financial institution disclaiming their rights and interests over the said Parcel and undertaking to exclude the said Parcel from any foreclosure proceedings which such bank and/or financial institution may take against the \*Proprietor and Vendor and/or the said Land.

(3) In the event the said Land shall be encumbered to any bank and/or financial institution by the \*Proprietor/Vendor, the \*Proprietor/Vendor shall immediately after the date of this Agreement deliver or cause to be delivered to the Purchaser and/or the Financier (as hereinafter defined) a copy of the redemption statement and undertaking letter issued by such bank and/or financial institution in respect of the said Parcel and shall authorise the Purchaser to pay such portion of the purchase price or the Financier to release such portion of the Loan, as the case may be, equivalent to the amount of the redemption sum payable in respect of the said Parcel directly to such bank and/or financial institution and thereafter the balance purchase price or the balance Loan to the Vendor provided all such payments and releases are made progressively at the time and in the manner prescribed in the Third Schedule.

**Purchase price**

3. The purchase price of the said Parcel is Ringgit Malaysia ..... (RM .....) only and shall be payable in the manner hereinafter provided.

## **Schedule of payments**

4. (1) The purchase price shall be paid by the Purchaser to the Vendor by instalments and at the time and in the manner as prescribed in the Third Schedule. The Vendor is not bound to commence or complete the works in the order referred to in the Third Schedule and the Purchaser shall pay the instalments according to the stage of works completed by the Vendor provided that any damage to the completed works by subsequent stage of works shall be repaired and made good by the Vendor at its own cost and expense before the Purchaser takes vacant possession of the said Parcel.

(2) Every notice referred to in the Third Schedule requesting for payment shall be supported by a certificate signed by the Vendor's architect or engineer in charge of the housing development and every such certificate so signed shall be proof of the fact that the works therein referred to have been completed.

## **Loan**

5. (1) If the Purchaser is desirous of obtaining a loan to finance the payment of the purchase price of the said Parcel the Purchaser shall, within fourteen (14) days after receipt of a stamped copy of the Agreement, make a written application for such loan to the Vendor who shall use its best endeavours to obtain for the Purchaser from a bank, finance company, building society or a financial institution (hereinafter called "the Financier") a loan (hereinafter called "the Loan") and if the Loan is obtained the Purchaser shall, within a reasonable time, execute all necessary forms and documents and pay all fees, legal costs and stamp duty in respect thereof.

(2) The Purchaser shall utilise the whole of the Loan towards the payment of the purchase price of the said Parcel at the time and in the manner set out in the Third Schedule.

(3) If the Purchaser fails to obtain the Loan due to his ineligibility of income and has produced proof of such ineligibility to the Vendor, the Purchaser shall then be liable to pay to the Vendor only one per centum (1%) of the purchase price and this Agreement shall subsequently be terminated. In such an event, the Vendor shall, within twenty-one (21) days of the date of the termination, refund to the Purchaser the balance of any amount paid by the Purchaser.

(4) Subject to subclause (3), if the Purchaser fails to accept the Loan or defaults in complying with the necessary requirements for the application or is disqualified as a result of which the Loan is withdrawn by the Financier, as the case may be, the Purchaser shall then be liable to pay to the Vendor the whole of the purchase price or such part thereof as shall then remain outstanding.

(5) In the event that the Vendor shall not be able to obtain any loan for the Purchaser, the Vendor shall, within fourteen (14) days after receipt of notification of rejection of the loan, inform the Purchaser of the same and the Vendor shall not in any way be liable to the Purchaser for any loss, damage, cost or expense howsoever arising or incurred and such failure to obtain the loan shall not be a ground for any delay in the payment or for any non-payment on due dates of any of the instalments of the purchase price as set out in the Third Schedule.

(6) If required by the Financier and upon receipt by the Vendor of an unconditional undertaking from the Financier to pay the loan sum in the manner set out in the Third Schedule, the Vendor shall forward to the Financier an undertaking to refund the loan sum in the event the Memorandum of Transfer of the said Parcel cannot be registered in favour of the Purchaser for any reason which is not attributable to the Purchaser.

### **Loans from Federal or State Government or statutory authority**

6. (1) If the Purchaser is desirous of obtaining a loan from the Government of Malaysia or any State Government in Malaysia or any statutory authority which provides loan facilities, the Purchaser shall, within fourteen (14) days after receipt of a stamped copy of the Agreement, inform the Vendor of the same in writing and the Purchaser shall do all acts and things necessary to secure the loan.

(2) If the Purchaser fails to obtain the loan for any reason whatsoever, the Purchaser shall then be liable to pay to the Vendor the whole of the purchase price or such part thereof as shall then remain outstanding.

### **Purchaser's right to initiate and maintain action**

7. The Purchaser shall be entitled on his own volition in his own name to initiate, commence, institute and maintain in any court or tribunal any action, suit or proceeding against the \*Proprietor and/or Vendor or any other person in respect of any matter arising out of this Agreement provided the Purchaser's Financier under a deed of absolute assignment is notified in writing either before or within fourteen (14) days after the action, suit or proceeding against the \*Proprietor and/or Vendor or any such other person has been filed before any court or tribunal.

### **Time essence of contract**

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

### **Interest on late payment**

9. (1) Without prejudice to the Vendor's right under clause 10, if any of the instalments set out in the Third Schedule shall remain unpaid by the Purchaser at the expiration of the said period of twenty-one (21) working days, interest on such unpaid instalment shall commence immediately thereafter and be payable by the Purchaser and such interest shall be calculated from day to day at the rate of ten per centum (10%) per annum.

(2) The Vendor shall not be entitled to charge interest on the late payment in respect of any instalment if the delay in payment of such instalment is due to any one or more of the following:

- (a) the relevant progressive claim notice referred to in the Third Schedule furnished by the Vendor to the Purchaser and/or the Financier is not complete or is not in compliance with the requirement of subclause 4(2);
- (b) in the event the said Land is encumbered to any bank and/or financial institution by the Vendor, such bank and/or financial institution shall delay or fail to issue and deliver the redemption statement and undertaking letter in respect of the said Parcel to the Purchaser or the Financier; or
- (c) in the event the said Land is encumbered to any bank and/or financial institution by the Vendor, the Financier shall refuse to release the relevant portion of the Loan equivalent to the progressive payment due on the ground that such progressive payment is insufficient to settle the full redemption sum payable in respect of the said Parcel.

## **Default by Purchaser and determination of Agreement**

10. (1) If the Purchaser-
- (a) subject to subclause (3), fails to pay any instalment payable under subclause 4(1) in accordance with the Third Schedule or any part thereof and any interest payable under clause 9 for any period in excess of twenty-eight (28) days after the due date of the instalment or interest;
  - (b) subject to subclause (3), fails to pay any sum or sums payable under this Agreement for any period in excess of twenty-eight (28) days after the due date of such sum;
  - (c) commits any breach of or fails to perform or observe any material terms or conditions or covenants of this Agreement; or
  - (d) before payment in full of the purchase price of the said Parcel, commits an act of bankruptcy or enters into any composition or arrangement with his creditors or, being a company, enters into liquidation, whether voluntary or otherwise,

the Vendor may, subject to subclause (2), annul the sale of the said Parcel and forthwith terminate this Agreement and in such an event-

- (i) the Vendor shall be entitled to deal with or otherwise dispose of the said Parcel in such manner as the Vendor shall see fit as if this Agreement had not been entered into;
- (ii) the instalments previously paid by the Purchaser to the Vendor, excluding any interest paid, shall be dealt with and disposed of as follows:
  - (a) firstly, all interest calculated in accordance with clause 9 hereof owing and unpaid shall be paid to the Vendor;
  - (b) secondly, an amount to be forfeited to the Vendor as follows:
    - (i) where up to fifty per centum (50%) of the purchase price has been 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 has been paid, an amount equal to twenty per centum (20%) of the purchase price;
  - (c) lastly, the residue thereof shall be refunded to the Purchaser;
- (iii) neither party hereto shall have any further claim against the other for costs, damages, compensation or otherwise under this Agreement; and
- (iv) each party hereto shall pay its own costs in the matter.

(2) Upon the occurrence of any of the events set out in paragraph 10(1)(a), (b), (c) or (d), the Vendor shall give the Purchaser or his solicitors not less than fourteen (14) days notice in writing by A.R. Registered post to treat this Agreement as having been repudiated by the Purchaser and unless in the meanwhile such default and/or breach alleged is rectified or such unpaid instalments and interest are paid or subclause (3) shall apply, this Agreement shall, at the expiration of the said notice at the option of the Vendor be deemed to be terminated.

(3) If the Purchaser shall have before the expiry of the said fourteen (14) days notice obtained approval of the Loan and paid the difference between the purchase price and the Loan and delivered to the Vendor the undertaking letter from the Financier to release the Loan to the Vendor, the Vendor then shall not annul the sale of the said Parcel and terminate this Agreement unless the

Financier shall default in its undertaking to release the Loan to the Vendor or fail to make the first disbursement of the Loan to the Vendor within thirty (30) days from the expiry of the said fourteen (14) days notice.

### **Separate strata title and transfer of title**

11. (1) The \*Proprietor/Vendor shall, at its own cost and expense and as expeditiously as possible, apply for subdivision of the said Building or Land intended for subdivision into parcels, as the case may be, so as to obtain the issue of a separate strata title to the said Parcel under the Strata Titles Act 1985.

(2) Upon the issuance of the strata title to the said Parcel and subject to the payment of the purchase price by the Purchaser to the Vendor in accordance with subclause 4(1) and the observance of all the terms and conditions herein provided, the Vendor shall, within twenty-one (21) days, execute or cause the Proprietor to execute a valid and registrable Memorandum of Transfer of the said Parcel in favour of the Purchaser and the Vendor shall forward the same together with the strata title to the Purchaser.

### **Position and area of the Parcel**

12. (1) No error or misstatement as to the description of the area of the said Parcel shall annul the sale of the said Parcel or entitle the Purchaser to be discharged from the purchase.

(2) Any error or misstatement as to the description of the area of the said Parcel shall give the Purchaser an entitlement to an adjustment of the purchase price in accordance with the provisions of this clause.

(3) If the area of the said Parcel as shown in the strata title when issued is less than the area shown in the Building Plan, there shall be an adjustment of the purchase price for the difference (if any) in excess of two per centum (2%) of the area as shown in the Building Plan calculated at the rate of Ringgit Malaysia .....(RM .....) only per square metre.

(4) The Vendor shall not be entitled to any adjustment of the purchase price if the area of the said Parcel as shown in the strata title exceeds the area shown in the Building Plan.

(5) Any payment resulting from the adjustment and required to be paid by the Vendor shall be so paid within fourteen (14) days of the issue of the strata title.

### **Materials and workmanship to conform to description**

13. The said Parcel together with all the common property shall be constructed in accordance with the description set out in the Fourth Schedule and in accordance with the plans approved by the Appropriate Authority which description and plans have been accepted and approved by the Purchaser, as the Purchaser hereby acknowledges. No changes thereto or deviations therefrom shall be made without the consent in writing of the Purchaser except such 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 out by the Vendor, the Purchaser shall be entitled to a corresponding reduction in the purchase price herein or to damages, as the case may be.

### **Restriction against variation by Purchaser**

14. (1) The Purchaser shall not carry out or cause to be carried out any variation to the said Parcel and description therein or any alteration or addition to the said Parcel or install or caused to be installed any fixtures or fittings therein which would involve the amendment of the approved Building Plan or the submission of further plans without the prior written consent of the Vendor until the relevant certificate of completion and compliance has been issued.

(2) Where the Vendor agrees to carry out such alterations or additional works for the Purchaser the Vendor shall annex to this Agreement an inventory list of such permissible alterations or additional items with a prefixed schedule of rates or charges in respect thereof and the Purchaser shall pay for the cost of such alterations or additional works within twenty-one (21) working days of the Vendor's request in writing for such payment.

### **# Restriction against change to colour code**

15. Notwithstanding the provisions of clause 14, the Purchaser shall not carry out or cause to be carried out any change in the colour of the exterior of the said Parcel without the prior written consent of the Appropriate Authority.

### **Infrastructure and maintenance**

16. (1) The Vendor shall, at its own cost and expense, construct or cause to be constructed the infrastructure, including the roads, driveways, drains, culverts, water mains and sewerage system serving the said Building in accordance with the requirements and standards of the Appropriate Authority.

(2) The Vendor shall also bear all costs and expenses for the maintenance of the infrastructure until such date when the Purchaser takes vacant possession of the said Parcel.

(3) From the date the Purchaser takes vacant possession of the said Parcel until such time when the maintenance of the infrastructure is taken over by the Appropriate Authority or the Joint Management Body, as the case may be, the Purchaser shall pay a fair and justifiable proportion of the costs and expenses incurred for the maintenance of the infrastructure.

(4) Every written notice to the Purchaser requesting for the payment of such contribution from the Vendor shall be supported by a statement issued by the Vendor which shall include a list and description of the infrastructure, the expenditure incurred in the maintenance, upkeep and repair of the infrastructure and the amount of such contribution due to the Vendor in respect thereof.

### **Common facilities and services**

17. (1) The Vendor shall, at its own cost and expense, construct or cause to be constructed the common facilities serving the housing development and provide services including the collection of refuse, the cleaning of public drains and the cutting of grass as specified in the Second Schedule.

(2) The Vendor shall bear all costs and expenses for the maintenance and management of the said facilities and services until such date when the Purchaser takes vacant possession of the said Parcel.

## **Payment of service charges**

18. (1) The Purchaser shall be liable for and shall pay the service charges for the maintenance and management of the common property and for the services provided by the Vendor prior to the establishment of a Joint Management Body under the Building and Common Property (Maintenance and Management) Act 2007.

(2) From the date the Purchaser takes vacant possession of the said 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 allocated share units assigned to the said Parcel by the Vendor'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 four (4) months' advance in respect of the service charges and any payment thereafter shall be payable monthly in advance.

(3) All service charges and any payment received by the Vendor under this clause is to be paid into a Building Maintenance Account established under the Building and Common Property (Maintenance and Management) Act 2007.

(4) Every written notice to the Purchaser requesting for the payment of service charges from the Vendor shall be supported by a service charge statement issued by the Vendor. The service charge statement shall be in the form annexed in the Fifth Schedule and full particulars of any increase in the service charges shall be reflected in the subsequent service charge statement.

(5) The service charge payable shall be paid within fourteen (14) days of the receipt by the Purchaser of the Vendor's written notice requesting the same. If the service charge shall remain unpaid by the Purchaser at the expiration of the said period of fourteen (14) days, interest on the service charge shall commence immediately thereafter and be payable by the Purchaser, such interest to be calculated from day to day at the rate of not more than ten per centum (10%) per annum.

(6) The Vendor may appoint a duly qualified person or agent to provide the services referred to in subclause (1) and the Vendor shall forthwith give written notice of such appointment to the Purchaser and all payments for the service charges to be paid by the Purchaser to such person or agent shall be deemed to be payment of the same to the Vendor.

(7) The Vendor shall (and in the event a person or agent is appointed by the Vendor to provide the said services pursuant to subclause (6), the Vendor 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.

## **Sinking fund**

19. (1) The Vendor shall, upon the date the Purchaser takes vacant possession of the said Parcel, open and maintain a separate sinking fund for the purposes of meeting the actual or expected liabilities in respect of the following matters-

- (a) the painting or repainting of any part of the common property;
- (b) the acquisition of any movable property for use in relation with the common property;  
or
- (c) the renewal or replacement of any fixture or fitting comprised in the common property.

(2) The Purchaser shall, upon the date he takes vacant possession of the said Parcel, contribute to the sinking fund an amount equivalent to ten per centum (10%) of the service charges determined in accordance with subclause 18(2) and thereafter such contribution shall be payable monthly in advance.

(3) All funds accumulated in the sinking fund opened and maintained under subclause (1) shall be held by the Vendor in trust for the Purchaser and the purchasers of the other parcels in the said housing development and immediately upon the establishment of a sinking fund under the Building and Common Property (Maintenance and Management) Act 2007, all such funds accumulated shall be transferred by the Vendor into the sinking fund established under the Building and Common Property (Maintenance and Management) Act 2007.

(4) The Vendor shall (and in the event a person or agent is appointed by the Vendor to provide the services in subclause (1), the Vendor shall cause such person or agent so to do) provide the Purchaser with a copy of the annual audited accounts for the expenses incurred under subclause (1).

## **Insurance**

20. (1) The Vendor, the Purchaser and all the purchasers shall, upon the completion of the said Building and until the Joint Management Body is established under the Building and Common Property (Maintenance and Management) Act 2007, insure and keep insured the said Building against loss or damage by fire and against all such other risks as the Vendor may think fit.

(2) From the date the Purchaser takes vacant possession of the said Parcel, the Purchaser shall pay a fair and justifiable proportion of the insurance premium. Such amount payable shall be determined according to the allocated share units assigned to the said Parcel by the Vendor's licensed land surveyor.

(3) The insurance premium payable shall be paid within fourteen (14) days of the receipt by the Purchaser of the Vendor's written notice requesting the same. If the insurance premium shall remain unpaid by the Purchaser at the expiration of the said period of fourteen (14) days, interest on such sum shall commence immediately thereafter and be payable by the Purchaser, such interest to be calculated from day to day at the rate of not more than ten per centum (10%) per annum.

## **Payment of outgoings**

21. The Purchaser shall be liable for all outgoings including quit rent, rates, taxes, assessment and other charges in respect of the said Parcel as from the date he takes vacant possession of the said Parcel and the Purchaser shall indemnify the Vendor or the Joint Management Body, as the case may be, for such outgoings in respect of the said Parcel, such amount to be determined according to the allocated share units assigned to the said Parcel by the Vendor's licensed land surveyor. The Purchaser shall continue to pay such outgoings from the date he takes vacant possession of the said Parcel until a separate strata title to the said Parcel is issued and transferred to the Purchaser.

### **Water, electricity, gas piping, telephone trunking**

22. (1) The Vendor shall, at its own cost and expense, lay or cause to be laid all necessary water, electricity and sewerage mains, gas piping (if any) and internal telephone trunking and cabling, to serve the said Building and at its own costs and expense undertake to apply for the connection of internal water, electricity, sanitary and gas installations (if any) of the said Parcel to the water, electricity and sewerage mains of the Appropriate Authority, and the gas mains of the relevant authority.

(2) The Purchaser shall be liable for and shall pay, within fourteen (14) days after the receipt of a notice requesting for payment from the Vendor, the deposits for the installation of water, electricity and gas meters and the Vendor shall bear all other costs, if any.

(3) The Purchaser may apply for telephone service and shall be liable for and shall pay the deposit for such service.

### **Compliance with written laws**

23. The Vendor shall, in relation to the said Building to be erected, conform to the provisions and requirements of any written law for the time being in force affecting the said housing development and shall keep the Purchaser indemnified against all fines, penalties or losses incurred by reason of any breach of the provisions of any written laws.

### **New laws affecting housing development**

24. The Purchaser shall not be liable to indemnify the Vendor in the event of an introduction of new laws or the amendment of existing laws which shall impose on the Vendor additional fees, charges or taxes, the payment of which shall be necessary for continuing and completing the development of the said housing development or any part or parts thereof in accordance with the Building Plan and description referred to in such Plans and the due observance and performance by the Vendor of its obligation and liabilities under this Agreement.

### **Time for delivery of vacant possession**

25. (1) Vacant possession of the said Parcel shall be delivered to the Purchaser in the manner stipulated in clause 26 within thirty-six (36) calendar months from the date of this Agreement.

(2) If the Vendor fails to deliver vacant possession of the said Parcel in the manner stipulated in clause 26 within the time stipulated in subclause (1), the Vendor shall be liable to pay to the Purchaser liquidated damages calculated from day to day at the rate of ten per centum (10%) per annum of the purchase price from the expiry date of the delivery of vacant possession in subclause (1) until the date the Purchaser takes vacant possession of the said Parcel. Such liquidated damages shall be paid by the Vendor to the Purchaser immediately upon the date the Purchaser takes vacant possession of the said Parcel.

(3) For the avoidance of doubt, any cause of action to claim liquidated damages by the Purchaser under this clause shall accrue on the date the Purchaser takes vacant possession of the said Parcel.

### **Manner of delivery of vacant possession**

26. (1) The Vendor shall let the Purchaser into possession of the said Parcel upon the following:
- (a) the issuance of a certificate of completion and compliance certifying that the said Building has been duly constructed and completed in conformity with the approved plans and the requirements of the Street, Drainage and Building Act 1974 and any by-laws made thereunder;
  - (b) water and electricity supply are ready for connection to the said Parcel; and
  - (c) the Purchaser having paid all monies payable under subclause 4(1) in accordance with the Third Schedule and all other monies due under this Agreement and the Purchaser having performed and observed all the terms and covenants on his part under this Agreement.

(2) The delivery of vacant possession by the Vendor shall be supported by a certificate of completion and compliance certifying that the said Building is safe and fit for occupation and includes the handing over of the keys of the Parcel to the Purchaser.

(3) Upon the expiry of fourteen (14) days from the date of a notice from the Vendor requesting the Purchaser to take possession of the said Parcel, whether or not the Purchaser has actually entered into possession or occupation of the said Parcel, the Purchaser shall be deemed to have taken delivery of vacant possession.

### **Completion of common facilities**

27. (1) The common facilities serving the said housing development shall be completed by the Vendor within thirty-six (36) calendar months from the date of this Agreement. The Vendor's architect shall certify the date of completion of the common facilities.

(2) If the Vendor fails to complete the common facilities in time the Vendor shall pay immediately to the Purchaser liquidated damages to be calculated from day to day at the rate of ten per centum (10%) per annum of the last twenty per centum (20%) of the purchase price.

(3) For the avoidance of doubt, any cause of action to claim liquidated damages by the Purchaser under this clause shall accrue on the date the Vendor completes the common facilities.

### **Vendor to obtain the certificate of completion and compliance**

28. The Vendor shall, at its own cost and expenses, duly comply with all the requirements of the Appropriate Authority which are necessary for the issuance of the certificate of completion and compliance in respect of the said Building.

### **Defect liability period**

29. (1) Any defect, shrinkage or other faults in the said Parcel or in the said Building or in the common property which shall become apparent within a period of twenty-four (24) calendar months after the date the Purchaser takes vacant possession of the said Parcel and which are due to defective workmanship or materials or; the said Parcel or the said Building or the common property not having been constructed in accordance with the plans and description as specified in the First and Fourth Schedule as approved or amended by the Appropriate Authority, shall be repaired and made good by the Vendor at its own cost and expense within thirty (30) days of the Vendor having received written notice thereof from the Purchaser.

(2) If the said defect, shrinkage or other faults in the said Parcel or the said Building or the said common property have not been made good by the Vendor within the said period of thirty (30) days under subclause (1), the Purchaser shall be entitled to carry out the works to repair and make good the said defect, shrinkage or other faults himself and to recover from the Vendor the costs of repairing and making good the same and the Purchaser may deduct such costs from any sum which has been held by the Vendor's solicitors as stakeholder for the Vendor under item 5 of the Third Schedule provided that the Purchaser shall, at any time after the expiry of the said period of thirty (30) days, notify the Vendor of the cost of repairing and making good the said defect, shrinkage or other faults before the commencement of the works and shall give the Vendor an opportunity to carry out the works himself within fourteen (14) days from the date the Purchaser has notified the Vendor of his intention to carry out the said works and provided further that the Purchaser shall carry out and commence the said works as soon as practicable after the Vendor's failure to carry out the said works within the said period of fourteen (14) days. In such an event, the Vendor's solicitors shall release such costs to the Purchaser from the stakeholder sum held by the Vendor's solicitors under item 5 of the Third Schedule within fourteen (14) days after receipt by the Vendor's solicitors of the Purchaser's written demand specifying the amount of such costs.

(3) Subject to subclause (2), where the Purchaser has, before the expiry of eight (8) months or twenty-four (24) months after the date the Purchaser takes vacant possession of the said Parcel as set out in item 5(a) and item 5(b) respectively of the Third Schedule, duly served on the Vendor's solicitors a copy of the written notice from the Purchaser to the Vendor under subclause (1) to rectify the said defect, shrinkage or other faults in the said Parcel or the said Building or the said common property, the Vendor's solicitors shall not release to the Vendor the relevant sum held by the Vendor's solicitors as stakeholder pursuant to item 5(a) and/or item 5(b) of the Third Schedule, as the case may be, until the Vendor's solicitors shall have received a certificate signed by the Vendor's architect certifying that the said defect, shrinkage or other faults in the said Parcel or the said Building or the said common property have been repaired and made good by the Vendor.

### **Common rights of Purchaser**

30. (1) The Vendor confirms that the said Parcel and all other parcels are sold together with free rights and liberties for the Purchaser, his personal representatives, successors in title, his assigns and his servants, agents, licencees and invitees in common with the Vendor and all other persons having the like rights and liberties to use without or with vehicles of every description at all times and for all purposes whatsoever connected with the use and enjoyment of the said Parcel to pass and repass along, over and upon all roads serving the said housing development and to make all necessary connections and thereafter to use in a proper manner the drains, pipes, cables and wires laid or constructed by the Vendor under or over such roads.

(2) The Vendor hereby undertakes that the purchasers of parcels comprised in the said housing development shall enter into similar covenants and hereby further undertakes to ensure that in the event of any transfer of the said Parcel from the Purchaser to a subsequent purchaser the latter shall undertake to be bound by the covenants of this clause which shall continue to apply notwithstanding the completion of this Agreement.

### **Service of documents**

31. (1) Any notice, request or demand required 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-

- (a) if it is sent by the party or his solicitors by registered post addressed to the other party's address hereinbefore mentioned and in such case the notice, request or demand shall be deemed to have been received upon the expiry of a period of five (5) days of posting of such registered letter; or
- (b) if it is given by the party or his solicitors by hand to the other party or his solicitors.

(2) Any change of address by either party shall be communicated to the other.

## **Stamp duty and registration fee**

32. The stamp duty and registration fee for this Agreement and the subsequent transfer of the said Parcel referred to in subclause 11(2) shall be borne and paid by the Purchaser but each party shall bear its own solicitor's costs.

## **Assignment**

33. The Purchaser may assign all his rights, interest and title in and to the said Parcel to third parties without the consent of the Proprietor or the Vendor, and the Purchaser shall give notice of the assignment to the Proprietor or the Vendor provided:-

- (a) the Purchaser has fully paid the purchase price and duly complied with all the terms and conditions and stipulations on the Purchaser's part contained herein; or
- (b) before the full payment of the purchase price, the Vendor and the Financier have given to each other the undertaking required under subclause 5(6).

## **Schedules**

34. The First, Second, Third, Fourth and Fifth Schedules shall form part of this Agreement and shall be read, taken and construed as an essential part of this Agreement.

## **Interpretation**

35. In this Agreement, where the context so admits-

- (a) "accessory parcel" means any parcel shown in the Site Plan, Storey Plan and Accessory Parcel Plan as an accessory parcel which is used or intended to be used in conjunction with the said Parcel;
- (b) "Appropriate Authority" means any authority for the time being authorised under any written law in force in Peninsular Malaysia to approve subdivision of land, building plans, the issue of documents of title and to enforce any other laws related thereto and includes any corporations or private agencies licensed by the Appropriate Authority to provide water, electricity, telephone, sewerage services and other related services;
- (c) "certificate of completion and compliance" means the certificate of completion and compliance given or granted under the Street, Drainage and Building Act 1974 and any by-laws made under that Act certifying that the housing accommodation has been completed and is safe and fit for occupation but does not include partial certificate of completion and compliance;
- (d) "common property" means so much of the land as is not comprised in any parcel (such as any accessory parcel), or any provisional block and the fixtures and fittings including lifts, refuse chambers, 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;
- (e) "Controller" means the Controller of Housing appointed under the Housing Development (Control and Licensing) Act 1966;
- (f) "Joint Management Body" means the Joint Management Body established under the Building and Common Property (Maintenance and Management) Act 2007;
- (g) "parcel" means parcel as defined under the Strata Titles Act 1985;

- (h) "Purchaser" includes his heirs, personal representatives, successors in title and 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;
- (i) "ready for connection" means electrical points and water fittings and fixtures have been installed by the Vendor and tested and commissioned by the Appropriate Authority or its authorised agent and supply is available for tapping into individual Parcel units;
- (j) "service charge statement" shall include a list and description of the services provided, the expenditure incurred and the amount of service charge due to the Vendor in respect thereof;
- (k) "Vendor" includes its successors in title and assigns; and
- (l) 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.

### **Persons to be bound by Agreement**

36. This Agreement shall be binding upon the successors in title and assigns of the Vendor, the heirs, personal representatives, successors in title and assigns of the Purchaser \*and the Proprietor.

**FIRST SCHEDULE**

(Copy of approved following plans attached) Approved Layout Plan Reference No.:

Name of Appropriate Authority:

- |     |   |          |
|-----|---|----------|
| 1.  | Site Plan .....   | Attached |
| 2.  | Layout Plan .....   | Attached |
| 3.  | Floor Plan of the said Parcel .....   | Attached |
| 4.  | *Storey Plan of the said Building/<br>Delineation Plan of the said Land<br>comprising the said Parcel ..... | Attached |
| *5. | Accessory Parcel Plan .....   | Attached |
| *6. | Common Facilities Plan .....  | Attached |
| *7. | Building Plan .....   | Attached |

## **SECOND SCHEDULE**

### COMMON FACILITIES AND SERVICES

- (a)* List and description of common facilities serving the said housing development.
- (b)* List and description of services provided.

### THIRD SCHEDULE

(Clause 4)

#### SCHEDULE OF PAYMENT OF PURCHASE PRICE

	<i>Instalments Payable</i>	%	<i>Amount</i>
1.	Immediately upon the signing of this Agreement	10	RM
2.	Within twenty-one (21) working days after receipt by the Purchaser of the Vendor's written notice of the completion of :-		
	(a) the work below ground level of the said Building comprising the said Parcel including foundation of the said Building	10	RM
	(b) the structural framework of the said Parcel	15	RM
	(c) the walls of the said Parcel with door and window frames placed in position	10	RM
	(d) the roofing, electrical wiring, plumbing (without fittings), gas piping (if any) and internal telephone trunking and cabling to the said Parcel	10	RM
	(e) the internal and external finishes of the said Parcel including the wall finishes	10	RM
	(f) the sewerage works serving the said Building	5	RM
	(g) the drains serving the said Building	5	RM
	(h) the roads serving the said Building	5	RM
3.	On the date the Purchaser takes vacant possession of the said Building, with water and electricity supply ready for connection	12.5	RM
4.	On the date the Purchaser takes vacant possession of the said Parcel as in item 3 and to be held by the Vendor's solicitors as stakeholder for payment to the Vendor within twenty-one (21) working days after the receipt by the Purchaser of the written confirmation of the *Proprietor/Vendor's submission to and acceptance by the Appropriate Authority of the application for subdivision of the said Building or Land, as the case may be	2.5	RM
5	On the date the Purchaser takes vacant possession of the said Parcel as in item 3 and to be held by the Vendor's solicitor as stakeholder for payment to the Vendor as follows:	5	RM
	(a) two point five per centum (2.5%) at the expiry of eight (8) months after the date the Purchaser takes vacant possession of the said Parcel; and		
	(b) two point five per centum (2.5%) at the expiry of twenty-four (24) months after the date the Purchaser takes vacant possession of the said Parcel.		
		TOTAL	100
			<u>RM</u>

## FOURTH SCHEDULE

(Clause 13)

### BUILDING DESCRIPTION

- (a) Structure:
- (b) Wall:
- (c) Roofing covering:
- (d) Roof framing:
- (e) Ceiling:
- (f) Windows:
- (g) Doors:
- (h) Ironmongery: (i) Wall finishes:
- (j) Floor finishes:
- (k) Sanitary and plumbing fittings:
- (l) Electrical installation:
- (m) Internal telephone trunking and cabling:
- \*(n) Fencing:
- \*(o) Turfing:
- \*(p) Gas piping:

Note: The Vendor shall at its own cost and expense install or construct all of the items listed above in accordance to the description set out save for the item or items marked with an \* which may be deleted if not applicable

**FIFTH SCHEDULE**

*(Clause 18)*

**FORM OF SERVICE CHARGE STATEMENT**

Project:

For the year:

Date:

Expenses details:

No.	Description	Estimated Monthly Expenses (RM)	Estimated Annual Expenses (RM)
1.	General repair/maintenance		
2.	Electricity supply		
3.	Electrical system maintenance		
4.	Fire fighting system maintenance		
5.	Generator system maintenance		
6.	Lift/escalator system maintenance		
7.	Air conditioning system maintenance		
8.	Security system maintenance		
9.	Main television reception equipment maintenance		
10.	Intercom repair & maintenance		
11.	Building automation system		
12.	Water supply		
13.	Swimming pool maintenance		
14.	Sewerage maintenance		
15.	Refuse collection/ disposal		
16.	Car park maintenance		
17.	Pest control		
18.	Security services		
19.	Cleaning/cleansing services		

20.	Gardening and landscaping		
21.	Signage		
22.	Bank charges		
23.	Audit fee		
24.	Management fee		
25.	Management office expenses		
26.	Staff expenses		
	Total expenses	RM	RM
	**Amount per allocated share unit	RM	RM
	Number of allocated share units assigned to the said Parcel by the Vendor's licensed land surveyor		
	Amount of service charge	RM	RM

- Note: (i) Delete where any of the items described above are inapplicable.
- (ii) Save as in Note (i) above, no addition or amendment to the above list is permitted without the prior written consent of the Controller.
- (iii) \*\*Calculated as follows:
- $$\frac{\text{Total expenses}}{\text{Total number of allocated share units assigned by the Vendor's licensed land surveyor to all parcels comprised in the housing development}}$$
- (iv) The service charge statement shall be issued by the Vendor to the Purchaser at the time of delivery of vacant possession with the details of the expenses duly filled in.

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

Signed by: .....  
.....  
for and on behalf of the abovenamed Vendor  
in the presence of:  
.....  
NRIC No.: .....



Signed by the abovenamed Purchaser in the  
presence of:  
.....  
NRIC No.: .....



\*Signed by the abovenamed Proprietor in the  
presence of:  
.....  
NRIC No.: .....



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\* Delete whichever is not applicable  
# This applies only to Wilayah Persekutuan Putrajaya as described in section 10 of the Perbadanan Putrajaya Act 1995.