

Sale & Purchase Agreement

(Subdivided Building With OP)

Vendor :

Purchaser :

Property : Parcel No. _____ within Storey No. ____ of Building No. _____ of Parent Lot _
____ Block _____ Land District

Date :

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**SALE AND PURCHASE AGREEMENT
(SUBDIVIDED BUILDING WITH OP)**

AN AGREEMENT made this

BETWEEN

NAME OF DEVELOPER (Company No.), a company incorporated and registered in Malaysia under the Companies Act 1965 and having its registered office and a place of business at _____ Kuching, Sarawak (hereinafter called the "Vendor") of the one part

AND

NAME OF PURCHASER (WN.KP. _____) of No. _____ Sarawak (hereinafter called the "Purchaser") of the other part.

WHEREAS:

- (1) The Vendor is the registered and beneficial owner of all that parcel of land situate at _____ containing an area of _____, more or less, and described as Lot _____ (hereinafter called "the said Land").

or (in the case of P/A Holder)

The Vendor is the beneficial owner of land _____ (description) _____ (hereinafter called the "said Land") under and by virtue of an Agreement dated _____ between _____ as registered owner(s) of the said land and the Vendor, whereby the Vendor has, subject to the terms and conditions, acquired beneficial interest in the said land and pursuant to the said Agreement the registered owner had granted to the Vendor a Power of Attorney on _____ (date) which is registered with the _____ Land Registry as Instrument Number _____ under the terms of the said Power of Attorney, the Vendor is entitled to enter into this Agreement.

- (2) The said Land is charged vide Memorandum of Charge Instrument No. L _____ registered with the _____ Land Registry Office to _____ with its registered office at _____ as security for the loan granted to the Vendor.



- (3) The Vendor has, at its own cost and expense, obtained pursuant to the Buildings Ordinance, 1994 [**Cap. 8**] of Sarawak the approval of building plans (hereinafter called the "**Building Plan**") from the Appropriate Authority (a copy of the Floor Plan, Storey Plan and Site Plan as certified by the Vendor's architect are annexed in the **First Schedule**).
- (4) 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 _____).
- (5) The Occupation Permit to the said Property has been issued by the relevant Authority, a copy of which is annexed herewith and marked as "A" (hereafter referred to as "the OP").

This recital states that OP has already been issued for the parcel.

- (6) The Vendor has agreed to sell and the Purchaser has agreed to purchase a parcel with vacant possession distinguished as Parcel No. _____ and which is more particularly delineated and shaded GREEN in the Storey Plan measuring approximately _____ square metres within Storey No. _____ of Building No. _____ which is in turn delineated and shaded RED in the Site Plan (hereinafter called the "**said Building**") *with accessory parcel No. _____ of Building No. _____ (hereinafter called the "**said Parcel**"), subject to the terms and conditions hereinafter contained.

NOW IT IS HEREBY AGREED as follows:

1. **SALE OF PROPERTY FREE FROM ENCUMBRANCES**

The Vendor hereby agrees to sell and the Purchaser hereby agrees to purchase the said Parcel free from all encumbrances other than those imposed by the provisions of this Agreement, and subject to any terms and conditions or restrictions imposed by the Appropriate Authorities.

2. **PURCHASE PRICE**

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

3. **SCHEDULE OF PAYMENT OF PURCHASE PRICE**



The purchase price shall be paid by the Purchaser to the Vendor by instalments and at the times and in the manner as prescribed in the **Third Schedule** hereto.

~~(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. Within twenty-one (21) days of receipt of the notice mentioned herein, the Purchaser shall pay all such instalments to the Vendor.~~

Sub-Clause (2) above is unnecessary because the OP has already been issued. The issuance of an OP will be sufficient to facilitate the purchase price.

4. LOANS

- (1) If the Purchaser is desirous of obtaining a loan from a bank, finance company, building society, financial institution or from the Government of Malaysia or State Government or any statutory authority which provides loan facilities (hereinafter called the "**Financier**") to finance the payment or part payment of the purchase price, the Purchaser shall:
- (a) give written notice to the Vendor of the Purchaser's intention;
 - (b) take steps to submit the necessary housing loan application to the Financier concerned within **fourteen (14) days** from the date hereof or within such extended period as the Vendor may permit in writing and to furnish to the Vendor a copy of such application whether by way of a letter or in the form and manner prescribed by the Financier concerned and the receipt whereof must be duly acknowledged by the Financier;
 - (c) pay all fees chargeable by the Financier, costs of printing or reproduction of any documents required by the bank or financial institution or any other expenses in connection with the application of the loan;
 - (d) upon approval of the loan, forward a copy of the Financier's letter of offer to the Vendor immediately;
 - (e) in the event that the loan is approved by the Financier concerned, execute all the necessary forms or documents and pay all registration fees, legal fees and stamp duties where applicable in respect thereof within **fourteen (14) days** of any notice issued by any advocates acting on behalf of the Financier; and



- (f) arrange with and irrevocably authorize the Financier to effect direct payment or part payment of the proceeds of the Loan to the Vendor by the instalments in the manner and at the times as prescribed in the **Third Schedule** hereto, towards settlement of the purchase price.

IT IS FURTHER AGREED that all instructions by the Purchaser to the Financier which has the effect of withholding payment as they fall due, shall be deemed a fundamental breach of this Agreement.

- (2) The Vendor, upon confirmation in writing that the Purchaser's loan has been approved by the Financier, shall, if required to do so by the Financier as security for their loan, execute a registrable Memorandum of Transfer respecting the said Property in favour of the Purchaser: PROVIDED THAT the Vendor shall not be found to do so unless:
- (a) the Purchaser has fully paid to the Vendor the difference between the purchase price and the Loan;
- (b) the Financier has agreed to undertake to pay to the Vendor the proceeds of the said Loan, as directed by the Purchaser pursuant to **clause 4(1)(f)** above; and
- (c) individual document of title has been issued by the Land and Survey Department, for the said Property.
- (3) Notwithstanding the foregoing, if owing to the failure, default or neglect of the Purchaser, there has been non-compliance or failure to observe the terms and conditions for the granting of the said Loan, the Loan or any part thereof is withdrawn or withheld by the Financier, as the case may be, the Purchaser shall be liable to pay to the Vendor the whole of the purchase price or such part thereof as shall then remain outstanding on the dates stipulated in the **Third Schedule** for the payment thereof.
- (4) The failure on the Purchaser to obtain the requisite loan shall not be a ground for any delay in the payment or for any non-payment of any of the instalments of the purchase price or the date stipulated in the **Third Schedule** hereto for the payment thereof.

5. WITHDRAWAL OF EPF CONTRIBUTIONS



- (1) If the Purchaser desires to obtain withdrawal of his Employees Provident Fund contributions to finance the payment or part payment of the purchase price, the Purchaser shall notify the same to the Vendor and shall furnish a copy of the application thereof to the Vendor.
- (2) The provisions relating to payment of the purchase price by way of Loan as set out in **clause 4(1)(b), (c), (e), (f), (3) and (4)** shall apply, with the necessary modifications where the Purchaser seeks to obtain a withdrawal of moneys from the Employees Provident Fund to pay for the purchase price or any part thereof, of the said Parcel.
- (3) The Purchaser shall duly comply with and observe all the terms and conditions of the Employees Provident Fund in regard to the withdrawal of funds therefrom for the purchase of the said Parcel.

6. TIME

Time shall be the essence of this Agreement.

7. INTEREST ON LATE PAYMENT

- (1) Without prejudice to the Vendor's rights under **clauses 8 and 9** hereof, if any of the instalments set out in the **Third Schedule** hereto shall remain unpaid by the Purchaser at the expiration of the said period of **twenty-one (21) days**, interest on such unpaid instalment or instalments shall commence immediately thereafter and be payable by the Purchaser, such interest to 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 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 vacant possession referred to in the **Third Schedule** delivered by the Vendor to the Purchaser is not complete or is not in compliance with the requirement of **sub-clause 22(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.

8. DEFAULT AND TERMINATION OF AGREEMENT

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- (1) If the Purchaser—
- (a) fails to pay any instalment payable under **clause 3(1)** in accordance with the **Third Schedule** hereto or any part thereof and any interest payable under **clause 7**; or
 - (b) fails to pay any sum or sums payable under this Agreement within the time stipulated for payment; or
 - (c) commits any breach of the terms or conditions contained in this Agreement or fails to perform or observe all or any of the Purchaser's covenants herein contained; 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
 - (e) being a Company, enters into liquidation whether compulsory or voluntary (except for the purpose of amalgamation or reconstruction) or be unable to pay its debts within the meaning of section 218(b) of the Companies Act 1965 or any amendment, modification, or re-enactment thereof or have a petition presented or an order made or a resolution passed or legislation enacted for the winding up of the Company, the Vendor shall at his option and subject to **sub-clause (2)** hereof and without prejudice to any of its legal rights or remedies against the Purchaser arising from such failure, breach or default, terminate this Agreement.
- (2) If the Purchaser fails to comply with any of the terms of this Agreement or if any of such unpaid instalments and interest remain unpaid for any period in excess of **fourteen (14) days** after its due date, the Vendor shall give the Purchaser or his advocates not less than **fourteen (14) days'** notice in writing by Registered post to treat this Agreement as having been repudiated by the Purchaser and unless in the meanwhile in the case of **clause 8(1)(a)-(d)** such default and/or breach alleged is remedied or such unpaid instalments and interest are paid, this Agreement shall, upon the expiration of the said notice, be deemed to be terminated.

9. CONSEQUENCES OF TERMINATION

Upon termination of this Agreement pursuant to **clause 8** herein:



- (a) The Purchaser and all those claiming title under him shall immediately vacate the said Parcel, if possession thereof shall have been delivered.
- (b) 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, and it shall be lawful for the Vendor to retain any increase in the purchase price obtained from such dealing or disposal.
- (c) The Vendor shall be entitled to deduct and retain from such instalments as shall have been paid by the Purchaser pursuant to **clause 3** herein prior to the termination of this Agreement towards settlement of the following:
 - (i) all sums due to the Vendor arising and in respect of late payment by the Purchaser to the Vendor of instalments referred to in **clause 3**;
 - (ii) all moneys (other than instalments referred to in **clause 3** herein) due to the Vendor pursuant to the provisions of this Agreement; and
 - (iii) a sum equal to **ten per centum (10%)** of the purchase price thereof shall be forfeited to the Vendor by way of agreed liquidated damages.
- (d) The balance, if any, of the moneys paid by the Purchaser to the Vendor pursuant to **clause 3** herein prior to the termination of this Agreement after deduction of the sums retained by the Vendor pursuant to **clause 9(c)** herein shall be refunded to the Purchaser.
- (e) In the event that the total of the sums referred to in **clause 9(c)** herein exceed the total amount of the instalments paid by the Purchaser to the Vendor pursuant to **clause 3** herein, prior to the termination of this Agreement pursuant to **clause 8** herein, such difference shall be a debt due and owing by the Purchaser to the Vendor and shall be paid by the Purchaser to the Vendor forthwith on demand and until payment, and shall bear interest calculated from day to day at the rate of **ten per centum (10%) per annum**.
- (f) Upon termination of this Agreement pursuant to clause 8 herein, neither party hereto shall have any claim against the other for costs, compensations or otherwise in respect of this Agreement other than and except those conferred upon him or it by **clause 9** herein.

10. NON-COMPLIANCE BY VENDOR



- (1) In the event that the Vendor shall refuse, fail or unable to comply with any terms of this Agreement, then and, in any such case, all moneys received by the Vendor shall be refunded to the Purchaser and in addition, the Vendor shall pay a like sum but not exceeding **ten per centum (10%)** of the purchase price to the Purchaser as pre-estimated liquidated damages and 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. In such event, any encumbrances lodged or registered against the said Property by the Purchaser shall be withdrawn or caused to be withdrawn by the Purchaser at his own cost and expense.
- (2) The provisions of **sub-clause (1)** above shall not prejudice any rights which the Purchaser may have to a decree for specific performance of this Agreement.

11. SEPARATE SUBSIDIARY TITLE AND TRANSFER

- (1) Upon the execution of this Agreement the Vendor shall at its own cost and expense, apply for subdivision of the said Building so as to obtain the issue of a separate subsidiary title to the said Parcel under the Strata Titles Ordinance, 1995.
- (2) Upon the issuance of the subsidiary title to the said Parcel and subject to the payment of the purchase price by the Purchaser to the Vendor in accordance with **clause 3(1)** and the observance of all the terms and conditions herein provided, the vendor shall within **twenty-one (21) days** (or as soon as practicable) execute a valid and registrable Memorandum of Transfer of the said Parcel to the Purchaser, his heir or nominee or lawful assign, as the case may be.
- (3) The Purchaser is deemed to have notice of the restrictions and conditions contained in the issue document of title to the said Parcel. The Purchaser hereby covenants with the Vendor to observe such restrictions and conditions contained therein and to indemnify and keep the Vendor indemnified against all liabilities (if any) and costs arising from any breach of such conditions on the part of the Purchaser.
- (4) From the date of this Agreement, and until the issue of a subsidiary title to the said Parcel and transfer thereof to the Purchaser, the Purchaser shall not sell, transfer, assign or otherwise convey the rights, duties and obligations under this Agreement without the prior written consent of the Vendor but such consent shall not be unnecessarily withheld.



AND IT IS HEREBY expressly agreed that a breach of this sub-clause shall be deemed as a fundamental breach of this Agreement. The Purchaser acknowledges and agrees that permission will only be given if the Purchaser shall have paid all moneys, service and other charges due and payable by him under this Agreement and that such transfer or assignment shall be in a form and substance acceptable to the Vendor and subject to a reasonable administrative fee not exceeding Ringgit Malaysia one hundred and fifty only (RM150.00) of the consideration paid in respect of the said transfer or assignment.

12. **POSITION AND AREA OF PARCEL**

- (1) The position, measurements, boundaries and area of the said Parcel as stated in the **First Schedule** are only estimated but not confirmed to be correct. AND IT IS HEREBY EXPRESSLY AGREED that the Purchaser shall not make any claims for damages, compensation, or reimbursement and the Vendor shall not make any claims for an increase in the purchase price if the difference in measurements, boundaries and area between that shown in the subsidiary title when issued and that shown in the Building Plan is not more than **two per centum (2%)**.
- (2) A variation of more than **two per centum (2%)** of the area of the said Parcel as stipulated in the **First Schedule** shall not be a ground for revision of this Agreement, but in the event that the variation exceeds **two per centum (2%)** of the said area then the purchase price shall be adjusted downward or upward as the case may be at the rate of **RINGGIT MALAYSIA _____ (RM _____) per square metre**. Any payment resulting from such an adjustment and required to be paid by the Vendor or the Purchaser shall be settled within **fourteen (14) days** of the issue of the subsidiary title.

13. **MATERIALS AND WORKMANSHIP**

- ~~(1) The said Building shall be constructed in a good and workmanship manner using materials of a standard which conforms with the standards prescribed under the Buildings Ordinance, 1994, or any bylaws made thereunder or any other written laws or regulations in Malaysia, and in accordance with the specifications set out in the **Fourth Schedule** hereto and in accordance with the plans and drawings approved by the Appropriate Authority as in the **First Schedule**, which specifications and plans have been agreed to and accepted by the Purchaser.~~
- ~~(2) The Purchaser shall accept all and every amendment or variation made/imposed by the Appropriate Authority to the said plans, drawings and specifications and other details.~~



The Vendor warrants that the said Building has been constructed in a good and workmanlike manner using materials of a standard which conforms with the standards prescribed under the Buildings Ordinance, 1994 or any by-laws made thereunder any other written laws or regulations in Malaysia, and in accordance with the specifications set out in the Fourth Schedule hereto.

This new provision does not mention acceptance of amendments/variation because construction will already have been completed. The new provision states the Vendor's warranty that the building has been constructed in a workmanlike manner.

14. RESTRICTION AGAINST VARIATION BY PURCHASER

(1) The Purchaser shall not without the prior consent in writing of the Vendor, carry out or cause to be carried out any modifications to the said building plans and specifications therein or make any alteration or addition to the said Building or install or cause to be installed any fixtures or fittings therein which would, under the Building Bylaws require the amendment of the approved building plan or the submission of further plans, until the relevant Occupation Permit has been issued. AND FURTHER where no such consent has been obtained by the Purchaser from the Vendor, the Vendor shall have absolute right to prevent the Purchaser from entering the said Building for the purpose hereinbefore mentioned.

(2) In the event that the Vendor agrees to carry out such alterations or additional works for the Purchaser and providing that the works have first been approved by the Appropriate Authorities, the costs of such permissible alterations or additional items shall have been mutually agreed upon prior to commencement of such alterations or addition and the Purchaser shall pay for the cost of such alterations or additional works within fourteen (14) days of the Vendor's request in writing for such payment.

This restriction provision is not necessary because construction will already have been completed by the time a Purchaser enters into this Agreement. There is no room for a Purchaser to request modifications to the Building.

14. INFRASTRUCTURE AND MAINTENANCE

(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 plants 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 it is taken over by the Appropriate Authority or the Maintenance Corporation, as the case may be, the Purchaser shall pay to the Vendor a fair and justifiable proportion of the costs and expenses incurred in 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 and the amount of such contribution due to the Vendor in respect thereof.

15. COMMON FACILITIES AND SERVICES

- (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** hereto.
- (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.

16. PAYMENT OF SERVICE CHARGES

- (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 management corporation under the Strata Titles Ordinance, 1995.
- (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 reasonably incurred for the maintenance and management of the common property and for the services provided. Such amount payable shall be determined according to the provisional share units assigned to the said Parcel



by the Vendor's Architect. The Purchaser shall pay **three (3) months** deposit and **one (1) month's** advance in respect of the service charges and any payment thereafter shall be payable monthly in advance.

- (3) 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.
- (4) The service charge payable shall be paid within **seven (7) 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 **seven (7) 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 **ten per centum (10%) per annum**.
- (5) The amount of service charge payable under this clause may or may not be the same amount charged by the Management Corporation, and it is EXPRESSLY AGREED that in the event that the amount is different, neither the Purchaser nor the Vendor shall have any claim on the other.

17. INSURANCE

- (1) The Vendor, the Purchaser and all other Purchasers of units or parcels within the said Building, shall, upon the completion of the said Building and until the Management Corporation is established, insure and keep insured the said Building against loss or damage by fire, public liability, 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 provisional share units assigned to the said Parcel by the Vendor's Architect.
- (3) The insurance premium payable shall be paid within **seven (7) 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 **seven (7) 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 **ten per centum (10%) per annum**.

18. PAYMENT OF OUTGOINGS



The Purchaser shall be liable to pay for all quit rents, taxes, rates and other charges in respect of the said Parcel as from the date of Memorandum of Transfer or upon the delivery of vacant possession of the said Parcel by the Vendor to the Purchaser whichever date shall be the earlier: PROVIDED THAT in the event the Vendor makes payment of such outgoings on behalf of the Purchaser, then the Vendor shall be reimbursed by the Purchaser in full on demand.

19. UTILITIES AND OTHER SERVICES

- (1) The Vendor shall at its own cost and expense, lay or cause to be laid all necessary water, electricity and sewerage mains, gas pipings (if any) in respect of the said Building and at its own cost and expense undertake to apply for the connection of internal water, electricity, sanitary and gas installations (if any) of the said Parcel. All installation charges for electricity, water and gas meters (if any) and deposits chargeable for electricity and water in respect of the said Parcel shall be borne by the Purchaser.
- (2) The Purchaser may apply for telephone service and shall be liable to pay for and shall pay for all charges including installation, connection, rental fees and deposits as well as any capital contribution costs that may be charged by Telekom Malaysia Berhad in respect of any application for any telephone line and/or instrument to the said Parcel by the Purchaser.

20. COMPLIANCE WITH WRITTEN LAWS

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

21. HANDING OVER DELIVERY OF VACANT POSSESSION

- ~~(1) Subject to clause 24 hereinafter and provided that the Purchaser duly pays the installments as provided and at the time set out in clause 3 and duly pays all sums and moneys due or payable by him to the Vendor pursuant to this Agreement, and provided further that the Purchaser shall have performed and observed and shall not be in breach of any of the terms and conditions on his part to be performed and observed contained in this Agreement, the said Parcel shall be completed by the Vendor and vacant possession to the said Parcel, shall~~



be handed over to the Purchaser 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 sub-clause (1), the Vendor shall be liable to pay to the Purchaser liquidated damages calculated from day to day at the rate of eight per centum (8%) per year of the purchase price from the expiry date of delivery of vacant possession in sub-clause (1) until the date of the delivery of 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.

(1) Upon the Purchaser having paid ninety-seven point five per centum (97.5%) of the Purchase Price, the Vendor shall give vacant possession of the Property to the Purchaser who shall take possession forthwith.

This clause is changed to reflect the fact that construction has been completed and OP issued at the time of entering the agreement. Once the Purchaser pays 97.5% of the purchase price the Vendor must give vacant possession.

(2) 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 and the Vendor thereafter shall not be liable for any loss or damage to the said Parcel and/or the fixtures and fittings therein.

This clause is imported from the "Manner of Delivery of Vacant Possession" section and incorporated here so that it is clearer.

22. NEW LAWS AFFECTING HOUSING DEVELOPMENT

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 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.

This clause was meant to disclaim liability if new laws came into effect during the construction period. Since the construction of the property will have been completed by time of issuance of the OP, this clause is no longer necessary.

24. FORCE MAJEURE

(1) Notwithstanding clause 17, but subject to sub-clause (2) below, the Vendor shall not be liable in any way if delay in completion of the said Building or any failure by the Vendor to fulfill any of its obligations hereunder is due to or caused by strike, lockout, riot, civil commotion, war, loss or damage by fire, flood, tempest, shortage of building material, accident to works, inclement weather, act of God, delay by the Appropriate Authorities or other public authorities in supply water and/or electricity to the said Property or the Vendor's inability for reasons beyond his control to obtain any necessary sanction or approval of Appropriate Authorities or other like causes beyond the Vendor's control or the Purchaser requiring the execution of extras, changes or alterations to the said Property or delays by the Appropriate Authorities in the issue of Occupation Permit for the said Building. In any of the aforesaid cases the computation of the period for the completion of construction shall not include lay-off period or periods of non-construction.

(2) The Vendor shall not be entitled to the benefit of sub-clause (1) unless it notifies the Purchaser in writing within seven (7) days of the occurrence of any of the events mentioned in sub-clause (1) and states in such notice the approximate time required for the Vendor to overcome or resolve any problems caused by the occurrence of any of such events.

This clause is not needed because a 'force majeure' scenario will not arise because construction of the property would already have been completed by the time OP is issued.

25. MANNER OF DELIVERY OF VACANT POSSESSION

(1) After the issuance of the Occupation Permit by the Appropriate Authority, and provided the Purchaser has paid all the moneys payable under clause 3(1) in accordance with the Third Schedule and all other moneys due under this Agreement and the Purchaser having performed and observed all the terms and covenants on his part under this Agreement, the Purchaser shall have vacant possession of the said Parcel.



~~(2) 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 and the Vendor thereafter shall not be liable for any loss or damage to the said Parcel and/or the fixtures and fittings therein.~~

~~Sub-clause (1) is not necessary because OP is already issued. Sub-clause (2) has already been incorporated into **Clause 21(2)** above.~~

22. COMPLETION OF COMMON FACILITIES

- (1) The common facilities serving the housing development shall be completed by the Vendor within **thirty six (36) calendar months** from the date of this Agreement.
- (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.

~~27. OCCUPATION PERMIT~~

~~(1) The Vendor shall, pursuant to the application for Occupation Permit at its own cost and expense, duly comply with all the requirements of the Appropriate Authority which are necessary for the issuance of the Occupation Permit in respect of the said Building.~~

~~(2) For the purpose of this Agreement, the said Building or Parcel shall not be deemed to be completed units unless the Occupation Permit referred to in sub-clause (1) has been issued by the Appropriate Authority.~~

~~This clause is deleted because the OP is already issued.~~

23. DEFECT LIABILITY PERIOD

- (1) Any defects, shrinkage or other faults in the said Parcel or the said Building or in the common property which shall become apparent within a period of **eighteen**



(18) calendar months after the date of handing over of vacant possession of the said Parcel to the Purchaser 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 Schedules** as approved or amended by the Appropriate Authority, shall be repaired and made good by the Vendor at its own cost and expense within **fourteen (14) days** of it having received written notice thereof from the Purchaser and if the said defects, shrinkage or other faults in the said Parcel or the said Building or common property have not been made good by the Vendor, the Purchaser shall be entitled to recover from the Vendor the cost of repairing and making good the same and the Purchaser shall be entitled to receive such costs from any sum which has been held by the Vendor's advocate as stakeholder for the Vendor: PROVIDED THAT the Purchaser shall, at any time after the expiry of the said period of **fourteen (14) days** notify the Vendor of the cost of repairing and making good the said defects, 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.

- (2) In the event of any dispute as to whether such defects fall within the scope of this clause and as to whether the Vendor is bound to make good or remedy the same, the decision of an Architect appointed by the Vendor shall be final and binding on the parties hereto.
- (3) Notwithstanding **clause 23(1)** above, it is hereby expressly agreed that in the event that the Purchaser has carried out or caused to be carried out any renovation, alteration, or addition to the said Parcel or the said Building within the defect liability period without the written consent of the Vendor, the Vendor shall not be liable for any defect whatsoever appearing on the said Parcel or the said Building and if the same shall howsoever affect the adjoining parcel, the Vendor, if liable therefor, in making good the defect in the said adjoining parcel shall be entitled to be reimbursed by the Purchaser for any cost or damages thereby incurred.

24. COMMON RIGHTS OF PURCHASER

- (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, licensees and invitees in common with the Vendor and all other persons having 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 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.

25. SERVICE OF DOCUMENTS

- (1) Any notice, request or demand required to be served by either party hereto to the other under the provisions of this Agreement shall be in writing and shall be deemed to be sufficiently served:
- (a) if it is sent by the party or his advocate by post addressed to the other party's address hereinbefore mentioned and in such case it shall be deemed to have been received at the time when such letter would in the ordinary course be delivered; or
 - (b) if it is given by the party or his advocate by hand to the other party or his advocate.
- (2) Any change of address by either party shall be communicated to the other in writing.

26. STAMP, REGISTRATION AND LEGAL FEES

The stamp, registration and legal fees arising from and in connection with this Agreement and the subsequent transfer of the said Parcel referred to in **clause 11(2)** hereof shall, unless otherwise agreed by the parties hereto, be borne and paid by the Purchaser but each party shall bear his own advocate's costs and expenses.

27. COVENANTS

Upon taking vacant possession and until any bylaws are made by the Management Corporation dealing with matters hereinafter mentioned, the Purchaser shall:



- (1) not use the said Parcel nor permit the use of the said Parcel for any purpose whatsoever other than for residential and dwelling purposes;
- (2) not use the said Parcel, the said Building, the common property of the said Building or any part thereof for any illegal, unlawful or immoral purposes or bring thereon activities that may cause nuisance or give reasonable cause for complaint by the Vendor, other purchasers or lawful occupiers of the said Building;
- (3) not use the said Parcel, the said Building, the common property to the said Building or any part thereof in contravention of any laws, bylaws, rules and regulations relating to the keeping of animals, birds or pets or any other laws, bylaws, rules and regulations relating to the use therefor of the said Parcel, the said Building or the common property of the said Building or any part thereof;
- (4) not cause any accumulation of dirt, rubbish, refuse, debris or store or bring upon the said Parcel, the said Building or the common property to the said Building or any part thereof any articles which are combustible, inflammable, explosive or dangerous in nature;
- (5) not throw or permit to be thrown any articles or objects whatsoever out of the windows or over the balconies of the said Building;
- (6) not leave or store any goods or objects, or cause any obstruction whatsoever on any part of the common property of the said Building so as to cause any inconvenience or danger to others;
- (7) not affix, inscribe or exhibit by any means whatsoever on the common property or the exterior of the said Parcel or any part of the said Building any sign board, placard, name plate, advertisement or notice of any description;
- (8) not affix any grill or place any other form of obstruction on the stairways, or any part of the common property of the said Building;
- (9) not do or permit to be done anything whereby the policy or policies of insurance of the said Parcel and the said Building against damage by fire may become void or voidable or whereby the premium may be increased;
- (10) not hang clothes or other apparel, articles or anything whatsoever on the exterior of the said Building other than the area specifically designated therefor;



- (11) not affix or attach to the exterior part of the said Parcel or any part of the said Building any apparatus for receiving of broadcast including but not limited to aerial and satellite dish, or any air-conditioning apparatus save and except as provided for by the Vendor or with the Vendor's consent (which consent shall not be unreasonably withheld);
- (12) not (except with the written consent of the Vendor and under the supervision of the Vendor's consultant) erect upon or affix to the said Parcel or any part thereof any machinery or mechanical, scientific or electrical apparatus except for the usual domestic electrical apparatus;
- (13) not place flower pots or any other objects whatsoever on the balcony, ledge or the exterior of the said Parcel in a manner that may create any danger, risk or hazard to the safety of other purchasers or any lawful occupiers, visitors or licensees;
- (14) not tamper with or cause to be tampered any fire fighting equipment within the said Building;
- (15) not create any noise likely to interfere with the peaceful and lawful enjoyment of the other purchasers or any lawful occupiers of the said Building;
- (16) not alter or cause to be altered the common property or any part thereof or alter or remove any fixture, fittings or furnishing on the common property;
- (17) notify the Vendor of the Purchaser's intention to let the said Parcel and shall promptly furnish the Vendor with details of the tenants concerned and such other information as the Vendor may require from time to time and in the event that the Purchaser executes a lease or tenancy agreement shall incorporate such terms and conditions that shall be consistent with the terms and conditions herein contained; and
- (18) inform the Vendor at least **twenty-four (24) hours** in advance of any shifting or removal of items involving a professional mover and shall ensure that the common areas and the common property are not in any manner damaged in the course of such shifting or removal and shall further ensure that any inconvenience so caused to other lawful occupiers shall be kept to the minimum possible.

28. SUBSALE AND ASSIGNMENT



- (1) The Purchaser shall not assign this Agreement and his rights to purchase the said Parcel under this Agreement to a third party without consent having first been obtained from the Vendor provided such consent shall not be unreasonably withheld by the Vendor.
- (2) In the event the separate document of title to the said Lot has not yet been issued and provided that the Purchaser has paid ~~ninety-five per centum (95%)~~ **ninety-seven point five per centum (97.5%)** of the purchase price and has duly complied with all other terms, conditions and stipulations on the Purchaser's part contained herein, the Vendor shall not, subject to **sub-clause (3)** hereof, withhold its consent to any intended sale or assignment by the Purchaser to any third party (including any bank or financial institution) and the Vendor shall endorse its consent to the assignment between the Purchaser and his intended purchaser/assignee within **twenty one (21) days** from the date of receipt by the Vendor of such assignment. For the purpose of this clause, assignment shall include a novation of the contract of sale.

The clause is changed from 95% to 97.5% to reflect that the OP has been issued. (See Third Schedule)

- (3) The Purchaser shall pay to the Vendor for giving the consent an administrative fee of not exceeding **one hundred and fifty ringgit (RM150.00)**. Provided always that in the case of an assignment by the Purchaser in favour of any bank or financial institution or a reassignment from the bank or financial institution to the Purchaser, the Purchaser shall not be required to pay any fee by whatever name called to the Vendor for its consent.

29. CAVEAT

The Purchaser hereby waives his right to caveat and also agrees to cause his financier not to caveat the said parcel or any part of the said parcel prior to the issuance of the individual issue document of title of the said parcel. If his financier insists on lodging a caveat, only a conditional caveat shall be lodged which will not require the caveator's consent to the process of subdivision and issuance of individual documents of title.

This clause is inserted to restrict the Purchaser from encumbering the parcel of land prior to the issuance of subsidiary title.

30. SCHEDULES AS PART OF AGREEMENT



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

31. INTERPRETATION

In this Agreement, where the context so admits—

- (a) **"Accessory Parcel"** means any parcel shown in the Site Plan and Storey Plan as an accessory parcel which is used or intended to be used in conjunction with the Parcel;
- (b) **"Advocate"** means any person entitled to practise in Sarawak under and by virtue of a certificate to practise issued under section 9 of the Advocates Ordinance [**Cap. 110 (1958 Ed.)**] of Sarawak;
- (c) **"Appropriate Authority"** means any authority for the time being authorized under any written law in force to approve building plans, subdivision of land, subdivision of buildings, the issue of documents of title or documents of subsidiary title and to enforce building bylaws and regulations related thereto;
- (d) **"Buildings Ordinance"** means the Buildings Ordinance, 1994 [**Cap. 8**] of Sarawak and includes any amendment or statutory modification thereof;
- (e) **"Building Bylaws"** means the Building Bylaws set out in the Fourth Schedule to the Buildings Ordinance, 1994 [**Cap. 8**];
- (f) **"Common Property"** shall have the same meaning assigned to that term by the Strata Titles Ordinance, 1995 [**Cap. 18**];
- (g) **"Employees Provident Fund"** means the Fund established under section 24 of the Employees Provident Fund Act 1991 [**Act 452**];
- (h) **"Management Corporation"** means the management corporation as defined under the Strata Titles Ordinance, 1995 [**Cap. 18**];
- (i) **"Memorandum of Transfer"** means the Form G prescribed by section 137 of the Land Code [**Cap. 81 (1958 Ed.)**] of Sarawak or such other Form approved by the Registrar of Lands and Surveys for conveyance of property held under subsidiary title;



- (j) **"parcel"** means one of the individual units comprised in the subdivided building which is to be held under separate subsidiary title;
- (k) **"Purchaser"** includes his heirs, personal representatives, successor in title and permitted assigns and where there are two or more persons included in the expression **"the Purchaser"** their liabilities under this Agreement shall be joint and several;
- (l) **"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;
- (m) **"Vendor"** includes its successors in title and permitted assigns;
- (n) words importing the masculine gender shall be deemed and be taken to include the feminine and neuter genders and the singular to include the plural and vice versa.

32. **PERSONAL BOUND BY AGREEMENT**

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

33. **HEADINGS**

Headings to the clauses of this Agreement are inserted to facilitate reference only and shall not bear any significance to the construction of or the interpretation of the clauses to this Agreement.





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

SIGNED by the said Vendor whose common seal was hereunto affixed in the presence of:-))))

..... Common Seal of Name of Vendor

..... Director Name: NRIC No:

..... Director/Secretary Name: NRIC No:

..... Witness

SIGNED by the said Purchaser NAME OF PURCHASER in the presence of:-))))

.....

..... Witness



FIRST SCHEDULE
(Copy of the following Plans attached)

Reference No:

Name of Appropriate Authority:

1. Floor Plan of the said Parcel with appropriate floor area of _____
2. Storey Plan of the said Building comprising the said Parcel.
3. Site Plan.



SECOND SCHEDULE

COMMON FACILITIES AND SERVICES

1. List and description of common facilities serving the said housing development.
2. List and description of services provided.



THIRD SCHEDULE
(Clause 3(1))

SCHEDULE OF PAYMENT OF PURCHASE PRICE
Progress Payment

Instalment Payable	%	Amount
1. Immediately upon the signing of this Agreement	10	RM
2. Within three (3) months from the date of this Agreement	87.5	RM
3. Issuance of subsidiary title to the said parcel	2.5	RM
TOTAL	100	RM
1. Immediately upon the signing of this Agreement	10	RM
2. Within twenty-one (21) days after receipt by the Purchaser of the Vendor's written notice of the completion of:		
(a) Foundation works	15	RM
(b) Reinforced concrete framework, and floor slab of the said parcel	20	RM
(c) Walls of the said parcel with door and window frames placed in position	20	RM
(d) Roofing/ceiling, electrical conduit (without wiring), plumbing (without fittings), gas pipings (if any) and internal telephone trunking and cabling (if any) to the said parcel	10	RM
(e) Internal plastering of the said parcel	10	RM
(f) External plastering and painting of the said building	5	RM
(g) Painting of the said building	5	RM



(h)	Issuance of Occupation Permit	2.5	RM
(i)	Issuance of subsidiary title to the said parcel	2.5	RM
TOTAL		100	RM

The payment schedule has been amended to reflect that the construction of the building has been completed and OP has been issued. The remaining thing that is pending is the issuance of individual title.



FOURTH SCHEDULE
(Clause 13)

BUILDING SPECIFICATIONS

- (a) Structure:
- (b) Brick:
- (c) Roofing:
- (d) Ceiling:
- (e) Windows:
- (f) Doors:
- (g) Flooring:
- (h) Wall tiles:
- (i) Sanitary Installation:
- (j) Electrical Installation:
- (k) Fencing:
- (m) Turfing:
- (n) Gas Piping:
- (o) Internal Telephone Trunking and Cabling

