



Lands Administration Office Lands Department

Practice Note

Issue No. 9/2000

Offer and Acceptance of Terms for Lease Modifications, Land Exchanges, Private Treaty Grants and other Land Transactions

Since the issue of Practice Note APSS2/99, the existing procedures regarding the binding contract created upon acceptance of terms for lease modifications, land exchanges, private treaty grants and other land transactions have been refined. It has been decided that the acceptance of the terms of offer should in future be returned together with (i) a receipted demand note for the 10% deposit and (ii) a letter signed by the mortgagee(s) of lot(s), if any, confirming that he has no objection to the applicant accepting the offer of terms. A sample of the revised offer letter to give effect to the new arrangement is attached at Appendix. The new offer letter will be used for offers made on or after 2 January 2001.

The procedures will continue to be kept under review.

(R. D. Pope)
Director of Lands
18 December 2000

[Binding Basic Terms Offer Letter for Use with PTGs, Extensions, Modifications (excluding BC Extensions), Regrants of Expired Leases, Exchanges, Lease Extensions. To be amended as appropriate]

By Recorded Delivery

Note : Letter must be addressed to the applicant - not his representative though it may be addressed to him "care of" his representative.

Dear Sir(s),

Lot No. :
Address :
**Proposed Grant/Modification/
Exchange/Lease Extension/etc (as appropriate)**

I refer to our previous correspondence on this matter and now write to advise that I, on behalf of the Government of the Hong Kong Special Administrative Region (hereinafter referred to as "the Government"), hereby offer to proceed with the proposed *[grant/modification/exchange/extension] of the above lot(s) ("the proposed transaction") subject to the following basic terms: -

*[] select as appropriate

★Area of the lot(s)	:	[square meters (about)]
♦Area to be surrendered	:	[square metres (about)]
♦Area to be granted	:	[square metres(about)]
Lease Term	:	
Premium	:	\$
(with 10% deposit being payable upon acceptance of these terms - see below)		

Administrative Fee (balance) :

Rent	:
User	:
Building Covenant	:
Development Conditions	:

The above is a brief summary of the attached set of draft documents for the proposed transaction. Upon acceptance of this offer in accordance with para. 2 below and subject to the compliance with the terms and conditions herein, the documents will be sent to you within 3 calendar months of the Contract Date referred to in para. 3 below for execution by you in the manner and within the time limit as stipulated in para. *[8] below.

*[] adjusted as appropriate

2. If all of the terms and conditions as stated in this letter are acceptable to you, you should signify your acceptance by signing/executing under seal in accordance with your Articles of Association, the docket on the acceptance letter as per the form marked "A" attached to this letter ("the Acceptance Letter") and return it to me together with copy of the received demand note for *[i] 10% of the agreed premium being the deposit ("the Deposit") *[and (ii) the balance of the Administrative Fee] *[and a letter from your mortgagee/chargee, as per the form marked "B" attached to this letter ("the Mortgagee/Chargee's Letter"), confirming that he has no objection to the proposed transaction on the terms offered] on or before [insert the date - 1 month hence]. Failure to comply with the foregoing by the date specified in this paragraph will be deemed withdrawal by you from the proposed transaction in which event the initial Administrative Fee *[and the Legal Advisory and Conveyancing Office's fee ("the LACO fee")] paid will be forfeited.

*[] Delete as appropriate

*[] Delete as appropriate

3. The date of receipt by me of the Acceptance Letter together with copy of the received demand note for the Deposit *[and the balance of the Administrative Fee] *[and the Mortgagee/Chargee's Letter] shall be the date upon which a binding contract is entered into between the Government and yourself/selves ("the Contract Date").

For exchange cases only

4. Upon payment of the Deposit, you or your solicitors should send the following documents to the Legal Advisory and Conveyancing Office ("LACO") of this Department at [insert the address of the relevant LACO district office, with telephone numbers] as soon as possible but in any event within 2 calendar months of the Contract Date :-

[For use where lot(s) is/are subject to Mortgage(s)/Charge(s)]

- (i) if the lot(s) to be surrendered is/are subject to subsisting Mortgage(s)/Legal Charge(s), the Mortgage(s)/Legal Charge(s) will need to be discharged prior to the execution of the documents. A draft Release should be submitted for LACO's approval, if this has not already been done; and
- (ii) your Memorandum and Articles of Association and a copy of the latest Annual Return and Form X of the company.

[For use where the Surrenderer is a company]

Failure to do this will constitute a breach of contract and without prejudice to any other rights and remedies available to the Government, the initial Administrative Fee *[the balance of the Administrative Fee] and the LACO Fee (collectively referred to as "the Fees") and the Deposit paid will be forfeited.

*[] delete as appropriate

#5. According to the Land Registry/ New Territories Land Registry records, the lots to be surrendered are vested in different owners. You will need to instruct your solicitors to unify title to the lots to be surrendered prior to execution of the documents if you have not already done so. You must complete unification of title to the lots and arrange for adjudication, stamping and registration at the Land Registry/ New Territories Land Registry of the Deed(s) of Exchange or Assignment(s) used for achieving unification of title to the lots within 2 calendar months of the Contract Date. Failure to do so will constitute a breach of contract and without prejudice to any other rights and remedies available to the Government, the Fees and the Deposit paid will be forfeited.

#6. It is noted that title to the lot(s) to be surrendered is/are not completely in order. You should contact the Senior Solicitor/LACO [District] regarding this. You will need to rectify any title defect or prove to his/her satisfaction good title to the lot(s) to be surrendered within 2 calendar months of the Contract Date. Failure to do so will constitute a breach of contract and without prejudice to any other rights and remedies available to the Government, the Fees and the Deposit paid will be forfeited.

@7. According to the Land Registry/ New Territories Land Registry

+[] Delete for
non-exchange
cases

records, the lot(s) +[to be surrendered] is/are not registered in your name and you are only the prospective purchaser under [nature of document e.g. ASP] registered by Memorial No. _____. You will need to instruct your solicitors to make arrangements for the current owner to assign the lot(s) to you if you have not already done so. You must complete the said assignment and arrange for adjudication, stamping and registration of the said assignment at the Land Registry/ New Territories Land Registry within 2 calendar months of the Contract Date. Failure to do so will constitute a breach of contract and without prejudice to any other rights and remedies available to the Government, {the Fees}/^Δ{the initial Administrative Fee,/*[and the balance of the Administrative Fee,*/ and the LACO Fee](*[collectively] referred to as "the Fee*[s]")} and the Deposit paid will be forfeited.

*[] delete as appropriate

8. When the documents are sent to you for execution within 3 calendar months of the Contract Date, they will be accompanied by a demand note for the balance of the premium and another demand note for fees payable to the Land Registry/ New Territories Land Registry for the registration of the document(s) for the proposed transaction. You must return the documents duly executed by you ⁰⁰⁰[and your mortgagee/chargee] to me together with the received demand notes for the balance of the premium and for the registration fees within [~][21/28] days of my letter to you enclosing the documents or within 3 calendar months of the Contract Date, whichever is the earlier. Failure to do so will constitute a breach of contract and without prejudice to any other rights and remedies available to the Government, {the Fees}/^Δ{the initial Administrative Fee,/*[and the balance of the Administrative Fee,*/ and the LACO Fee](*[collectively] referred to as "the Fee*[s]")} and the Deposit paid will be forfeited.

*[] delete as appropriate

9. If you do not find the Premium acceptable, you may appeal but such appeal will only be considered by the Government on the condition that you agree to all the basic terms (other than the Premium) as stated in para 1 above, by signing/executing under seal the docket on the letter as per the form marked "C" attached to this letter ("the Appeal Letter") and return it ⁰[together with a copy of the received demand note for the balance of the Administrative Fee] to me on or before the same date as the date specified in para. 2 above for the return of the Acceptance Letter. I must stress that the Premium will be re-assessed as at the date the appeal is considered and it is always possible that the Premium may be increased upon appeal. When the Premium has been re-assessed, a new offer will

be made by the Government to you.

10. If the revised Premium offered by the Government is the same amount as the one you have submitted in accordance with the Appeal Letter and you do not accept such revised Premium, you will be deemed to have withdrawn from the proposed transaction in which event the Fee*[s] paid will be forfeited.

11. If the revised Premium offered by the Government is not the same amount as the one you have submitted in accordance with the Appeal Letter and you do not accept such revised Premium, you may again appeal against such revised Premium. In the event of your submitting further appeal on the Premium, the terms and conditions in paragraph 9 and 10 will apply mutatis mutandis.

12. Any request for amendment to any of the basic terms as quoted above (other than the Premium) after the Appeal Letter has been received by me or any refusal to accept the basic terms so accepted when the new offer of the revised Premium is made by me will be deemed to be withdrawal by you from the proposed transaction in which event the Fee*[s] paid will be forfeited. The request made by you will be deemed to be a new application and the payment of fresh Administrative Fee *[and LACO Fee] will be required before the Government would agree to process the new application.

*[] Delete as appropriate

13. Notwithstanding the execution by you of the Appeal Letter, the Government is at liberty to vary any or all of the basic terms and to include new basic terms in a new offer to be made by the Government to you after the Premium has been reassessed. If you do not accept the offer as stipulated therein, you will be deemed to have elected not to proceed with the proposed transaction in which event the Fee*[s] paid will be refunded without interest to you.

14. Time shall be of the essence of this Agreement.

Yours faithfully,

()
District Lands Officer,

c.c. LACO (District))
⊗ AD/Regional) w/o attachments
AD/V)
CES/V (Attn: PEstO/AV))

Encls.

- ★ For use in PTGs, Regrants of Expired Leases and Extensions.
- ❖ For use in Exchange and Lease Extension cases.
- Ø To be included when payment of balance of Administrative Fee is required.
- ØØ To be used when the lot(s) is/are subject to mortgage(s) or charge(s).
- ØØØ To be used for non-exchange cases when the lot(s) is/are subject to mortgage(s) or charge(s).
- # To be included in exchange cases where unity of title is required or where LACO has identified an apparently rectifiable title defect.
- @ To be included where the applicant is the prospective purchaser of the lot.
- ⊗ Where premium \geq \$100M.
- Δ Delete if definition has been given in previous paragraph and delete *[] as appropriate
- ∞ Time for payment should follow those specified in RAM App. VIII para. 2.1.

“A”

“The Acceptance Letter”

To : District Lands Officer, _____

Lot No. :**Address :**

**Proposed Grant/Modification/
Exchange/Lease Extension/etc. (as appropriate)**

I/We accept the offer and agree to all of the terms as stated in your offer letter dated _____. I/We further accept and acknowledge that the foregoing acceptance shall constitute a binding contract between the Government and myself/ourselves with effect from the date of receipt of this acceptance by you.

*[] delete as appropriate

We enclose the received demand note(s) for *[each of (i)] the Deposit *[and (ii) the balance of the Administrative Fee,] *[and the copy of the letter from my/our mortgagee confirming that he has no objection to the [.....] on the terms offered].

Dated the _____ day of _____.

Witness: _____

(Signed by :) (Signed by :)

Holder of HKID Card No. _____

Holder of HKID Card No. _____

as * _____ /

Seal of _____ and
authorized signature(s) :

Name of Prospective Purchaser(s)/

Registered Owner(s) : _____

Correspondence Address/

Address of Registered Office : _____

Contact Telephone No. : _____

Facsimile No. : _____

Encl.

* Insert capacity in which the letter is being signed. Examples of capacity include "Prospective Purchasers or registered owners".

[on the letterhead]

To : District Lands Officer, _____

Date:

Dear Sir,

Re : Lot No. :
Address :
Proposed Modification :

We, as the Mortgagee/chargee of the above property, hereby acknowledge that by your letter of _____, you have made an offer to _____ (“the Owner”) in respect of the proposed transaction. We confirm that we have no objection to the Owner accepting your offer upon the terms and conditions as set out in your said letter to them.

Yours faithfully,

For and on behalf of

Letter to Appeal Against Premium
“the Appeal Letter”

To : District Lands Officer, _____

Date : _____

Lot No. :
Address :
Proposed Modification/
Exchange/Lease Extension/etc (as appropriate)

With reference to your letter dated _____, I/We hereby lodge an appeal against the Premium amount quoted in your said letter. I/We shall submit to you a revised amount of Premium together with relevant supporting documents to justify such revised amount within 3 calendar months from the date of this letter. I/We agree that if you do not receive from me/us in writing the revised amount of Premium together with the relevant supporting documents within 3 calendar months from the date of this letter for your consideration, I/We will be deemed to have withdrawn from the proposed transaction, in which event, the Initial Administrative Fee[./ the balance of the Administrative Fee,/ and the LACO Fee] will be forfeited.

*[.] Delete as appropriate

*[.] Delete as appropriate

In accordance with para. [9/other appropriate no.] of your said letter, I/We agree to all the basic terms (other than the Premium) as stated in para [1/other appropriate no.] in your said letter*[./ The receipted demand note for the balance of the Administrative Fee is enclosed.]

Yours faithfully,

Name of Prospective Purchaser(s)/
 Registered Owner(s) : _____

For and on behalf of

Correspondence Address/
 Address of Registered Office : _____

Contact Telephone No. _____

Facsimile No. _____

*[] Delete as appropriate

*[Encl]

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