

GUIDELINES FOR DEEDS OF MUTUAL COVENANT (“DMCs”)
ISSUED BY THE LAW SOCIETY

Compliance with
BMO and the land
grant

1. (a) No provision in a DMC shall contradict, overrule or fail to comply with the provisions of the Building Management Ordinance, Cap. 344 (“the BMO”) and the Schedules thereto.
- (b) No provision in a DMC shall conflict with or be in breach of the conditions of the land grant.
- (c) All the owners (including the developer) and the manager must covenant with each other to comply with the conditions of the land grant so long as they remain as owners and manager.
- (d) (i) The provisions of Schedules 7 and 8 to the BMO must be incorporated in and form part of the DMC either by reference or by setting them out in full.
- (ii) For the purpose of sub-paragraph (d)(i) above, it will not be sufficient for the DMC to incorporate provision to the effect that “in the event of any conflict with any provision in the DMC, the provisions of Schedules 7 and 8 to the Building Management Ordinance shall prevail”.

Definitions

2. For the purposes of the Guidelines:
 - (a) "owner" must be as defined in the BMO.
 - (b) "management expenses" means expenses, costs and charges necessarily and reasonably incurred in the management of the development.
 - (c) “unit” has the same definition as “flat” under the BMO.

Common areas

3. (a) The DMC must include a definition of the common areas and common facilities ("common areas"). Unless otherwise justified, the common parts specified in the Schedule 1 to the BMO must form part of the common areas. Undivided shares must be allocated to all the common areas and those shares together with the common areas must be assigned to and vested in the manager free of costs or consideration as trustee for all owners upon

execution of the DMC. The manager must assign the undivided shares free of costs or consideration to his successor as manager on termination of his appointment, or to the Owners' Corporation at any time, if so required by it.

- (b) Plans showing the common areas must be annexed to the DMC and certified as to their accuracy by or on behalf of the Authorized Person. A copy of the plans must be kept in the management office for inspection by the owners during normal office hours free of costs and charges.

Parking spaces and
related common areas

- 4. (a) Subject to the conditions of the land grant and sub-paragraphs (b) and (c) below, the whole of the car park areas, except those parking spaces shown and delineated on the car park layout plan approved by the Building Authority ("parking spaces") must form part of the common areas.
- (b) The following spaces (if any) must form part of the common areas:-
 - (i) parking spaces in residential developments designated for use by visitors of residents;
 - (ii) loading and unloading spaces provided in accordance with the minimum or fixed rate specified in the conditions of the land grant;
 - (iii) spaces which are intended for the benefit of owners as a whole or otherwise not of any individual owner, e.g. refuse collection vehicle spaces, circulation and manoeuvring spaces;
 - (iv) bicycle parking spaces.
- (c) If the developer retains ownership of the whole car park areas, sub-paragraphs (a) and (b) above will not apply and the developer will be solely responsible for the management and maintenance of the whole car park areas. Upon the sale of the car park areas (except as a whole), car park common areas must be designated by way of a sub-DMC in compliance with sub-paragraphs (a) and (b) above and in such event, Paragraph 5(b) shall not apply.

No conversion of
common areas

5. (a) No owner (including the developer) may convert any of the common areas to his own use or for his own benefit unless the approval of the Owners' Committee has been obtained. Any payment received for the approval must be credited to the Special Fund.

No conversion to
common areas

- (b) Subject to Paragraphs 4(c) and 5(c), no owner (including the developer) will have the right to convert or designate any of his own areas (that is areas to which he is entitled to exclusive use, occupation or enjoyment) as common areas unless the approval by a resolution of owners at an owners' meeting convened under the DMC has been obtained. No owner (including the developer) and no manager will have the right to re-convert or re-designate the common areas to his or its own use or benefit save as otherwise provided for when the area in question was so converted or designated.
- (c) Notwithstanding Paragraph 5(b), an owner (including the developer) may convert or designate any of his own areas as common areas for the common use or benefit of some but not all the owners ("the affected owners"); and in that event, only the approval of the affected owners will be required Provided That no expenses for the maintenance or management of such common areas shall be borne or paid by any other owners who do not share in the common use or benefit thereof. The affected owners may not reconvert or re-designate any such common areas to the own use or benefit of one or more of them unless it is so provided for when the area in question was so converted or designated.

Allocation of
undivided shares and
management shares

6. (a) Subject to sub-paragraphs (b), (c) and (d) below, the allocation of undivided shares and management shares will be calculated by reference to the gross floor area of a unit in proportion to the gross floor area of the development as certified by the Authorized Person. For the purpose of this Guideline, gross floor area includes any gross floor area which has been exempted under the conditions of the land grant or the Buildings Ordinance, Cap. 123.
- (b) If any basis other than gross floor area is used for the allocation of undivided shares and management shares, then this should not result in disproportionate management charges being imposed on or voting rights being granted to e.g. the owners of any specific parts of a development or the prevention or hindrance of incorporation of an Owners' Corporation.

- (c) The allocation of undivided shares and management shares to parking spaces, gardens, flat roofs, balconies, utility platforms and other similar spaces attached to a unit may be made on a notional basis/lesser ratio than a strict gross floor area basis, provided that each type of these spaces is calculated on the same basis.
- (d) The undivided shares to be allocated to the common areas must be made on a notional basis.

Liability and rights in respect of common areas

7. The undivided shares allocated to the common areas will not carry any liability to pay charges under the DMC or any voting rights at any meeting whether under the DMC, the BMO or otherwise nor will those undivided shares be taken into account for the purpose of calculating the quorum of any meeting.

Manager's appointment

8. (a) Subject to the provisions of the BMO, the initial period of management by the first manager must not exceed two years from the date of appointment under the DMC.
- (b) Prior to the formation of the Owners' Corporation, the Owners' Committee may at any time terminate the manager's appointment without compensation by a resolution passed by a majority of votes of owners voting either personally or by proxy in an owners' meeting and supported by owners of not less than 50% of all undivided shares in aggregate (excluding the undivided shares allocated to the common areas) and by giving the manager 3 months' notice in writing.

First owners' meetings

9. The manager must call the first meeting of owners as soon as possible, but in any event not later than 9 months after the date of the DMC (and to call further and subsequent meetings if required), which meeting must appoint a chairman and committee of owners or must appoint a management committee for the purpose of forming an Owners' Corporation under the BMO.

Owners' Corporation 10.
etc. to replace
Owners' Committee
and meetings

10. During the existence of an Owners' Corporation, the general meeting of the Owners' Corporation convened under the BMO will take the place of the owners' meeting convened under the DMC, and where a management committee of the Owners' Corporation is or has been appointed, the management committee will take the place of the Owners' Committee.

- | | | |
|-------------------------------|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Manager to represent owners | 11. | Subject to the provisions of the BMO, the manager will have the authority to act for and on behalf of all owners in accordance with the provisions of the DMC. |
| Manager's right to enter unit | 12. | The manager will, on reasonable notice (except in an emergency), be allowed to enter any unit for the purpose of carrying out necessary repairs to the development or to abate any hazard or nuisance which does or may affect the common areas or other owners. The DMC must provide for the manager repairing (at his own costs and expense) any damage so caused and for his liability for the negligent, wilful or criminal acts of the manager, employees, contractors etc. |
| Insurance | 13. | <p>(a) The manager (unless otherwise directed by the Owners' Corporation) will be responsible for taking out and updating insurance to the full new reinstatement value in respect of loss or damage by fire and other risks in respect of the common areas and also for insurance covering public liability, occupier's liability and employer's liability. There is no objection to provisions for the manager procuring block insurance for the entire development including those areas which are not the common areas.</p> <p>(b) There is no requirement that the insurance over the employer's liability taken out by the manager must only cover the employees employed within or exclusively in connection with the management of the development.</p> |
| Procurement of services | 14. | <p>(a) Except with the prior approval by a resolution of owners at an owners' meeting convened under the DMC, the manager will not carry out any improvements to common areas or facilities or services which involve expenditure in excess of 10% of the current annual management budget.</p> <p>(b) Subject to provisions in Schedule 7 to the BMO, the procurement of supplies, goods, or services by the manager or the Owners' Committee that involves an amount in excess of or likely to be in excess of \$200,000 (or such other sum as the Secretary for Home Affairs may specify by notice in the Gazette) or an amount which is or is likely to be more than 20% of the annual budget (or such other percentage as the Secretary for Home Affairs may specify by notice in the Gazette), whichever is the lesser, must be by invitation to tender and the standards and guidelines as may be</p> |

specified in a Code of Practice referred to in section 20A of the BMO will apply to the manager or the Owners' Committee with any appropriate variations.

- | | | |
|-----------------------------------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Employment of agents etc. | 15. | The manager may appoint or employ agents, contractors or sub-managers (including professional property management companies) to carry out various aspects of the management works or management works in respect of certain area(s) of the development but the manager must not transfer or assign his duties or obligations under the DMC to any of those persons. The manager must at all times remain responsible for the management and control of the whole development and no provision in the DMC shall take away or reduce that responsibility. |
| Manager's liability | 16. | The DMC must not exclude the liability of the manager to the owners for any act or omission involving criminal liability, dishonesty or negligence on the part of the manager or his employees, agents or contractors and no owner will be required to indemnify the manager or his employees, agents or contractors from and against any action, claim etc. arising out of any such act or omission. |
| House rules | 17. | The manager may make house rules before the formation of an Owners' Committee. Amendments to the house rules may be made by the manager with the approval of the Owners' Committee (if any). The house rules and any amendments must not be inconsistent with or contravene the DMC, BMO or the conditions of the land grant. |
| Environmental protection measures | 18. | The manager may make house rules to protect the environment of the development and to implement noise abatement, waste reduction and recycling measures with reference to guidelines on property management issued from time to time by the Director of Environmental Protection. |
| Manager's remuneration | 19. (a) (i) | For residential developments, the manager's remuneration must not exceed a percentage of the total expenses, costs and charges necessarily and reasonably incurred in the management of the development. The percentage must be based on the total number of residential units and parking spaces in the development and must not exceed the following : - |

20 residential units and parking spaces or below	20%
21 to 100 residential units and parking spaces	15%
101 residential units and parking spaces or above	10%

- (ii) For non-residential developments, the manager's remuneration must not exceed 15% of the total expenses, costs and charges necessarily and reasonably incurred in the management of the development.
- (iii) For composite developments comprising both residential and non-residential units, sub-paragraph (a)(i) above will apply as if each non-residential unit is a residential unit.
- (b) No variation of the percentages in sub-paragraph (a) above may be made except with approval by a resolution of owners at an owners' meeting convened under the DMC.
- (c) For the purpose of calculating the manager's remuneration, the total expenses, costs and charges necessarily and reasonably incurred in the management of the development or any portion of it must exclude (i) the manager's remuneration itself and (ii) any capital expenditure or expenditure drawn out of the Special Fund provided that by a resolution of owners at an owners' meeting convened under the DMC, any capital expenditure or expenditure drawn out of the Special Fund may be included for calculating the manager's remuneration at the rate applicable under sub-paragraph (a) or (b) above or at any lower rate as considered appropriate by the owners.

- Owners' contribution 20. (a) Except where the developer has made payments in accordance with Guideline 23, provisions may be made in the DMC for the first owner of each unit (i.e. assignee from the developer) to pay to the manager the following amounts:
- (i) a refundable or transferable deposit of not more than 3/12 of the first year's budgeted management expenses;
 - (ii) an advance payment of management fees of not more than 2/12 of the first year's budgeted management expenses; and

- (iii) a debris removal charge of not more than 1/12 of the first year's budgeted management expenses in the case of a residential unit or 3/12 in the case of a non-residential unit.
- (b) All payments, deposits, charges and contributions payable under the DMC by the first owners which are neither transferable nor refundable (including contribution to the Special Fund), must not exceed in total 5/12 for residential units or 7/12 for non-residential units of the first year's budgeted management expenses.
- (c) There is no objection to a provision requiring the owners to further contribute to the deposit referred to in sub-paragraph (a)(i) above so as to make it up to not more than 25% of any subsequent current year's budgeted management expenses per unit.
- (d) Any monies paid as debris removal charge not used to pay for debris collection or removal must be credited to the Special Fund.

Special Fund for
capital etc.
expenditure

21. (a) The DMC must provide for the establishment and maintenance of one special fund ("the Special Fund") for the purpose of paragraph 4 of Schedule 7 to the BMO.
- (b) The Special Fund will be held by the manager as trustee for all owners, to provide for expenditure of a capital nature or of a kind not expected to be incurred annually, which includes, but is not limited to, expenses for the renovation, improvement and repair of the common areas, the purchase, setting up, replacement, improvement and addition of installations, systems, equipment, tools, plant and machineries for the common areas and the costs of the relevant investigation works and professional services.
 - (c) The payments made by the owners towards the Special Fund are neither refundable to any owner by the manager nor transferable to any new owner.
 - (d) (i) Except where the developer has made payments in accordance with Guideline 23, as an initial contribution to the Special Fund, the first owner of each unit must, upon the assignment of the unit from the developer, pay to the manager for the Special Fund an amount equivalent to 2/12 of the first year's budgeted management expenses.

(ii) Each owner must covenant with the other owners to make further periodic contributions to the Special Fund. The amount to be contributed in each financial year and the time when those contributions will be payable will be determined by a resolution of owners at an owners' meeting convened under the DMC.

(e) All monies received for the Special Fund must be deposited by the manager with a bank within the meaning of section 2 of the Banking Ordinance, Cap. 155 in an interest-bearing account designated for the purposes of the Special Fund. Except in a situation considered by the manager to be an emergency, money must not be paid out of the Special Fund unless it is for a purpose approved by the Owners' Committee. The manager must not use the Special Fund for the payment of any outstanding management expenses arising from or in connection with the day-to-day management of the development.

Owners' liability
for management
expenses

22. (a) No owner may be called upon to pay more than his appropriate share of management expenses, having regard to the number of undivided or management shares, as the case may be, allocated to the unit.
- (b) The developer must make payments and contributions for those expenses which are of a recurrent nature for those units and undivided shares unsold, provided however that a developer will not be obliged to make payments and contributions in respect of units and undivided shares allocated to a separate building or phase, the construction of which has not been completed, except to the extent that the building or phase benefits from provisions in the DMC as to management and maintenance (e.g. as to the costs of managing and maintaining slopes or as to security etc provided by the management of the completed parts) of the development.
- (c) All outgoings including management expenses and any Government rent up to and inclusive of the date of assignment of the unit must be paid by the developer. An owner must not be required to make any payment or reimburse the developer for these outgoings.

Developer's contribution to fees and deposit	23.	The developer must make the initial contribution to the Special Fund and pay the management fee deposit and debris removal charge if he remains the owner of those undivided shares allocated to units in that part of the development the construction of which has been completed and which remain unsold 3 months after execution of the DMC.
Management budget and accounts	24.	For a development comprising residential units, non-residential units, parking spaces or any combination of them, the manager must keep separate management accounts and budgets for each part. The owners of the residential units, non-residential units and parking spaces will only be liable to contribute to the management and maintenance costs of their respective parts (e.g. owners of residential units will only be responsible for residential common areas). All owners will be liable for development common areas.
Audit of accounts	25.	Prior to the formation of the Owners' Corporation, the owners at an owners' meeting convened under the DMC must have power to require the annual accounts to be audited by an independent auditor of their choice.
Manager's consent	26.	Where the manager's consent is required under the DMC, the DMC must provide that it must not be unreasonably withheld and that the manager must not charge any fee other than a reasonable administrative fee for issuing the consent. The fee must be credited to the Special Fund.
Interest and collection charge	27.	Interest at a rate not exceeding 2% per annum above the prime rate from time to time specified by the Hong Kong and Shanghai Banking Corporation Limited and a collection charge not exceeding 10% of the amount due may be imposed on any owner failing to pay sums due under the DMC within 30 days of demand and the amounts of such interest and collection charge plus any legal costs (on a solicitor and own client basis) involved in recovering them may be the subject of a charge on the owner's undivided shares. All interest and collection charges received must be credited to the Special Fund.

Utilities and
management
services

28. (a) There must be no provision in the DMC for interrupting the supply of electricity, water, gas, telecommunications or other utilities to any unit or to prevent access to the unit by reason of the owner of that unit failing to pay any fees or to comply with any other provisions under the DMC.
- (b) The manager may discontinue providing management services to owners who fail to pay fees or to comply with any other provisions under the DMC and the manager may, if the DMC provides for it, register and enforce a charge against the interest of an owner who fails to pay any sum which is payable to the manager under the DMC.

Sub-DMC

29. The developer may reserve rights to execute sub-DMCs in respect of separate towers, phases etc.

All sub-DMCs (as well as the principal DMC) shall be drafted in accordance with the Guidelines (save and except those Guidelines already incorporated in the principal DMC and remain applicable to matters to be governed by the sub-DMC).

For drafting of a sub-DMC, if compliance of the Guidelines will be in conflict with the provisions of the principal DMC, the Guidelines shall only apply to the extent necessary to avoid any such conflict. If a sub-DMC fulfils all of the conditions set out in (a), (b) and (c) below, the Guidelines shall not be applicable to that sub-DMC:

- (a) where the sub-DMC relates only to the internal sub-division of an existing unit and by the sub-DMC there will be no alteration to common areas or liability for management or other charges under the principal DMC; and
- (b) where by virtue of the sub-DMC, no area will be designated as common areas for the sub-divided units; and
- (c) where the sub-DMC has complied with paragraph 6 of the Guidelines in allocation of undivided shares and management shares.

- | | | |
|------------------------------|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Reservation
of rights | 30. | The developer/manager is permitted to reserve rights for himself, his licensees or other third parties to install or affix chimneys, flues, pipes or any other structures or facilities on or within the common areas provided that the written approval by a resolution of owners at an owners' meeting convened under the DMC has been obtained before the exercise of the rights. Any payment received for the approval must be credited to the Special Fund. |
| Retained Areas | 31. | <p>Subject to the conditions of the land grant, the developer may reserve rights to retain for his own use any unsold part or parts of the lot not being common areas ("the Retained Areas") provided that: -</p> <ul style="list-style-type: none"> (a) the Retained Areas and their proposed use must be clearly defined and identified in the DMC; and (b) the Retained Areas must be allocated a number of undivided shares and management shares on the same basis as set out in Guideline 6, and the developer must remain liable to contribute to the management and other charges and payments for them so long as it retains the Retained Areas. |
| No structural
alterations | 32. | <ul style="list-style-type: none"> (a) An owner must not make any structural alteration which will interfere with or affect the rights of other owners. No provision shall be made in the DMC which prevents an owner from taking legal action against another owner in this respect. (b) Where the land grant contains restrictions on the minimum number, and/or the size, of residential units, the DMC must incorporate provisions to the following effect: <ul style="list-style-type: none"> (i) no owner shall carry out or permit or suffer to be carried out any works in connection with any residential unit, including but not limited to demolition or alteration of any partition wall or any floor or roof slab or any partition structure, which will result in such unit being internally linked to and accessible from any adjoining or adjacent residential unit, except with the prior written consent of the relevant Government authority prescribed by the land grant and if given, may be subject to such terms and conditions (including payment of fees) as may be imposed by the relevant Government authority; and |

(ii) the manager shall deposit in the management office the record provided by the relevant Government authority of the information relating to the consent given under the provision in the DMC referred to in (i) above for inspection by all owners free of costs and for taking copies at their own expense and on payment of a reasonable charge, all charges received to be credited to the Special Fund.

(c) Where the land grant contains restrictions on the minimum number, and/or the size, of residential units and also a restriction on merging of residential units without the prior written consent of the relevant Government authority prescribed by the land grant, the DMC must incorporate provision to the following effect:

The manager shall deposit in the management office the record provided by the relevant Government authority of the information relating to the consent given under the land grant for inspection by all owners free of costs and for taking copies at their own expense and on payment of a reasonable charge, all charges received to be credited to the Special Fund.

Reinstatement

33. The DMC must provide that, if the whole or any part of the development has been damaged by fire, typhoon, earthquake, subsidence or other causes rendering it substantially unfit for use or habitation or occupation, the owners of not less than 75% of the undivided shares allocated to that damaged part(s) of the development (excluding the undivided shares allocated to the common areas) may convene a meeting and decide by a resolution of not less than 75% of those present at the meeting whether or not to rebuild or reinstate the damaged part(s) of the development. The resolution is to be binding upon all the owners of the damaged part(s).

Green and innovative features 34.

Where a development comprises green and innovative features which are exempted from the calculation of gross floor area or site coverage or both by the Building Authority and the Director of Lands, the DMC will include provisions to the following effect :

- (a) (i) balconies and the covered areas beneath the balconies must not be enclosed above safe parapet height other than as under the approved building plans;
- (ii) utility platforms and the covered areas underneath the utility platforms must not be enclosed above safe parapet height other than as under the approved building plans;
- (iii) communal sky gardens, communal podium gardens and greenery areas must be designated as common areas
- (iv) air-conditioner platforms (complying with the criteria set out in Appendix B of the Code of Practice on Access for External Maintenance 2021 or as amended or substituted from time to time) provided on balconies or on utility platforms must be designated as “areas for air-conditioning” and individual air-conditioner (“AC”) platforms *(including all types of structures for supporting AC (such as metal frame), but does not include individual AC box/ hood approved by the Building Authority)* must not be erected at the external wall of the building.

For the purpose of this Guideline, the DMC will include provisions to the above effect in compliance with the undertakings in relation to the development as required under paragraph 2 of Appendix A to Joint Practice Notes Nos.1 and 2 of the Buildings Department, Lands Department and Planning Department, where applicable.

- (b) Except with the prior consent of the Building Authority, communal sky gardens must not be used for any purposes or by any persons other than for the following purposes and by the following persons :
 - (i) communal sky gardens must have natural ventilation, greenery and recreational garden space for communal use;
 - (ii) communal sky gardens in residential developments must be for the common use and benefit of the residents, tenants and their visitors only;

- (iii) communal sky gardens in non-residential developments must be for the common use and benefit of the owners, occupiers, tenants and their visitors only.
- (c) Except with the prior consent of the Building Authority, communal podium gardens in non-residential developments must not be used for any purposes or by any persons other than for the following purposes and by the following persons:
 - (i) communal podium gardens must not be used for any purpose other than as a sitting-out area;
 - (ii) communal podium gardens must be for the common use and benefit of the owners, occupiers, tenants and their visitors only.
- (d) There must be conditions in the DMC for the control, operation, financial support and maintenance of the green and innovative features. For features such as balconies and utility platforms of which an owner has the right to the exclusive possession or the exclusive right to the use, occupation and enjoyment, the owner must be responsible for the financial support and maintenance of the same.
- (e) The location of the green and innovative features should be clearly identified. If the location is identified by plans, the accuracy of the plans must be certified by or on behalf of the Authorized Person.

- Slope maintenance
35. Where the owners are required to maintain or carry out works in respect of any and all slopes, slope treatment works, retaining walls and other structures (collectively “slope structures”) within or outside the lot as required by the conditions of the land grant:
- (a) the owners must do so at their own expense and in accordance with “Geoguide 5 - Guide to Slope Maintenance” issued by the Geotechnical Engineering Office (as amended or substituted from time to time) and the maintenance manual for the slope structures ("slope maintenance manual") prepared in accordance with Geoguide 5;

- (b) if there is one or more slope structures, a plan of a scale of not less than 1:500 showing (for identification purposes only) all the slope structures existing at the date of the DMC, certified by the Authorized Person that it includes all the slope structures must be annexed to the DMC;
- (c) the manager (which for this purpose must include the Owners' Corporation) must be given full authority by the owners to engage suitable qualified personnel to inspect, keep and maintain in good substantial repair and condition, and carry out any necessary works in respect of, the slope structures in compliance with the conditions of the land grant and in accordance with the slope maintenance manual and all guidelines issued from time to time by the appropriate Government departments regarding the maintenance of the slope structures;
- (d) the DMC must have adequate provisions for the payment to the manager by all owners of all costs lawfully incurred or to be incurred by the manager in carrying out maintenance, repair and any other works in respect of the slope structures;
- (e) the manager must not be made personally liable for carrying out these requirements of the conditions of the land grant, which must remain the responsibility of the owners if, having used all reasonable endeavours, the manager has not been able to collect the costs of the required works from all owners; and
- (f) the DMC must provide for the developer to deposit a full copy of the slope maintenance manual in the management office within one month after the date of the DMC for inspection by all owners free of charge and taking copies upon payment of a reasonable charge. All charges received must be credited to the Special Fund.

Maintenance of
Works and
Installations

36. (a) There must be incorporated in the DMC a schedule of all major works and installations ("the Works and Installations") in the development, which will require regular maintenance on a recurrent basis. The schedule must include the following items :

- (i) structural elements;
 - (ii) external wall finishes and roofing materials;
 - (iii) fire safety elements;
 - (iv) the slope structures (if applicable);
 - (v) plumbing system;
 - (vi) drainage system;
 - (vii) fire services installations and equipment;
 - (viii) electrical wiring system;
 - (ix) lift installations (if applicable);
 - (x) gas supply system;
 - (xi) window installations; and
 - (xii) other major items (e.g. central air-conditioning and ventilation system, escalators etc.)
- (b) The developer must compile for the reference of the owners and the manager a maintenance manual for the Works and Installations (“maintenance manual for the Works and Installations”) setting out the following details :
- (i) As-built record plans of the building and services installations together with the necessary technical information (such as specifications of materials and design standard) for maintenance of all facilities and equipment;
 - (ii) All warranties and guarantees provided by contractors (together with the names of the companies providing the warranty and the contact telephone numbers) in respect of all facilities and equipment;
 - (iii) Recommended maintenance strategy and procedures;
 - (iv) A list of items of the Works and Installations requiring routine maintenance;
 - (v) Recommended frequency of routine maintenance inspection;
 - (vi) Checklist and typical inspection record sheets for routine maintenance inspection; and
 - (vii) Recommended maintenance cycle of the Works and Installations.

- (c) The developer must deposit a full copy of the maintenance manual for the Works and Installations in the management office within one month after the date of the DMC for inspection by all owners free of charge and taking copies at their own expense and on payment of a reasonable charge. All charges received must be credited to the Special Fund.
- (d) The owners must at their own expense inspect, maintain and carry out all necessary works for the maintenance of the development and their own units including the Works and Installations.
- (e) All costs incidental to the preparation of the schedule and the maintenance manual for the Works and Installations will be borne by the developer.
- (f)
 - (i) Provisions must be made in the DMC to provide for future revisions to the schedule and the maintenance manual for the Works and Installations as may be necessary (e.g. the addition of works and installations in the development, the updating of maintenance strategies in step with changing requirements etc.).
 - (ii) The owners may, by a resolution of owners at an owners' meeting convened under the DMC, decide on revisions to be made to the schedule and the maintenance manual for the Works and Installations, in which event the manager must procure from a qualified professional or consultant the revised schedule and the revised maintenance manual for the Works and Installations within such time as may be prescribed by the owners in an owners' meeting convened under the DMC.
 - (iii) All costs incidental to the preparation of the revised schedule and the revised maintenance manual for the Works and Installations will be paid out of the Special Fund.

- (iv) The manager must deposit the revised maintenance manual for the Works and Installations in the management office within one month after the date of its preparation for inspection by all owners free of charge and taking copies at their own expense and on payment of a reasonable charge. All charges received must be credited to the Special Fund.

- | | |
|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Telecommunications network areas | <p>37. (a) Areas for the installation or use of aerial broadcast distribution or telecommunications network facilities must form part of the common areas.</p> <p>(b) The DMC must provide that contracts for the installation or use of aerial broadcast distribution or telecommunications network facilities and contracts for the provision of broadcast distribution network or telecommunications network services to be entered into by the manager must be subject to the following conditions:</p> <ul style="list-style-type: none"> (i) the term of the contract will not exceed 3 years; (ii) the right to be granted under the contract must be non-exclusive and must provide for sharing the use of the facilities and network with other service providers; and (iii) no owner is required to make any payment in any form attributable to the installation or provision of the facilities or services, unless he is a subscriber to the relevant service. |
| Address for service of notice | <p>38. All owners of undivided shares who do not occupy the units to which those shares relate must provide the manager with an address in Hong Kong for service of notices under the DMC.</p> |
| Chinese translation of DMC | <p>39. (a) The developer must at his own cost provide a direct translation in Chinese of the DMC. The developer must deposit a copy of the DMC and the Chinese translation in the management office within one month after the date of the DMC for inspection by all owners free of costs and for taking copies at their own expense and upon payment of a reasonable charge. All charges received must be credited to the Special Fund.</p> |

- (b) The developer must deposit a copy of Schedules 7 and 8 to the BMO (English and Chinese versions) in the management office for reference by all owners free of costs and for taking copies at their own expense and upon payment of a reasonable charge. All charges received must be credited to the Special Fund.

Fireman's lift lobby and protected lobby to required staircase	40.	Any lift lobby serving a fireman's lift ("fireman's lift lobby") and any protected lobby to a required staircase must be designated as common areas. Partial designation of such fireman's lift lobby and protected lobby to a required staircase as common areas (with the rest forming part of the adjoining residential unit) would not be accepted.
Noise abatement and dust protection measures	41.	For phased developments, the DMC must provide for the developer to provide, at his own expense, temporary noise abatement and dust protection measures within the development in relation to the units in the completed phase(s) ("the Units") so as to minimize inconvenience to the owners and occupiers of the Units arising from the continuing construction of the uncompleted phase(s) on the lot.

Notes to Guidelines

- (1) The Guidelines apply to all developments regardless of user and size. Members should note that the Guidelines should be followed and be regarded as the "*norm*" and that waivers to these Guidelines are the "*exception*". The Law Society reserves the right to approve or reject any application for waiver of the Guidelines or to impose any other requirements as may be appropriate to the circumstances of any particular case. A request for deviation from the Guidelines must be fully justified.
- (2) These Guidelines are not intended to be incorporated into DMCs verbatim, but to indicate a broad framework of what is required in a straightforward case. The wording used should be suitably adapted for particular cases provided that the DMC shall comply with and not be contrary to the spirit of the Guidelines.
- (3) The AP Certificate must set out clearly the basis of allocation of undivided shares and management shares. The schedules of undivided shares and management shares to the DMC must tally with the allocation set out in the AP Certificate and should be carefully checked for accuracy.

- (4) Where a development comprises green and innovative features which are exempted from the calculation of gross floor area or site coverage, members should ensure the relevant conditions or provisions imposed by the undertaking(s) as required under paragraph 2 of Appendix A to Joint Practice Notes Nos.1 and 2 of Buildings Department, Lands Department and Planning Department and such other undertakings (if any) are duly incorporated into the DMC.
- (5) Regarding the obligations in Guideline 35, members should, except in plain and obvious cases where no slope structures are involved, consider obtaining an Architect Certificate to verify whether there are slope structures to maintain or carry out work in respect thereof, and for which there is an obligation to annex a plan under Guideline 35(b).