

## **Residential Properties (First-hand Sales) Ordinance**

### **Frequently Asked Questions and Answers (FAQs)**

FAQs are not guidelines. They aim to facilitate the trade to understand how the Sales of First-hand Residential Properties Authority (SRPA) looks at specific provisions of the Residential Properties (First-hand Sales) Ordinance.

Users of the FAQs should not rely on the information in the FAQs as professional legal advice and are strongly advised to seek legal or other professional advice should there be doubts about the application of the Ordinance in individual circumstances. Whilst every effort has been made to ensure the accuracy of the FAQs, the SRPA shall not be responsible for any liability howsoever caused to any person by the use or reliance on the FAQs.

### **Sales Brochure**

#### *General*

**Q1 Can the sales brochure prepared for the purposes of section 25 of the Ordinance be divided in two or more volumes?**

**A1** Vendors may split the sales brochure for a development or a phase of a development into two or more volumes. However, the information should be set out in the order as specified in sections 19 to 21 of the Ordinance. Also, vendors should make available all the volumes to the general public in the sales offices and websites.

**Q2 Section 24(1) of the Ordinance requires the sales brochure be printed in English and Chinese? For the Chinese version, should it be traditional Chinese or simplified Chinese?**

A2 The sales brochure should be printed in English and Chinese. For the Chinese version, either traditional Chinese or simplified Chinese is acceptable as far as the Ordinance is concerned. That said, vendors may wish to consider public acceptance if they intend to produce the Chinese version of a sales brochure in simplified Chinese only, taking into account the target readers of the sales brochure.

**Q3 If more than one authorized person (AP) or building contractor has been hired for the building works of a development at different time points, should the names of all such APs and building contractors be provided in the sales brochure under section 2(2) in Part 1 of Schedule 1 to the Ordinance?**

A3 If more than one AP or building contractor has been hired for a development at different time points, vendors are only required to state the name of the person holding such capacity as at the date of printing of the sales brochure.

However, if the vendors so wish, they may provide the names of all the APs or building contractors that have been hired for the development in the past, provided that the period of appointment in relation to each of such persons is clearly indicated.

**Q4 Can the name of the development be set out in a sales brochure? Can the district of the development be set out in a sales brochure?**

A4 While there are various requirements under Division 2 of Part 2 of the Ordinance on the contents of sales brochure for a development, there is no requirement as to how a development is

to be identified in the sales brochure. Thus, the development may be referred to in the sales brochure by its name.

Vendors should only provide the street name and the street number of the development as allocated by the Commissioner of Rating and Valuation, but not the district of the development, in the sales brochure.

**Q5 The Ordinance requires various mandatory information be set out in a sales brochure of the development. Can such information be set out in the sales brochure in the form of a remark or footnote?**

A5 Information required to be set out in a sales brochure under sections 19 to 23 of the Ordinance is important information for prospective purchasers. The use of explanatory notes or remarks for the main text are allowed (but they should not impose condition(s) or restriction(s) to the information in the main text) in order to provide some flexibility as to the presentation of the requisite information in the sales brochure, which may be more readable as a result. There is no reason why information that should be set out in the main text is all placed in the explanatory notes or remarks. Inappropriate presentation of information in the sales brochure will cause confusion to readers, which should be avoided.

**Q6 Section 24(7) of the Ordinance stipulates that a reference to an explanatory note or remark for the main text of the sales brochure excludes a note or remark that qualifies the contents of the main text. What does it mean by “qualifies the contents of the main text”?**

A6 If a note or remark gives information that will impose condition(s) or restriction(s) on the main text, it has qualified the contents of the main text.

Examples of notes or remarks which may be regarded as “qualifiers” are as follows –

- “In case of inconsistency between English version and Chinese version, the English version shall prevail”; and
- “The residents may need to pay a fee to use the facilities mentioned above”.

Examples of “explanatory remark” are as follows –

- The figures have been rounded up to 2 decimal places; and
- The plan is prepared according to the building plans approved by the Building Authority on 1 January 2012.

For the scenarios as set out in the FAQs which we consider that vendors may use an explanatory note or remark to provide information in a sales brochure (e.g. information on features in a residential property to be mentioned in a floor plan of the residential properties in a development, information to be mentioned in a floor plan of parking spaces in a development, information on the fittings, finishes and appliances in residential properties which are no longer owned by the vendor, and information on the name of any authorized institution that has made a loan or has undertaken to provide finance for the construction of a development), we will not consider them as a “qualifier”. FAQs 8, 27, 31, 65 are relevant.

**Q7 The Ordinance requires setting out different information relating to the development in the sales brochure (as set out in sections 19 to 23 of the Ordinance). What if the information is not yet confirmed and not yet available at the time of printing of the sales brochure?**

**A7** For information required to be provided in a sales brochure under sections 19(2) and Part 2 of Schedule 1 as applied by section 19(3) of the Ordinance, if the required information is not applicable to the development, a paragraph for such information

with the appropriate heading should be provided in the sales brochure stating that such information is not applicable to the development. For example, if the information on “maintenance of slopes” under section 27 in Part 2 of Schedule 1 to the Ordinance is not applicable to the development, an appropriate heading (e.g. maintenance of slopes”) should be provided and “not applicable” should be stated. If the information required under a **subsection** of a section in Parts 1 and 2 of Schedule 1 is not applicable, vendor should state clearly which subsection is not applicable.

If the required information is applicable to the development but is not yet confirmed at the time when the sales brochure is printed, the vendor should in their best endeavor provide in the sales brochure the latest information on those aspects known to him, though not yet confirmed. The accuracy of the information in question should be considered when the sales brochure is examined as provided under section 17 of the Ordinance and such information may be revised if necessary.

#### *Measurements of a residential property*

**Q8    Apart from the “saleable area” as stipulated in section 8 of the Ordinance and the areas of any of those 10 items as specified in Part 1 of Schedule 2 to the Ordinance, there may be other types of areas which form part of a specified residential property and which the vendors are selling to the purchaser. How and where in a sales brochure can the vendors describe and set out those areas?**

A8    Information required to be provided in a sales brochure and a price list is stipulated in the Ordinance. In respect of the area schedule in a sales brochure and a price list, vendors should only provide (i) saleable area and (ii) the area of the 10 items specified in Part 1 of Schedule 2 to the Ordinance which forms part of the residential property. These requirements are set out in section 11 in Part 1 of Schedule 1 to the Ordinance (sales brochure) and

section 31(2) of the Ordinance (price list). Provision of additional area information in the area schedule in sales brochure and price list is not allowed under sections 23(1) and 31(9) of the Ordinance. Vendors must not add additional information on their own.

While vendors must not add additional information to the area schedule in a sales brochure and a price list, if there is any feature of a residential property to which the vendors would like to draw the purchaser's attention, information such as dimensions and areas of the features may be marked on the relevant floor plan or provided in an explanatory note or remark for the relevant floor plans in the sales brochure.

**Q9 Under section 10(2)(c)(i) in Part 1 of Schedule 1 to the Ordinance, the thickness of the floor slabs of each residential property should be stated in the sales brochure. Does this cover the depth of the beams in the property?**

**A9** Vendors should set out the thickness of the floor slab of each residential property in the sales brochure as shown in the structural plans approved by the Building Authority under the Buildings Ordinance (Cap. 123). Thickness of floor slab should not cover the depth of the beams. Also, information on the depth of the beams is not required to be shown in the sales brochure.

There is no need to state the locations in the property where the measurements are taken, i.e. there is no need to mark the corresponding thickness of the floor slab on the floor plans in the sales brochure. If the thickness of floor slab in the residential property varies, vendors should state the various thicknesses according to the information set out in the approved structural plans, e.g. 100mm, 150mm and 200mm. Vendors should not give approximate number such as "approximately 150mm" or a range such as "100 to 200mm" without specifying the exact thicknesses.

**Q10 Can air handling unit (AHU) room or variable refrigerant volume (VRV) room be regarded the same as the air-conditioning plant room in Part 1 of Schedule 2 to the Ordinance?**

A10 AHU is a kind of air-conditioning plant. VRV system is basically a multiple split type air-conditioning system with a condenser which may be placed inside a residential property. There may also be other types of air-conditioning plant room under various different names.

For residential developments which have room(s) solely used for housing AHU, the condenser of a VRV system (or facilities which are in fact a kind of air-conditioning plant regardless of the different names they are called), the sales brochure should set out the floor area of such room(s) in the way as specified under section 11(2)(c) in Part 1 of Schedule 1 to the Ordinance.

**Q11 If there is a swimming pool on the roof, can the area of the swimming pool be included in the roof as set out under Part 1 of Schedule 2 to the Ordinance?**

A11 The area of a swimming pool within a roof should be included in the area of the roof. Likewise, if there is a swimming pool within a garden, the area of the swimming pool should be included in the area of the garden.

If the vendor wishes to inform the prospective purchasers that there is a swimming pool within the roof (or garden), he may do so by adding an explanatory note or remark to the relevant floor plan in the sales brochure. The dimensions and area of the swimming pool may also be indicated in that note or remark (FAQ 8 is relevant).

**Q12 Whether the bay window of a residential property should be measured up to the external edges of the window frames or the window glass surfaces?**

A12 According to Part 2 of Schedule 2 to the Ordinance, the area of a bay window is to be measured from the exterior of the enclosing walls or glass windows of the bay window. If a bay window is to be measured from the exterior of the glass windows, it can be measured up to the external edges of the window frames.

**Q13 Can the floor area of a staircase leading to a garden be included in the area of garden set out under Part 1 of Schedule 2 to the Ordinance?**

A13 In computing the area of a garden for the purpose of section 4 in Part 2 of Schedule 2, the area of any uncovered and unenclosed staircase leading to the garden should be included.

**Q14 If part of the enclosing wall of a residential property is a column and not a wall, should the thickness of the column be included in the saleable area of that residential property according to section 8 of the Ordinance?**

A14 If part of the enclosing wall of a residential property is a column and not a wall, the “column” is considered as the enclosing wall. The saleable area of the residential property shall be measured up to the exterior of the enclosing walls (i.e. the full thickness of the walls (excluding wall finishes) is included) or the centre line of a separating wall between adjoining units.



**Q15 If the enclosing wall of a residential property adjoins a non-residential property, shall the measurement of saleable area of the residential property be taken from the middle of the wall according to section 8 of the Ordinance?**

A15 It has been an established practice that, for an enclosing wall which separates a residential property from an adjoining residential/non-residential property, the measurement is to be taken from the middle of the separating wall.

The Ordinance is silent on how the area of a residential unit adjoining a non-residential unit should be measured. If, in the case of a residential property which has an enclosing wall adjoining a non-residential property, vendors follow the established practice of taking the measurement of that wall from the middle of it, the SRPA will not consider the vendor having breached section 8 or any other provisions of the Ordinance.

**Q16 Can the area of filtration plant room and private lift lobby be counted as saleable area of a residential property?**

A16 Whether an item can be considered as part of the saleable area of a residential property will depend on whether it falls within the definition of “saleable area” under section 8 of the Ordinance, which question turns on the particular facts of an individual case.

**Q17 For house-type development, it is common that a carport, instead of merely a car parking area, is provided to a house. Should the entire carport or only the parking space be excluded from saleable area under section 8(1)(c) of the Ordinance?**

A17 A carport is primarily for use by vehicle(s) and, in general, comprises area(s) for parking purposes and maneuvering area(s) for vehicles.

In a non-house type residential development, the maneuvering areas usually form part of the common areas of the development and therefore do not form part of a parking space.

In the case of a house type residential development, the area of the entire carport of a residential property may be taken into account in the measurement of parking space for the purpose of Part 1 of Schedule 2 to the Ordinance, and will be excluded from the saleable area of the residential property for the purpose of the Ordinance.

According to section 3 in Part 2 of Schedule 2 to the Ordinance, the area of a parking space is measured from the interior face of its enclosing walls where there are enclosing walls.

The area of a parking space of the residential property for the purpose of Part 1 of Schedule 2 to the Ordinance should be set out in the sales brochure according to section 11 in Part 1 of Schedule 1 to the Ordinance. If the land grant of a house type residential property has designated an area to be used for parking purposes, which is to be located within a carport, vendors are advised, for the sake of clarity, to state in the sales brochure the area inside the carport which is designated under the land grant for parking purposes, in order to distinguish it from the other area(s) of the carport .

**Q18 Is the floor slab mentioned in section 10(2)(c)(i) in Part 1 of Schedule 1 to the Ordinance refers to the floor slab of the ceiling immediately above each residential property, or the floor beneath the residential property?**

A18 The floor slab mentioned in section 10(2)(c)(i) in Part 1 of Schedule 1 to the Ordinance refers to the floor slab of the ceiling immediately above each residential property.

**Q19 Under section 10(2)(c)(ii) in Part 1 of Schedule 1 to the Ordinance, the floor-to-floor height of each residential property should be stated in the sales brochure. Different parts of a unit may have a different floor-to-floor height. How should such figures be presented in the sales brochure?**

A19 If the floor-to-floor height differs from point to point in a residential property, vendors should state the varying heights according to the information set out in the building plans approved by the Building Authority under the Buildings Ordinance (Cap. 123), e.g. 3.0m, 3.5m and 5.0m. There is no need to state the locations in the property where the measurements are taken, i.e. there is no need to mark the corresponding floor-to-floor height on the floor plans in the sales brochure.

Vendors should not give approximate number such as “approximately 3.0m” or a range such as “3.0m to 5.0m” without specifying the exact heights. For a house with more than one storey, the floor-to-floor height of each floor should be shown in the sales brochure.

For a residential property on the top floor of a building with a pitched or slanted roof, instead of giving exact measurements, vendor can state the corresponding range of floor-to-floor height of the property according to the information set out in the building plans approved under the Buildings Ordinance.

**Q20 Section 10(2)(d) in Part 1 of Schedule 1 to the Ordinance requires the sales brochure to state the external and internal dimensions of each residential property. Should such dimensions include or exclude the plaster or finishes? What if such dimensions are not provided in the approved building plans? If cladding or loss formwork is provided, should it be counted as part of the enclosing wall?**

A20 Section 19(2)(j) of the Ordinance requires that floor plans of all residential properties in the development have to be shown in the

sales brochure. Section 10(2)(d) in Part 1 of Schedule 1 to the Ordinance requires that, in a sales brochure, floor plans of residential properties in the development must state the external and internal dimensions of each residential property. The external dimensions and internal dimensions in section 10(2)(d) of Part 1 of Schedule 1 to the Ordinance do not cover the height of the residential properties, but the floor-to-floor height of each residential property is required to be provided under section 10(2)(c) of Part 1 of Schedule 1 to the Ordinance.

The external and internal dimensions of residential properties as provided in the sales brochure should exclude plaster and finishes. All kinds of external wall finishes (such as claddings and loss formwork) should not be counted as part of an enclosing wall. This also applies to the measurement of saleable area.

If the external dimensions and internal dimensions of the residential properties are provided in the approved building plans, the vendor must provide such information in the sales brochure according to the approved building plans.

Even if some internal and external dimensions are not provided in the approved building plans, the vendors should possess the information and should provide the information in the sales brochure as required. The approved building plans however are not the source of information of those internal and external dimensions.

**Q21 What is the meaning of “internal dimensions” and “external dimensions” of a residential property” under section 10(2)(d) in Part 1 of Schedule 1 to the Ordinance? Do balconies, utility platforms, air-conditioning platforms and bay windows affect such “internal dimensions” and “external dimensions”?**

A21 The external dimensions of a residential property refer to the outer dimension of the enclosing walls of the residential property. The internal dimensions of a residential property refer to the inner dimensions of such enclosing walls of a residential property.

The enclosing walls mentioned above also include the enclosing walls of any balcony, utility platform, verandah or bay window that forms part of the residential property. The measurement of the floor areas of balconies, utility platforms and verandahs is set out in section 8(3) of the Ordinance, while that of bay windows is set out in section 1 in Part 2 of Schedule 2 to the Ordinance, all of which should not affect the “internal dimensions” and “external dimensions” of a residential property shown on the floor plans.

Air-conditioning platforms should not be counted as part of the enclosing wall and should not affect the external dimensions of the residential property. Vendors may add explanatory note or remark to the floor plans of the residential properties in a sales brochure stating the area of the air-conditioning platforms (FAQ 8 is relevant).

**Q22 What is the meaning of “internal partitions” under section 10(2)(d)(iii) in Part 1 of Schedule 1 to the Ordinance? Does it include sliding partitions and glass partitions?**

A22 All internal partitions shown on the building plans approved by the Building Authority under the Buildings Ordinance (Cap. 123) inside a residential property are “internal partitions”. The thicknesses of such partitions should be stated in the sales brochure.

**Q23 How to mark the dimensions of a residential property that is in irregular shape?**

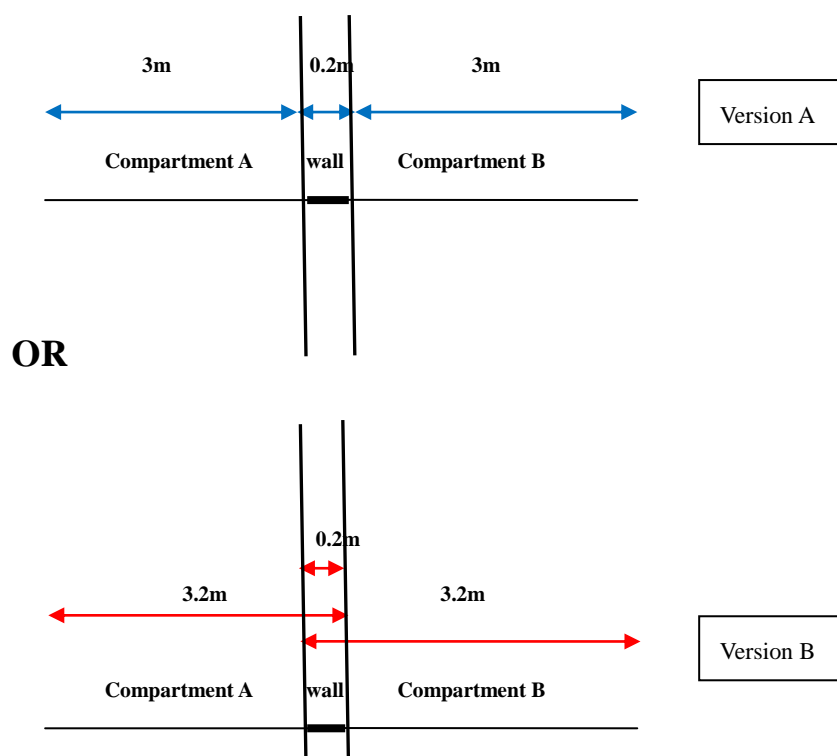
A23 When marking the external and internal dimensions of a residential property in the floor plan, reference should be made to the approved building plans for the development as required under section 10(3) in Part 1 of Schedule 1 of the Ordinance. If the residential property is in irregular shape, say for example, part of the enclosing wall is in curvilinear shape and no information on

the external and internal dimensions of that part is provided in the approved building plans, the internal and external arc length of that part of the enclosing wall should be marked on the floor plan.

**Q24** Section 10(2)(d)(iii) in Part 1 of Schedule 1 to the Ordinance requires the setting out of the thickness of internal partitions of each residential property in the floor plan. If 2 individual compartments are separated by a wall, will the external dimensions of the 2 compartments double count the thickness of the wall?

**A24** Vendors may mark the external dimensions of individual compartments of a residential property on the floor plan of the sales brochure in the following ways.

[Note: in the two diagrams below, we measure from the surface of the wall, NOT from the surface of any external wall finishes of the wall.]



With clear indication, both Version A and Version B show the external dimensions of the two compartments clearly and the issue of “double-counting” will not arise.

### *Floor plans*

**Q25 Assuming the vendor will provide furniture (e.g. a dining table) to the purchaser but the dining table is not shown on the floor plan in the sales brochure. Is the vendor required to state the dimension of the dining table in the floor plan in a sales brochure under section 10(2)(b) in Part 1 of Schedule 1 to the Ordinance?**

A25 The Ordinance requires the dimensions of furniture to be stated if they are shown in a floor plan in the sales brochure (under section 10(2)(b) in Part 1 of Schedule 1) or in any other publications to be made available by the vendor for collection or inspection by the general public (under section 50(1) of the Ordinance). Whether the furniture is sold together with the residential property is irrelevant, i.e. the furniture shown on the floor plan may or may not be sold together with the residential property, and the vendor is not obliged to show the furniture to be sold together with the residential property on the floor plan.

**Q26 What is the meaning of “furniture” in section 10(2)(b) in Part 1 of Schedule 1 to the Ordinance? Does “dimension” of furniture include height? Will “furniture” fall within some of the items of “fittings, finishes and appliances” under section 22 in Part 2 of Schedule 1 to the Ordinance?**

A26 “Furniture” is different from “fittings, finishes and appliances”. “Furniture” is to be construed according to the natural meaning of the word, which generally refers to “movable” articles that are used to make a room or building suitable for living or working in, such as tables, chairs, or desks. For “fittings, finishes and appliances”, section 22 in Part 2 of Schedule 1 to the Ordinance sets out the specific information to be set out in a sales brochure, e.g. the type of wall finishes used for kitchen, connection points for telephone, shower or bath tub, kitchen cabinet and built-in wardrobe.

The Ordinance does not require that vendors must show furniture in the floor plans of residential properties in the sales brochure or in any other publications to be made available by the vendor for collection or inspection by the general public. However, the Ordinance requires that if furniture is provided in any floor plans provided by the vendor, information on the dimensions of furniture (i.e. length x width) should be provided.

**Q27 Section 12(2) in Part 1 of Schedule 1 to the Ordinance requires the provision of floor plans showing the parking spaces in the development. What if the parking spaces are not owned by the vendor? Also, if the floor plan in question shows both the parking spaces as well as some area not for parking purpose, can the whole floor plan be shown in the sales brochure?**

**A27** Vendors should provide in the sales brochure floors plans showing the parking spaces in the development according to the latest building plans approved by the Building Authority under the Buildings Ordinance (Cap. 123).

When showing the floor plan of parking spaces of the development in a sales brochure and if the parking spaces are no longer owned by the vendors, vendors may add an explanatory note to the floor plans of the parking spaces in the sales brochure stating that the parking spaces are not owned by the vendors, and that the floor plan of the car park in the sales brochure is prepared according to the set of approved building plans based on which the occupation permit of the development was issued.

If there are parking spaces as well as areas not for parking purpose in a floor, the vendor can show the full floor plan but the area not for parking purpose should be blurred on the floor plan.



**Q28 Can the sales brochure include floor plans showing the commercial parts of the development according to section 10 in Part 1 of Schedule 1 to the Ordinance?**

A28 According to section 10 in Part 1 of Schedule 1 to the Ordinance, vendors should provide in the sales brochure each of the floor plans of the **residential properties** in the development. Therefore, floor plans showing the commercial parts of the development should not be provided in the sales brochure under section 10 in Part 1 of Schedule 1 to the Ordinance.

If a floor of a development comprises both residential and commercial accommodation, the vendor can show the full floor plan but the commercial portion should be blurred on the floor plan.

As for a residential floor with no non-residential uses, the full floor plan including the common areas such as lift lobby and corridor can be shown.

**Q29 Section 10(2) in Part 1 of Schedule 1 to the Ordinance requires the provision of floor plans of residential properties. If alteration to the residential properties have been made by way of minor works or exempted works under the Buildings Ordinance after completion of the development, should the floor plans be provided according to the approved building plans or the “as-is” layout of the properties?**

A29 According to section 10 in Part 1 of Schedule 1 to the Ordinance, vendors should provide in the sales brochure each of the floor plans of the residential properties in the development. Information on thickness of the floor slabs and floor-to-floor height should be provided according to the approved building plans.

As regards the information required under section 10(2)(d) in Part 1 of Schedule 1 in the floor plan -

(a) where the information required under section 10(2)(d) in Part 1 of Schedule 1 is provided in the approved building plans, the floor plan must state the information as so provided in the approved building plans. A remark or explanatory note should be added to set out the alterations made; and

(b) where the information required under section 10(2)(d) in Part 1 of Schedule 1 is not provided in the approved building plans, the floor plan should show the “as-is” status of the properties.

**Q30 According to section 19(2)(j) of the Ordinance, the floor plans of all residential properties in the development have to be shown in the sales brochure. Does the vendor need to provide the floor plans of the residential properties in the development which are not owned by the vendor?**

**A30** According to section 19(2)(j) of the Ordinance, floor plans of the residential properties in the development have to be shown in the sales brochure. There is no exemption provided by the Ordinance on the basis that the residential properties in the development are not owned by the vendor. For residential properties which are no longer owned by the vendor, the vendor may show in the sales brochure the status of such properties according to the set of floor plans based on which the properties were sold.

*Fitting, finishes and appliances*

**Q31 Assuming that some of the residential properties in a completed development were sold before the commencement of the Ordinance. After the Ordinance comes into operation, when the vendor prepares a sales brochure for the purpose of section 25 of the Ordinance, whether information on the fitting, finishes and appliances in respect of those residential properties which have been sold has to be provided in the sales brochure according to section 22 in Part 2 of Schedule 1 to the Ordinance? What if the information in question is not available?**

A31 According to section 19(3) of the Ordinance, the sales brochure for the development must set out the information required by Part 2 of Schedule 1 to the Ordinance. If section 19(3) of the Ordinance is contravened, the vendor commits an offence and is liable to a fine of \$500,000.

Section 22 in Part 2 of Schedule 1 to the Ordinance requires a vendor to set out in the sales brochure description of various items in the development in relation to fittings, finishes and appliances. The purpose is to ensure that prospective purchasers will be informed of what they may get upon purchase of the properties, in particular if the development has not yet been completed at the time of purchase.

In the case where the residential properties to be sold are inside a completed development and some of the residential properties inside that development have been disposed of by the vendor before the Ordinance comes into operation:

- (a) for those residential properties which are being offered for sale, vendors should provide up-to-date information on the fittings, finishes and appliances according to section 22 in Part 2 of Schedule 1, e.g. interior fittings of bathroom and interior finishes of the lobby; and

- (b) for the residential properties which are no longer owned by the vendors, vendors are advised to set out in the sales brochures as far as possible the information known to them on the fittings, finishes and appliances of those residential properties when they were sold as first-hand residential properties. If the vendor cannot provide part or any of the required information even after reasonable steps have been taken, a remark or an explanatory note on the reason for not being able to provide such information should be set out in the sales brochure, e.g. the vendor no longer keeps the information on fittings, finishes and appliances of the residential properties in the development which were sold before [which year]. The SRPA will take into account such reason and consider the circumstances of the case in determining whether or not to take enforcement action against the vendor for not complying with section 19(3) of the Ordinance.

**Q32 Sales brochure should contain the floor plans (section 10 in Part 1 of Schedule 1 to the Ordinance) and information on fittings, finishes and appliances on residential properties in the development (section 22 in Part 2 of Schedule 1 to the Ordinance)? How should such information be provided if the residential property is held under a tenancy?**

**A32** For residential properties that are to be sold subject to an existing tenancy, or to be sold upon the expiry of an existing tenancy, vendors should provide information on the residential properties in the sales brochure that reflects the conditions of the properties (including the floor plan and the fittings, finishes and appliances) when they are being handed over to the purchasers.

**Q33 Are vendors required to provide information on fittings, finishes and appliances of clubhouse in the sales brochure under section 22 in Part 2 of Schedule 1 to the Ordinance?**

A33 Vendors are required to provide information on fittings, finishes and appliances according to the table under section 22 in Part 2 of Schedule 1 to the Ordinance. Information on clubhouse is not required to be provided under this section.

*Cross section plan*

**Q34 According to section 18 in Part 2 of Schedule 1 to the Ordinance, sales brochure should include cross-section plan(s) in relation to every building in the development. The plan should show a cross-section of the building in relation to every street adjacent to the building? How should such requirements apply to house-type development? What is the meaning of “street” in this provision? Does it include bridges and tunnels?**

A34 The Ordinance requires the provision of cross-section plans(s) in relation to every building in a development. If there is a street immediately adjacent to each side of a building or a house, there should be at least two cross-section plans for that building or house.

For the meaning of “street” in section 18 in Part 2 of Schedule 1 to the Ordinance, please make reference to the definition of “street” in section 3 of the Interpretation and General Clauses Ordinance (Cap. 1). It covers, among other things, bridges and tunnels.

Under most circumstances, a bridge or a tunnel will not be immediately adjacent to a residential building or house. Rather, there may be a street, a path, a yard or a garden separating the bridge/tunnel from the building/house. In that case, it will be sufficient for the cross-section plan to show the adjacent street but not the bridge/tunnel.

**Q35 What is the meaning of the “lowest residential floor” in section 18(b) in Part 2 of Schedule 1 to the Ordinance? Is plaster on the floor slab included in determining the level?**

A35 In accordance with section 18(b) in Part 2 of Schedule 1 to the Ordinance, the “lowest residential floor” of a building/house means the lowest level in a building/house that is used for residential purpose. As long as there is residential element in a floor, it should be regarded as a residential floor in determining the “lowest residential floor” under section 18(b) in Part 2 of Schedule 1 to the Ordinance. In other words, a floor used for both residential and non-residential purposes may be regarded as the “lowest residential floor” if it is the lowest floor in a building where there is residential element.

Plaster should not be included in determining the level of the lowest residential floor.

*Location plan*

**Q36 Section 6(2)(b)(iii) in Part 1 of Schedule 1 to the Ordinance requires that the location plan of the development should show every building, facility or structure (if any) if they are used principally as the items specified in section 6(4) in Part 1 of Schedule 1. If only one floor in a multi-storey building is used as a library, is the library a principal use of that building?**

A36 The objective of the requirement to show the building, facilities or structure the principal use of which is set out under items (a) to (zq) of section 6(4) in Part 1 of Schedule 1 to the Ordinance is to provide prospective purchasers of first-hand residential properties of a development to be aware of those facilities near the development. Items set out in section 6(4) are likely to give rise to concerns on aspects such as traffic, noise level, air quality, odour, environment, hygiene, fire hazard, pedestrian flow, crowdedness, or tranquility, which affects the day-to-day living of residents in the development.

Vendors are expected to conduct field trips to identify those items under section 6(4), the majority of which are self-explanatory.

We set out below what SRPA expects vendors to include under the following items:

- A columbarium (item b): any public columbarium as shown on the list of public columbaria in the Food and Environmental Hygiene Department's (FEHD) website, and any private columbarium as shown on the list of private columbaria in the Development Bureau's website.
- A clinic (item y): any of the clinics run by the Hospital Authority and/or the Department of Health.
- A refuse collection point (item ze): any of the refuse collection points managed by FEHD.
- A market (including a wet market and a wholesale market) (item zg): a market, including a wet market and a wholesale market, but excluding a supermarket and a shopping centre –.
- A school (including a kindergarten) (item zn): a school, including a kindergarten, that is registered under the Education Ordinance (Cap. 279).
- Social welfare facilities (including an elderly centre and a home for the mentally disabled) (item zo): any of the social service facilities as set out in the Social Welfare Department's website.
- Sports facilities (including a sports ground and a swimming pool) (item zp): sports facilities, including a sports ground and a swimming pool, managed by the Leisure and Cultural Services Department.

As regards “a religious institution (including a church, a temple and a Tsz Tong)” (item zm), vendors are expected to show on the location plan those religious institutions that a member of the public will visually notice and recognize as a religious institution.

If the principal use of a structure or facility that is situated within 250 metres from the boundary of the development is one of those

specified in section 6(4) in Part 1 of Schedule 1, it must be shown on the location plan of the development regardless of the percentage of areas that such structure or facility accounts for the total area of the building in which it is situated.

### *Layout plan*

**Q37 Section 9 in Part 1 of Schedule 1 to the Ordinance requires the provision of a layout plan of the development and should state the estimated date of completion of the buildings or facilities that have not been completed. Are vendors only required to provide the estimated date of completion of those buildings as set out in the general building plans approved by the Building Authority? What should the vendor do if the development comprises many phases some of which are not yet planned?**

**A37** Section 9 in Part 1 of Schedule 1 to the Ordinance requires the provision of a layout plan of the development, which, if any of the buildings or facilities of the development are not yet completed, must state the estimated date of completion of these buildings or facilities, as provided by the authorized person (AP) for the development.

If the construction of a building or facility in the development is still at a stage where no building plans have been approved, the vendor may omit that building or facility in the layout plan. Once the building plans of such a building or facility have been approved by the Building Authority, SRPA expects vendors to include such information in the layout plan when the sales brochure is examined under section 17(1) of the Ordinance.

If a vendor has no planning as to the use of a particular phase in the development and no AP has been appointed in respect of that phase, the vendor may indicate such phase in the layout plan with a remark that the intended use of the phase has not been decided and no AP has been appointed.



### *Outline Zoning Plan*

**Q38 Can more than one outline zoning plan be provided in the sales brochure according to section 8 in Part 1 of Schedule 1 to the Ordinance if a single outline zoning plan cannot cover all the areas within 500m from the boundary of the development?**

A38 If more than one outline zoning plans (OZP) are required to cover all the areas with 500m from the boundary of the development, all of such OZPs should be shown in the sales brochure. Vendors are advised to provide the “title”, “plan number” and “gazette date” of all such plans in the same page where the plan is provided in the sales brochure.

### *Elevation plan*

**Q39 Section 19(3) in Part 2 of Schedule 1 to the Ordinance requires the elevation plan provided in sales brochure be certified by the authorized person (AP) for the development. Is the certificate required to be reproduced in the sales brochure? What if the AP for the development of which the building works have been completed is not available to do the certification?**

A39 The vendor should ensure the elevation plan shown in the sales brochure is certified by the AP for the development. There is no need to reproduce the certificate in the sales brochure.

In the event that the AP for such a development is not available to do the certification, the vendor should still provide in the sales brochure an elevation plan in colour, on the basis of the approved building plans and in general accordance with the outward appearance of the development as at the date of print of the sales brochure, and state that the plan has not been certified by the AP for the development as required under section 19(3) in Part 2 of Schedule 1 and state the reason(s) (e.g. the AP for the development has passed away). The SRPA will take into account

such reason(s) and consider the circumstances of the case in determining whether or not to take enforcement action against the vendor for not complying with Section 19(3) in Part 2 of Schedule 1 to the Ordinance.

**Q40 Section 19 in Part 2 of Schedule 1 to the Ordinance requires the provision of a plan showing all elevations in the sales brochure. If there is a fence wall outside the development, should the fence wall be included in the elevation plan? How many elevation plans should be shown?**

A40 The elevation plan(s) should be prepared on the basis of the approved building plans for the development. In case there is a fence wall on any side of the development and the authorized person has shown in the approved building plans the elevations of the development both with and without the fence wall, the elevation plan(s) as required under section 19 in Schedule 2 to the Ordinance should be prepared on the same basis, i.e. the elevations of the developments with and without the fence wall.

Generally speaking, vendors are advised to make reference to the approved building plans when deciding the number of elevation plans of the development to be shown in the sales brochure under Section 19 in Part 2 of Schedule 1 to the Ordinance.

## *Plans and Photographs*

**Q41    The Ordinance requires the provision of a location plan, an aerial photograph and an outline zoning plan in the sales brochure, and such plan/photo should show the area within 250metres, 250metres and 500metres from the boundary of the development respectively (i.e. sections 6, 7 and 8 of Part 1 of Schedule 1 to the Ordinance). Can the plan/photo show the area beyond 250metres/500metres from the boundary of the development?**

A41    The location plan, aerial photograph and outline zoning plan should only show the area within 250m, 250m and 500m from the boundary of the development respectively, except due to technical reason such as the irregular boundary of the development which makes it impractical to show exactly 250m/500m from all the points on the boundary of the development.

If, due to technical reason, the location plan, aerial photograph or the outline zoning plan has shown more than the area required under the Ordinance, the vendor may add an explanatory note or remark to state such facts.

If there is any feature outside the 250m/500m boundary which is likely to materially affect the enjoyment of the residential property, and the information is known to the vendor but is not known to the general public, vendor is advised to provide such information as “relevant information” under section 20(1) of the Ordinance. Information contained in a document that has been registered with the Land Registry will not be regarded as “relevant information” under the Ordinance.

*Deed of Mutual Covenant (DMC)*

**Q42 Section 14(2)(f) in Part 1 of Schedule 1 to the Ordinance requires that the area (if any) in the development retained by the owner for that owner's own use should be set out in the sales brochure. What does it mean by "retained by the owner"? Does it include the area where, according to the DMC, has been allocated to the owner and the owner is entitled to dispose of it.**

A42 As required under section 14(2) in Part 1 of Schedule 1 to the Ordinance, the sales brochure must set out a summary of the DMC provisions that deal with various matters, one of which is "the area (if any) in the development retained by the owner for that owner's own use".

In this respect, such area refers to all areas retained by the owner for his own use as set out in the DMC regardless of whether and when the owner will dispose of the area. In general, such area is usually not a residential accommodation, a commercial accommodation or a car park or individual residential units, commercial units or parking spaces therein.

For example, area reserved for un-used gross floor area to be utilized by the owner.

**Q43 Section 14(2)(a) in Part 1 of Schedule 1 to the Ordinance requires that a summary of the provisions of the DMC which deal with the common parts of the development be set out in the sales brochure. Which types of provisions in the DMC may meet the requirements of Section 14(2)(a) in Part 1 of Schedule 1 to the Ordinance?**

A43 Vendors should, according to the DMC, set out the major provisions which deal with the common parts of the development, such as major provisions which deal with car park common area, estate common areas, estate common facilities, residential common area and residential common facilities.

Section 14(2)(a) in Part 1 of Schedule 1 to the Ordinance requires that a sales brochure must contain a summary of the provisions of the DMC (or the draft DMC) which deal with various matters, one of which is the common parts of the development. If the relevant provision of the DMC refers to a plan attached to it which shows the common parts of the development, such plan may be included as part of the information to be provided in the sales brochure under section 14(2)(a) in Part 1 of Schedule 1 to the Ordinance.

**Q44 Section 14(2)(b) in Part 1 of Schedule 1 to the Ordinance requires the provision of “the number of undivided shares assigned to each residential property in the development” in the sales brochure. How can the potential purchasers know the undivided share of a particular property in relation to the whole development if the total number of undivided shares of the development is not provided in the sales brochure?**

A44 Apart from providing the number of undivided shares assigned to each residential property in a development, the number of undivided shares assigned to each residential property in a development may also be presented in the form of a fraction, so that the total number of undivided shares of the development is also made known to the potential purchasers. For example, if a residential property is allocated with 50 units of undivided shares, such information can be presented as “50/[total number of undivided shares for the development]” in the sales brochure. If vendors wish to let prospective purchasers know the total number of undivided shares of the development, they may set out the information in publications other than the sales brochure.

**Q45 If some types of management expenses on non-residential areas are to be shared by owners of residential properties, can such information be provided in the sales brochure?**

A45 Section 14(2)(d) in Part 1 of Schedule 1 to the Ordinance requires vendors to set out in the sales brochure, as part of the summary of the provisions of the DMC, the basis on which the management expenses are shared among the owners of the residential properties in the development. Therefore, vendors should provide under section 14(2)(d) in Part 1 of Schedule 1 to the Ordinance the basis on which the management expenses are shared among the owners of the residential properties in the development, which expenses may include expenses related to the common areas and common facilities for the use and benefit of all the owners in the development.

*Land grant*

**Q46 Section 48(1)(d) in the Ordinance requires that a copy of the land grant should be made available for inspection by the general public free of charge at the place where the sale is to take place. Does such a land grant include “lease modification” and “extension” which relates to a portion of the lot which has no connection with the residential portion?**

A46 Section 48 (1)(d) of the Ordinance provides that a copy of the land grant should be made available on a date of sale for inspection by the general public at the place where the sale is to take place. In this respect, “lease modification” and “extension” should form part of the land grant.

There could be cases where separate Government leases are deemed to have been issued for different sections of the lot, for example Government rent apportionment has been done in respect of different sections of the lot and the apportionment has been gazetted under section 22(1) of the Government Rent and

Premium (Apportionment) Ordinance (Cap. 125). In such case, only the “lease modification” with respect to the section on which the development is built needs to be disclosed.

**Q47 Assuming a piece of land granted under a land grant has been sub-divided into two different sections (e.g. Section A and the Remaining Portion). If a development is built on Section A, according to sections 15 and 16 in Part 1 of Schedule 1 to the Ordinance, whether it is necessary to also disclose a land grant provision which affects the Remaining Portion only?**

A47 If a piece of land under a land grant is partitioned (or carved out) into different sections (e.g. Section A and the Remaining Portion ) but is still held under a single land grant and a development is built only on Section A, the land grant provisions relating to Section A on which the development is built as well as the facilities on the Remaining Portion that are required under the land grant to be constructed and provided for Government, or for public use, should be disclosed as required under sections 15 and 16 of Part 1 of Schedule 1 to the Ordinance respectively.

In the above situation, as sections 15(2)(a), (c), (e) and (f) in Part 1 of Schedule 1 to the Ordinance refer specifically to the land on which the development is built, vendor is not required to provide the land grant conditions relating to the Remaining Portion.

**Q48 Section 16(2)(b) in Part 1 of Schedule 1 to the Ordinance requires the provision in the sales brochure a description of any facilities that are required under the land grant to be managed, operated or maintained for public use at the expense of the owners of the residential properties in the development. If the maintenance costs are to be borne by the owners of the commercial accommodation only according to the deed of mutual covenant (DMC), should such information be set out under the aforesaid provision?**

A48 Under section 16(2)(b) in Part 1 of Schedule 1 to the Ordinance, the sales brochure must contain a description of any facilities that are required under the land grant to be managed, operated or maintained for public use by the grantee (i.e. all owners of the lot and not just owners of residential properties). Under section 16(6) in Part 1 of Schedule 1 to the Ordinance, the sales brochure must set out the DMC provisions that concern those facilities.

If the DMC provides that the management expenses of those facilities will only be borne by the commercial owners, such DMC provision should be set out in the sales brochure under section 16(6) in Part 1 of Schedule 1 to the Ordinance.

**Q49 If the vendor will reserve a right under the sale and purchase agreement to apply for a land grant modification but has yet to make the application, can such information be provided in the sales brochure under section 28 in Part 2 of Schedule 1 to the Ordinance?**

A49 Section 28 in Part 2 of Schedule 1 to the Ordinance is only applicable where the owner has applied to the Government for a modification of the land grant, and the application is not yet granted.



**Q50 Vendors are required to set out various information relating to land grant under sections 15 and 16 in Part 1 of Schedule 1 to the Ordinance. Should vendors provide such information according to the land grant, or should they also provide the related information contained in the waivers or no objection letters in relation to the land grant?**

A50 Vendors are advised to set out various required information under sections 15 and 16 of Part 1 of Schedule 1 to the Ordinance according to the land grant as varied by say, waivers or no objection letter, if any.

**Q51 Vendors are required under section 15(2)(e) in Part 1 of Schedule 1 to the Ordinance to provide information on the grantee's obligation to lay, form or landscape any areas, or to construct or maintain any structures or facilities, within or outside that land. Should information on "building covenant" be set out under this section?**

A51 According to section 15(2)(e) in Part 1 of Schedule 1 to the Ordinance, vendors should set out in the sale brochure the grantee's obligation to lay, form or landscape any areas, or to construct or maintain any structures or facilities, within or outside that land.

Information on "building covenant" should be set out under section 15(2)(e) in Part 1 of Schedule 1 to the Ordinance.

**Q52 Section 15(2)(c) in Part 1 of Schedule 1 to the Ordinance requires the vendor to set out the user restriction applicable to that land in the sales brochure. Should such provisions be set out in detail and in full?**

A52 According to section 15(2) in Part 1 of Schedule 1 to the Ordinance, the sales brochure must contain a summary of the provisions of the land grant concerning various matters including

the user restrictions applicable to the land. While there is no need to copy in full all the relevant provisions in the sales brochure, if there are specific user restrictions for different parts of the land or the building(s) erected or to be erected thereon as stipulated in the land grant (e.g. specific user restrictions for different floors of the building(s)), the summary should cover all such specific user restrictions.

**Q53 Can the vendor provide information on “license, waivers, no-objection letter and approval letter” in the sales brochure under section 28 in Part 2 of Schedule 1 to the Ordinance?**

A53 Section 28 of Part 2 of Schedule 1 to the Ordinance stipulates that where the owner has applied to the Government for a modification of the land grant, and the application is not yet granted, the sales brochure must state the nature of the modification sought and the condition sought to be modified.

Whether an application is for a modification of the land grant will depend on the contents and nature of the application, howsoever the application is named, which must be examined in each individual case. Generally speaking, “waiver”, “no objection letter”, “approval letter” and “licence (say offensive trade licence)” may be included.

*Common facilities*

**Q54 Section 20 (1) in Part 2 of Schedule 1 to the Ordinance requires the provision of the area of residents’ clubhouse, communal sky garden and covered and landscaped play area in the sales brochure. How should such area be measured?**

A54 The area of residents’ clubhouse, communal sky garden and covered and landscaped play area in the sales brochure should be measured according to the information set out in the building plans approved by the Building Authority under the Buildings

Ordinance (Cap. 123). If the residents' clubhouse, communal sky garden or communal garden has uncovered parts, even though the areas of those uncovered parts may not be set out in the building plans, information of those areas should be a matter of facts and the vendors should have those information.

*Relevant information*

**Q55 Vendors are required to provide “relevant information” (which means any matter that is likely to materially affect the enjoyment of the residential property) under section 20(1) of the Ordinance. Does “relevant information” include something that will likely bring positive and material impact to the enjoyment of the residential property?**

A55 Section 20(1) of the Ordinance provides that the sales brochure must set out “relevant information” that is specific to a residential property in the development or “relevant information” that is specific to the development, if (a) the information is not otherwise required to be set out in the sales brochure; and (b) the information is known to the vendor but is not known to the general public.

“Relevant information” is defined in section 20(7) of the Ordinance to mean (a) in relation to a residential property, information on any matter that is likely to materially affect the enjoyment of the residential property; or (b) in relation to a development, information on any matter that is likely to materially affect the enjoyment of any residential property of the development. In this respect, it is a question of degree whether, in a particular case, a matter is likely to materially affect the enjoyment of a property by enhancing or diminishing the enjoyment of the property.

**Q56 Where and how should the “relevant information” required under section 20(1) of the Ordinance be provided in the sales brochure?**

A56 The relevant information required under section 20 of the Ordinance should be provided after the information required under section 19 of the Ordinance.

All “relevant information” should be grouped under the heading “relevant information”. If no such information is provided in the sales brochure, there is NO NEED to state the heading of “relevant information” and insert “NA” in the sales brochure.

*Miscellaneous*

**Q57 Section 23 in Part 2 of Schedule 1 to the Ordinance requires setting out in the sales brochure information on any agreement with a utility company for providing utility service for the specified residential property. What exact information is required to be disclosed?**

A57 It is quite common that the vendor may have signed agreements with specific utility companies for providing utility services for the development before the residential properties are offered to be sold. For example, if the vendor has signed an agreement with a company for the provision of tele-communication services to all the individual owners of the residential properties in the development, the name of the service provider and the major terms of the agreement which will directly affect the individual owners of the development (e.g. whether there are any restrictive terms such as the individual owners could not choose to use tele-communication services provided by other service providers, and the expiry date of the agreement) should be set out in the sales brochure.

**Q58 If a vendor chooses to provide a defect liability warranty period that is longer than the period as stipulated in the agreement for sale and purchase, can such information be provided in the sales brochure under section 26 in Part 2 of Schedule 1 to the Ordinance?**

A58 According to section 26 in Part 2 of Schedule 1 to the Ordinance, the sales brochure can only state the defect liability warranty period as provided in the agreement for sale and purchase.

**Q59 Can the vendor state the particulars of a tenancy in the sales brochure for the property that is sold subject to tenancy?**

A59 If some properties in a development are to be sold subject to tenancy, vendors are advised to state in the documents containing the sales arrangements which properties are to be sold subject to tenancy. Vendors may also include particulars of the tenancy in such documents, or in other publications.

Vendors should consider whether, in relation to a residential property, the existence of a tenancy and the particulars of such tenancy constitute information on matters that are likely to materially affect the enjoyment of the residential property and hence should be set out in the sales brochure as required by section 20 of the Ordinance.

**Q60 Can the vendor state in the sales brochure that some properties are kept by the vendor for leasing purpose?**

A60 A vendor's decision to offer to sell which of the properties in the development is reflected in the documents containing the sales arrangement in which the vendor is required to state a description of the residential properties that would be offered to be sold.

**Q61 Section 2 in Part 1 of Schedule 1 to the Ordinance requires the provision of the name of the holding company of the vendor in the sales brochure. If there is no holding company within the meaning of the Companies Ordinance (Cap. 32), can the names of all the companies which hold shares in the vendor be given in the sales brochure?**

**A61** According to section 2 of the Ordinance, “holding company” means a holding company within the meaning of the Companies Ordinance. There will not be any holding company for the vendor of the development if no such company falls within the meaning of “holding company” as provided in the Companies Ordinance. In such circumstances, the company which holds shares in the vendor should not be described as a holding company in the sales brochure as part of the information required under section 2(2) of Part 1 of Schedule 1 to the Ordinance. The vendor may however, provide such information in the advertisements or other publications.

**Q62 According to section 11 in Part 1 of Schedule 1 to the Ordinance, vendors are required to provide information on saleable area and the area of the 10 items as specified in Part 1 of Schedule 2 to the Ordinance in the sales brochure in square feet and in square metres. What conversion formula should be adopted?**

**A62** Vendors are free to adopt their own conversion formula. In this respect, vendors may wish to add an explanatory note or remark in the sales brochure under the section of “area of residential properties in the development” to set out the conversion formula.

**Q63 If there are changes to the information contained in the sales brochure but the “3-month period” is yet to expire, does the vendor have any obligation to examine and revise the sales brochure?**

A63 Section 17(1) of the Ordinance stipulates that the vendor may, for the purpose of making sales brochure available to general public in accordance with section 25 of the Ordinance, examine to ascertain whether or not the information set out in the sales brochure is accurate as at the date of the examination. Section 25(9) of the Ordinance stipulates that a reference to the sales brochure for the development is a reference to the sales brochure for the development printed, or examined under section 17(1) of the Ordinance, within the previous 3 months. In other words, vendors are obliged to make available a sales brochure that is printed/examined/revised within the previous 3 months.

While vendors have no obligation under the Ordinance to examine the sales brochure before the 3-month period is expired, they may wish to consider the need to examine and revise the sales brochure if there are substantial changes to the contents of the sales brochure taking into account public expectation.

**Q64 Is it necessary for vendor to include a warning to purchasers which recommend purchasers to hire their own solicitors as set out under section 17 in Part 2 of Schedule 1 to the Ordinance if, separate legal representation has already been arranged by the vendor?**

A64 The warning to purchasers as set out under section 17 in Part 2 of Schedule 1 to the Ordinance must be set out in the sales brochure. There is no exception arrangement.

**Q65 According to section 2(2)(e) in Part 1 of Schedule 1 to the Ordinance, vendor is required to provide the name of any authorized institution that has made a loan, or has undertaken to provide finance, for the construction of the development? If the loan has been settled, or if the undertaking has been expired or terminated, should such information be provided in the sales brochure?**

A65 According to section 2(2)(e) in Part 1 of Schedule 1 to the Ordinance, vendor is required to provide the name of any authorized institution that has made a loan, or has undertaken to provide finance, for the construction of the development. Even if the loan has been settled, or the undertaking has been expired or terminated, such information should still be provided in the sales brochure, but a remark or an explanatory note may be added to state the current status of the loan or the undertaking.

### **Price List**

**Q66 Can vendors provide an aggregate price for more than one residential property instead of providing the price for each residential property?**

A66 Vendor should set out the price for each residential property on the price list, which means each residential property should be given a price. If the vendor would like to provide discount or financial advantage for the purchase of more than one residential property, such arrangements may be set out as discount or financial advantage as appropriate.



## **Sales Arrangements**

**Q67 In the documents setting out the sales arrangements according to section 47 of the Ordinance, can more than one method be set out for determining the order of priority?**

A67 Section 47(2)(d) and (e) of the Ordinance requires a vendor to specify in the document containing the sales arrangements the respective methods to determine the order of priority in which a person may select among the properties that he wishes to purchase and, where there are two or more persons interested in a particular property, in which who may proceed with the purchase of that property. In determining the order of priority, vendors may wish to use different methods during different time periods or under different circumstances. In this respect, a vendor may need to specify in the document containing the sales arrangement more than one method for the purpose of section 47(2)(d) or (e). Sufficient details should be provided so that the public can be certain about which particular method is to be used and when it is to be used. For example, a vendor may state that for the first three days of sale, the order of priority will be determined by ballot whereas for some other specified dates, it will be on a first-come-first-served basis.

**Q68 Assuming a vendor has suspended the sales of all unsold units the sales of which have been announced in the documents containing the sales arrangements, the SRPA has been informed of the suspension and such suspension has been made public on the SRPE. When the sale is resumed, is the vendor required to make available the sales brochure, price list and sales arrangements respectively according to section 25, section 32 and section 47(1) of the Ordinance?**

A68 If a vendor has suspended the sales of all unsold units the sales of which have been announced in the documents containing the sales arrangements, the SRPA has been informed of the

suspension and such suspension has been made public on the SRPE, the vendor must make available to the public the sales brochure according to section 25 of the Ordinance, and make available to the public the price list according to section 32 of the Ordinance when the sales is resumed. Also, the vendor must make available to the public the sales arrangements according to section 47(1) of the Ordinance.

### **Revisions to Sales Brochure, Price List and Sales Arrangements**

**Q69 Under the Ordinance, vendors may revise the contents of sales brochure, price list and sales arrangements after their issuance. Whether the revised documents are subject to the timeframe requirements under sections 25, 32 and 47(1) respectively, i.e. whether the specified residential properties can only be offered to be sold after the revised sales brochure has been made available for a period of at least 7 days, and after the revised price list and sales arrangements have been made available for a period of at least 3 days?**

**A69 Sales brochure**

According to section 25(9) of the Ordinance, the sales brochure made available for the public should be printed or examined under section 17(1) within the previous three months. Assuming a sales brochure is printed on 1 January (i.e. version A) and an examined sales brochure (i.e. version B) is made available on 1 April. There is no need for version B sales brochure to be made available for a period of at least 7 days in advance for the sale of the development to be continued on 1 April provided that for the 7-day period before 1 April, version A sales brochure is made available.

#### **Price list**

According to section 35 of the Ordinance, the owner may only sell, or offer to sell, the specified residential property –

- (i) at the price of that property, as set out in the price list copies of which have been made available under section 32(1), (2) and (3) of the Ordinance (i.e. for a period for at least 3 days immediately before the date of sale make available hard copies of the price list for collection by the public free of charge, on the date of sale make available hard copies of the price list for collection by the general public free of charge at the place where the sale is to take place, and make available electronic copy of the price list on the vendor's website for inspection); or
- (ii) at the price revised under 29(4) of the Ordinance as set out in the price list copies of which have been made available under section 32(1), (2) and (3) of the Ordinance. Section 29(4) of the Ordinance deals with changes to the price of specified residential property as set out in a price list.

If there is a change to the price of a residential property as set out in a price list, the property in question can only be sold or offered to be sold after the revised price list has been made available under section 32(1), (2) and (3) of the Ordinance (i.e. the revised price has to be made available for a period for at least 3 days immediately before the date of sale and on the date of sale of the property in question). As for the other properties the prices of which have also been set out on the same price list under revision but no changes to their prices have been made, there is no need for the owner to wait for another three days to offer to sell those properties.

### Sales Arrangements

According to section 47(1) of the Ordinance, the vendor must make available hard copies of a document containing the information on sales arrangements for collection by the general public free of charge during a period of at least 3 days immediately before the date of sale. The same information must also be made available for inspection on the vendor's website according to the same timeframe.

If changes are made to the sales arrangements, the specified residential properties affected by the changes should only be sold or offered to be sold after the revised sales arrangements have been made available to the public for a period of at least three days. For example, if at the original document containing the sales arrangement, there is only one place (e.g. location A) where the specified residential property will be offered to be sold. After three days, the vendor adds another place (e.g. location B) where the specified residential property will be offered to be sold and issues a revised document setting out the new sales arrangements. In this case, the specified residential property can continue to be offered to be sold at location A, but can only be offered to be sold at location B after the revised sales arrangements have been made available to the public for a period of at least three days immediately before the date of sale under section 47(1) of the Ordinance.

If, after issuing a document on the sales arrangements setting out residential properties to be offered for sale on a specific date, owners wish to offer additional residential properties for sale, it may issue another document of sales arrangements to cover the arrangements for the sale of the additional residential properties, and follow the requirements under section 47(1) of the Ordinance. Alternatively, owners may announce the offer for sale of those additional residential properties by making amendments to the previous document on sales arrangements. If so, the additional residential properties can only be offered to be sold after the revised document of sales arrangements have been made available to the public for a period of at least three days immediately before the date of sale under section 47(1) of the Ordinance. As for the other properties on the amended document of sales arrangement to which there are no changes to their sales arrangements, there is no need for the owner to wait for another three days to offer to sell those properties.

## **Show Flats**

**Q70 Under section 36(1)(e) the Ordinance, the fittings, finishes and appliances in the unmodified show flat should be the same as those depicted in the sales brochure for the development. How about those appliances located in a hidden place such as above ceiling, and those located outside the property such as an outdoor unit of split-type air-conditioner?**

**A70** The fittings, finishes and appliances in the show flat should be the same as those depicted in the sales brochure for the development. Any difference should be stated on a notice posted in the show flats.

In the quoted examples, if the vendor chooses not to provide those hidden appliances and the outdoor unit of split-type air-conditioner in the show flat, a notice stating such facts should be posted in the show flat.

**Q71 Can “show flat” show only part of a residential property (e.g. kitchen)?**

**A71** Any structure that is intended to be used as a show flat in relation to a sale of specified residential properties in an uncompleted development/phase will be subject to the requirements under Division 4 of Part 2 of the Ordinance. As such, a “show flat” which only shows part of a residential property will be considered as not having complied with the relevant requirements under the Ordinance.

**Q72 Can minor works or exempted works under the Buildings Ordinance (BO) be made to modified show flats?**

**A72** The minor works control system under the BO was introduced to facilitate members of the public to carry out certain minor works in private buildings lawfully through simplified procedures. The

carrying out of such minor works does not require prior approval of plans or consent for commencement of the works from the Building Authority, though the appointment of prescribed building professionals or prescribed registered contractors is required. Vendors are reminded that, if a modified show flat shows features which are minor works, vendors should consult their building professionals to ensure that the prospective purchasers will not be misled in any way regarding compliance with the BO and other relevant legislations.

**Q73 Is the vendor required to arrange the show flat viewer to view the unmodified show flat before the modified show flat of a residential property according to section 38(2) of the Ordinance?**

A73 The Ordinance requires that if a modified show flat of an uncompleted residential property is provided, an unmodified show flat of the same property should also be provided. There is no requirement on the sequence of viewing those two types of show flats.

**Q74 If the vendor has already provided one unmodified show flat for a particular first-hand uncompleted residential property, can he/she provide more than one modified show flat of that particular residential property?**

A74 If a vendor has provided an unmodified show flat for a first-hand uncompleted residential property, one or more than one modified show flat of that residential property can be provided.

## **Viewing of Completed Properties**

**Q75 Section 44 of the Ordinance requires that before the specified residential property is sold to a person, the vendor must make the residential property available for viewing by the person. Does it mean that the vendor has to arrange the residential property be viewed by the public before the property is “offered to be sold”?**

A75 If a vendor has, before the signing of the preliminary agreement for sale and purchase (PASP), arranged that particular purchaser to view the property in question, he is considered as having complied with the requirement under section 44(1) of the Ordinance.

If the vendor has offered to arrange the purchaser to view the property but the latter has declined the offer, the vendor may, to safeguard his interest, ask the purchaser to confirm in writing that he/she has declined the offer from the vendor to view the property.

**Q76 According to section 44 of the Ordinance, if it is not reasonably practicable for the vendor to arrange the specified residential property to be viewed by the potential purchaser, he should arrange a comparable unit for viewing. What does it mean by “comparable”?**

A76 The purpose of section 44 of the Ordinance is that a prospective purchaser should be able to view the subject property (or a comparable property) before signing the Preliminary Agreement for Sale and Purchase. The meaning of “comparable property” should be construed in that context. The size, the layout, the view and the floor at which the residential property is located should be taken into account in identifying the comparable unit.

## **Agreement for Sale and Purchase**

**Q77 Under the Ordinance, if the purchaser fails to execute an Agreement for Sale and Purchase (ASP) within 5 working days after the date on which he enters into a Preliminary Agreement for Sale and Purchase (PASP), can the vendor chooses not to forfeit the preliminary deposit?**

A77 Under section 53(3) of the Ordinance, if a person does not execute an ASP within 5 working days after the date on which he enters into the PASP, the PASP is terminated and the preliminary deposit is forfeited.

**Q78 For a residential property of which its PASP is signed before 29 April 2013, whether the ASP signed in respect of that residential property after 29 April 2013 is required to include the mandatory provisions according to section 55 of the Ordinance?**

A78 As provided in section 10(1) of the Ordinance, the Ordinance applies to any residential property in a development situated in Hong Kong in respect of which property neither a PASP nor ASP has ever been entered into and no assignment has ever been made. If a residential property in respect of which a PASP has been entered into before 29 April 2013, the property will not be subject to the requirements of the Ordinance, unless the PASP is to be disregarded under the situations described in section 11 of the Ordinance.



## **Advertisement**

**Q79 Vendors are required to set out various information in printed advertisements under section 73 of the Ordinance. Is amendment to the advertisements required if the aforesaid information has been changed?**

A79 If there are changes to the information set out in the advertisements, the vendor should update the advertisements as soon as practicable.

**Q80 What does it mean by “printed advertisements” under section 73 of the Ordinance?**

A80 The requirements for “printed advertisements” under section 73 of the Ordinance apply to the advertisements set out in section 73(1), which are, in general, advertisements that can be printed out. Items such as stickers and billboard on bus are within the scope of the advertisements set out in section 73(1).

**Q81 A brochure which purports to promote the sale of specified residential properties is a form of “printed advertisement”. How to determine the size of a brochure for the purpose of complying with the requirements as stipulated under section 73(8) of the Ordinance on the size of the letters, characters or numbers of the mandatory statements?**

A81 If a brochure is adopted and used as an advertisement to which Part 3 of the Ordinance applies, then the brochure will have to comply with the requirements applicable to an advertisement purporting to promote the sale of the concerned residential properties. When determining the size of an advertisement for the purpose of complying with the requirements as stipulated under section 73(8) of the Ordinance on the size of the letters, characters or numbers of the mandatory statements, the total area of the advertisement should be taken into account. For example,

in the case of a brochure used as an advertisement, if the total area of all the pages of the brochure is larger than 4155 square centimeters, the letters, characters and numbers of the mandatory statements (i.e. information required under section 73(2) and (5), and section 73(7), if applicable) must occupy at least 3% of the total area of the advertisement.

Information required to be provided under section 73(2), (5) and (7) of the Ordinance is only required to be provided once in an advertisement, hence the statements are not required to be contained in every page of the brochure.

### **Others**

#### **Q82 How to define a phase of a development under the Ordinance?**

A82 The definition of a “development” is set out in section 3(1) of the Ordinance.

Having defined what constitutes a “development”, section 3(3) of the Ordinance further defines the factors for determining whether a development is divided into two or more phases. For the purposes of the Ordinance, whether a development is divided into two or more phases depends on the building plans approved under the Buildings Ordinance (Cap. 123).

Assuming Development A consists of 4 blocks of buildings. If building plans are submitted to the Building Authority (BA) in respect of all the four blocks of buildings as a whole and the plans are subsequently approved by the BA, Development A is regarded as a single development.

If two sets of building plans are submitted to the BA, each covering two blocks of buildings, and the plans are subsequently approved by the BA, the development is considered as having two phases.

If all four blocks of buildings are submitted to and approved by the BA in one set of plans including a phasing plan which demarcates the development as comprising two phases, the development is considered as having two phases.

11 April 2013

Sales of First-hand Residential Properties Authority  
Transport and Housing Bureau