

# PROPERTY MANAGEMENT SERVICES AUTHORITY

## Code of Conduct

### Obligations of Property Management

### Company under the Building Management Ordinance

**Code No.: C19/2023**

**Effective Date: 3 November 2023**

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#### **Preamble**

The following code of conduct (“Code”) is issued by the Property Management Services Authority (“PMSA”) pursuant to section 5 of the Property Management Services Ordinance (“PMSO”) and contains practical guidance for the purposes of section 4 of the PMSO (disciplinary offences). Although a licensee<sup>1</sup> does not incur a legal liability only because the licensee has contravened a provision of the Code, the Code is admissible in evidence in disciplinary hearings, and proof that a licensee contravened or did not contravene the relevant provision of the Code may be relied on as tending to establish or negate a matter that is in issue in the hearings.

#### **Background**

2. A licensed property management company (“PMC”), acting as the “Manager”<sup>2</sup> of a property (“Manager”), may deal with various matters related to property management when providing property management services (“PMSs”) to its clients<sup>3</sup>. Whether acting

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<sup>1</sup> The term “licensee” means the holder of the following licence: a PMC licence; a PMP (Tier 1) licence; a PMP (Tier 2) licence; a provisional PMP (Tier 1) licence; or a provisional PMP (Tier 2) licence.

<sup>2</sup> According to section 2(1) of the BMO, “*manager*, in relation to a building, means – (a) the DMC manager; or (b) any other person who for the time being is, for the purposes of the deed of mutual covenant, managing the building”; and “*DMC manager*, in relation to a building, means the person who is specified in the deed of mutual covenant to manage the building”.

<sup>3</sup> The term “client” has the same meaning as defined in section 16 of the PMSO, i.e. “in relation to a property for which a licensed PMC provides PMSs, means— (a) the owners’ organization of the property; and (b) the owners of the property who pay or are liable to pay the management expenses in respect of the services”. According to such a definition, a tenant is not a client.

as the deed of mutual covenant (“DMC”) manager or the person managing the property for the purposes of the DMC, a licensed PMC has to act in accordance with the relevant provisions of the Building Management Ordinance (Cap. 344) (“BMO”)⁴. The provisions in Schedule 7 to the BMO are mandatory terms to be impliedly incorporated into every DMC⁵. In the event of any inconsistency between the provisions in Schedule 7 and the terms of a DMC, the provisions in Schedule 7 shall prevail⁶.

3. The “Building Management (Amendment) Bill 2023” was passed by the Legislative Council on 4 July 2024 and was gazetted as the “Building Management (Amendment) Ordinance 2024” (“Amendment Ordinance”) on 12 July 2024. The Amendment Ordinance covers various aspects including procurement, financial statements, keeping of documents, criminal sanctions and other miscellaneous amendments, etc. The Amendment Ordinance incorporates amendments in respect of large-scale maintenance procurement, other high-value supplies, goods or services procurement, and financial statements for buildings into Schedule 7 as mandatory terms in the DMC.

3.1 With regard to large-scale maintenance procurement and other high-value supplies, goods or services procurement for buildings, the Amendment Ordinance provides for the following three procurement categories:

(a) Type 1 High-value Procurement⁷ – the value of procurement of the supplies, goods or services exceeds, or is likely to exceed, \$200,000, and is not Type 2 High-value Procurement⁸ nor Large-scale Maintenance Procurement⁹;

(b) Type 2 High-value Procurement¹⁰ – the value of procurement of the supplies, goods or services exceeds, or is likely to exceed, 20% of the average annual

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<sup>4</sup> If there are any amendments to the relevant provisions of the legislation, a licensed PMC has to act in accordance with the latest revised provisions.

<sup>5</sup> According to section 34E(1) of the BMO, subject to subsection (4), the provisions in Schedule 7 shall be impliedly incorporated— (a) into every deed of mutual covenant made on or after the material date; and (b) as from the material date, into every deed of mutual covenant made before that date.

<sup>6</sup> According to section 34E(2) of the BMO, the provisions incorporated into a deed of mutual covenant by virtue of this section shall— (a) bind the owners and manager of the building; and (b) prevail over any other provision in the deed that is inconsistent with them.

<sup>7</sup> Sections 2D(1)(a) and 2D(2)-2D(6) of the BMO

<sup>8</sup> Sections 2D(1)(b) and 2D(2)-2D(6) of the BMO

<sup>9</sup> Section 2E of the BMO

<sup>10</sup> Sections 2D(1)(b) and 2D(2)-2D(6) of the BMO

expenditure for the last 3 financial years of the property (reference amount<sup>11</sup>), and is not Large-scale Maintenance Procurement<sup>12</sup>; and

(c) Large-scale Maintenance Procurement<sup>13</sup> – the procurement of the supplies, goods or services is mainly for repairing, replacing, maintaining or improving any of the common parts of the property, the average procurement value per flat in the works project exceeds, or is likely to exceed, \$30,000; and the procurement is not the procurement of any cleaning or security services for the property, or any PMSs provided by the Manager of the property.

3.2 The financial statements of the property with total annual income or expenditure (or both) exceeding \$500,000 has to be audited regardless of the number of flats<sup>14</sup>. Once the financial statements are available, the licensed PMC has to display a copy of such financial statements and a copy of the accountant’s report (if applicable) in a prominent place in the property for at least 7 consecutive days<sup>15</sup>.

4. A licensed PMC, in its role as a Manager, is not only obligated to act in accordance with the relevant provisions of the BMO, but is also required to assist and remind the owners / owners’ organization (including the owners’ corporation<sup>16</sup> (“OC”) or the owners’ committee<sup>17</sup> (if any)) of the property to comply with the relevant provisions of the BMO when managing the property. A licensed PMC should cooperate with relevant Government department in respect of the work under the BMO.

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<sup>11</sup> Sections 2D(3)-2D(6) of the BMO

<sup>12</sup> Section 2E of the BMO

<sup>13</sup> Section 2E of the BMO

<sup>14</sup> Section 27(2)(c) and paragraphs 2(6) and (6A) of Schedule 7 to the BMO

<sup>15</sup> Paragraph 2(6B) of Schedule 7 to the BMO

<sup>16</sup> An OC is a body corporate set up under the BMO. It has the legal status to represent all owners in managing the common parts of the property.

<sup>17</sup> An owners’ committee means an owners’ organization formed under and in accordance with the DMC. Its composition, operation details, duties and powers shall be such as the DMC may set out. An owners’ committee is not a body corporate. Where a management committee has been appointed and an OC formed in respect of a building, the members of the management committee shall be deemed to be the owners’ committee and shall have all the functions, powers and duties of the owners’ committee under the DMC (please refer to sections 34D and 34K of the BMO).

## **Requirements for licensed PMCs under the BMO**

**Code:** A(1) A licensed PMC, when acting as the DMC manager or the person managing the property for the purposes of the DMC, has to comply with the provisions of Schedule 7 to and other requirements in relation to Manager in the BMO. These mainly include the following requirement:

### **General provisions relating to Manager –**

- (a) General duties of Manager
  - (i) Determination of management expenses
  - (ii) Keeping of accounts
  - (iii) Opening and maintaining bank account
  - (iv) Special fund
  - (v) Communication among owners
- (b) Termination of Manager's appointment
  - (i) Resignation of Manager
  - (ii) Obligations after Manager's appointment ends

### **Procurement of supplies, goods or services –**

- (a) Tendering requirement
- (b) Declaration requirement
- (c) Additional declaration requirement
- (d) Specific procedures at meeting
- (e) Keeping and permitting inspection of procurement documents

### **Procedure at meeting of owners –**

- (a) General procedure

### **Control, management and administration of a property –**

- (a) Cooperating with relevant Government departments in respect of the control, management or administration of a property

## General provisions Relating to Manager

### General duties of Manager – Determination of management expenses

- Code:** B(1) A licensed PMC has to prepare a draft budget for each financial year setting out the proposed expenditure for the financial year. The total amount of management expenses payable by the owners in the financial year has to be the total proposed expenditure<sup>18</sup>.
- B(2) If there is no OC<sup>19</sup>, the licensed PMC has to send a copy of the draft budget to the owners' committee<sup>20</sup> or, where there is no owners' committee<sup>21</sup>, display a copy of the draft budget in a prominent place in the property, and cause it to remain so displayed for at least 7 consecutive days<sup>22</sup>.
- B(3) The licensed PMC has to issue a notice inviting each owner to send comments on the draft budget to the licensed PMC within a period of 14 days from the date the copy of the draft budget was sent or first displayed<sup>23</sup>.
- B(4) Having collected comments from the owners, the licensed PMC has to prepare a budget specifying the total proposed expenditure for the financial year<sup>24</sup>.
- B(5) The licensed PMC has to send a copy of the budget to the owners' committee<sup>25</sup> or, where there is no owners' committee<sup>26</sup>, display a copy of the budget in a prominent place in the property for at least 7 consecutive days<sup>27</sup>.
- B(6) Where, in respect of a financial year, a licensed PMC has not complied with the above requirements for preparing the draft budget and the budget before the beginning of that financial year, the total

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<sup>18</sup> Paragraphs 1(1) and 1(2) of Schedule 7 to the BMO

<sup>19</sup> See footnote 16 of this Code

<sup>20</sup> See footnote 17 of this Code

<sup>21</sup> See footnote 17 of this Code

<sup>22</sup> Paragraph 1(2)(b) of Schedule 7 to the BMO

<sup>23</sup> Paragraph 1(2)(c) of Schedule 7 to the BMO

<sup>24</sup> Paragraph 1(2)(d) of Schedule 7 to the BMO

<sup>25</sup> See footnote 17 of this Code

<sup>26</sup> See footnote 17 of this Code

<sup>27</sup> Paragraph 1(2)(e) of Schedule 7 to the BMO

amount of the management expenses for that year has to, until the licensed PMC has so complied, be deemed to be the same as the total amount of management expenses for the previous financial year<sup>28</sup>.

- B(7) If there is an OC<sup>29</sup> and, within a period of 1 month from the date that the budget or revised budget (if any) is sent by the licensed PMC, the OC<sup>30</sup> decides, by a resolution of the OC, to reject the relevant budget, the total amount of management expenses for the financial year shall not exceed 110% of the total amount of management expenses for the previous financial year<sup>31</sup>.
- B(8) If any owner requests in writing a licensed PMC to provide a copy of any draft budget, budget or revised budget, the licensed PMC has to, upon receipt of a reasonable copying charge, supply the owner with the copy in hard copy form or, without imposing any charge, the copy in electronic form, within 28 days after the date on which the request is made<sup>32</sup>.

### **General duties of Manager – Keeping of accounts**

- Code:** C(1) (a) A licensed PMC has to keep the following accounting documents for at least 6 years<sup>33</sup>:
- (i) proper books or records of account and other financial records; and
  - (ii) all bills, invoices, vouchers, receipts and other documents referred to in those books and records.
- (b) A licensed PMC has to prepare and sign the following financial documents<sup>34</sup> in accordance with the relevant requirement, which include the following:
- (i) for each period of 3 months (or such shorter period as the licensed PMC may select), the licensed PMC has to prepare

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<sup>28</sup> Paragraph 1(3) of Schedule 7 to the BMO

<sup>29</sup> See footnote 16 of this Code

<sup>30</sup> See footnote 16 of this Code

<sup>31</sup> Paragraph 1(6) of Schedule 7 to the BMO

<sup>32</sup> Paragraphs 1(7), (7A) and (7B) of Schedule 7 to the BMO

<sup>33</sup> Paragraph 2(1) of Schedule 7 to the BMO

<sup>34</sup> Paragraph 2(4A) of Schedule 7 to the BMO

a summary of income and expenditure and a balance sheet in respect of that period, and display a copy of the summary and the balance sheet in a prominent place in the property for at least 7 consecutive days within 1 month after that period<sup>35</sup>; and

(ii) for each financial year, the licensed PMC has to prepare an income and expenditure account and balance sheet (“Financial Statements”)<sup>36</sup>. The Financial Statements of the property with total annual income or expenditure (or both) exceeding \$500,000 has to be properly audited according to the relevant requirement regardless of the number of flats<sup>37</sup>, and as soon as reasonably practicable, a copy of the Financial Statements and a copy of the accountant’s report (if any) have to be displayed in a prominent place in the property for at least 7 consecutive days<sup>38</sup>.

(c) A licensed PMC has to permit specified persons<sup>39</sup> to inspect any accounting document<sup>40</sup> at any reasonable time, and supply any specified person (i.e. an owner, a registered mortgagee, etc.) with a copy thereof in accordance with the relevant requirement<sup>41</sup>.

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<sup>35</sup> Paragraph 2(2) of Schedule 7 to the BMO

<sup>36</sup> Paragraph 2(3) of Schedule 7 to the BMO

<sup>37</sup> Paragraphs 2(6) and (6A) of Schedule 7 to the BMO

<sup>38</sup> Paragraph 2(6B) of Schedule 7 to the BMO

<sup>39</sup> Paragraph 2(8) of Schedule 7 to the BMO. *Specified person* means – (a) an owner; (b) a registered mortgagee; or (c) any person duly authorized in writing by an owner or registered mortgagee to conduct an inspection mentioned in paragraph 2(6C).

<sup>40</sup> Paragraph 2(8) of Schedule 7 to the BMO. *Accounting document* means – (a) any book or record maintained, or document kept, under paragraph 2(1); (b) any summary of income and expenditure, or balance sheet, prepared under paragraph 2(2); (c) any financial statements prepared under paragraph 2(3); or (d) any accountant’s report in respect of an audit under paragraph 2(6A)(a).

<sup>41</sup> Paragraphs 2(6C), (6D)-(6F) and (8) of Schedule 7 to the BMO

### **General duties of Manager – Opening and maintaining bank account**

- Code:** D(1) (a) A licensed PMC has to open and maintain an interest-bearing bank account and has to use that account exclusively in respect of the management of the property<sup>42, 43</sup>.
- (b) If there is an OC<sup>44</sup>, the licensed PMC has to open and maintain one or more segregated interest-bearing accounts, each of which has to be designated as a trust account or client account, for holding money received from the OC<sup>45</sup> or on behalf of the OC<sup>46</sup> in respect of the management of the property<sup>47</sup>.
- (c) A licensed PMC has to display a document showing evidence of any account opened and maintained in a prominent place in the property<sup>48</sup>.
- (d) Unless otherwise specified, a licensed PMC has to without delay pay all money received in respect of the management of the property into the bank account(s) mentioned above<sup>49</sup>.

### **General duties of Manager – Special fund**

- Code:** E(1) (a) A licensed PMC has to establish and maintain a special fund to provide for expenditure not expected to be incurred annually<sup>50</sup>.
- (b) If there is an OC<sup>51</sup>, a licensed PMC has to remind the OC<sup>52</sup> to determine, by a resolution of the OC, the amount to be contributed to the special fund by the owners in any financial year, and the time when those contributions have to be made<sup>53</sup>.

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<sup>42</sup> Paragraphs 3(1), 3(1B) and 3(2)-3(5) of Schedule 7 to the BMO

<sup>43</sup> The PMSA has issued the “*Handling Payment for or Arranging Payment to be Made by Clients*” Code of Conduct and Best Practice Guide regarding the opening and maintaining of bank account(s) for clients by the licensed PMCs when handling payment(s) relating to PMSs. In matters related to handling bank account(s), the licensed PMCs have to comply with the Code of Conduct and refer to the relevant parts of the Best Practice Guide:

<https://www.pmsa.org.hk/en/regulatory-framework/codes-of-conduct>

<sup>44</sup> See footnote 16 of this Code

<sup>45</sup> See footnote 16 of this Code

<sup>46</sup> See footnote 16 of this Code

<sup>47</sup> Paragraphs 3(1A) and 3(2)-3(5) of Schedule 7 to the BMO

<sup>48</sup> Paragraph 3(1B) of Schedule 7 to the BMO

<sup>49</sup> Paragraphs 3(2)-3(4) of Schedule 7 to the BMO

<sup>50</sup> Paragraphs 4(1)-4(5) of Schedule 7 to the BMO

<sup>51</sup> See footnote 16 of this Code

<sup>52</sup> See footnote 16 of this Code

<sup>53</sup> Paragraph 4(2) of Schedule 7 to the BMO

- (c) A licensed PMC has to open and maintain an interest-bearing bank account, the title of which has to refer to the special fund for the property, and has to use that account exclusively for the purpose of the special fund<sup>54</sup>.
- (d) If there is an OC<sup>55</sup>, a licensed PMC has to open and maintain one or more segregated interest-bearing accounts, each of which has to be designated as a trust account or client account, for holding money received in respect of the special fund<sup>56</sup>. The licensed PMC has to display a document showing evidence of any account opened and maintained in a prominent place in the property<sup>57</sup>.
- (e) A licensed PMC has to without delay pay all money received in respect of the special fund into the bank account(s) mentioned above<sup>58</sup>.
- (f) Unless in situation considered by a licensed PMC to be an emergency or the payment is approved by a resolution of the owners' committee<sup>59</sup> (if any), the licensed PMC shall not pay any money out of the special fund<sup>60</sup>.

**General duties of Manager – Communication among owners**

**Code:** F(1) A licensed PMC has to, on the channel of communication among owners on any business relating to the management of the property<sup>61</sup>, follow the relevant requirement:

- (a) If there is OC<sup>62</sup> – consult (either generally or in any particular case) the OC at a general meeting of the OC convened under Schedule 3 to the BMO and adopt the approach decided by the OC; or
- (b) If there is no OC<sup>63</sup> – consult (either generally or in any

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<sup>54</sup> Paragraph 4(3) of Schedule 7 to the BMO

<sup>55</sup> See footnote 16 of this Code

<sup>56</sup> Paragraph 4(3A) of Schedule 7 to the BMO

<sup>57</sup> Paragraph 4(3B) of Schedule 7 to the BMO

<sup>58</sup> Paragraph 4(4) of Schedule 7 to the BMO

<sup>59</sup> See footnote 17 of this Code

<sup>60</sup> Paragraph 4(5) of Schedule 7 to the BMO

<sup>61</sup> Paragraph 4A of Schedule 7 to the BMO

<sup>62</sup> See footnote 16 of this Code

<sup>63</sup> See footnote 16 of this Code

particular case) the owners' committee at a meeting of the owners convened under the DMC and adopt the approach decided by the owners' committee.

### **Termination of Manager's appointment – Resignation of Manager**

- Code:** G(1) If a licensed PMC resigns, it has to give not less than 3 months' notice in writing by<sup>64</sup>:
- (a) sending such notice to the owners' committee<sup>65</sup>; or
  - (b) where there is no owners' committee<sup>66</sup>, by giving such notice to each of the owners and by displaying such notice in a prominent place in the property.
- G(2) If a contract had been entered into for appointment of a licensed PMC, the licensed PMC has to abide by the terms on resignation as contained in the appointment contract.
- G(3) The notice referred to in paragraph G(1) of the Code has to be given by a licensed PMC through one of the following ways<sup>67</sup>:
- (a) delivering it personally to the owner;
  - (b) sending it by post to the owner at the last known address; or
  - (c) leaving it at the owner's flat or depositing it in the letter box for that flat.

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<sup>64</sup> Paragraph 6(1) of Schedule 7 to the BMO

<sup>65</sup> See footnote 17 of this Code

<sup>66</sup> See footnote 17 of this Code

<sup>67</sup> Paragraph 6(2) of Schedule 7 to the BMO

## **Termination of Manager’s appointment– Obligations after Manager’s appointment ends**

- Code:** H(1) If a licensed PMC’s appointment ends for any reason, its obligations include the following requirement<sup>68, 69</sup>:
- (a) as soon as practicable after its appointment ends, and in any event within 14 days of the date its appointment ends, deliver to the owners’ committee<sup>70</sup> (if any) or the licensed PMC appointed to take up its place any movable property in respect of the management of the property that is in its possession, and that belongs to the OC<sup>71</sup> (if any) or the owners<sup>72</sup>.
  - (b) within 2 months of the date its appointment ends, prepare an income and expenditure account and a balance sheet, and arrange for that account and balance sheet to be audited by the accountant or auditor specified by the owners’ organization (if any)<sup>73</sup>.
  - (c) deliver to the owners’ organization (if any) or the licensed PMC appointed to take up its place any books or records of accounts, papers, documents and other records required for the purposes of preparing an income and expenditure account and a balance sheet<sup>74, 75</sup>.

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<sup>68</sup> Paragraph 8 of Schedule 7 to the BMO

<sup>69</sup> The PMSA has issued the “*Obligations of Property Management Companies regarding the Ending of their Appointment*” Code of Conduct and Best Practice Guide regarding the obligations of the licensed PMCs after their appointment ends. The licensed PMCs have to comply with the Code of Conduct and refer to relevant parts of the Best Practice Guide:

<https://www.pmsa.org.hk/en/regulatory-framework/codes-of-conduct>

<sup>70</sup> See footnote 17 of this Code

<sup>71</sup> See footnote 16 of this Code

<sup>72</sup> Paragraph 8(1) of Schedule 7 to the BMO

<sup>73</sup> Paragraph 8(2)(a) of Schedule 7 to the BMO

<sup>74</sup> The PMSA has issued the “*Obligations of Property Management Companies regarding the Ending of their Appointment*” Code of Conduct and Best Practice Guide regarding the obligations of the licensed PMCs after their appointment ends. The licensed PMCs have to comply with paragraph C(2) of the Code of Conduct and refer to relevant parts of the Best Practice Guide:

<https://www.pmsa.org.hk/en/regulatory-framework/codes-of-conduct>

<sup>75</sup> Paragraph 8(2)(b) of Schedule 7 to the BMO

## **Procurement of supplies, goods or services**<sup>76</sup>

**Code:** I(1) Tendering requirement –

A licensed PMC has to comply with the requirement below when carrying out Type 1 High-value Procurement<sup>77</sup>, Type 2 High-value Procurement<sup>78</sup> and Large-scale Maintenance Procurement<sup>79</sup>:

- (a) Unless under the circumstance in which tendering can be exempt<sup>80</sup>, the procurement has to be conducted by an invitation to tender<sup>81</sup>;
- (b) An invitation to tender issued for the procurement has to set out clearly the nature of the supplies, goods or services to which the procurement relates, and specify a deadline for tender submission<sup>82</sup>;
- (c) A copy of the invitation to tender has to be displayed in a prominent place in the property until the deadline<sup>83</sup>;
- (d) Tenders submitted after the deadline must not be accepted<sup>84</sup>;
- (e) Unless under the circumstance in which the minimum number of tenders to be invited can be exempt<sup>85</sup>, the minimum number of tenders to be invited is:
  - (i) for procurement the value of which exceeds, or is likely to exceed \$200,000, an invitation to tender has to be issued to at least 5 potential suppliers<sup>86</sup>.
  - (ii) for procurement the value of which exceeds, or is likely to exceed \$10,000, but does not exceed, or is

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<sup>76</sup> For transitional arrangements on procurement requirement under the Amendment Ordinance, refer to section 44B of the BMO.

<sup>77</sup> Sections 2D(1)(a) and 2D(2)-2D(6) of the BMO

<sup>78</sup> Sections 2D(1)(b) and 2D(2)-2D(6) of the BMO

<sup>79</sup> Section 2E of the BMO

<sup>80</sup> Paragraphs 12(3) and 13(3) of Schedule 7 to the BMO

<sup>81</sup> Paragraphs 12-14 of Schedule 7 to the BMO

<sup>82</sup> Paragraphs 16 and 17 of Schedule 7 to the BMO

<sup>83</sup> Paragraph 18 of Schedule 7 to the BMO

<sup>84</sup> Paragraph 19 of Schedule 7 to the BMO

<sup>85</sup> Paragraph 20(4) of Schedule 7 to the BMO. The requirement on the minimum number of tenders to be invited can be waived if it is so decided by an owners resolution.

<sup>86</sup> Paragraph 20(1)(a) of Schedule 7 to the BMO

unlikely to exceed \$200,000, an invitation to tender has to be issued to at least 3 potential suppliers<sup>87</sup>.

I(2) Declaration requirement –

A licensed PMC has to make declaration regarding the three procurement categories (i.e. Type 1 High-value Procurement<sup>88</sup>, Type 2 High-value Procurement<sup>89</sup> and Large-scale Maintenance Procurement<sup>90</sup>) according to the requirement, which include the following:

- (a) Where a responsible person<sup>91</sup> for the procurement (i.e. the licensed PMC as Manager or a person who is accustomed or obliged to act in accordance with the directions or instructions of the licensed PMC in connection with the procurement) has any pecuniary/other personal dealing or connection with a member of a management committee<sup>92</sup> (“MC”) (if there is OC)/owners’ committee (if there is no OC), he has to make a declaration<sup>93</sup> in the specified form<sup>94</sup> to a specified person<sup>95</sup>.
- (b) Where a responsible person<sup>96</sup> for the procurement has any pecuniary or other personal interest in a tender submitted, or any connection with a person who has submitted a tender, he has to make a declaration<sup>97</sup> in the specified form<sup>98</sup> to a

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<sup>87</sup> Paragraph 20(1)(b) of Schedule 7 to the BMO

<sup>88</sup> Sections 2D(1)(a) and 2D(2)-2D(6) of the BMO

<sup>89</sup> Sections 2D(1)(b) and 2D(2)-2D(6) of the BMO

<sup>90</sup> Section 2E of the BMO

<sup>91</sup> Section 2(1) of the BMO. **Responsible person**, in relation to the procurement of any supplies, goods or services for a building – (a) means – (i) the manager of the building; or (ii) a person who is accustomed or obliged to act in accordance with the directions or instructions of the manager in connection with substantive matters in respect of the procurement, regardless of whether the directions or instructions are made to the person directly or indirectly; and (b) does not include a member, secretary or treasurer of the management committee in respect of the building.

<sup>92</sup> **Management committee** means a management committee appointed under sections 3, 3A, 4 or 40C of the BMO (see section 2(1) of the BMO)

<sup>93</sup> Paragraph 9 of Schedule 6B and paragraph 22 of Schedule 7 to the BMO

<sup>94</sup> Paragraph 11 of Schedule 6B and paragraph 24 of Schedule 7 to the BMO

<sup>95</sup> Paragraph 12 of Schedule 6B and paragraph 25 of Schedule 7 to the BMO

<sup>96</sup> Section 2(1) of the BMO

<sup>97</sup> Paragraph 10 of Schedule 6B and paragraph 23 of Schedule 7 to the BMO

<sup>98</sup> Paragraph 11 of Schedule 6B and paragraph 24 of Schedule 7 to the BMO

specified person<sup>99</sup>.

- (c) Within 7 days after the declaration is made, a notice of the declaration has to be displayed in a prominent place in the property for at least 7 consecutive days<sup>100</sup>.
- (d) A copy of the declaration has to be produced to the owners at the first procurement meeting of the owners/MC (if applicable) since the making of the declaration, and a copy of the declaration notice has to be attached to the minutes of the relevant owners' meeting<sup>101</sup>.
- (e) A copy of the declaration has to be kept during the period of 6 years after the date on which the relevant procurement contract is entered into, and a specified person has to be permitted to inspect the copy at any reasonable time<sup>102</sup>.
- (f) Unless in an exempt situation, a responsible person for the procurement who has made a declaration must not participate in any assessment of tenders or any negotiation or other activity relating to the procurement<sup>103</sup>.

I(3) Additional declaration requirement –

For Large-scale Maintenance Procurement<sup>104</sup>, a licensed PMC has to make additional declaration according to the requirement, which includes the following:

- (a) Before the first tender acceptance meeting<sup>105</sup> is held, every

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<sup>99</sup> Paragraph 12 of Schedule 6B and paragraph 25 of Schedule 7 to the BMO

<sup>100</sup> Paragraph 26 of Schedule 7 to the BMO

<sup>101</sup> Paragraph 14 of Schedule 6B and paragraph 27 of Schedule 7 to the BMO

<sup>102</sup> Paragraph 28 of Schedule 7 to the BMO. *Specified person* means – (a) an owner; (b) a registered mortgagee; or (c) any person duly authorized in writing by an owner or registered mortgagee to conduct an inspection mentioned in paragraph 28(2).

<sup>103</sup> Paragraph 16 of Schedule 6B and paragraph 29 of Schedule 7 to the BMO

<sup>104</sup> Section 2E of the BMO

<sup>105</sup> Section 2(1) of the BMO. *First tender acceptance meeting*, in relation to any large-scale maintenance procurement, means – (a) if there is a corporation – the first general meeting of the corporation convened under Schedule 3; or (b) if there is no corporation – the first meeting of owners convened under the deed of mutual covenant, at which the question whether a tender submitted for the procurement is to be accepted or not is considered.

responsible person<sup>106</sup> for the procurement (if there is OC)/the licensed PMC as Manager (and requiring the person responsible for the procurement) (if there is no OC) has to declare in a specified form<sup>107</sup> to a specified person<sup>108</sup> that he does not have any pecuniary/other personal dealing or connection with any member of the MC (if there is OC)/owners' committee (if there is no OC) except for the dealing or connection so declared<sup>109</sup>.

- (b) Before the first tender acceptance meeting is held, every responsible person<sup>110</sup> for the procurement (if there is OC)/the licensed PMC as Manager (and requiring the person responsible for the procurement) (if there is no OC) has to declare in a specified form<sup>111</sup> to a specified person<sup>112</sup> that he does not have any pecuniary/other personal interest in the tender submitted or any connection with a person who has submitted the tender, except for the interest or connection so declared<sup>113</sup>.
- (c) For every declaration, it is necessary to ensure that a document in respect of the declaration for the relevant procurement is attached to the minutes of the first tender acceptance meeting<sup>114</sup>.
- (d) A copy of the declaration has to be kept during the period of 6 years after the date on which the relevant procurement contract is entered into, and a specified person has to be

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<sup>106</sup> Section 2(1) of the BMO. **Responsible person**, in relation to the procurement of any supplies, goods or services for a building – (a) means – (i) the manager of the building; or (ii) a person who is accustomed or obliged to act in accordance with the directions or instructions of the manager in connection with substantive matters in respect of the procurement, regardless of whether the directions or instructions are made to the person directly or indirectly; and (b) does not include a member, secretary or treasurer of the management committee in respect of the building.

<sup>107</sup> Paragraph 24 of Schedule 6B and paragraph 33 of Schedule 7 to the BMO

<sup>108</sup> Paragraph 25 of Schedule 6B and paragraph 34 of Schedule 7 to the BMO

<sup>109</sup> Paragraph 22 of Schedule 6B and paragraph 31 of Schedule 7 to the BMO

<sup>110</sup> Section 2(1) of the BMO

<sup>111</sup> Paragraph 24 of Schedule 6B and paragraph 33 of Schedule 7 to the BMO

<sup>112</sup> Paragraph 25 of Schedule 6B and paragraph 34 of Schedule 7 to the BMO

<sup>113</sup> Paragraph 23 of Schedule 6B and paragraph 32 of Schedule 7 to the BMO

<sup>114</sup> Paragraph 35 of Schedule 7 to the BMO

permitted to inspect the copy at any reasonable time<sup>115</sup>.

- I(4) Specific procedures at meeting –  
Regarding Large-scale Maintenance Procurement<sup>116</sup>, a licensed PMC has to comply with the specific procedures at owners’ meeting, where the owners, by owners resolution, decide whether to accept a tender, or to vary or terminate a contract entered into for procurement<sup>117</sup>. The specific procedures include the following:
- (a) Notice of meeting – if a resolution is proposed in an owners’ meeting, the statement specifying the proposed resolution has to be titled “Important Reminder” in English and “重要提示” in Chinese. The estimated amount to be contributed from the building management fund and the estimated apportioned amount that each of the owners is to contribute also has to be set out clearly in the notice of meeting<sup>118</sup>.
  - (b) Voting-in-person threshold – At least 5% of the owners or 100 owners (whichever is the lesser) has to vote in person in order to pass a resolution on large-scale maintenance procurement/variation or termination of a related contract<sup>119</sup>.
  - (c) Minutes of meeting – it has to contain a clear record of the total number of votes cast personally and the total number of votes cast by proxy<sup>120</sup>, and each of the owners has to be supplied with a copy of the minutes for the meeting within 28 days after the date of the meeting<sup>121</sup>.
- I(5) Keeping and permitting inspection of procurement documents –
- (a) A licensed PMC has to, for a retention period of 6 years after the date on which the procurement contract is entered into,

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<sup>115</sup> Paragraph 36 of Schedule 7 to the BMO. *Specified person* means – (a) an owner; (b) a registered mortgagee; or (c) any person duly authorized in writing by an owner or registered mortgagee to conduct an inspection mentioned in paragraph 36(2).

<sup>116</sup> Section 2E of the BMO

<sup>117</sup> Paragraph 46 of Schedule 7 to the BMO

<sup>118</sup> Paragraph 48 of Schedule 7 to the BMO

<sup>119</sup> Paragraph 49 of Schedule 7 to the BMO

<sup>120</sup> Paragraph 50 of Schedule 7 to the BMO

<sup>121</sup> Paragraph 51 of Schedule 7 to the BMO

- keep all procurement documents<sup>122</sup>.
- (b) At the written request of not less than 5% of the owners, a licensed PMC has to, upon receipt of a reasonable copying charge, supply the owners with the hard copy of the procurement documents it is required to keep, or without imposing any charge, the copy in electronic form, within 28 days after the date of the request<sup>123</sup>.

### **Procedure at meeting of owners**

**Code:** J(1) **General procedure –**

- (a) A licensed PMC has to, at least 14 days before the date of the meeting, give notice of the meeting to each owner. The notice of meeting must specify the date, time and place of the meeting; and the resolutions (if any) that are to be proposed at the meeting<sup>124</sup>.
- (b) A licensed PMC has to display the minutes of proceedings in a prominent place in the property for at least 7 consecutive days within 28 days after the date of the meeting to which the minutes relate, and keep the minutes during the period of 6 years after the date of the meeting<sup>125</sup>.
- (c) If a specified person requests in writing, a licensed PMC has to, upon receipt of a reasonable copying charge, supply him with the hard copy of the minutes of the proceedings, or without imposing any charge, the copy in electronic form, within 28 days after the date on which the request is made<sup>126</sup>.

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<sup>122</sup> Paragraph 10 of Schedule 7 to the BMO. **Procurement document**, in relation to the procurement of any supplies, goods or services – (a) means a document – (i) that contains information that enables a person who inspects it to (whether with or without any other document) readily verify the financial liability incurred by the owners for the procurement; or (ii) that otherwise relates to the procurement, such as a tender document, copy of contract, statement of account and invoice; and (b) does not include a declaration made under Division 4 of Part 2 of Schedule 7 to the BMO.

<sup>123</sup> Paragraph 11 of Schedule 7 to the BMO

<sup>124</sup> Paragraph 39 of Schedule 7 to the BMO

<sup>125</sup> Paragraph 40 of Schedule 7 to the BMO

<sup>126</sup> Paragraph 41 of Schedule 7 to the BMO. **Specified person** means – (a) an owner; (b) a registered mortgagee; or (c) any person duly authorized in writing by an owner or registered mortgagee to make a request mentioned in paragraph 41(1).

### **Control, management and administration of a property**

**Code:** K(1) *Cooperating with relevant Government department in respect of the control, management or administration of a property –*

If relevant Government department, for the purpose of ascertaining the manner in which a property is being controlled, managed or administered:

- (a) enters and inspects any common parts of the property;
- (b) attends any general meeting of the OC<sup>127</sup>;
- (c) requires the OC<sup>128</sup> or licensed PMC to furnish it with such information in the possession of the OC<sup>129</sup> or licensed PMC, as it may specify in relation to the control, management and administration of the property;
- (d) inspects the relevant books or records of account and other records; and
- (e) inspects any documents or records kept by the OC<sup>130</sup> in relation to any of its functions, duties or powers;

then the licensed PMC has to cooperate and provide the concerned information<sup>131</sup> (if applicable) in an accurate manner.

### **Requirements under the BMO which a licensed PMC has to remind an OC to comply with**

**Code:** L(1) For a property that has an OC<sup>132</sup>, a licensed PMC, as far as reasonably practicable, has to assist and remind the OC<sup>133</sup> to comply with the relevant requirements under the BMO that apply to the OC<sup>134</sup>, and remind the OC<sup>135</sup> to act in accordance with the BMO. The requirements under the BMO relating to property management mainly cover the following matters:

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<sup>127</sup> See footnote 16 of this Code

<sup>128</sup> See footnote 16 of this Code

<sup>129</sup> See footnote 16 of this Code

<sup>130</sup> See footnote 16 of this Code

<sup>131</sup> Section 40A of the BMO

<sup>132</sup> See footnote 16 of this Code

<sup>133</sup> See footnote 16 of this Code

<sup>134</sup> See footnote 16 of this Code

<sup>135</sup> See footnote 16 of this Code

- (a) MC and owners' general meeting;
- (b) Financial matters;
- (c) Procurement of supplies, goods or services;
- (d) Building insurance; and
- (e) Facility management and safety of the property (including environmental hygiene, security, slope safety, lift installation safety, etc.).

(For details of the requirement of paragraphs L(1)(a)-(e) of this Code, refer to **Annex 1**)

L(2) If relevant Government department, for the purpose of ascertaining the manner in which a property is being controlled, managed or administered:

- (a) enters and inspects any common parts of the property;
- (b) attends any general meeting of the OC<sup>136</sup>;
- (c) requires the OC<sup>137</sup> or licensed PMC to furnish it with such information in the possession of the OC<sup>138</sup> or licensed PMC, as it may specify in relation to the control, management and administration of the property;
- (d) inspects the relevant books or records of account and other records; and
- (e) inspects any documents or records kept by the OC<sup>139</sup> in relation to any of its functions, duties or powers;

then the licensed PMC has to remind the OC<sup>140</sup> to cooperate and provide the concerned information<sup>141</sup> (if applicable) in an accurate manner.

L(3) If the scope of work agreed between a licensed PMC and an OC<sup>142</sup> includes the property management matters referred to in paragraphs L(1)(a) to (e) of this Code, then the licensed PMC has to act in accordance with the requirements related thereto under the BMO.

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<sup>136</sup> See footnote 16 of this Code

<sup>137</sup> See footnote 16 of this Code

<sup>138</sup> See footnote 16 of this Code

<sup>139</sup> See footnote 16 of this Code

<sup>140</sup> See footnote 16 of this Code

<sup>141</sup> Section 40A of the BMO

<sup>142</sup> See footnote 16 of this Code

**Requirements under the BMO which a licensed PMC has to remind an owners' committee to comply with**

**Code:** M(1) For a property that has an owners' committee<sup>143</sup>, a licensed PMC, as far as reasonably practicable, has to assist and remind the owners' committee<sup>144</sup> to comply with the requirements in Schedule 8<sup>145</sup> to the BMO that apply to the owners' committee<sup>146</sup>, and remind the owners' committee<sup>147</sup> to act in accordance with such requirements. Schedule 8 mainly sets out the requirements for the meetings of owners' committee<sup>148</sup> and the meetings of owners. (Refer to **Annex 2** for relevant requirement)

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If there is any inconsistency between the Chinese version and the English version of this Code, the Chinese version shall prevail.

If there are any amendments to any laws or regulations mentioned in this Code, licensees have to act in accordance with the revised provisions.

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<sup>143</sup> See footnote 17 of this Code

<sup>144</sup> See footnote 17 of this Code

<sup>145</sup> According to section 34F of the BMO, the provisions in Schedule 8 shall, to the extent that they are consistent with the DMC, be impliedly incorporated into every DMC. Any provision in Schedule 8 that is so incorporated may, by a resolution of the owners, be amended, deleted, or re-incorporated into the DMC.

<sup>146</sup> See footnote 17 of this Code

<sup>147</sup> See footnote 17 of this Code

<sup>148</sup> See footnote 17 of this Code

**Requirement under the BMO which a licensed PMC has to remind an OC to comply with mainly include:**

- (1) MC and owners' general meeting
  - (a) the MC shall meet at least once in every period of 3 months<sup>1</sup>.
  - (b) the MC shall convene and hold meeting in accordance with the requirement in Schedule 2 to the BMO, which include giving notice of meeting, preparing minutes of meeting and keeping record, etc.<sup>2</sup>. The requirement includes:
    - (i) for every MC meeting, the MC must display the certified minutes in a prominent place in the property within 28 days after the date of the meeting for at least 7 consecutive days<sup>3</sup>.
    - (ii) certified minutes for MC meeting must be kept for 6 years<sup>4</sup>. Unless a defence is established, the relevant person who is accountable<sup>5</sup> for the contravention is liable on conviction to a fine at level 4 (i.e. \$25,000)<sup>6</sup>.
    - (iii) if a specified person requests, in writing, the OC<sup>7</sup> to supply him with a copy of the certified minutes for MC meeting, the MC must, upon receipt of a reasonable copying charge, supply him with the hard copy, or without imposing any charge, the copy in electronic form, within 28 days after the date on which the request is made<sup>8</sup>.
    - (iv) the MC must, within 28 days after the date of a meeting of the MC, supply each of the owners with a copy of the certified minutes for the meeting if a tender submitted for any large-scale maintenance procurement<sup>9</sup> in respect of the property has been assessed at the

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<sup>1</sup> Paragraph 7 of Schedule 2 to the BMO

<sup>2</sup> Schedule 2 to the BMO

<sup>3</sup> Paragraph 10(4B) of Schedule 2 to the BMO

<sup>4</sup> Note of Paragraph 10(4B) of Schedule 2 to the BMO and section 36A(1)(a) of the BMO

<sup>5</sup> Section 2C of the BMO. Regarding MC, the relevant criminal liability is imposed on the “accountable” participants of the MC (instead of each participant of the MC). The “accountable” person is the person who has assumed responsibility as a participant of the MC at the time when the contravention of the legal provisions occurs.

<sup>6</sup> Note of Paragraph 10(4B) of Schedule 2 to the BMO and sections 36A(4)-36A(9) of the BMO

<sup>7</sup> See footnote 16 of this Code

<sup>8</sup> Paragraph 10A of Schedule 2 to the BMO. *Specified person* means – (a) an owner; (b) the tenants' representative; (c) a registered mortgagee; or (d) any person duly authorized in writing by an owner or registered mortgagee to make a request mentioned in paragraph 10A(1).

<sup>9</sup> Section 2E of the BMO

meeting, or a proposal for varying or terminating a contract for such procurement category has been considered at the meeting<sup>10</sup>.

- (c) the MC shall convene annual general meeting of the OC<sup>11</sup> regularly, and at the written request of not less than 5% of the owners, convene and hold a general meeting of the OC<sup>12, 13</sup>.
- (d) the MC shall convene and hold general meeting of the OC<sup>14</sup> in accordance with the requirement in Schedule 3 to the BMO, which include, giving notice of meeting, collecting and handling instrument appointing proxy, preparing minutes of meeting and keeping record, etc.<sup>15</sup>. The requirement includes:
  - (i) the secretary of the MC shall, at least 14 days before the date of the meeting of the OC<sup>16</sup>, give notice of the meeting to each owner and the tenants' representative (if any). The notice of meeting shall specify the date, time, place of the meeting, and the resolutions (if any) that are to be proposed at the meeting or other matters that are to be discussed at the meeting<sup>17</sup>.
  - (ii) corporate flat owners may, by way of an authorization notice, authorize a natural person to attend general meetings of the OCs<sup>18</sup> on their behalf, and to vote for them personally. The authorization notice must be given in the specified form, impressed with the corporate flat owner's seal or chop, signed by a person authorized by the corporate flat owner in that behalf, and must be given to the secretary of the MC at least 48 hours before the time for the holding of the meeting<sup>19</sup>.
  - (iii) For OC<sup>20</sup> meeting, the secretary of the MC must set out on a list every flat in respect of which an authorization notice was given as mentioned above, and display the list in a prominent place in the place of the meeting before the time for the holding of the meeting until the

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<sup>10</sup> Paragraph 10B of Schedule 2 to the BMO

<sup>11</sup> See footnote 16 of this Code

<sup>12</sup> See footnote 16 of this Code

<sup>13</sup> Paragraph 1 of Schedule 3 to the BMO

<sup>14</sup> See footnote 16 of this Code

<sup>15</sup> Schedule 3 to the BMO

<sup>16</sup> See footnote 16 of this Code

<sup>17</sup> Paragraphs 2(1) and 2(1AA) of Schedule 3 to the BMO

<sup>18</sup> See footnote 16 of this Code

<sup>19</sup> Paragraphs 4A and 4B of Schedule 3 to the BMO

<sup>20</sup> See footnote 16 of this Code

- conclusion of the meeting<sup>21</sup>.
- (iv) for every meeting of the OC<sup>22</sup>, the MC shall display the certified minutes in a prominent place in the property within 28 days of the date of the meeting of the OC<sup>23</sup> for at least 7 consecutive days<sup>24</sup>.
  - (v) if a specified person requests, in writing, the OC<sup>25</sup> to supply him with a copy of the certified minutes for a meeting of the OC<sup>26</sup>, the MC must, upon receipt of a reasonable copying charge, supply him with the hard copy, or without imposing any charge, the copy in electronic form, within 28 days after the date on which the request is made<sup>27</sup>.
  - (vi) certified minutes of a meeting of the OC<sup>28</sup> must be kept for 6 years<sup>29</sup>, and proxy instrument lodged for the meeting must be kept for 12 months after the conclusion of the meeting<sup>30</sup>. Authorization notice given by a corporate flat owner for the meeting of the OC must be kept for 3 years after the conclusion of the meeting<sup>31</sup>. Unless a defence is established, the relevant person who is accountable<sup>32</sup> for the contravention of the requirement on keeping the relevant documents is liable on conviction to a fine at level 4 (i.e. \$25,000)<sup>33</sup>.

(2) Financial matters

- (a) the MC shall prepare the annual budget of the OC<sup>34</sup>, setting out the sums of various expenses<sup>35</sup> and determine the amount to be contributed by the owners<sup>36, 37</sup>.

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<sup>21</sup> Paragraph 4A(6) of Schedule 3 to the BMO

<sup>22</sup> See footnote 16 of this Code

<sup>23</sup> See footnote 16 of this Code

<sup>24</sup> Paragraphs 6(1) and 6(3) of Schedule 3 to the BMO

<sup>25</sup> See footnote 16 of this Code

<sup>26</sup> See footnote 16 of this Code

<sup>27</sup> Paragraph 6A of Schedule 3 to the BMO

<sup>28</sup> See footnote 16 of this Code

<sup>29</sup> Note of paragraph 6(3) of Schedule 3 to the BMO and section 36A(1)(b) of the BMO

<sup>30</sup> Note of paragraph 4 of Schedule 3 to the BMO and section 36A(2) of the BMO

<sup>31</sup> Note of paragraph 4A of Schedule 3 to the BMO and section 36A(3) of the BMO

<sup>32</sup> Section 2C of the BMO and footnote 5 of this Annex

<sup>33</sup> Sections 36A(4)-36A(9) of the BMO

<sup>34</sup> See footnote 16 of this Code

<sup>35</sup> Schedule 5 to the BMO

<sup>36</sup> Section 21 of the BMO and paragraph 1 of Schedule 5 to the BMO

<sup>37</sup> Section 22 of the BMO

- (b) regarding the books of the OC<sup>38</sup>, the MC shall:
- (i) prepare, within 15 months after the date of the registration of the OC<sup>39</sup> and thereafter every 12 months, financial statements. A copy of the financial statements shall be displayed in a prominent place in the property for at least 7 consecutive days. MC shall also produce a copy of the financial statements to OC<sup>40</sup> at the first annual general meeting of the OC<sup>41</sup> convened after such financial statements are available<sup>42</sup>.
  - (ii) for property with total annual income or expenditure (or both) exceeding \$500,000 per year, regardless of the number of flats, have their financial statements properly audited<sup>43</sup>. If the financial statements are required to be audited, the MC has to display a copy of the audited financial statements and a copy of the accountant's report in a prominent place in the property for at least 7 consecutive days, and produce a copy of the financial statements and a copy of the accountant's report to OC<sup>44</sup> at the first annual general meeting of the OC<sup>45</sup> convened after the accountant's report is obtained<sup>46</sup>.
  - (iii) keep each bill, invoice, voucher, receipt or any other document referred to in the accounting documents for 6 years after the date on which the document is obtained<sup>47</sup>. Unless a defence is established, the relevant person who is accountable<sup>48</sup> for the contravention is liable on conviction to a fine at level 4 (i.e. \$25,000)<sup>49</sup>.
  - (iv) if a specified person requests in writing, upon receipt of a reasonable copying charge, supply him with the hard copy of the financial statements and the accountant's report (if applicable), or the summary of the income and expenditure, or without imposing any charge, the

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<sup>38</sup> See footnote 16 of this Code

<sup>39</sup> See footnote 16 of this Code

<sup>40</sup> See footnote 16 of this Code

<sup>41</sup> See footnote 16 of this Code

<sup>42</sup> Sections 27(1) and 27(7)(b) of the BMO

<sup>43</sup> Sections 27(2)(c), 27(3) and 27(4) of the BMO

<sup>44</sup> See footnote 16 of this Code

<sup>45</sup> See footnote 16 of this Code

<sup>46</sup> Section 27(7)(a) of the BMO

<sup>47</sup> Section 27(6) of the BMO

<sup>48</sup> Section 2C of the BMO and footnote 5 of this Annex

<sup>49</sup> Section 27A(2) of the BMO

copy in electronic form, within 28 days after the date on which the request is made<sup>50</sup>.

- (3) Procurement of supplies, goods or services
- (a) the MC shall handle procurement matters (including the three specified procurement categories (i.e. Type 1 High-value Procurement<sup>51</sup>, Type 2 High-value Procurement<sup>52</sup> and Large-scale Maintenance Procurement<sup>53</sup>)) in accordance with the relevant requirement<sup>54</sup>.
  - (b) the participants of the MC<sup>55</sup> (i.e. MC members, secretary and treasurer) shall make declaration regarding the three specified procurement categories (i.e. Type 1 High-value Procurement<sup>56</sup>, Type 2 High-value Procurement<sup>57</sup> and Large-scale Maintenance Procurement<sup>58</sup>) in accordance with the relevant requirement<sup>59</sup>.
  - (c) the participants of the MC<sup>60</sup> (i.e. MC members, secretary and treasurer) shall make declaration regarding Large-scale Maintenance Procurement<sup>61</sup> in accordance with the additional requirement<sup>62</sup>.
  - (d) regarding Large-scale Maintenance Procurement<sup>63</sup>, specific procedures at a general meeting of the OC<sup>64</sup> shall be complied with to decide, by owners resolution, whether to accept a tender, or to vary or terminate a contract entered into for procurement<sup>65</sup>.
  - (e) the MC shall, for a retention period of 6 years after the date on which the procurement contract is entered into, keep all procurement documents (e.g.

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<sup>50</sup> Section 27B of the BMO and paragraph 3 of Schedule 6 to the BMO. *Specified person* means – (a) an owner; (b) the tenants’ representative; (c) a registered mortgagee; or (d) any person duly authorized in writing by an owner or registered mortgagee to make a request mentioned in paragraph 3(1).

<sup>51</sup> Sections 2D(1)(a) and 2D(2)-2D(6) of the BMO

<sup>52</sup> Sections 2D(1)(b) and 2D(2)-2D(6) of the BMO

<sup>53</sup> Section 2E of the BMO

<sup>54</sup> Sections 28A-28M of the BMO and Schedule 6A to the BMO

<sup>55</sup> Section 2(4) of the BMO

<sup>56</sup> Sections 2D(1)(a) and 2D(2)-2D(6) of the BMO

<sup>57</sup> Sections 2D(1)(b) and 2D(2)-2D(6) of the BMO

<sup>58</sup> Section 2E of the BMO

<sup>59</sup> Paragraphs 1-4 of Schedule 6B to the BMO

<sup>60</sup> Section 2(4) of the BMO

<sup>61</sup> Section 2E of the BMO

<sup>62</sup> Paragraphs 17-19 of Schedule 6B to the BMO

<sup>63</sup> Section 2E of the BMO

<sup>64</sup> See footnote 16 of this Code

<sup>65</sup> Schedule 6C to the BMO

tender documents, copies of contracts, statements of account and invoices, etc.). Unless a defence is established, the relevant person who is accountable<sup>66</sup> for the contravention is liable on conviction to a fine at level 4 (i.e. \$25,000)<sup>67</sup>.

- (f) at the written request of not less than 5% of the owners, the MC shall, upon receipt of a reasonable copying charge, supply the requesters with the hard copy of the procurement documents it is required to keep, or without imposing any charge, the copy in electronic form, within 28 days after the date of the request<sup>68</sup>.
  - (g) For details of the transitional arrangements regarding procurement requirement under the Amendment Ordinance, please refer to the Amendment Ordinance<sup>69</sup>.
- (4) Building insurance
- (a) a licensed PMC has to remind the OC<sup>70</sup> about matters that include procuring and keeping in force such insurance in relation to the common parts of the building and the property of the OC<sup>71</sup> covering third party risks in compliance with the relevant requirement (including minimum insured amount (if applicable)). Unless a defence is established, the relevant person who is accountable<sup>72</sup> for the contravention is liable on conviction to a fine at level 5 (i.e. \$50,000)<sup>73</sup>.
- (5) Facility management and safety of the property
- (a) a licensed PMC has to remind the OC<sup>74</sup> to comply with the standards and guidelines specified in the “Code of Practice on Building Management and

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<sup>66</sup> Section 2C of the BMO and footnote 5 of this Annex

<sup>67</sup> Section 28B of the BMO. **Procurement document**, in relation to the procurement of any supplies, goods or services – (a) means a document – (i) that contains information that enables a person who inspects it to (whether with or without any other document) readily verify the financial liability incurred by the corporation for the procurement; or (ii) that otherwise relates to the procurement, such as a tender document, copy of contract, statement of account and invoice; and (b) does not include a declaration made under Schedule 6B to the BMO.

<sup>68</sup> Section 28C of the BMO

<sup>69</sup> For transitional arrangements on procurement requirements under the Amendment Ordinance, refer to section 44B of the BMO.

<sup>70</sup> See footnote 16 of this Code

<sup>71</sup> See footnote 16 of this Code

<sup>72</sup> Section 2C of the BMO and footnote 5 of this Annex

<sup>73</sup> Section 28 of the BMO

<sup>74</sup> See footnote 16 of this Code

Safety” issued by the Secretary for Home and Youth Affairs under section 44(1)(b) of the BMO and the relevant Codes of Conduct issued by the PMSA<sup>75</sup> from time to time regarding management and maintenance of common parts, environmental hygiene, security, water utilities and supply, fire safety, building safety, slope safety, tree safety, electrical, gas, lift and escalator installations of the property<sup>76</sup>.

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<sup>75</sup> Codes of Conduct issued by the PMSA:

<https://www.pmsa.org.hk/en/regulatory-framework/codes-of-conduct>

<sup>76</sup> For details, please refer to the “*Code of Practice on Building Management and Safety*” (Revised Version Effective from 1 September, 2018) issued by the Secretary for Home and Youth Affairs under section 44(1)(b) of the BMO:  
[https://www.buildingmgt.gov.hk/file\\_manager/en/documents/code\\_of\\_practice/221805064\\_HAD%20\(eng\)\(full\).pdf](https://www.buildingmgt.gov.hk/file_manager/en/documents/code_of_practice/221805064_HAD%20(eng)(full).pdf)

**Requirement under Schedule 8 to the BMO which a licensed PMC has to remind an owners' committee to comply with mainly include:**

- (1) Owners' committee<sup>1</sup> meeting
  - (a) a meeting of the owners' committee<sup>2</sup> may be convened at any time by the chairman or any 2 members of the owners' committee<sup>3, 4</sup>;
  - (b) the person or persons convening the meeting of the owners' committee<sup>5</sup> shall, at least 7 days before the date of the meeting, give notice of the meeting to each member of the owners' committee<sup>6, 7</sup>;
  - (c) the quorum at a meeting of the owners' committee<sup>8</sup> shall be 50% of the members of the owners' committee<sup>9</sup> (rounded up to the nearest whole number) or 3 such members, whichever is the greater<sup>10</sup>; and
  - (d) the procedure at meetings of the owners' committee<sup>11</sup> shall be as is determined by the owners' committee<sup>12, 13</sup>.
  
- (2) Meeting of owners
  - (a) a meeting of owners may be convened by<sup>14</sup>:
    - (i) the owners' committee<sup>15</sup>;
    - (ii) the Manager; or
    - (iii) an owner appointed to convene such a meeting by the owners of not less than 5% of the shares in aggregate.

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<sup>1</sup> See footnote 17 of this Code

<sup>2</sup> See footnote 17 of this Code

<sup>3</sup> See footnote 17 of this Code

<sup>4</sup> Paragraph 1 of Schedule 8 to the BMO

<sup>5</sup> See footnote 17 of this Code

<sup>6</sup> See footnote 17 of this Code

<sup>7</sup> Paragraph 2 of Schedule 8 to the BMO

<sup>8</sup> See footnote 17 of this Code

<sup>9</sup> See footnote 17 of this Code

<sup>10</sup> Paragraph 4 of Schedule 8 to the BMO

<sup>11</sup> See footnote 17 of this Code

<sup>12</sup> See footnote 17 of this Code

<sup>13</sup> Paragraph 7 of Schedule 8 to the BMO

<sup>14</sup> Paragraph 8 of Schedule 8 to the BMO

<sup>15</sup> See footnote 17 of this Code

- (b) the quorum at a meeting of owners convened under the DMC is 10% of the owners<sup>16</sup>.
- (c) the procedure at a meeting of owners convened under the DMC is as is determined by the owners<sup>17</sup>.

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<sup>16</sup> Paragraph 11 of Schedule 8 to the BMO

<sup>17</sup> Paragraph 15 of Schedule 8 to the BMO