

Private Columbaria Licensing Board

Financial Mechanism for Protection of Consumer Interests

In view of the unique operation mode of private columbaria (consumers often have to pay in advance part of or even all of the fees for the purchase of interment rights of niches which last for tens of years), it is necessary to implement an effective financial mechanism to ensure that the private columbaria can continue their operation during the validity periods of the interment rights of niches sold and provide the committed services and fulfil other obligations stipulated in the sale agreements with the consumers so as to protect the interests of consumers.

2. The Private Columbaria Licensing Board (PCLB) has adopted the following approach in the assessment and determination of the licence applications from private columbaria and the imposition of licensing conditions.

(1) Payment methods and relevant licensing conditions

3. If the licence applicant confirms in writing that after obtaining a licence, the licence applicant will only let out the interment rights of niches through **“periodical rent”**, the PCLB will impose the following licensing condition upon its decision to approve the licence application:

*“After obtaining a licence, the licence holder must only let out the interment rights of niches through **“periodical rent”** and must not sell the interment rights of niches through other payment methods. “Periodical rent” means the collection of payments for renting the niche periodically (e.g. every year or every month) at intervals each of no more than 1 year.*

If in future the licence holder intends to let out / sell interment rights of niches through payment methods other than that mentioned above, the licence holder must give prior written notification to the PCLB of the plan of sale of interment rights of niches and, on request by the PCLB (if any), submit the relevant financial information for the consideration of the PCLB. The licence holder can let out / sell interment rights of niches

according to the amended conditions only after receiving a written notification from the PCLB informing that the above restriction has been amended.”

4. If the licence applicant confirms in writing that after obtaining a licence, the licence applicant will only sell interment rights of niches through **“average instalments”** (i.e. collection of payments for the total fees (including the fees for the use of the niche, management fees, cleaning service charges, maintenance fees and other fees) involved in a sale of an interment right of a niche by way of average and evenly distributed instalments (e.g. yearly / monthly instalments) at intervals each of no more than 1 year over the whole period for which the interment right of the niche lasts), the PCLB will impose the following licensing condition upon its decision to approve the licence application:

*“After obtaining a licence, the licence holder must only sell interment rights of niches through **“average instalments”** and cannot sell interment rights of niches through other payment methods, except that letting out interment rights of niches through “periodical rent” is not restricted.*

“Average instalments” mentioned above means collection of payments for the total fees involved in a sale of an interment right in respect of a niche (including the fees for the use of the niche, management fees, cleaning service charges, maintenance fees and other fees) by way of average and evenly distributed instalments at intervals each of no more than 1 year over the whole period for which the interment right in respect of the niche lasts. For example, if the interment right in respect of a niche lasts for 30 years, there should be no less than 30 instalments at intervals each of no more than 1 year.

“Periodical rent” mentioned above means the collection of payments for renting the niche periodically (e.g. every year or every month) at intervals each of no more than 1 year.

If in future the licence holder intends to let out / sell interment rights of niches through payment methods other than that mentioned above, the licence holder must give prior written notification to the PCLB of the plan of sale of interment rights of niches and, on request by the PCLB (if any), submit the relevant financial information for the

consideration of the PCLB. The licence holder can let out / sell interment rights of niches by other payment methods according to the amended conditions only after receiving a written notification from the PCLB informing that the above restriction has been amended.”

5. If the licence applicant **does not intend to only let out the interment rights of niches through “periodical rent” or sell the interment rights of niches through “average instalments”**, but will adopt other payment methods for the sale of interment rights of niches, the licence applicant should submit relevant financial information in the format prescribed by the PCLB ¹, unless the licence applicant has earlier submitted all the financial information as required in **Addendum 1**.

6. In general, for licence applications to which paragraph 3 or paragraph 4 does not apply, the PCLB, on its decision to approve these applications, will impose conditions requiring the licence holder to implement the “Basic Financial Arrangements” mentioned in Part (II), unless the private columbarium confirms in writing that it will adopt the following payment method or the following situation is applicable to it:

- (i) **Combination of pre-payment and payment by average instalments, whereby the total amount of fees collected by way of average instalments is no less than 30% of the total fees involved**: It means the collection of part of the total fees prior to the interment of ashes in the niche; and the remaining balance, which should be no less than 30% of the total fees involved (including management fees, cleaning service charges, maintenance fees and other fees), shall be collected by way of average and evenly distributed instalments (e.g. every year or every month) at intervals each of being no more than 1 year over the whole period for which the interment right in respect of the niche lasts; or
- (ii) there are **no unsold** interment rights of niches in respect of the columbarium.

¹ If the licence applicant intends to let out a portion of the interment rights of niches through “periodical rent” (and/or sell a portion of the interment rights of niches through “average instalments”) and sell a portion of the interment rights of niches through other payment methods after obtaining a licence, the licence applicant should also submit financial information in the format prescribed by the PCLB.

For a private columbarium to which paragraph 6(i) applies, the PCLB will impose the following licensing condition upon its decision to approve the licence application:

“After obtaining a licence, the licence holder can only sell / let out the interment rights of niches through one or more than one of the following payment methods:

- (i) “periodical rent”;*
- (ii) “average instalments”;*
- (iii) combination of pre-payment and payment by average instalments, whereby the total amount of fees collected by way of average instalments is no less than 30% of the total fees involved.*

“Periodical rent” mentioned above means the collection of payments for renting the niche periodically (e.g. every year or every month) at intervals each of no more than 1 year.

“Average instalments” mentioned above means collection of payments for the total fees involved in a sale of an interment right in respect of a niche (including the fee for the use of the niche, management fees, cleaning service charges, maintenance fees and other fees) by way of average and evenly distributed instalments at intervals each of no more than 1 year over the whole period for which the interment right in respect of the niche lasts. For example, if the interment right in respect of a niche lasts for 30 years, there should be no less than 30 instalments at intervals each of no more than 1 year.

The payment method mentioned in item (iii) above means the collection of part of the total fees prior to the interment of ashes in the niche; and the remaining balance, which should be no less than 30% of the total fees involved (including management fees, cleaning service charges, maintenance fees and other fees), shall be collected by way of average and evenly distributed instalments (e.g. every year or every month) at intervals each of being no more than 1 year over the whole period for which the interment right in respect of the niche lasts. For example, if the interment right in respect of a niche lasts for 30 years, no more than 70% of the total fees may be collected prior to the interment of ashes in the niche, and no less than 30% of the total fees should be collected during the remaining period for

which the interment right in respect of the niche lasts by way of no less than 29 instalments at intervals each of no more than 1 year.

If in future the licence holder intends to let out / sell interment rights of niches through payment methods other than that mentioned above, the licence holder must give prior written notification to the PCLB of the plan of sale of interment rights of niches and, on request by the PCLB (if any), submit the relevant financial information for the consideration of the PCLB. The licence holder can let out / sell interment rights of niches by other payment methods according to the amended conditions only after receiving a written notification from the PCLB informing that the above restriction has been amended.”

7. A private columbarium to which paragraph 6(ii) applies is not required to submit the financial information mentioned in paragraph 5.

8. For a private columbarium which is in the following situation:

- (i) the licence applicant has not submitted the financial and other relevant information mentioned in paragraph 5; or
- (ii) the financial and other relevant information submitted by the licence applicant cannot prove to the satisfaction of the PCLB that it is suitable for the private columbarium to adopt payment methods involving prepayments in selling the interment rights of niches,

the PCLB will, upon its decision to approve the licence application, impose the licensing conditions mentioned in paragraph 3 or paragraph 4 or other conditions which the PCLB considers appropriate.

II “Basic Financial Arrangements”

9. The implementation of the “Basic Financial Arrangements” is to ensure that the licence holder will set aside a fixed percentage of the fees collected from the sale of the interment rights of niches

under a mechanism for protecting the interests of consumers, so that the private columbarium will still have a source of funds to enable it to maintain basic operation during the validity periods of the sale agreements for the interment rights of niches in circumstances where the licence holder has sold all the interment rights of niches (the recurrent income decreases significantly).

10. However, to control as far as possible the additional costs incurred by the implementation of the “Basic Financial Arrangements”, the fixed percentage of the fees to be set aside under the “Basic Financial Arrangements” is set at a very basic level. The funds saved under the “Basic Financial Arrangements” alone cannot meet all the costs for the normal operation of the private columbarium. It is incumbent on the licence holder to save sufficient funds taking into account the actual situation and operational needs of the columbarium to ensure that the columbarium can maintain normal operation during the validity periods for the interment rights of niches, as well as provide the committed services and fulfil other obligations stipulated in the agreements entered into between the licence holder and the consumers.

11. The “Basic Financial Arrangements” include the following:

Section (A) – Opening a dedicated account

- (i) Before starting to sell interment rights of niches, the licence holder must open a dedicated account in Hong Kong dollars (dedicated account) with one of the licensed banks in Hong Kong² and submit to the PCLB documentary proof of the account and a written declaration pledging to deposit money in the dedicated account in accordance with the “Basic Financial Arrangements” and to use the money in the dedicated account in compliance with all the requirements of the “Basic Financial Arrangements”. Not until the licence holder has received from the PCLB a written confirmation of the receipt of the above documents without demanding any clarification or rectification or submission of any missing information and without raising any objection, the licence holder should not start selling of interment rights of niches;

² Means a bank, being an authorized institution under the Banking Ordinance (Cap. 155) that may conduct banking business in Hong Kong.

- (ii) Starting in the month following the month in which the licence holder starts selling the interment rights of niches and in every month thereafter, the licence holder must deposit in the dedicated account 15% of all fees collected from the sale of the interment rights of niches³ in the previous month;
- (iii) Before the interment rights of all niches are sold, the licence holder should not withdraw any money from the dedicated account or transfer any money from the dedicated account to other account unless the money is paid into a Hong Kong dollar time deposit account with a licensed bank⁴ and the Private Columbaria Affairs Office (PCAO) has been informed in writing of all details before the transfer of money, including the time deposit account into which the money is transferred to, the time deposit account number and the licensed bank with which the time deposit account is opened. The money in the time deposit account upon maturity or any money withdrawn from it should only continue to be placed in a Hong Kong dollar time deposit account or be transferred back to the dedicated account. Moreover, the time deposit account to which money in the dedicated account is transferred should be an account opened solely for depositing funds transferred from the dedicated account;
- (iv) In the 7th month after the licence holder starts selling of interment rights of niches and thereafter at 6-month intervals, the licence holder must submit to the PCAO the following documents:
 - (a) records of the dedicated account and all other accounts to which money in the dedicated account is transferred, showing the dates and the amounts of all deposits

³ “All fees collected from the sale of the interment rights of niches” should be based on the definition of sale of interment rights in section 3 of the Private Columbaria Ordinance (Cap. 630) and includes any fee directly or indirectly related to the disposition of the interment right of a niche to a person, regardless of the name of such a fee (whether or not any of the payments are described as donations), as well as any fee related to the transfer/resale of the interment right of a used niche. If the licence holder adopts more than one payment method, the fees paid by the methods described in paragraphs 3, 4 and/or 6(i) need not be included in the calculation of the sum of 15% to be deposited in the dedicated account.

⁴ Means a bank, being an authorized institution under the Banking Ordinance (Cap. 155) that may conduct banking business in Hong Kong.

and withdrawals made within the last 6 months and the account balance on the end date of the 6-month period; and

- (b) a declaration made by the licence holder, confirming that 15% of all fees collected from the sale of interment rights of niches⁵ within the last 6 months have been deposited in the dedicated account;

- (v) After selling all the interment rights of niches, the licence holder must give a written notification to the PCLB declaring that all the interment rights of niches are sold. **(Please note that under section 49(3) of the Private Columbaria Ordinance (Cap. 630), unless the seller held a licence in respect of the columbarium at the time when the agreement for the sale of the interment right of a niche was entered into and the licence is still in force, the purchaser may cancel the agreement at any time by giving the seller a written notice of cancellation. The seller must, within 30 days after the date of receiving the notice of cancellation, refund to the purchaser all money received under the agreement);**

- (vi) The licence holder can only withdraw money from the dedicated account according to the requirements set out in Section (A) item (viii) after the PCLB issues a written confirmation of receipt of the documents specified in Section (A) item (v) without demanding clarification or rectification or submission of any missing information and without raising objection;

- (vii) If the licence holder has not sold all the interment rights of niches, but makes the following declaration in a letter to the PCLB:
 - (a) the licence holder will only let out the interment rights of the remaining unsold niches through **“periodical rent”** (please see paragraph 3 for the definition);

⁵ Same as footnote 3 above.

- (b) the licence holder will only sell the interment rights of the remaining unsold niches through **“average instalments”** (please see paragraph 4 for the definition);
- (c) the licence holder will only sell the interment rights of the remaining unsold niches through **a combination of pre-payment and payment by average instalments, whereby the total amount of fees collected by way of average instalments is no less than 30% of the total fees involved** (please see paragraph 6 item (i) for the definition); or
- (d) the licence holder **will not sell** the remaining unsold interment rights of niches,

the licence holder can withdraw money from the dedicated account according to the requirements set out in Section (A) item (viii) only after the PCLB issues a written confirmation of receipt of the above document without demanding clarification or rectification or submission of any missing information and without raising objection;

(viii) Requirements on the withdrawal of money from the dedicated account:

- (a) At the beginning of the first year of withdrawal of money from the dedicated account⁶, to calculate the upper limit of withdrawal from the dedicated account that year, the total balance of the dedicated account at that time should be divided by the remaining years of the validity period of the interment rights stipulated by the licence holder in the sale agreements for the interment rights of niches⁷. The following is an example:

⁶ Including the dedicated account and all other accounts to which the money in the dedicated account is transferred.

⁷ If there are different expiry dates of the validity periods of the interment rights of niches in different agreements, the latest expiry date should be adopted.

1 January 2027	The licence holder receives the written confirmation from the PCLB mentioned in Section (A) item (vi) or Section (A) item (vii)
Total balance of dedicated account on 1 January 2027	HK\$4,000,000
Expiry date of validity period of the interment rights stipulated in the sale agreements for the interment rights of niches ⁸	30 June 2047
Remaining years of validity period of the interment rights of niches	20.5 years
The upper limit of money withdrawal from the dedicated account that year	$\$4,000,000 \div 20.5$ = \$195,121.94

(b) At the beginning of each subsequent calendar year, the upper limit of money withdrawal from the dedicated account that year is calculated using the method set out in Section (A) item (viii)(a).

(ix) If the total balance of the dedicated account reaches HK\$5 million before any money can be withdrawn from the dedicated account⁹, the licence holder is required to set up a trust fund in accordance with the requirements set out in Section (B). The terms of the trust fund must be endorsed in writing by the PCLB before the licence holder can continue to

⁸ If there are different expiry dates of the validity periods of the interment rights of niches in different agreements, the latest expiry date should be adopted.

⁹ Including the dedicated account and all other accounts to which the money in the dedicated account is transferred.

sell the remaining interment rights of niches. The licence holder should abide by the requirements set out below.

- (x) Money receivable by the licence holder from the dedicated account in accordance with above prescribed procedures must be used to pay for the annual operating, tax and maintenance expenses of the columbarium

Section (B) – Setting up a trust fund

- (i) The licence holder must set up a trust fund¹⁰ with a licensed bank in Hong Kong¹¹ or its wholly-owned subsidiary and inject all money in the dedicated account¹² into the trust fund (when setting up the trust fund, it is necessary to provide to the trustee a copy of the licence in respect of the columbarium and the financial related conditions imposed on that licence). The licence holder should then submit to the PCLB documentary proof of the trust fund and of the injection of all money in the dedicated account into the trust fund (including but not limited to the trust deed of the trust fund and information of the trustee). The licence holder should not continue to sell the interment rights of niches until the PCLB issues a written confirmation of receipt of the above documents without demanding clarification or submission of any missing information and without raising objection and the licence holder receives such confirmation;
- (ii) The licence holder should ensure that a licensed bank in Hong Kong¹³ or its wholly-owned subsidiary is appointed as the trustee of the above trust fund at any time during the validity periods of the sale agreements for the interment rights of niches;

¹⁰ A “trust fund” is a fund comprised of property whose ownership is transferred by the settlor to the trustee for the benefit of the settlor or other person (beneficiary) or for a specific purpose (purpose of the trust). The trust property will be managed or disposed of by the trustee for the purpose of the trust and in accordance with the trust deed.

¹¹ Means a bank, being an authorized institution under the Banking Ordinance (Cap. 155) that may conduct banking business in Hong Kong.

¹² Including the dedicated account and all other accounts to which the money in the dedicated account is transferred.

¹³ Means a bank, being an authorized institution under the Banking Ordinance (Cap. 155) that may conduct banking business in Hong Kong.

- (iii) Before the trust fund is set up, the licence holder must ensure that the trust deed includes the terms in the “Model Trust Deed” in **Addendum 2** and does **not** include any terms which are in conflict with or affect the validity of the terms of the “Model Trust Deed”. Unless prior written approval from the PCLB of the terms of the trust fund has been obtained, the PCLB will not give the written confirmation stated in Section (B) item (i);
- (iv) When the total balance of the dedicated account¹⁴ reaches HK\$5 million, the licence holder should not continue to sell the interment rights of niches unless the licence holder receives the PCLB’s written confirmation stated in Section (B) item (i) or Section (A) item (vii). In fact, before the total balance of the dedicated account mentioned in Section (A) reaches HK\$5 million, the licence holder can start preparatory work for setting up a trust fund. This will facilitate the completion of the procedures set out in Section B item (i) when the total balance of the dedicated account reaches HK\$5 million;
- (v) After receiving the written confirmation stated in Section (B) item (i), the licence holder must, in the month following the month in which the licence holder starts to continue to sell the interment rights of niches, deposit 15% of all fees collected from the sale of the interment rights of niches¹⁵ in the previous month in the trust fund;
- (vi) Before all the interment rights of niches are sold, the licence holder must not receive any money from the trust fund unless the requirements set out in Section (B) item (xiii) are met;
- (vii) The trustee may charge the fee for managing the trust fund from the trust fund according to the terms of the trust deed;
- (viii) The trustee may withdraw money from the trust fund for making time deposits according to the terms of trust deed, and must deposit the return of the time deposits and saving deposits back into the trust fund;

¹⁴ Including the dedicated account and all other accounts to which the money in the dedicated account is transferred.

¹⁵ Same as footnote 3 above.

- (ix) Where a trust fund has been set up by the licence holder as aforesaid, the licence holder shall not assign, transfer, pledge, charge or otherwise dispose of the beneficial interest of the licence holder under the aforesaid trust fund, including but not limited to any right to receive the distribution of the trust fund. Non-compliance with this provision shall constitute a breach of the licence conditions;
- (x) In the 7th month after the licence holder receives the written confirmation mentioned in Section (B) item (i) and thereafter at 6-month intervals, the licence holder must submit to the PCAO the following document:
- a declaration made by the licence holder, confirming that after receiving the written confirmation mentioned in Section (B) item (i), the licence holder has deposited 15% of all fees collected from the sale of the interment rights of niches¹⁶ in the trust fund;
- (xi) After selling all the interment rights of niches, the licence holder must give a written notification to the PCLB declaring that all the interment rights of niches are sold. **(Please note that under section 49(3) of the Private Columbaria Ordinance (Cap. 630), unless the seller held a licence in respect of the columbarium at the time when the agreement for the sale of the interment right of a niche was entered into and the licence is still in force, the purchaser may cancel the agreement at any time by giving the seller a written notice of cancellation. The seller must, within 30 days after the date of receiving the notice of cancellation, refund to the purchaser all money received under the agreement);**
- (xii) The licence holder can only receive money from the trust fund according to the requirements set out in Section (B) item (xiv) after the PCLB issues a written confirmation of receipt of the document specified in Section (B) item (xi) without demanding clarification or rectification or submission of any missing information and without raising objection to the release of funds by the trustee to the licence holder and a copy of the

¹⁶ Same as footnote 3 above.

written confirmation is sent to the trustee by the licence holder with the trustee receiving a written confirmation from the PCAO;

(xiii) If the licence holder has not sold all the interment rights of niches, but makes the following declaration in a letter to the PCLB:

- (a) the licence holder will only let out the interment rights of the remaining unsold niches through **“periodic rent”** (please see paragraph 3 for the definition) ;
- (b) the licence holder will only sell the interment rights of the remaining unsold niches through **“average instalments”** (please see paragraph 4 for the definition) ;
- (c) the licence holder will only sell the interment rights of the remaining unsold niches through **a combination of pre-payment and payment by average instalments, whereby the total amount of fees collected by way of average instalments is no less than 30% of the total fees involved** (please see paragraph 6 item (i) for the definition); or
- (d) the licence holder **will not sell** the interment rights of the remaining unsold niches,

the licence holder can withdraw money from the trust fund according to the requirements set out in Section (B) item (xiv) only after the PCLB issues a written confirmation of receipt of the above document without demanding clarification or rectification or submission of any missing information and without raising objection to the release of funds by the trustee to the licence holder and a copy of the written confirmation is sent to the trustee by the licence holder with the trustee receiving a written confirmation from the PCAO;

(xiv) Requirements on receiving money from the trust fund

- (a) At the beginning of the first year of receiving money from the trust fund, to calculate the upper limit of the money receivable from the trust fund in that calendar year on a pro rata basis, the total balance of the trust fund at that time (after deduction of all the remuneration, charges and expenses payable to the trustee according to the terms

of the trust deed) should be divided by the remaining years of the validity period of the interment rights stipulated by the licence holder in the sale agreements for the interment rights of niches¹⁷. The following is an example :

1 January 2027	The licence holder receives the written confirmation from the PCLB mentioned in Section (B) item (xii) or Section (B) item (xiii)
Total balance of trust fund on 1 January 2027 (after deduction of all the remuneration, charges and expenses payable to the trustee according to the terms of the trust deed)	HK\$20,500,000
Expiry date of validity period of the interment rights stipulated in the sale agreements for the interment rights of niches ¹⁸	30 June 2047
Remaining years of validity period of the interment rights of niches	20.5 years
The upper limit of the money receivable from the trust fund in that calendar year (the upper limit of the money receivable each year is not fixed as it will be affected	$\$20,500,000 \div 20.5$ = $\$1,000,000$

¹⁷ If there are different expiry dates of the validity periods of the interment rights of niches in different agreements, the latest expiry date should be adopted.

¹⁸ If there are different expiry dates of the validity periods of the interment rights of niches in different agreements, the latest expiry date should be adopted.

by the fund’s actual return and the amount of the management fee in that particular year)	
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- (b) At the beginning of each subsequent calendar year, the upper limit of the money receivable from the trust fund in that calendar year is calculated using the method set out in Section (B) item (xiv)(a);
- (c) On the expiry date of the validity period of the interment rights stipulated in the sale agreements for the interment rights of niches¹⁹, if there is balance in the trust fund after deduction of all the remuneration, charges and expenses payable to the trustee according to the terms of the trust deed, the trustee must return the amount of the balance to the licence holder;
- (d) Under specified circumstances (e.g. the columbarium concerned has ceased to operate or no licence in respect of the columbarium is in force), the trustee should distribute the balance of the trust fund to eligible purchasers of the interment rights of niches according to the relevant terms in the “Model Trust Deed” at **Addendum 2**.
- (xv) After setting up a trust fund according to the financial arrangements in this paper and within 7 days of confirming or changing the trustee, the licence holder must inform the PCAO in writing the details of the new trustee (including the name, address, responsible person, post title and contact telephone number).
- (xvi) Money receivable by the licence holder from the trust fund in accordance with above prescribed procedures must be used to pay for the annual operating, tax and maintenance expenses of the columbarium.

¹⁹ If there are different expiry dates of the validity periods of the interment rights of niches in different agreements, the latest expiry date should be adopted.

Section (C) - “All-in-one-go” arrangement

The licence holder may opt for the “all-in-one-go” arrangement. Before the sale of the interment rights of niches, the licence holder may set up a trust fund with a licensed bank²⁰ or its wholly-owned subsidiary in Hong Kong directly in accordance with the requirements set out in Section (B), thus skipping the step of opening a dedicated account mentioned in Section (A). For a licence holder who maintains ample liquidity, the licence holder may inject HK\$5 million into the trust fund at the time of its setting-up. After receiving the written confirmation mentioned in Section (B) item (i) from the PCLB, the licence holder may start to sell the interment rights of niches. No further injection of money into the trust fund is required as long as 15% of all fees collected from the sale of the interment rights of niches (calculated by the method indicated in Section (A) item (ii)) are below HK\$5 million. When 15% of all fees that have been collected from the sale of the interment rights of niches since the grant of the licence exceed HK\$5 million, 15% of all fees collected from the sale of the interment rights of niches thereafter are required to be deposited in the trust fund in accordance with the requirements set out in Section (B).

(III) Financial statements to be submitted and records of income to be kept by the licence holder

12. Under normal circumstances, except otherwise specified by the PCLB, the PCLB will impose the following conditions upon the grant of a licence:

- (i) All licence holders must keep a record of income in respect of the interment rights of niches newly let out or sold on a monthly basis during the validity period of their licences in the format specified in **Addendum 3**. The record should be available for inspection by the Director of Food and Environmental Hygiene (DFEH) or the person(s) authorised by him/her.
- (ii) For a licence holder who sells the interment rights of niches after the grant of the licence adopting a payment method **other than** the payment methods described in paragraphs 3 and 4:

²⁰ Means a bank, being an authorized institution under the Banking Ordinance (Cap. 155) that may conduct banking business in Hong Kong.

- (a) The monthly record of income in the format specified in **Addendum 3** kept by the licence holder should be available for examination by an auditor (see the relevant notes in item (b) below) during the auditor’s discharge of the duties stated below.
- (b) The licence holder should, within six months from the end of each financial year²¹ after the commencement of the licence validity period, submit the following statements audited by an auditor (i.e. a certified public accountant (practising), a firm of certified public accountants (practising) or a corporate practice registered under Part 2A of the Accounting and Financial Reporting Council Ordinance (Cap. 588)) to the PCLB:
- (I) An annual audited financial statement²² of the licence holder, covering the following issues:
- (A) income and expenditure statements (with a detailed breakdown of the income and expenditure, and the breakdown must clearly list out the following income and expenditure items and their amounts in relation to the private columbarium covered by that licence, irrespective of the type of financial reporting standard used in the preparation of the financial statements):
- income of private columbarium:
 - all fees from the selling / letting out of interment rights of niches (including the fees for the use of the niches, management fees, cleaning service charges, maintenance fees and other fees);

²¹ If the licence holder is a limited company, “financial year” means the financial year for which the company is required to submit an annual audited financial statement to the Companies Registry. For a licence holder of other status, “financial year” may mean the financial year designated by him/her. For a licence holder who has not designated a financial year, “financial year” may mean every 12 months from the commencement of the validity period of the licence.

²² The annual audited financial statement should be compiled in accordance with the relevant legislation and prevailing international accounting standards adopted in Hong Kong (including Hong Kong Accounting Standards and Hong Kong Financial Reporting Standards issued and updated by the Hong Kong Institute of Certified Public Accountants from time to time). The statement should be duly audited, dated and signed by a professional accountant (practising), a firm of certified public accountants (practising) or a corporate practice registered under Part 2A of the Accounting and Financial Reporting Council Ordinance (Cap. 588).

- other income (e.g. religious activities, selling of incense and offerings, etc.);
 - expenditure of private columbarium:
 - staff cost;
 - rent (if applicable);
 - regular maintenance;
 - utility charges;
 - management and administrative costs;
 - rates and rents;
 - other expenditure;
- (B) balance sheet;
- (C) cash flow statement (if applicable)
- (D) accounting policy and notes; and
- (E) the auditor’s opinion on the above financial statements as shown below:

Financial reporting standard used	Auditor’s opinion on financial statements
if the licence holder prepares the financial statements under the Hong Kong Financial Reporting Standards (HKFRSs) or Hong Kong Financial Reporting Standards for Private Entities (HKFRSs for Private Entities)	the auditor’s opinion on whether the above financial statements can give a true and fair view of the financial position of the licence holder and have been properly prepared in compliance with the Hong Kong Companies Ordinance (if applicable)
if the licence holder prepares the financial statements under the Small and Medium-sized Entity Financial Reporting Framework and Financial Reporting Standard (SME-	the auditor’s opinion on whether the above financial statements are prepared, in all material respects, in accordance with the SME-FRS and have been properly

FRF & SME-FRS)	prepared in compliance with the Hong Kong Companies Ordinance (if applicable)
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; and

- (II) a report on whether the licence holder has complied with the financial related condition(s) imposed on the licence by the PCLB (including but not limited to the situation described in paragraph 6 item (i) / the requirements on the “Basic Financial Arrangements” set out in paragraph 11 (depending on which of the scenarios described in paragraph 6 item (i) and paragraph 11 is applicable to the columbarium)). The auditing work should be conducted in accordance with the Hong Kong Framework for Assurance Engagements and Hong Kong Standards on Auditing issued by the Hong Kong Institute of Certified Public Accountants, and should obtain reasonable assurance. If the licence holder has set up a trust fund according to the “Basic Financial Arrangements” mentioned in Section (B) in paragraph 11, the report should cover the income and expenditure accounts and balance records kept by the trustee in respect of the trust fund.
- (c) The licence holder must make known to the auditor all financial related conditions imposed on the licence by the PCLB, and provide all information and documents necessary for the auditor to conduct the above auditing work.
- (d) Upon request by the DFEH or the person(s) authorised by him/her, the licence holder must provide all information and documents necessary for verifying the licence holder’s compliance with all requirements stated above.
- (e) For a licence holder who is granted a licence in respect of the columbarium concerned for the first time, if, upon commencement of the validity period of the licence, there are less than six months before the expiry of the current financial year, the licence holder may submit the statements specified in paragraph 12(ii)(b) at the

end of the second financial year, covering the period from the commencement of the validity period of the licence to the end of the second financial year.

- (f) The PCLB may impose other conditions according to the actual situation of individual licences.

- End -

Addendum 1

**Application for Licence under the Private Columbaria Ordinance (Cap. 630)
Financial Information Submitted by the Applicant**

Part I – Basic information of the columbarium

Name (if any)

Address of premises

District

(e.g.: Sha Tin)

No. and name of
road/street (e.g.: No. 30,
Pai Tau Road)

Full address

Part II – Basic particulars of the applicant

Natural person

Name of applicant: _____

Body corporate

Name of body corporate: _____

Type of body corporate: _____

Name of the director or other officer concerned in the management of the body corporate authorised in writing to act for and on behalf of the body corporate:

A partner in a partnership

Name of partnership: _____

Name of the partner authorised in writing to act for and on behalf of the partnership:

Part III – Financial Information

Please put a “√” in the appropriate boxes and fill in the required information (if applicable).

If the applicant has already submitted the particular information, there is no need to submit such information again.

(1) **Financial information of the two most recent financial years**

The applicant should submit the following financial information on the columbarium for the two most recent financial years. The financial information, to be submitted with this form, should be provided in the form of an Annex and a “√” should be put in the boxes below as appropriate.

(If the applicant has already submitted the particular information, please put a “√” in the column for “Already Submitted” and there is no need to attach such information as an Annex.)

Information	Already Submitted	To be submitted now (If a “√” has been put in the column of “Already Submitted”, there is no need to fill in this column)		Remarks
(A) Auditor’s reports and audited financial statements, including: (the applicant must submit the following information)				
(1) Auditor’s reports	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	---
(2) Statements of income and expenditure (with a detailed breakdown of income and expenditure) (Note a)	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	---
(3) Balance sheets	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	---
(4) Cash flow statements	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not applicable
(B) Tax returns and copies of the Notices of Assessment issued by the Inland Revenue Department, including: (the applicant must submit the following information) (Note b)				
(1) Tax returns	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not applicable
(2) Tax computation and supporting schedules and information for the profits tax returns	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not applicable

(3) Copies of the Notices of Assessment issued by the Inland Revenue Department	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Not applicable
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Note a: The applicant is asked to provide the detailed breakdown of the income and expenditure items, and the total amounts of the income and expenditure items should be equal to the corresponding total amounts in the audited statements of income and expenditure.

Note b: All applicants must submit the specified documents. If the Inland Revenue Department did not ask the applicant to submit tax return in the particular year, please choose “Not applicable”.

(2) Confirmation of the payment method(s) to be adopted after obtaining a licence (if granted) and information on the expected sale of interment rights of niches

The applicant must confirm in the following table the payment method(s) to be adopted after obtaining a licence (if granted) and the expected average charges and quantities for sale for each type of niches.

Please put a “√” in the appropriate boxes below (Can choose more than one option)	Payment methods	Note c	Single-urn-niche		Double-urn-niche		Others (Please specify the type of niches: _____)	
			No. of niche	Expected average charge for each niche	No. of niche	Expected average charge for each niche	No. of niche	Expected average charge for each niche
<input type="checkbox"/>	Lump sum payment / full pre-payment	(i)						
<input type="checkbox"/>	“Average instalments”	(ii)						
<input type="checkbox"/>	“Combination of pre-payment and payment by average instalment, whereby the total amount of fees collected by way of average instalments is no less than 30% of the total fees involved”	(iii)						
<input type="checkbox"/>	“Periodical rent”	(iv)						
<input type="checkbox"/>	Other payment method (Please specify:	-						

	_____) _____)							
<input type="checkbox"/>	Will not sell / newly let out	(v)						

Note c:

- (i) “Lump sum payment” means a single collection of the total fees involved in a sale of an interment right in respect of a niche (including the fees for the use of the niche, management fees, cleaning service charges, maintenance fees and other fees). “Full pre-payment” means the collection of all the fees before the interment of ashes.
- (ii) “Average instalments” means collection of payments for the total fees involved in a sale of an interment right in respect of a niche by way of average and evenly distributed instalments at intervals each of no more than 1 year over the whole period for which the interment right in respect of a niche lasts. For example, if the interment right in respect of a niche lasts for 30 years, there should be no less than 30 instalments at intervals each of no more than 1 year.
- (iii) Means the collection of part of the total fees prior to the interment of ashes in the niche; and the remaining balance, which should be no less than 30% of the total fees involved, shall be collected by way of average and evenly distributed instalments at intervals each of being no more than 1 year over the whole period for which the interment right in respect of the niche lasts. For example, if the interment right in respect of a niche lasts for 30 years, no more than 70% of the total fees may be collected prior to the interment of ashes in the niche, and no less than 30% of the total fees should be collected during the remaining period for which the interment right in respect of the niche lasts by way of no less than 29 instalments at intervals each of no more than 1 year.
- (iv) “Periodical rent” means the collection of payments for renting the niche periodically (e.g. every year or every month) at intervals each of no more than 1 year.
- (v) “Will not sell / newly let out” means the columbarium will not by any method sell / newly let out an interment right in respect of a niche.

(3) **Financial projection**

The applicant must provide in the following table the financial projection for the period between after obtaining a licence (if granted) and the expiry of the validity period of the interment rights of niches sold:

	First year in the financial projection (Year _____)	Last year in the financial projection (Year _____)	Total amount for the period between the first year and the last year (Year _____) in the financial projection
Income (a)			
Operating expenditure (b)			
Finance cost (c)			

Amount of repayment of principal of loan (d)			
Amount to be distributed to shareholders (e)			
Amount of other investments / loans given to other parties (f)			
Remaining balance (i.e. (a) – (b) – (c) – (d) – (e) – (f))			

The applicant must also provide information using the format provided in **Tables 1(A), 1(B), 1(C) and 1(D)**.

The applicant must also separately provide information to explain the assumptions on which the information provided in the above table and the information provided using the format in **Tables 1(A), 1(B), 1(C) and 1(D)** are based, e.g. the assumptions behind the annual increase in expenses, the expected sale figures for each type of niches per year (single-urn-niches, double- urn-niches, etc.), etc..

(4) Transaction or financial arrangement (including loan or guarantee) with related party (note d)

Does the applicant have any transaction or financial arrangement (including loan or guarantee) with a related party?

Yes, please provide the details and the relevant documents:

No

(5) Other financial support

If there are other organisations / individuals which / who have promised to provide financial support to the applicant, please provide information of such organisations / individuals and attach relevant supporting documents:

(6) Financial reserve

If the applicant has specified financial reserve, please provide the details and relevant documents:

(7) Payment of the fee for land regularisation

Does the applicant expect to pay the fee for land regularisation (the land premium)?

Yes

(If the applicant is aware of the amount of the land premium and/or the payment schedule, please provide the details and the relevant documents:

No

(8) Risk assessment

Is the applicant aware of any issues or circumstances that may have serious negative impacts on the current or future financial position of the columbarium?

Yes, please provide the details and the relevant documents and state the ways of dealing with them:

No

Note d

Hong Kong Accounting Standard 24 (Revised Nov 2016) – Related Party Disclosures

Definitions – Related party

A related party is a person or entity that is related to the entity that is preparing its financial statements (in this Standard referred to as the ‘reporting entity’).

- (a) A person or a close member of that person’s family is related to a reporting entity if that person:
 - (i) has control or joint control of the reporting entity;
 - (ii) has significant influence over the reporting entity; or
 - (iii) is a member of the key management personnel of the reporting entity or of a parent of the reporting entity.

- (b) An entity is related to a reporting entity if any of the following conditions applies:
 - (i) The entity and the reporting entity are members of the same group (which means that each parent, subsidiary and fellow subsidiary is related to the others).
 - (ii) One entity is an associate or joint venture of the other entity (or an associate or joint venture of a member of a group of which the other entity is a member).
 - (iii) Both entities are joint ventures of the same third party.
 - (iv) One entity is a joint venture of a third entity and the other entity is an associate of the third entity.
 - (v) The entity is a post-employment benefit plan for the benefit of employees of either the reporting entity or an entity related to the reporting entity. If the reporting entity is itself such a plan, the sponsoring employers are also related to the reporting entity.
 - (vi) The entity is controlled or jointly controlled by a person identified in (a).
 - (vii) A person identified in (a)(i) has significant influence over the entity or is a member of the key management personnel of the entity (or of a parent of the entity).
 - (viii) The entity, or any member of a group of which it is a part, provides key management personnel services to the reporting entity or to the parent of the reporting entity.

I confirm that all of the above information provided for this application is factually correct and complete.

Name of Applicant / Authorised Representative ^: _____

Signature of Applicant / Authorised Representative ^: _____

Date: _____

^For a person other than the one signing the application form for the specified instrument, please provide the supporting document certifying the authorisation by the applicant.

IMPORTANT NOTICE

Section 99 of the Private Columbaria Ordinance –

Offence of providing false or misleading information

- (1) A person commits an offence if the person—
 - (a) provides information that is false or misleading in a material particular in, or in connection with, an application the person makes under this Ordinance in respect of a columbarium; or
 - (b) furnishes the Director, an authorized officer or a public officer with information under this Ordinance knowing that it is false or misleading in a material particular.

- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine of \$500,000 and to imprisonment for 2 years.

MODEL TRUST DEED

THIS TRUST DEED is made the day of

BETWEEN:-

(A) the party whose particulars are described in Part I of the Schedule 1 hereto (hereinafter called the “**Settlor**”) of the one part; and

(B) the party whose particulars are described in Part II of the Schedule 1 hereto (hereinafter called the “**Trustee**”) of the other part

WHEREAS

(A) The Trust Deed herein is executed in compliance with the licence conditions imposed by the Licensing Board (as defined below) upon the Licensee (as defined below) pursuant to the Ordinance (as defined below) in respect of the financial mechanism to be followed upon selling interment rights in respect of niches in the Columbarium (as defined below) by receiving pre-payments or lump sum payments.

(B) The Settlor wishes to establish the trust contained below for the benefit of the Beneficiaries (as defined below) and has paid to the Trustee the initial trust fund as mentioned in Schedule 4 to be held on and with and subject to the following trusts powers and provisions.

(C) Further assets may in the future be paid or transferred to the Trustee by the Settlor or any other person to be held on and with and subject to the following trusts powers and provisions.

(D) The Licensee (as defined below) is restricted by the conditions of the relevant Licence (as defined below), including but not limited to the restriction that the Licensee shall not assign, transfer, pledge, charge or otherwise dispose of the beneficial interest of the Licensee under this Trust Fund (as defined below) , including but not limited to any right to receive the distribution of the Trust Fund (as defined below). Any breach of the condition may lead to a revocation of the Licence.

NOW THIS DEED WITNESSES as follows:-

1. DEFINITIONS AND INTERPRETATION

1.1 In this Deed the following expressions have where the context permits the following meanings:-

“Beneficiaries” means the persons as specified in Schedule 3 hereto, including the Primary Beneficiaries and Secondary Beneficiaries as set out therein.

“Columbarium” means the columbarium in respect of which a licence bearing the Specified Number (as defined below) (or any other licence falling within the definition provided in this Deed) is issued, and the name and address of which are specified in Schedule 2 hereto in accordance with the information contained in the aforesaid licence.

“Distribution Date” means the date as defined in Clause 2.3.5 of this Deed.

“Hong Kong Licensed Bank” means a bank, being an authorized institution under the Banking Ordinance (Chapter 155 of the Laws of Hong Kong) that may conduct banking business in Hong Kong.

“Licence” means a valid licence bearing the Specified Number (as defined below) issued by the Licensing Board (as defined below) pursuant to the Ordinance (as defined below) in respect of the Columbarium, and includes the following:-

- (a) a licence with the number identical to the Specified Number;
- (b) a renewed licence of the licence bearing the Specified Number;
- (c) a licence replacing the licence bearing the Specified Number, and the area of the Columbarium covered by the approved plans thereof includes all the area as shown in the approved plans of the licence bearing the Specified Number;
- (d) a licence transferred from a licence under (a), (b) or (c) above with the approval of the Licensing Board pursuant to section

39 of the Ordinance (as defined below).

“Licensee”	means a person holding a Licence at the time the Trustee makes distribution of the Trust Fund, and includes a person to whom a Licence is transferred with the approval of the Licensing Board pursuant to section 39 of the Ordinance (as defined below).
“Licensing Board”	means the Private Columbaria Licensing Board established under the Ordinance (as defined below).
“Ordinance”	means the Private Columbaria Ordinance (Chapter 630 of the Laws of Hong Kong).
“Private Columbaria Affairs Office”	means the Private Columbaria Affairs Office under the Food and Environmental Hygiene Department of the Government of the Hong Kong Special Administrative Region
“Purchasers”	means the person to whom an interment right in respect of a niche in the Columbarium is sold, and the term “Eligible Purchaser” has the meaning designated by Schedule 3 hereto.
“Specified Number”	means the Licence number as specified in Schedule 2 hereto.
“Trustee”	means the trustee or other trustee or trustees for the time being of this Trust and “Trustee” means each and any of the Trustees.
“Trust Fund”	means the sum of cash and assets mentioned in Schedule 4 paid or settled by the Settlor to the Trustee as recited above and all assets and property at any time and from time to time added to it by way of further settlement, accumulation of income, capital accretion or otherwise.
“Trust Period”	means the period beginning at the date of this Deed and ending on the last expiry date of all agreements for the sale of an interment right in respect of a niche in the Columbarium.

1.2 Insofar as it is applicable and unless other definitions specified herein shall apply, terms of this Deed have the same meaning as those appearing in the Ordinance, and shall be construed in

accordance thereof.

1.3 References in this Trust to the income of the Trust Fund shall extend to any interest or other income now accrued or accruing but not yet actually payable in respect of the sum of cash paid by the Settlor to the Trustee as recited above.

1.4 Reference:-

(a) to clauses and schedules are to clauses and schedules to this Deed unless the context otherwise requires; and

(b) to statutory provisions shall be construed as references to those provisions as respectively replaced, amended or re-enacted (whether before or after the date hereof provided that such replacement, amendment or re-enactment imposes no greater liability or obligation on any of the parties than subsists as at the date hereof) from time to time and shall include any provisions of which they are re-enactments (whether with or without modification subject as aforesaid) and any subordinate legislation made under such provisions.

1.5 Words importing the singular include the plural and vice versa, words importing a gender include both genders and references to persons include bodies corporate or unincorporated.

1.6 The headings to the clauses and schedules are for convenience only and have no legal effect.

1.7 Each of the schedules shall have effect as if set out in this Deed.

1.8 Any terms of this Deed which are or become prohibited or unenforceable for any reason in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and such prohibition or unenforceability shall not invalidate the remaining provisions of this Deed or affect the validity or enforceability of the remaining provisions.

2. TRUSTS OF THE CAPITAL AND INCOME OF THE TRUST FUND

The Trustee shall during the Trust Period hold the Trust Fund upon trust for the benefit of all or any one or more of the Beneficiaries and have the following powers of dealing with the capital and income of the Trust Fund:-

2.1 *Power to make time deposit*

2.1.1 The Trustee may place such part of the Trust Fund with one or more than one Hong Kong Licensed Bank (which could include the Trustee and a Hong Kong Licensed Bank that wholly owns the Trustee) at the choice of the Licensee for making Hong Kong Dollars time deposits having considered the estimated cash flow required in making distributions out of the Trust Fund in accordance with the provisions in this Deed and the remuneration, charges and expenses payable to the Trustee. The abovementioned estimation of cash flow required shall be made based on the information provided by the Licensee and in accordance with the provisions in this Deed.

2.1.2 The Trustee shall place any interest or income accrued from the time deposits and saving deposits into the Trust Fund.

2.2 *Power to make distributions to Primary Beneficiaries*

2.2.1 The Trustee shall make distributions to the Primary Beneficiaries under the following conditions:-

- (a) the Columbarium ceases to operate, or no Licence in respect of the Columbarium is in force; and
- (b) the Trustee receives a written confirmation from the Private Columbaria Affairs Office confirming the particulars stipulated in (a) above.

2.2.2 Upon receipt of the written confirmation from the Private Columbaria Affairs Office pursuant to Clause 2.2.1 above, the Trustee shall within 1 month: -

- (a) publish a notice in Chinese and English in at least two widely circulated Chinese newspapers and one widely circulated English newspaper in Hong Kong respectively, announcing that any person who is eligible as a Primary Beneficiary under Schedule 3 hereto may register with the Trustee by producing all supporting documents in support of his or her eligibility as provided in Schedule 3 hereto for the Trustee's inspection within 6 months of the date of notice; and
- (b) deliver a copy of the aforementioned published notice to the Private Columbaria Affairs Office on the day on which the notice is published in the respective newspapers for further announcements.

2.2.3 The Trustee shall distribute the Trust Fund to the Primary Beneficiaries in accordance with the terms of the Deed as soon as practicable and in any event within 1 year from the date of expiry of the 6-month period as stipulated in Clause 2.2.2(a) of this Deed unless there are reasonable circumstances justifying the requirement of a longer period for the distribution.

2.2.4 The amount to be distributed to each Primary Beneficiary shall be determined by the following factors and in accordance with the formula provided in Clause 2.2.5 and Clause 2.2.6 of this Deed:-

(a) the remaining balance in the Trust Fund after deducting all remuneration, charges and expenses due and payable to the Trustee in accordance with Clause 6 of this Deed (“**the Remaining Balance**”);

(b) the payments received by the Licensee from that particular Primary Beneficiary pursuant to the agreement for the sale of an interment right in respect of a niche (“**the Individual Payments**”)

(c) the complete term (expressed in number of years) of the interment right in respect of a niche acquired by that particular Primary Beneficiary as stipulated in the agreement for the sale of an interment right (“**the Complete Term**”); and

(d) the remaining term (expressed in number of years) of the interment right in respect of a niche acquired by that particular Primary Beneficiary as stipulated in the agreement for the sale of an interment right counting from the date of the written confirmation issued by the Private Columbaria Affairs Office as stipulated in Clause 2.2.1(b) above (“**the Remaining Term**”).

2.2.5 Each Primary Beneficiary is entitled to payment of such part from the Trust Fund as are proportional to his or her respective “Share” which shall be computed in the following manner: -

$$\text{the Individual Payments} \times \left(\frac{\text{the Remaining Term}}{\text{the Complete Term}} \right)$$

2.2.6. The amount to be distributed to a particular Primary Beneficiary shall be computed in the following manner: -

$$\text{the Remaining Balance} \times \left(\frac{\text{the Share of the Primary Beneficiary}}{\text{the aggregate Shares of all Primary Beneficiaries}} \right)$$

An illustration of the calculation of the amount to be distributed to the Primary Beneficiaries is set

out in Schedule 5 hereto.

2.3 Power to make distributions to Secondary Beneficiaries

2.3.1 Subject to Clause 2.2.1 above, the Trustee may make distributions of the Trust Fund to the Secondary Beneficiary on an annual basis only if the conditions stated in (a) or (b) below are satisfied:-

(a) where the Licensee has sold all the interment rights in respect of the niches in the Columbarium stipulated in this Deed:-

- (i) the Trustee receives from the Licensee a written declaration submitted by the Licensee to the Licensing Board declaring that all the interment rights in respect of the niches in the Columbarium have been sold; and
- (ii) the Trustee receives from the Licensee a written confirmation from the Licensing Board acknowledging receipt of the written declaration of the Licensee in paragraph (a)(i) above, and confirming that it did not request for any clarification, amendment or further documents and it has no objection towards the Trustee's distribution of the Trust Fund to the Licensee;

(b) in any other case:

- (i) the Trustee receives from the Licensee a written declaration submitted by the Licensee to the Licensing Board declaring such matters as are required by the Licensing Board other than those mentioned in (a)(i) above pursuant to the relevant documents of the financial mechanism as may be applicable from time to time; and
- (ii) the Trustee receives from the Licensee a written confirmation from the Licensing Board acknowledging receipt of the written declaration of the Licensee in paragraph (b)(i) above, and confirming that it did not request for any clarification, amendment or further documents and it has no objection towards the Trustee's distribution of the Trust Fund to the Licensee.

2.3.2 Prior to the first distribution of the Trust Fund to the Secondary Beneficiary, the Trustee shall write to the Private Columbaria Affairs Office within 5 working days upon the receipt of the documents mentioned in Clause 2.3.1(a) or Clause 2.3.1(b) above to confirm (a) the Licensee's

identity, (b) the fact that the Licence held by the Licensee is valid, and (c) no written confirmation was issued by the Private Columbaria Affairs Office confirming that the Columbarium has ceased operation. The Trustee shall distribute the distributable amount to the Secondary Beneficiary by way of a deposit into a bank account specified by the Secondary Beneficiary within 5 working days upon receipt of the aforementioned written confirmation from the Private Columbaria Affairs Office. Prior to each subsequent distribution to the Secondary Beneficiary, the Trustee shall at the commencement of the month preceding the Distribution Date under Clause 2.3.5 below write to the Private Columbaria Affairs Office seeking confirmation on the abovementioned matters as stated in (a), (b) and (c) of this Clause (The Private Columbaria Affairs Office would normally reply within 10 working days). Upon receipt of the aforementioned written confirmation from the Private Columbaria Affairs Office on the abovementioned matters as stated in (a), (b) and (c) of this Clause, the Trustee shall distribute the distributable amount to the Secondary Beneficiary by way of a deposit into the bank account specified by the Secondary Beneficiary on the Distribution Date in accordance with Clause 2.3.5 below. For the avoidance of doubt, the receipt by the Trustee of the written confirmation from the Private Columbaria Affairs Office and the receipt by the Trustee of all necessary particulars of a valid recipient bank account to be provided by the Secondary Beneficiary shall be the conditions to the Trustee's exercise of power of annual distribution to the Secondary Beneficiary.

2.3.3 The annual maximum amount to be distributed to the Secondary Beneficiary shall be determined by the following factors and in accordance with the formula provided in Clause 2.3.4 of this Deed:

(a) the remaining balance in the Trust Fund after deducting all remuneration, charges and expenses due and payable to the Trustee in accordance with Clause 6 of this Deed ("**the Remaining Balance**"); and

(b) the remaining term of the interment right in respect of of a niche stipulated in an agreement for the sale of an interment right in respect of a niche in the Columbarium which is the longest term amongst all agreements for the sale of the interment rights in respect of the niches ("**the Longest Remaining Term**").

2.3.4 In each calendar year, the Trustee shall not distribute to the Secondary Beneficiary an amount more than the maximum amount which is determined in accordance with the following:-

$$\frac{\text{the Remaining Balance}}{\text{the Longest Remaining Term}}$$

An illustration of the calculation of the annual maximum amount that is permitted to be distributed to the Secondary Beneficiary out of the Trust Fund in a calendar year is set out in Schedule 5 hereto.

2.3.5 The fifth working day from the commencement of each calendar year following the calendar year in which the first payment was made to the Secondary Beneficiary shall be the Distribution Date, on which the Trustee shall calculate the annual maximum amount that can be distributed to the Secondary Beneficiary in that calendar year pursuant to the formula set out in Clause 2.3.4 of this Deed, and distribute such amount to the Secondary Beneficiary. In calculating the amount of each distribution after the first distribution, the Remaining Balance under Clauses 2.3.3 and 2.3.4 shall be calculated based on the circumstances as at 1 January of the calendar year in which the distribution shall be made.

2.3.6 At the expiry of the Longest Remaining Term as defined in Clause 2.3.3 of this Deed, if there is surplus after deducting all remuneration, charges and expenses due and payable to the Trustee out of the Trust Fund pursuant to Clause 6 of the Deed, the Trustee shall distribute the surplus to the Secondary Beneficiary.

2.4. Nothing mentioned hereinabove shall prejudice any lien or other right of recourse to the Trust Fund or its income which the Trustee may have in respect of fiscal liability administrative expenses or other expenses.

3. EXCLUSION OF APPORTIONMENT

Where under the trusts for the time being affecting the same there is a change in the person or persons beneficially or prospectively beneficially entitled to the income of any part of the Trust Fund the provisions of the Apportionment Ordinance (Chapter 18 of the Laws of Hong Kong) shall not apply and no apportionment shall be made of income accruing or accrued or of outgoings being expended on the occasion of such change in beneficial entitlement but rather the same shall be treated as having accrued due or become a proper liability on the day of actual receipt or expenditure (as the case may be).

4. ADMINISTRATIVE PROVISIONS

The Trustee shall during the Trust Period have the following additional administrative powers:-

(a) power to accept or acquire and retain any assets subject to or to be subject to this Deed (including any un-invested money) in their actual state and condition for any period even though

the whole or a substantial part of the assets so subject may be producing no or little income;

(b) power to permit the Trustee to sign cheques on any bank account in the names of the Trustee and generally to sign orders and authorizations to any bank; and

(c) power to pay out of the Trust Fund the costs and expenses of and incidental to the preparation and completion of this Trust.

5. REPORT TO THE LICENSING BOARD

5.1 The Trustee shall report to the Licensing Board within 1 month after the end of each calendar year, stating the following particulars of the Trust:-

(a) the Specified Number and Licence Number (if different from the Specified Number) of the Licence and the name and address of the Columbarium as stated in the Deed;

(b) the date, amount and the name of the recipient of each withdrawal/ distribution made out of the Trust Fund in the preceding calendar year and the relevant clause(s) of the Deed pursuant to which the withdrawal/ distribution was made;

(c) the date, amount and name of person or organization for each injection of money into the Trust Fund in the preceding calendar year;

(d) where the person or organization who injected the money is not the Licensee, the reasons for such injection; and

(e) the balance of the Trust Fund as at the last date of the preceding calendar year.

5.2 The Trustee shall hand in a final report to the Licensing Board within 3 months after the distribution of all the Trust Fund, setting out the particulars under Clause 5.1 of this Deed that has not been covered in the latest report to the Licensing Board.

5.3 If the Licensing Board has any enquiries or requires any further information in respect of the Trustee's report, the Trustee shall use its best reasonable efforts to answer the enquiries raised by the Licensing Board and provide the required documents to the Licensing Board.

6. TRUSTEE'S REMUNERATION, CHARGES AND EXPENSES

The Trustee shall be entitled to be paid out of the Trust Fund the charges, expenses or remuneration in connection with the administration and management of this Trust (including tax arising from the operation of this Trust) in accordance with the terms set out in Schedule 6 hereto.

7. PROTECTION OF TRUSTEE

7.1 The Trustee and its associates shall not incur any liability in respect of any action taken or thing suffered by them in reliance upon any confirmation, notice, resolution, direction, consent, certificate, affidavit, statement, plan or reorganization or other paper or document believed to be genuine and to have been passed, sealed or signed by the proper parties provided always that the Trustee acted in good faith in relying upon the aforesaid documents and further that they shall not be liable for any failure to act in an good faith they consider such aforesaid documents may not be valid.

7.2 The Trustee shall not incur any liability to the Settlor and/or beneficiary under this Trust for doing or (as the case may be) failing to do any act or thing which by reason of any provision of any present or future law or regulation made pursuant thereto or of any decree, order or judgment of any court, or by reason of any request, announcement or similar action (whether of binding legal effect or not) which may be taken or made by any person or body acting with or purporting to exercise the authority of any government (whether legally or otherwise) either they or any of them shall be directed or requested to do or perform or to forbear from doing or performing.

7.3 Any provision of this Trust shall be void insofar as it would have the effect of exempting the Trustee or indemnifying it against any liability for breach of trust or any liability which by virtue of any rule of law would otherwise attach to it in respect of any willful neglect and fraud.

8. RETIREMENT OR REMOVAL OF TRUSTEE

8.1 Any trustee may retire at any time, provided that he gives [] days written notice to the Licensee who for the time being has the power to appoint new trustees.

8.2 In each case the retirement shall not take effect unless and until there is a new trustee, who is a Hong Kong Licensed Bank or its wholly owned subsidiary (or other institutions as designated by the Licensing Board at the time being), to act as continuing trustees.

9. APPOINTMENT OF NEW TRUSTEE

SEALED with the COMMON SEAL of)

)

and SIGNED by)

)

In the presence of :-)

)

SCHEDULE 1 - PARTICULARS OF SETTLOR AND TRUSTEE

Part I: Particulars of the Settlor

In case of an individual:

Name: (English) _____ (Chinese) _____

Identity Card No./ Travelling document No.: _____

Address of settlor: _____

Tel: _____

Fax: _____

In case of a Hong Kong private company:

Company Name : (English) _____ (Chinese) _____

Company Registration Number: _____

Registered Office: _____

Tel: _____

Fax: _____

In case of other legal entity, such particulars as may be required by the Licensing Board upon submission of the draft deed

Licence Number of the Columbarium: _____

Part II: Particulars of the Trustee

Company Name : (English) _____ (Chinese) _____

Company Registration Number: _____

Registered Office of the Company: _____

Tel: _____

Fax: _____

SCHEDULE 2 - PARTICULARS OF THE COLUMBARIUM AND LICENCE

Specified Number of Licence: _____

Name of Columbarium stipulated in the Licence bearing the Specified Number: _____

Address of the Columbarium: _____

SCHEDULE 3 - LIST OF BENEFICIARIES

Part I: The Primary Beneficiaries

Primary Beneficiaries shall include an Eligible Purchaser (as defined below) and a personal representative of an Eligible Purchaser in the circumstances prescribed below:

- (a) An Eligible Purchaser means a person who:-
- (i) entered into an agreement for the sale of an interment right in respect of a niche with the Licensee directly at the time when the Licence is in force;
 - (ii) provides an original agreement for the sale of an interment right in respect of a niche which shows that he/she purchased the interment right in respect of the niche by payment method which involves an element of making pre-payment. For the avoidance of doubt, the following ways of payment shall not be considered as the above-mentioned payment method involving pre-payment element:-
 - (A) "Periodical rent"
 - (B) "Average Instalments"
 - (C) Combination of pre-payment and payment by average instalment, whereby the total amount of fees collected by way of average instalments is no less than 30% of the total fees involved, with intervals of the instalments being no more than 1 year; or
 - (D) Sale by such way of payment that does not require the transfer of a certain proportion of the payment made to the Trust Fund pursuant to the licence conditions imposed by the Licensing Board.
- (Please refer to the remarks at the end of this Schedule for detailed explanation of the (A), (B) and (C) payment methods mentioned above.)
- (iii) is surviving at the time the Trustee receives the written confirmation from the Private Columbaria Affairs Office under Clause 2.2.1(b) of the Deed;
 - (iv) is holding the relevant interment right in respect of a niche in the Columbarium as stipulated in this Deed so purchased and the term thereof has not expired at the time the Trustee receives the written confirmation from the Private Columbaria Affairs Office under Clause 2.2.1(b) of the Deed; and
 - (v) is able to provide the original agreement for the sale of the interment right and his or her identification documents for the Trustee's inspection within the time prescribed by the notice stipulated in Clause 2.2.2 of the Deed.

(b) A person can only be regarded as an Eligible Purchaser if the Trustee is satisfied that he is not aware of any evidence showing that the relevant agreement for the sale of an interment right in respect of a niche has been cancelled or terminated, or that the person has breached any term of the agreement (including failing to make payment) thereunder.

(c) In the event that an Eligible Purchaser deceases after the date on which the Trustee receives the written confirmation from the Private Columbaria Affairs Office under Clause 2.2.1(b) of the Deed, a personal representative of such Eligible Purchaser may be regarded as a Primary Beneficiary receiving the distribution of the Trust Fund on behalf of the estate of the deceased Eligible Purchaser, provided always that the personal representative is able to produce to the Trustee the original of the relevant agreement for the sale of an interment right, his or her identification documents and the relevant probate documents issued by a Court of the Hong Kong Special Administrative Region confirming his or her capacity as a personal representative of that person within the time prescribed by the notice stipulated in Clause 2.2.2 of the Deed.

Part II: The Secondary Beneficiaries

Secondary Beneficiaries shall be the Licensee (as defined in Clause 1 of the Deed).

Remarks:

“Periodical rent” means the collection of payments for renting the niche periodically (e.g. every year or every month) at intervals each of no more than 1 year.

“Average instalments” means collection of payments for the total fees involved in a sale of an interment right in respect of a niche (including the fees for the use of the niche, management fees, cleaning service charges, maintenance fees and other fees) by way of average and evenly distributed instalments at intervals each of no more than 1 year over the whole period for which the interment right in respect of a niche lasts. For example, if the interment right in respect of a niche lasts for 30 years, there should be no less than 30 instalments at intervals each of no more than 1 year.

“Combination of pre-payment and payment by average instalments” means collection of part of the total fees prior to the interment of ashes in the niche; and the remaining balance, which should be no less than 30% of the total fees involved (including management fees, cleaning service charges, maintenance fees and other fees), shall be collected by way of average and evenly distributed instalments at intervals each of being no more than 1 year over the whole period for which the interment right in respect of the niche lasts. For example, if the interment right in respect of a niche lasts for 30 years, no more than 70% of the total fees may be collected prior to the interment of ashes in the niche, and no less than 30% of the total fees should be collected during the remaining period for which the interment right in respect of the niche lasts by way of no less than 29 instalments at intervals each of no more than 1 year.

SCHEDULE 4 - INITIAL TRUST FUND

Initial trust Fund: HK\$

SCHEDULE 5 - ILLUSTRATION OF CALCULATION

Illustration of the calculation of the amount to be distributed to the Primary Beneficiaries:

Remaining balance in trust fund: \$10,000

Primary Beneficiary	Total amount paid by Primary Beneficiary	Total period for which interment right in respect of the niche lasts	Remaining period for which interment right in respect of the niche lasts	Proportion to be distributed to the Eligible Purchaser	Amount to be distributed to the Primary Beneficiary
A	\$10,000	30	10	$10,000 \times 10 \div 30 = 3,333$	$\$10,000 \times 3,333 \div (3,333 + 15,000 + 60,000) = \425
B	\$30,000	20	10	$30,000 \times 10 \div 20 = 15,000$	$\$10,000 \times 15,000 \div (3,333 + 15,000 + 60,000) = \$1,915$
C	\$60,000	10	10	$60,000 \times 10 \div 10 = 60,000$	$\$10,000 \times 60,000 \div (3,333 + 15,000 + 60,000) = \$7,660$
Total:					\$10,000

Illustration of the calculation of the annual maximum cap that can be distributed to the Secondary Beneficiary out of the Trust Fund in a calendar year:

1 January 2027	<p>Cut-off date for the first distribution : The date on which the Trustee receives the written confirmation from the Private Columbaria Licensing Board pursuant to Clause 2.3.1 of the Deed</p> <p>Cut-off date for the second and each subsequent distribution : 1st January of the respective calendar year</p>
Net balance in the Trust Fund as at 1 January 2027	HKD 20,500,000

(after deducting all the remuneration, charges and expenses due and payable to the Trustee out of the Trust Fund pursuant to the Deed)	
Expiry date of interment rights in respect of the niche stipulated in the agreement for the sale of an interment right in respect of a niche (<i>Remark</i>)	30 June 2047
The remaining period for which the interment rights in respect of the niches last	20.5 years
Maximum amount that can be distributed out of the Trust Fund to the secondary beneficiary	$\$20,500,000 \div 20.5$ = $\$1,000,000$

Remark: If there are different expiry dates of interment rights in respect of the niches in different agreements, the last expiry date shall be taken as the expiry date for calculation purpose.

SCHEDULE 6 - TRUSTEE'S REMUNERATION, CHARGES AND EXPENSES

Addendum 3

Private Columbaria Ordinance (Cap. 630)

**Format of monthly record of income kept by the licence holder
in respect of the interment rights of niches sold/newly let out
during the validity period of the licence**

Name of columbarium: _____

Address of columbarium: _____

Columbarium licence number: _____

Name of columbarium licence holder: _____

Notes to the table below:

- (i) "Agreement" means an agreement for the sale of interment right in respect of a niche
- (ii) "Type of niche" means single-urn niche, double-urn niche, 4-urn niche, etc.
- (iii) "Total fees" includes the fees for the use of the niche, management fees, cleaning service charges, maintenance fees and other fees
- (iv) Various payment methods refer to:

Code	Payment method stipulated in the agreement	Details of payment method
I	"Periodical rent"	collection of payments for renting the niche periodically (e.g. every year or every month) at intervals each of no more than 1 year
II	"Average instalments"	collection of payments for the total fees involved in a sale of an interment right in respect of a niche by way of average and evenly distributed instalments at intervals each of no more than 1 year over the whole period for which the interment right in respect of a niche lasts. For example, if the interment right in respect of a niche lasts for 30 years, there should be no less than 30 instalments at intervals each of no more than 1 year.
III	Combination of pre-payment and payment by average instalments, whereby the total amount of fees collected by way of average instalments is no less than 30% of the total fees involved	collection of part of the total fees prior to the interment of ashes in the niche; and the remaining balance, which should be no less than 30% of the total fees involved, shall be collected by way of average and evenly distributed instalments at intervals each of being no more than 1 year over the whole period for which the interment right in respect of the niche lasts. For example, if the interment right in respect of a niche lasts for 30 years, no more than 70% of the total fees may be collected prior to the interment of ashes in the niche, and no less than 30% of the total fees should be collected during the remaining period for which the interment right in respect of the niche lasts by way of no less than 29 instalments at intervals each of no more than 1 year.

IV	Others (e.g. collection of lump sum payment for the total fees)	The payment method does not fall into the categories of I, II or III above and the columbarium has to implement the arrangements on a dedicated account / trust fund as prescribed by the Private Columbaria Licensing Board (PCLB), unless the PCLB specifies otherwise. Licence holders who are required to implement the arrangements on a dedicated account / trust fund must, in the month following the month in which the licence holder starts to sell interment rights of niches and in every month thereafter, deposit 15% of all the fees collected in the previous month for the interment rights of niches sold into the dedicated account / trust fund.
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Serial no. of niche	Type of niche	Date of entering into the agreement	Agreement no.	Payment method specified in the agreement <i>(fill in the appropriate code listed in Note (iv))</i>	Aggregate of the total fees specified in the agreement HK\$	Amount of each instalment specified in the agreement (if applicable) HK\$	Amount received in (month) (year) HK\$	Serial no. of the payment receipt for the amount received in (month) (year)	Amount deposited in the dedicated account / trust fund* in (month) (year) (if applicable) HK\$

*Delete where inapplicable

Signature of the compiler of the above record of income: _____

Name of the compiler of the above record of income: _____

Post title of the compiler of the above record of income: _____

Date: _____