

Before me, Doctor of Laws _____, a Notary Public duly admitted and sworn, have personally appeared and identified themselves according to law, by means of the hereunder mentioned official documents:

First Part – Grant of Title

Of the first part:

_____, _____ son of the _____ and of _____, born at _____ on the _____ and residing at _____, holder of identity card number _____ who is appearing on this deed for and on behalf of the **Lands Authority** and the _____, as duly authorized by virtue of Government Notice numbered _____, published in the Government Gazette of the _____, hereinafter called '**the Government of Malta**'. The related papers are marked Lands number _____.

Of the second part:

Marsa Race Track Limited a company registered and incorporated in Malta with registration C number eight zero zero nine six (C80096) and having its registered address at 254, First Floor, Regency House, Republic Street Valletta VLT 1114 represented hereon by _____, (holder of Identity Card Numbered _____ as duly authorised by virtue of a resolution of the Board of Directors of the company annexed to this deed as **Annex A**.(hereinafter referred to as "**Emphyteuta**");

The Parties

The Government and the Emphyteuta are in this deed collectively referred to as the "**Parties**" and each one a "**Party**".

WHEREAS:

Following the invitation by the Privatisation Unit of a Request for Proposals for the Concession for the Design, Development, Construction and Operation of the Horse Racing Track in Marsa, published on the nineteen (19th) of June of the year two thousand and fifteen (2015) (the "**RFP**"), the Emphyteuta submitted its detailed proposal in terms of the said RFP;

Following an evaluation exercise the Emphyteuta was successfully identified as the Preferred Proponent by Privatisation Unit in terms of the RFP and was invited further to enter into negotiations with Privatisation Unit;

Following negotiations between the Emphyteuta and Privatisation Unit, concurrently with this Deed of Emphyteusis the Emphyteuta is entering into a Concession Agreement regulating inter alia, the Concession;

Following negotiations the Parties agreed the terms that are to regulate their relationship;

The Parties hereby agree and covenant:

Clause 1 – Definitions

In this deed, unless otherwise expressly stated or the contrary intention appears and in addition to any other definitions contained elsewhere in this deed, the following terms shall have the following meanings respectively assigned to them:

“**Architect**” means the architect and civil engineer appointed by the Emphyteuta for the Project.

“**Car Park Area**” means the area hatched in red as identified in **Annex B** measuring at least nine thousand five hundred and thirty square meters (9,530m²).

“**Certificate of Completion**” means the certificate issued by the Architect and civil engineer appointed by the Emphyteuta and counter certified by a Government Architect in accordance with sub-clause six of clause 11.6 of this deed and confirming that the Project is in a Complete State.

“**Complete State**” means that the Property, or part thereof as the case may be in accordance with the terms of this deed, is developed and completed in full compliance with the Building Permit/s, the Development Laws and the specifications and requirements emanating therefrom, and is in a state of readiness and fit for use in accordance with the Permitted Use.

“**Concession**” means the concession to set-up, operate and manage the Property in accordance with the terms set forth in the Concession Agreement and the rights which shall be granted by the Government to the Emphyteuta in terms of this Deed of Emphyteusis.

“Concession Agreement” means the agreement entered into between the Government of Malta and the Emphyteuta on the same date of this deed regulating the Concession. Copy of which is hereto attached and forms part of this deed marked as **Annex C**.

“Development Laws” means the Development Planning Act (Chapter five hundred and fifty-two [552] of the Laws of Malta), as may be amended from time to time and all applicable laws, subsidiary legislation, bye-laws and regulations in respect of buildings in general, including sanitary and environmental matters.

“Development Infrastructure” means the infrastructure within the Property required strictly in connection with the Project, and includes road networks (both pedestrian and vehicular) networks for water, electricity, sewerage, electrical and electronic transmissions, communication and reception systems but excludes any Excluded Infrastructure.

“Development of the Property” means the performance, execution or supply of anything which shall be required to be performed, done or supplied by the Emphyteuta in order to complete the obligations assumed by it on this Deed and/or in the Concession Agreement in respect of the completion of the Property and for all the requirements mentioned in the definition of Complete State to be satisfied in full and includes, but is not limited to, the performance, execution or supply of all labour, materials, constructional plant and equipment, temporary works, remedial works, and architectural and technical services and supervision to construct, develop and complete the Property in all respects in compliance with all laws and regulations in respect of buildings in general including sanitary and environmental matters, possible requirements by the competent authorities, the Building Permits, and the execution of all works necessary to satisfy the Emphyteuta’s obligations arising from this Deed, as well as the filing of applications for and the procurement of necessary amendments to the Building Permits and the issuance of any compliance or completion certificates in respect of the Property in terms of the Development Planning Act, Chapter five hundred and fifty two (552) of the Laws of Malta, and of all other necessary certifications, permits, authorisations and licences required during the Development of the Property, and on its completion and the procurement, installation and commissioning of all utilities required for the Property.

“Emphyteuta” means the private limited liability company registered under the name of Marsa Race Track Limited on the twenty-second (22nd) March of the year two thousand and seventeen (2017) with company registration letter C number eight zero zero nine six (C80096) and/or its successors in title.

“Emphyteutical Site or Site” has the same meaning as ‘Property’.

“Excluded Infrastructure” means infrastructure works within the Property which are required not solely for the Project but are to serve other purposes.

“Force Majeure” means any act, event or circumstance which is beyond the reasonable control of a Party, including but not limited to acts of God, war, civil commotion, fire, flood or other calamity, strike, riot, lock-out or other industrial disturbance, terrestrial or extra-terrestrial interference, blockade, insurrection, action, order, direction judgement, including but not limited any other cause of a similar nature, which makes that party’s performance of its obligations under this contract impossible, or so impractical as to be considered impossible under the circumstances.

“Full Development Permit/Building Permits” means the permit for the full Development of the Property and approved plans issued by PA for the Development of the Property and the construction of the Property, including all approved amendments and modifications made thereto to date and any future amendments or modifications (including additional plans) if approved by PA.

“Government/Government of Malta” means the Government of Malta and/or its successors in title and/or the dominus and/or its successors in title. For the purposes of this Deed, it shall also include the Lands Authority.

“Government Architect” means the architect or architects whom the Government shall engage for the purposes of the Project and to the extent required under this Emphyteutical Deed and whom the Government shall engage for the purposes of approving the completion of the Project. Government architect may also refer to the authority in charge for the purpose of approving the completion of the Project or to the Lands Authority or to any other authority/ies which may be entrusted with similar functions and responsibilities thereto, whatever the designation that may eventually be assigned to such authority/ies.

“Ground-rent” means the annual temporary ground-rent stated in clause seven (7) of this deed.

“Group Company” means a body corporate which is a parent company, subsidiary, associated, affiliated and/or related entity of the

Emphyteuta, and/or in any way, whether directly or indirectly, owned by the same beneficial owners of the Emphyteuta.

“Immovable Things” means all buildings, structures, developments, infrastructure, facilities, installations, and other improvements which are not Movable Things in terms of this Agreement, now existing, or which in the future shall exist, within the boundaries of the Property, whether installed, constructed or erected on, in or under the Property or which otherwise appertain to the Property but to the extent only that they are considered immovable things in terms of the Civil Code, Chapter sixteen (16) of the Laws of Malta and whether such buildings, structures, developments, infrastructure, facilities, installations, equipment, plant and machinery and other improvements are mentioned or otherwise in the description of the Property in these Definitions.

“Moveable Things” means all items which can be removed from the Property and which are not included in the definition of “Immovable Things” herein and includes equipment, plant and machinery and other improvements which are not deemed immovable things in terms of this Deed, now existing or which in the future shall exist, within the boundaries of the Property as installed in or appertaining to the Property to the extent that they are considered moveable things in terms of the Civil Code, Chapter sixteen (16) of the Laws of Malta as not mentioned in the description of the Property in these Definitions.

“PA” means the Planning Authority set up in terms of the Development Planning Act (Chapter 552 of the laws of Malta).

“Permitted Uses,” means the uses of the Property as specified in clause six (6) of this deed and the Concession Agreement.

“Performance Security” means the irrevocable and unconditional bank guarantee issued by the Emphyteuta in favour of the Government in terms of clause twenty-six (26) of the Concession Agreement and Clause twenty-four (24) of this deed.

“Project” means the development, management and operation of an international horse racing facility in accordance with the terms outlined herein and in the Concession Agreement.

“Property” means the portion of land shown in red on the site plan annex to this agreement as **Annex D** measuring circa one hundred and eighty-eight thousand nine hundred and thirty square meters (188,930m²) with the amenities constructed thereupon including their airspace and sub-soil and shall include the car parking area.

“Temporary Emphyteutical Grant” means the temporary emphyteutical title over the Property granted by the Government to the Emphyteuta in terms of this Deed.

“Term” means the term of the Emphyteutical Grant as set out in clause five (5) of this deed.

“Undesirable Person” means a person who:

- a) has been convicted of a crime, wherever committed:
 - i. against the safety of the Government in terms of articles fifty five (55) to fifty-nine (59), both articles included, of the Criminal Code, Chapter nine (9) of the Laws of Malta (in this deed referred to as the **“Criminal Code”**), or
 - ii. against public safety in terms of articles three hundred and eleven (311) to three hundred and seventeen (317), both articles included, of the Criminal Code, or
 - iii. specified in the Schedule to the Extradition Act, Chapter two hundred and seventy six (276) of the Laws of Malta, and for a term of imprisonment of more than three (3) years, or
 - iv. against the Prevention of Money Laundering Act, Chapter three hundred and seventy three (373) of the Laws of Malta, or
 - v. in violation of the articles three hundred and seven (307) to three hundred and fifteen (315) (both articles included) of the Companies Act, Chapter three hundred and eighty-six (386) of the Laws of Malta (in this deed referred to as the **“Companies Act”**) and in violation of article one hundred and ninety-one (191) of the Criminal Code, or
 - vi. against Sub-Titles IVA and B of Title IX of Part II of Book First of the Criminal Code, or
 - vii. against the laws or by the courts of another country with respect to the crimes substantially equivalent to those specified in

paragraphs i.(roman number one), iv.(roman number four) and v.(roman number five) above, or

- b) is the subject of sanctions or restrictions issued by the United Nations, the European Union or other international governmental body of which Malta is part and which are adopted or applied by the Government in terms of the National Interest (Enabling Powers) Act, Chapter three hundred and sixty-five (365) of the Laws of Malta and / or other applicable law, and this for such time as such sanctions remain in force, or
- c) is the subject of an international arrest warrant or of a European Arrest Warrant or is otherwise wanted by INTERPOL or other equivalent trans-national police organisation, and this for such time as he so remains, or
- d) is insolvent or bankrupt and unable to pay his debts as they fall due, or
- e) being a legal entity, the director or other officer or the controlling shareholder of which is:
 - i. an Undesirable Person, or
 - ii. in case of a director or officer, disqualified to be a director of a company in terms of the Companies Act or of a similar law of a jurisdiction of which the director or officer is a national or resident and this for as long as such person remains so disqualified.

Clause 2 – Interpretation

2.1 In this deed, unless otherwise expressly stated or the contrary intention appears:

- a) words importing the masculine gender shall include the feminine gender and vice-versa and words importing the neuter gender shall include the masculine and the feminine gender;
- b) references to a Recital, Part, heading, section, clause, paragraph, document or schedule is to a Recital, Part, heading, section, clause, paragraph, document or schedule of or annexed to this deed;
- c) references to a person include references to any person, whether natural or legal and whether registered or not and whether incorporated or unincorporated, and includes without limitation

an undertaking and this irrespective of citizenship, place of registration, residence or management;

- d) any reference to any law shall be deemed to include any amendment, replacement or re-enactment thereof for the time being in force and to include any subordinate legislation, legal notices, rules, regulations, orders, notices, directions, consents or permissions (together with any conditions attaching to any of the foregoing) made thereunder;
- e) all obligations undertaken by the Parties will be binding on them during the entire Term;
- f) where the context permits, the term “**Property**” shall include any part of the Property, together with all the Immovable Things which now, or in the future, shall appertain to them.
- g) The headings in this deed are inserted for convenience only and do not affect its construction.
- h) The documents annexed to this deed shall be construed to form a substantial and integral part of this deed and any reference to this deed shall include a reference to the said documents.
- i) In the event of any conflict between the following documents comprising or forming part of the Concession Agreement, the order of priority shall be: (i) Concession Agreement; (ii) this Deed of Emphyteusis (that is, for present purposes, the notarial deed proper, without the appendices); (iii) the RFP; and (iv) the Proposal;

Clause 3 -Grant of Emphyteusis of the Property

- 3.1 By virtue of this deed, the Government hereby grants by title of temporary emphyteusis to the Emphyteuta, which on its part accepts and acquires by the same title of temporary emphyteusis, the Property, for the Term and for the consideration and upon the terms and conditions set out and contained in this deed. The Property includes all its rights and appurtenances including the spaces above and below it (sub-soil).
- 3.2 The Property is being granted and accepted as subject to the premium and the annual and temporary groundrent stipulated in clause seven (7) but otherwise as free and unencumbered, save for all existing servitudes and easements created by law burdening it, *tale quale*, and with the exclusion of the warranty of hidden/latent defects. The Emphyteuta is being granted free and vacant possession over the Property save those restrictions resulting from the Concession Agreement and this Deed and provided that in the event that any third party is in possession and occupying any part of the Emphyteutical Site without any

title, Government shall apply those measures provided under Section nine (9) of the Government Lands Act – Chapter five hundred and seventy-three (573) of the Laws of Malta to secure the eviction of the said third party.

- 3.3 The Parties agree that the Property shall be granted and accepted as subject to all existing servitudes and easements created by law burdening it. The Property is also subject to the over ground or underground passage of public services and utilities (including water, sewage, electricity and telecommunications) and shall therefore be subject to the right of access to the Property by rightful owners and/or operators of such services and/or utilities and/or their agents for maintenance purposes as reasonably required. Provided however that the Emphyteuta may at its cost and with the consent of the Government, which shall not be unreasonably withheld, and the rightful owners and/or operators of such services and/or utilities, alter the routes via which such services and/or utilities pass, to other parts of the Property. The Government further reserves the right to access existent and create new servitudes and easements in its favour to be able to pass additional services and/or utilities including culverts for passing of electricity cables, water pipes drainage and sewerage as well as cables intended for telecommunication networks. Provided that in creating such servitudes and easements the Government shall consult the Emphyteuta so as to cause the least disruption and inconvenience to the development, management and operation of the Project, in default of which the Government shall compensate the Emphyteuta for any damage that it may sustain as a result of the Government's actions. Provided further that in all other circumstances, the Government shall compensate the Emphyteuta for any costs and expenses the Emphyteuta may sustain so as to reinstate the Emphyteuta in the same position prior to when the damage was sustained.
- 3.4 The Government accepts and agrees that any damage to any services and/or utilities passing through the Property which may occur during the development and/or operation of the Project as a result of the Emphyteuta being provided with inaccurate or incorrect information by the competent authorities/entities, shall not be the responsibility of the Emphyteuta which shall have no liability whatsoever in respect thereof.
- 3.5 The Government hereby warrants in favour of the Emphyteuta, that it has good and valid title, that the Property is free and unencumbered save for the restrictions outlined in sub-clause two of clause three (3.2) above and for the existing servitudes and easements created by law and the passing of services as outlined in sub-clause three of

clause (3.3) above and shall further warrant in favour of the Emphyteuta the quiet and peaceful possession over the Property with all its rights and appurtenances according to law.

- 3.6 The Government hereby warrants and guarantees in favour of the Emphyteuta, that the Property may be legally transferred to the Emphyteuta in terms of this Agreement to be used for the Permitted Use.
- 3.7 The Emphyteuta may make use of the ground water on site at no additional cost to the Emphyteuta in conformity with the laws and regulations applicable at the time.
- 3.8 The Parties also declare and agree that the Property includes all the Immovable Things, which now or in the future shall appertain to the Property.
- 3.9 The Emphyteuta shall be responsible for all the works related to the Development Infrastructure and will finance all such works. Provided that the Government shall ensure that the Property is fully and appropriately serviced by all the appropriate infrastructural works and services, up to the boundary of the Property as may be required for the Project. The Emphyteuta shall not be responsible for any Excluded Infrastructure which shall be the responsibility of the Government.

Clause 4 - Terms and Conditions of the Emphyteutical Grant

- 4.1 This Temporary Emphyteutical Grant is governed by the terms and conditions set out in this deed and, except to the extent lawfully excluded or modified hereby, also by the provisions of the Civil Code, Chapter sixteen (16) of the Laws of Malta.

Clause 5- Term

- 5.1 Unless terminated earlier pursuant to the terms of this Deed, this Temporary Emphyteutical Grant is being granted by the Government of Malta and accepted by the Emphyteuta for a period of sixty-five (65) years commencing from the date of publication of this deed.

Clause 6- Permitted Uses

- 6.1 Without prejudice to the Emphyteuta's obligations and rights of the Government of Malta pursuant to this Deed and saving

as otherwise expressly agreed to herein, the Emphyteuta shall be entitled to enjoy and make full use of the Property solely for the development, operation and management of the Property and for the setting up and maintenance of an international horse racing facility and all other ancillary services and facilities in accordance with the terms of the Concession Agreement.

- 6.2 The Emphyteuta shall bear any and all costs and expenses, whether ordinary or extraordinary, that may be necessary or desirable in connection with the permitted use as prescribed in sub-clause one of this clause six (6.1), and in accordance with the Emphyteuta's rights over the Property, the Emphyteuta shall be entitled to retain all revenues generated from the operation of the Property.
- 6.3 The Emphyteuta undertakes to continue to operate the Property for the duration of this emphyteutical grant.
- 6.4 No other use is permitted unless otherwise expressly approved and agreed in writing by the Government of Malta or Lands Authority, which approval and agreement cannot be unreasonably refused if the proposed operations are compatible activities or are in the interest of the Project (as defined in the Concession Agreement) in accordance with the objectives set out in the RFP.

Clause 7- Premium and Ground-rent

- 7.1 This Temporary Emphyteutical Grant is made in consideration of the payment by the Emphyteuta in favour of the Government of Malta of a one-time premium (the "Premium") amounting to two hundred thousand Euro (€200,000) which shall be paid by the Emphyteuta to the Government of Malta on the signing of this Deed of Emphyteusis.
- 7.2 This Temporary Emphyteutical Grant is made in consideration as follows:-
- (i) Horse racing track and Adjoining Facilities Area and Car Park Area
- One hundred and ten thousand Euro (€110,000) payable annually in advance for the first three (3) years and thereafter the annual temporary original ground rent shall increase to one hundred and fifty thousand (€150,000). The first payment of the Ground Rent shall become payable on signing of this Deed of Emphyteusis.
- (ii) Commercial Complex Area

Six hundred and fifty thousand Euro (€650,000) payable annually in advance for the area defined in clause 11.2 of the Deed of Emphyteusis. Provided that until the commercial complex is fully operational or until the end of the fifth (5th) year from the Deed of Emphyteusis, whichever occurs first, the annual ground rent shall be one hundred and thirty thousand Euro (€ 130,000) per annum, paid annually in advance. Provided further that in the event that the commercial complex is fully operational prior to the end of the fifth (5th) year, the next payment of annual ground due shall be six hundred and fifty thousand Euro (€ 650,000) less the amount of ground rent payments which would have already been paid in the previous years. Thereafter, the annual ground rent shall be six hundred and fifty thousand Euro (€650,000), payable annually in advance.

- 7.3 Temporary Emphyteutical Grant shall be increased (ground rent revision) in accordance with Clauses 8.1, 9.2, 10.3 of the Concession Agreement.
- 7.4 Emphyteuta agrees and accepts to effect, an annual Ground Rent in favour of the Government, which shall in turn, contemporaneously with the receipt of payment thereof, tender to the Government receipt for due payment.
- 7.5 The Ground-rent is payable to the Government in accordance to Clause 7.2 above, and shall be paid by the Emphyteuta without demand, deduction or set-off unless otherwise agreed to in writing by the Government of Malta or Lands Authority.
- 7.6 Without prejudice to clause twenty-seven (27), in order to secure the payment of the Ground-rent and any penalty that may become due by the Emphyteuta on this deed and also to secure the proper performance of each and all of the obligations arising from this Emphyteutical Grant, the Government reserves in its favour the special privilege on the Property accorded to the dominus by law. Moreover, the Emphyteuta as represented above, constitutes in favour of the Government, which accepts, a general hypothec over all its property present and future. The constitution of the special privilege and general hypothec in favour of the Government does not prejudice and prevent the Emphyteuta from granting his emphyteutical rights on the Property as security in terms of clause fifteen (15).

Clause 8 – Transferability Letting and other Concessions

- 8.1 Except as otherwise provided in this Deed, the Emphyteuta may not transfer, dispose of, alienate or otherwise assign the whole or any part of the Property, to a person other than a Group Company, under any title whatsoever, including but not

limited to (i) a transfer of the *utile dominium* of the Property or part thereof or (ii) granting it in whole or in part by way of sub-emphyteusis or assignment, lease, possession, operation agreement or management agreement without first obtaining the prior written consent from the Government or Lands Authority.

- 8.2 Any prospective transfer of rights as aforesaid over the Property which the Emphyteuta wishes to effect shall be notified to the Government or Lands Authority three (3) months in advance for its approval. The Government or Lands Authority may request the Emphyteuta to provide information on the prospective transferee/s with a view to ascertain whether such person is an Undesirable Person and the Emphyteuta undertakes best endeavours to provide the Government or Lands Authority with the requested information promptly and without delay. In such case the Government or Lands Authority shall have the right to object to a transfer as aforesaid only in the event that on the basis of its findings the Government or Lands Authority deems, acting reasonably, the prospective transferee/s or any of the Ultimate Beneficial Owners of the transferee/s is an Undesirable Person. Provided that failure by the Government or Lands Authority to provide its response within the following time-limits from receipt of written notification from the Emphyteuta of the intended transfer of rights shall be deemed an approval:
- (i) Sixty (60) working days in case where some or all of the Ultimate Beneficial Owners of the proposed transferee are non-Maltese residents;
 - (ii) Thirty (30) working days where all the Ultimate Beneficial Owners of the proposed transferee are Maltese residents,
- 8.3 The Emphyteuta shall upon request by Government or Lands Authority make available to it copies of any agreements referred to in sub-clause one of clause eight (8.1) above within three (3) months from such request. The Government or Lands Authority undertakes to keep confidential and not disclose the contents of such agreements to any third parties unless it will be compelled to do so by any public authority or court order.
- 8.4 The Government reserves in its favour the right of laudemium in respect of any transfer of the Property. Provided that no laudemium shall be payable if the transfer or disposal is in favour of the Emphyteuta's subsidiaries or associated companies;
- 8.5 Any change in the shareholding structure of the Emphyteuta resulting in a change in majority control of the Emphyteuta shall be deemed an indirect transfer of the Concession and the

provisions of the preceding sub-clauses of this clause 8 shall mutatis mutandis apply. Provided that for the purposes of this sub-clause four of clause eight (8.4) reference to "majority control" shall mean the direct or indirect ownership or right to exercise (directly or indirectly) the majority of the shareholders' voting rights in the Emphyteuta, the right to exercise (directly or indirectly) a dominant influence over the Emphyteuta through the right to appoint or remove (directly or indirectly) the majority of the members of the board of directors of the Emphyteuta:

For the purposes of this definition, the provisions of the Ninth Schedule to the Companies Act (Chapter three hundred and eighty-six [386] of the Laws of Malta) shall apply mutatis mutandis.

- 8.6 Notwithstanding the provisions of sub-clause one of this clause eight (8.1), the Emphyteuta may grant leases, operation agreements, management agreements or other similiar rights over any part of the Property and this exclusively for the purposes of the Permitted Use.

Provided that no such lease, operation agreements, management agreements or other similar rights may be granted with respect to the horse racing track and other equine sport activities or to a single third party over the whole Site, other than to a Group Company. In the event that the company is no longer a Group Company, then any such lease, operation agreement, management agreement or other similar rights so granted shall terminate with immediate effect, unless otherwise expressly agree by the Government or Lands Authority in writing.

Provided further that leases, operation agreements, management agreements or other similar rights may only be made subject to the following terms and conditions, namely, they shall:

- (a) The duration of the agreement shall not exceed the Term;
- (b) The terms of the agreement shall not conflict with the terms hereof;
- (c) The transferee and the Ultimate Beneficial Owners thereof shall not be Undesirable Persons; and
- (d) Not be entered into for any illicit purposes or contrary to public policy.

- 8.7 Upon a transfer in *toto* of the Concession to a third party, either through a direct transfer or through a transfer of majority

control in the Emphyteuta (which transfer would require the consent of the Government or Lands Authority in terms of clause 8.1 and clause 8.4 above), the following shall apply:

- a. If transfer of ownership occurs within two (2) years from the commencement of the Term a premium of two million five hundred thousand Euro (€2,500,000) shall be payable by the Emphyteuta to the Government;
- b. occurs within five (5) years from the commencement of the Term a premium one million five hundred thousand Euro (€1,500,000) shall be payable by the Emphyteuta to the Government;

Provided that the premiums above mentioned shall be payable when the transfer of the Concession (or the transfer of majority control in the Emphyteuta) to a third party has been effected.

- 8.8 Any third party successor in title to all or any part of the Site shall be bound by the same terms and conditions herein.
- 8.9 Unless the Government or Lands Authority approves of a transfer *in toto* of the Emphyteuta's rights and obligations arising in terms of the Concession Agreement / Deed of Emphyteusis, the transfer of rights under any title whatsoever shall not exonerate the Emphyteuta from its obligations under the Deed of Emphyteusis with respect to the Site or part thereof subject of such transfer and the Emphyteuta shall remain jointly and severally liable together with the transferee for the full and due observance of the said conditions.

Clause 9 – Facilities and Standards

- 9.1 The Emphyteuta is bound for the entire duration of this deed to provide adequate facilities and standards for the operation of the Permitted Uses, in accordance with generally accepted standards and relevant legislation, for the efficient operation of the Property as so stated in the Concession Agreement.
- 9.2 The Government or Lands Authority shall have the right to appoint, after the expiry of every five (5) year period of this Emphyteutical Deed, a surveyor with not less than ten (10) years surveying experience (hereinafter referred to as the "Surveyor") to undertake a survey of the Site. The Government or Lands Authority shall prepare (in consultation with the Emphyteuta), the proposed terms of reference and scope of investigation for the Surveyor. The terms of reference and scope of investigation shall include an identification of any failure by the Emphyteuta to comply with its obligations under this Emphyteutical Deed and under the

law and shall include (where appropriate) recommended remedial measures which the Emphyteuta shall promptly put into effect. The costs of any such inspection shall be borne by the Government unless said inspections finds any failure or failures by the Emphyteuta to comply with its obligations under this Emphyteutical Deed and under the law which, in the aggregate, will cost more than two hundred and fifty thousand Euro (€250,000) to remedy, in which case the cost of any such inspection and/or survey shall be borne by the Emphyteuta. A copy of the Surveyor's report shall be delivered to the Emphyteuta.

- 9.3 The Emphyteuta shall ensure that all operations and activities carried out on Site shall comply with any applicable law and regulations, and the Emphyteuta shall be liable for and shall indemnify and hold the Government and its officers, employees, agents and contractors harmless from any expenses, liability, loss, claim or proceedings whatsoever arising from a breach by the Emphyteuta of any such law and regulations.
- 9.4 The person or entity responsible for monitoring compliance of the obligations and commitments arising under this Deed shall vest in any person or entity as may be delegated by the Government from time to time. Such person shall be responsible for certifying that such obligations and commitments are being properly fulfilled and maintained and shall keep proper records thereof.

Clause 10 – Maintenance and Repairs

- 10.1 For the duration of the Emphyteutical Grant, the Emphyteuta shall keep the Property and the Development at all times well maintained and in a good state of repair according to law and to the satisfaction of the Government, acting reasonably, at its own risk, cost and expense and it shall carry out:
- i. all preventive and remedial maintenance as may be necessary in accordance with applicable law and internationally recognized industry standards; and
 - ii. all ordinary and extraordinary repairs;

and on the termination of the Emphyteutical Grant by lapse of time or on the dissolution of the Emphyteutical Grant for any other reason, the Emphyteuta shall relinquish and/or return the Property and any permanent improvements thereon without any compensation and/or right of compensation, unless otherwise stated in the deed, in a good state of repair and operation, fair wear and tear excepted. Any damage occurring not only through ordinary causes but also through fortuitous, extraordinary and unforeseen circumstances or by Act of God, or by Force Majeure

(excluding those events which are not customarily insurable perils at the time of occurrence of such circumstance), shall be made good by the Emphyteuta which shall be bound to reconstruct if necessary any portion of the said Property, or the whole Property, at its own expense.

- 10.2 The Government may once five (5) years from the date of this Deed of Emphyteusis, request the Emphyteuta to compile and present to it a condition report in respect of the maintenance and upkeep of the Property.
- 10.3 It is agreed and understood that the maintenance and upkeep obligations relating to such parts of the Property the utile dominium (including through a temporary sub-emphyteutical grant) to which is transferred to a third party in accordance with the terms of this Deed (including the second and/or third part of this deed), shall vest in such third party,

Clause 11 – Design, development, operation and management of the Property

- 11.1 The Property is being granted to the Emphyteuta to use it exclusively for the Permitted Uses provided for in this deed, including for the design, development, operation and management of the Property. Accordingly, the Emphyteuta shall obtain from PA the permit/s for the full design, development, operation and management of the Property.
- 11.2 The Emphyteuta agrees that the area within the Property on which administrative offices, food and drink outlets, retail outlets, as well as other areas for leisure and assembly (or similar gaming and betting uses) shall be developed, shall, unless otherwise agreed by the Government, not exceed eight plus one storeys.
- 11.3 The Emphyteuta shall, upon obtaining the necessary development permit and licences, complete the development, operation and management of the Property as provided for in Concession Agreement and shall commence the operation of the Permitted Use in accordance with this deed and within the parameters defined in the Concession Agreement and in accordance with the development permit/Building Permits and any other permit or authorisation required by law.
- 11.4 The development works shall be overseen by the Architect indicated by the Emphyteuta, which Architect shall be engaged by and at the cost of the Emphyteuta.
- 11.5 The Emphyteuta shall invest the sum mentioned in the Concession Agreement on the Property and shall complete the

whole development, operation and management to the full satisfaction of the Government of Malta within the time period stipulated in the Concession Agreement.

- 11.6 When the Property (or part thereof in accordance with the terms of the Concession Agreement) is in a Complete State, the Emphyteuta shall provide the Government with a Certificate of Completion issued by the Architect in charge of the development of the Property.

Clause 12 – Further Obligations of the Emphyteuta

- 12.1 The Emphyteuta further binds itself to fulfil the obligations stipulated in the Concession Agreement.

Clause 13 - Obligations and Charges Imposed by Law on Owners

- 13.1 The Emphyteuta shall be bound to comply with and to carry out any obligation or duty imposed by law on the owners of buildings or lands and this according to what is stated in Article one thousand five hundred and seven (1507) of the Civil Code (Chapter sixteen (16) of the Laws of Malta).

Clause 14 – Compliance with Law and Other Obligations

- 14.1 The Emphyteuta shall, at its sole cost and expense, comply with all legislation, rules, regulations, and administrative orders applicable to Malta, now in force, or which may hereafter be in force, applicable to the Property and/or the operation of the Permitted Uses, and shall faithfully observe all conditions included in all licences, permits and authorisations issued to the Emphyteuta or for the Property in relation to the operation of the Permitted Uses, now in force or which may hereafter be in force. In particular but without prejudice to the generality of the foregoing, the Emphyteuta shall obtain and comply with all licenses and permits necessary for the use of the Property in accordance with the Permitted Use.
- 14.2 The Government shall, to the extent permissible by the Laws of Malta and good governance, and within its powers as direct owner, cooperate with the Emphyteuta for the implementation of the Project.
- 14.3 Without prejudice to sub-clause three of clause three (3.3) and sub-clause four of clause three (3.4) above, the Emphyteuta shall not cause damage to existing public services passing through, under or above the Property and when damage is caused or the temporary removal is necessary it shall be bound

to re-instate same as soon as possible, at its own and sole expense. For the purposes of this clause, the Government nonetheless undertakes in favour of the Emphyteuta, which accepts, to assist the Emphyteuta, at the Emphyteuta's own expense, by all lawful means possible as may be necessary for the removal and/or re-instatement of the said public services if the Emphyteuta itself, in spite of various attempts from its part, of which proof in writing shall be given to the Government, has failed to remove and/or re-instate the same. In such case the time limits imposed on the Emphyteuta in terms of this deed to complete the development of the Property and to commence the operation of the Project shall be extended by a time equivalent to the time that may be required for the removal and/or re-instatement of the said public services by the Government. The Emphyteuta is also presently and with immediate affect renouncing to any compensation and/or right of compensation for any expenses of whatever nature and/or to any claim and/or any action of whatever nature which it has and/or might have against the Government of Malta in relation to obligation undertaken by the Government by virtue of this clause.

- 14.4 All bills and charges relating to the Property including deposits, fees and charges for water, electricity, drainage, telephone, internet and any other service or utility used in or upon or furnished to the Property arising in relation to the period commencing as from the date of this deed shall be paid by the Emphyteuta.

Clause 15– Financing

- 15.1 The Emphyteuta shall increase the current authorised share capital of one hundred thousand Euros (€100,000) to six million Euros (€6,000,000) divided into six million (6,000,000) ordinary shares of €1 each on the signing of this deed of Emphyteusis.
- 15.2 The Emphyteuta shall at all times be adequately financed partly via equity and/or partly via debt (in the form of shareholder loans or third party finance - which cannot exceed forty percent (40%) of the total investment cost) to complete the Project and to maintain the Development to the levels required in terms of the conditions set in this deed.
- 15.3 The Emphyteuta shall not grant or create or suffer to subsist any security interests, whether by way of privilege, hypothec (whether general or special) or other real right, over the Property or any part thereof except:

- (i) for the purpose of obtaining financing through a licensed credit or a licensed financial institution, and/or through

the issuance of instruments by the Emphyteuta and/or Group Company, for the purpose of and subject to the proceeds from such funding being utilized for the Project (or part thereof) as set out herein;

(ii) for the purpose of securing its obligations in favour of the Government in terms of this deed;

(iii) by operation of law; or otherwise

(iv) on such parts or the whole of the Property for such purposes as the Government may in its sole and absolute discretion otherwise consent in writing.

15.4 Save as permitted under this deed, no security interest shall be created over the Property by way of suretyship or for the purpose of guaranteeing any third party obligation or liability. It is agreed and understood however that "third party obligations" shall not be deemed to include obligations entered into by the Emphyteuta for the purposes of or in connection with the development and/or operation of the Project (or part thereof). For the avoidance of doubt, nothing in this deed shall be construed as prohibiting the Emphyteuta from granting or creating any security interest in any form whatsoever (including by way of privilege or hypothec) over any other assets of things of the Emphyteuta of whatever nature or kind other than over the Property.

Clause 16 - Antiquities

16.1 The Emphyteuta shall give immediate notice to the competent authority of the discovery of any trace of objects or monuments of local antiquarian or archaeological importance (including but not limited to all old remains such as caves, tombs, wells, stonewalls, pottery, coins, bones and other objects of a similar nature) on the Property. Any find of such movables shall "ipso facto" become the property of the Government.

16.2 On obtaining information of each such discovery the Government shall have the right to access any part of the Property to which the finds purport to relate, for the purposes of causing the latter to be inspected by any person delegated for the purpose and on ascertaining the existence of such finds, the Government shall have the right to rescind the emphyteutical grant, and this on service of notice to this effect on the Emphyteuta by means of a judicial letter. In such event, the Emphyteuta shall be reimbursed for any and all costs and expenses incurred by the Emphyteuta in relation to the Project, including but not limited to, in applying for any Development Permit or any other permits, licenses, authorisations required in connection with the development and operation of the Project and for the actual cost of any works carried out on any part of

the Property. The works shall be valued jointly by the Emphyteuta's Architect and Government Architect. The Emphyteuta shall not be entitled to any further compensation or indemnification.

Provided that in case of disagreement between the Emphyteuta's Architect and the Government Architect as to the value of the works, the Parties shall endeavour to agree to the appointment of an independent Architect who shall be entrusted by the Parties to determine the value of the reimbursed amount payable as aforesaid, whose valuation shall be final and binding on the Parties.

Provided further that:

- i. the Emphyteuta may nonetheless opt either to retain that part of the Property not affected by such finds with a proportional diminution of ground-rent or where this is possible integrate such finds within the Property; and
 - ii. should action by any Government Agency or Department relative to any such discovery, cause any hindrance or delay in the progress of the works, a pro-rata reduction of ground-rent for the duration of such hindrance and delay and an extension of all applicable and relative time limits will become effective.
- 16.3 The Emphyteuta shall nonetheless have itself the right to demand the rescission of the emphyteutical grant if it proves in writing that the retention by itself of that part of the Property not affected by the finds with a relative diminution of ground-rent or the integration of such finds within the Property would render the development of the Property and/or the operation of the Permitted Uses not viable and/or unfeasible. In such event, the Emphyteuta shall be entitled to the same compensation only for the permit/s expenses and to the extent of the actual value of such works as it may have carried out on the site and at a valuation of the same to be made by the Lands Authority or his representative/s as a representative of the Government of Malta jointly with the Architect appointed by the Emphyteuta in terms of sub-clause four of clause eleven 11.4 of this deed, and it shall not be entitled to any other compensation of any sort; mentioned and determined in accordance with the provisions of clause 16.2 and it shall not be entitled to any further compensation or indemnification.

Clause 17 – Access Rights

- 17.1 The Emphyteuta shall permit the Government of Malta or its representative/s at all reasonable times to have access to the Property and to the improvements thereon and when requested

to do so the Emphyteuta shall give all possible facilities and aid to enable the Government of Malta or its representative/s to verify whether the conditions of the emphyteutical grant are being or have been complied with. In the event that the Emphyteuta defaults in its obligations under this clause, the Emphyteuta will incur a penalty of two hundred Euro (€200) for each and every occurrence.

Clause 18 – Insurance

- 18.1 The Emphyteuta shall throughout the Term, at its expense, take out and maintain in force an insurance policy thereby insuring the Site and all improvements made and assets movable and Immovable property situated thereon, for their full value against loss or damage resulting from fire, lightning, tornado, storm, tempest, floods and explosions, bursting or overflowing of water tanks, apparatus or pipes, earthquakes and volcanic eruptions, subterranean fire, aircraft, impact, riots, strikes, malicious damage and other insurable perils and casualties (unless resulted from terrorist attacks), as are commonly insured against, with respect to properties of a similar type. The Emphyteuta undertakes to keep the sums under this cover updated to reflect the replacement value at all times.
- 18.2 The Emphyteuta shall throughout the duration of Temporary Emphyteutical Grant, at its expense, take out and maintain in force an adequate insurance policy covering the loss of one year's worth of Ground Rent. The amount of cover shall increase *pari passu* with the increase in the Ground Rent payable by the Emphyteuta to the Government.
- 18.3 The Emphyteuta shall furthermore throughout the duration of the Temporary Emphyteutical Grant, at its expense, take out the following additional insurance covers:
- (i) An all risks insurance cover;
 - (ii) A public liability insurance cover.
- 18.4 The Emphyteuta shall ensure that all insurance policies provide a cover and insure values adequate considering the type of Development and use of the Site.
- 18.5 The Emphyteuta shall ensure that the interest of the Government qua *directus dominus* is noted on all insurance policies and that the Government is entitled to claim under such policies.
- 18.6 The Emphyteuta shall produce copies of all insurance policies taken out or renewed within one month from the date of issuance or date of renewal.

18.7 Should the Emphyteuta fail to take out or renew any of the aforementioned insurance covers, the Government may at its sole discretion take out such policies and charge the relative expenses to the Emphyteuta.

18.8 All insurance covers shall be obtained or placed with a reputable insurance company licensed to write business in the European Union.

Clause 19 – Interest

19.1 Any sum due by virtue of any provisions of this Deed shall, if not paid within thirty (30) days of the date due, be due with interests at the rate of eight per cent (8%) per annum to run from the date due and until it is so paid.

Clause 20 – Events of Default /Dissolution of Grant

20.1 The Government shall be entitled to dissolve this Grant on the following grounds:-

- a. fails to pay the Ground Rent for one (1) year or if although it has made part payments in each year, a sum equal in amount to three (3) years' Ground Rent is still owed to the Grantor whether by way of Ground Rent or interest thereon; or
- b. if the Emphyteuta fails to complete the development of the Property as provided in the Concession Agreement; or
- c. if the Property is used for any purposes other than the Permitted Use, unless the Government has consented in writing to such other purposes; or
- d. the Emphyteuta's failure to punctually and faithfully observing any and all laws and regulations relevant to the development of the Project and the conduct of operations therefrom; or
- e. the Emphyteuta abandoning the Property. For the purposes of this provision abandoning the Property shall mean if the Emphyteuta ceases works, for no justifiable reason, on the Site for a consecutive period exceeding six (6) months following the issuance of all relative permits, licenses and authorisations from any authority as may be necessary for the implementation of the Project; or
- f. the Emphyteuta ceases operations of the race course for a period exceeding six (6) consecutive months; or

- g. if the Emphyteuta fails take out insurance policy covers as stipulated herein; or
- h. if the Emphyteuta fails to obtain any and all required permits to operate the activities intended and permitted from the Property;
- i. if the Emphyteuta becomes an Undesirable Person or if, either because of supervening circumstances or if because there is a change in either management or control of the Emphyteuta or in the beneficial ownership of an entity which determines management and control of the Emphyteuta becomes an Undesirable Person; or
- j. if the Emphyteuta is in breach of any of the material conditions of this deed; or
- k. if the Emphyteuta becomes insolvent; or
- l. if a winding up order against the Emphyteuta is made by the Court or the appointment of a liquidator or provisional administrator; or
- m. if there is the passing of a resolution for the voluntary winding up of the Emphyteuta; or
- n. if there is the application for, or sanctioning by the Court of, a compromise or arrangement involving the Emphyteuta in terms of article three hundred and twenty-seven (327) of the Companies Act, Chapter three hundred and eighty six (386) of the Laws of Malta:

Provided that in the event of (a) above the Government shall only be entitled to dissolve the Emphyteutical Grant if the Emphyteuta remains in default for one (1) month after notice of such default is given by the Government by judicial letter; in the event of (b) above the Government shall only be entitled to dissolve the Emphyteutical Grant if the Emphyteuta remains in default for six months [6] after notice of such default is given by the Government by judicial letter; and in the case of (c) to (n) above if the Emphyteuta remains in default for three (3) months after notice' of such default is given as aforesaid.

On the dissolution of the Emphyteutical Grant for any of the reasons above stipulated the rights acquired by a 'bona fide' third party acknowledged or entitled to be acknowledged by the Government shall not be in any way affected. Following such

dissolution any fees, rents or other dues falling due after dissolution payable by third parties to the Emphyteuta shall on dissolution become the property of the Government:

Provided further that in the event of (a) above, if there is any dispute about the amount due, the Emphyteuta shall effect payment of the amount not in dispute and the balance in dispute shall be payable together with interest thereon from the date when the balance was originally due up to the date of effective payment, if such dispute is resolved in favour of the Government of Malta;

Provided further that the Government may terminate this Deed of Emphyteusis immediately upon the termination of the Concession Agreement.

Clause 21 – Surrender of the Property

21.1 On the termination of the Emphyteutical Grant by lapse of term, or on the dissolution or determination or rescission or earlier termination of the Emphyteutical Grant for any reason whatsoever and by whoever, the Emphyteuta shall surrender to the Government of Malta, the Property together with all Immovable Things appertaining thereto whatsoever their value, with vacant possession save for any lawful recognised lessees, operators, managers or concessionaries, free and unencumbered, fully operational in a good state of repair, fair wear and tear excepted, according to law. The Emphyteuta shall have no right to compensation whatever may be the cause of the termination or dissolution or determination or rescission or earlier termination of the Emphyteutical Grant, unless otherwise provided for in this Deed.

Clause 22 – Third Party Rights

22.1 The dissolution or termination of the Emphyteutical Grant or any part thereof, whether at the instance of the Government or the Emphyteuta, shall be without prejudice to and shall not affect any rights, whether real or personal, in respect of the Property or any part thereof already then acquired by any third party acknowledged or entitled to be acknowledged by any lessee, operator, manager or concessionaire. Following such dissolution, any rents, or other fees falling due after dissolution payable by such third parties to the Emphyteuta shall be payable to the Government.

Clause 23 – Consents, Approvals or Directions required by the Emphyteuta

23.1 The Government and the Emphyteuta agree that all consents, approvals or directions which the Emphyteuta is required to obtain from the Government in terms of this Emphyteutical Grant shall be adequately obtained, if obtained in writing from the Lands Authority or any person or authority substituting the office of Lands Authority or otherwise nominated by the Government for this purpose.

Clause 24 – Performance Security

24.1 The Emphyteuta is hereby providing the Government with the Performance Security stipulated in clause twenty-six (26) of the Concession Agreement.

24.2 In the event of any amount being withdrawn from the said guarantee the Emphyteuta shall reinstate the amount of the said guarantee to the aforementioned amount prior to the next payment of ground rent falling due.

Clause 25 – Indemnity

25.1 The Emphyteuta shall indemnify and/or keep the Government of Malta fully indemnified against all actions, proceedings, claims and demands brought or made against it, and against all losses, damages, costs, expenses (including legal fees and expenses) and liabilities incurred, suffered or arising directly or indirectly in respect of or otherwise in connection with anything relating to the temporary emphyteutical grant resulting from any action by the Emphyteuta.

Clause 26 – No Right of Compensation/Reimbursement

26.1 Saving as otherwise expressly stipulated in this deed and/or the Concession Agreement, the Emphyteuta shall not be entitled to any reimbursement of any expenses incurred in the carrying out of any obligations undertaken to be performed and/or performed by virtue of or in connection with this deed. This clause shall apply in any case on the expiry of the temporary Emphyteutical Grant, and also in case of dissolution or rescission or early termination of the temporary emphyteutical grant for any reason, attributable to the Emphyteuta, save as otherwise provided for in this deed.

Clause 27 – Force Majeure

27.1 Without prejudice to sub-clause one of clause ten (10.1), neither Party shall be liable for delay in performing or failure to perform obligations if the delay or failure results from Force Majeure. Such delay and/or failure resulting from Force Majeure shall not constitute a breach of this deed and the time

for performance of the concerned obligation shall be extended by a period equivalent to that during which performance has been prevented by Force Majeure.

Clause 28 – Severability

28.1 If any part, clause or provision, or any part thereof, of this deed shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If any provision of this deed is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

Clause 29 – Waivers

29.1 No waiver by any party (the “Non-Defaulting Party”) of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by the other party (the “Defaulting Party”) of the same or any other breach. The Non-Defaulting Party’s consent to or approval of any act shall not be deemed to render unnecessary the obtaining of the Non-Defaulting Party’s consent to or approval of any subsequent act by the Defaulting Party. The acceptance of ground-rent or of any other dues under this Deed by the Government of Malta shall not be a waiver of any preceding breach by the Emphyteuta of any provision hereof other than the failure of the Emphyteuta to pay the particular ground-rent or dues so accepted, regardless of the knowledge of the Government of Malta of such preceding breach at the time of acceptance of such ground-rent or other dues.

Clause 30 – Applicable Law and Jurisdiction

30.1 This deed shall be read, governed by and construed according to the Laws of Malta and the parties hereby submit themselves to the exclusive jurisdiction of the Maltese Courts.

Clause 31 – Notices

31.1 Unless otherwise expressly provided in this deed, any notice, notification or other communication under or in connection with this deed shall be in writing and shall be delivered by hand or recorded delivery or sent by pre-paid first class post to the relevant party at the relevant address for service set out below or to such other address in Malta as each party may specify by notice in writing to the other party to the deed:

Name: **Government of Malta / Lands Authority**
Address:

Attention:

Name: **Marsa Race Track Limited**
Address: 254, First Floor, Regency House, Republic Street
Valletta VLT 1114

Attention:

31.2 Any such notice or other communication shall be deemed to have been served on the party to whom it is addressed as follows:

- i. If sent by hand or recorded delivery when so delivered;
- ii. If sent by pre-paid first class post from and to any place within Malta, three days after posting, unless otherwise proven.

31.3 For the avoidance of doubt, it is agreed that sub-clause one of this clause thirty two (31.1) and sub-clause two of this clause thirty two (32.2) do not apply to judicial acts filed in the Courts of Malta which will be served in accordance with applicable Court procedures and service of such judicial acts shall be deemed to have been made in terms of law.

Clause 32 – Costs

32.1 Notarial fees and expenses payable upon publication of this deed shall be paid by the Emphyteuta.

32.2 Each Party shall be responsible for the payment of the fees of its own advisors.

Second Part – Sub-emphyteutical Grant

On the first part:

Marsa Race Track Limited a company registered and incorporated in Malta with registration C number eight zero zero nine six (C80096) and having its registered address at 254, First Floor, Regency House, Republic Street Valletta VLT 1114 represented hereon by _____, (holder of Identity Card Numbered _____ as duly authorised by virtue of a resolution of the Board of Directors of the company annexed to this deed as **Annex A** (hereinafter referred to as “**the Sub-Grantor**”);

On the second part:

The Authority for Transport in Malta (hereinafter referred to as “**the Sub- Emphyteuta**”)

And on the third part:

_____, _____ son of the _____ and of _____, born at _____ on the _____ and residing at _____, holder of identity card number _____ who is appearing on this deed for and on behalf of the **Lands Authority** and the _____, as duly authorized by virtue of Government Notice numbered _____, published in the Government Gazette of the _____, (hereinafter called ‘**the Government of Malta**’).

1. Subject to the terms hereunder covenanted, the Sub-Grantor hereby transfers and assigns by title of temporary sub-emphyteusis for the Term (as defined in the First Part of this Deed) to the Sub-Emphyteuta who, acquires and receives by the same title of temporary sub-emphyteusis the land (hereinafter referred to as **the “TM Land”**) which is being marked in green on the attached plan being marked **Annex E**.
2. The Government is hereby expressly acknowledging the Sub-Emphyteuta as the Sub-Emphyteuta of the TM Land part of the Property (as defined in First Part of this Deed) and declares and confirms that in the light of the sub-emphyteusis being granted in favour of the Sub-Emphyteuta by virtue of

this Second Part of the Deed, and solely and exclusively in relation to the TM Land, the obligations imposed on the Sub-Grantor in terms of the First Part of this Deed and the Concession Agreement shall no longer apply to the Sub-Grantor.

3. The TM Land is being transferred as subject to the annual and temporary ground rent of one thousand euros (€1,000) (hereinafter referred to as the "TM GR"), which annual and temporary ground-rent is being imposed on this deed with the acceptance of the Sub-Emphyteuta. In the light of the acknowledgement of this sub-emphyteusis in favour of the Sub-Emphyteuta by the Government as stipulated in the immediately preceding paragraph, it is being agreed that the TM GR shall be paid by the Sub-Emphyteuta directly to the Government and the Sub-Grantor hereby waives any right to receive the TM GR. For the avoidance of any doubt the Sub-Grantor is confirming that the TM GR shall not form part of the Ground-rent due by it to the Government in terms of the First Part of the Deed.
4. The Sub-Grantor shall build on the TM Land hereby transferred and assigned by title of temporary emphyteusis, for the benefit of the Sub-Emphyteuta and at the Sub-Grantor's exclusive cost a bus depot as per specifications, terms and conditions as shall be agreed between the parties. The Sub-Emphyteuta agrees and accepts that upon the expiry or termination of the sub-emphyteutical grant, the TM Land and any improvements thereon shall return back to the Government. The Sub-Emphyteuta expressly agrees that it shall have no right whatsoever to claim compensation or indemnification from the Sub-Grantor.
5. The Bus Depot, once built as afore-said, shall enjoy and at the same time be subject to those servitudes arising at law from its respective position within the Car Park Area (as defined in the First Part of the Deed).

Moreover, the Sub-Grantor shall have unhindered access to the TM Land as may be necessary for the purposes of developing, constructing, operating and maintaining the car

park development within the Car Park Area (as defined in the First Part of this Deed) (hereinafter the “Car Park Development”), which the Sub-Grantor shall be developing and constructing on the site adjacent to the TM Land (in red) and above the TM Land (hatched in red) as per plan being herewith attached and marked **Annex F**, as the case may be. The Sub-Grantor shall furthermore, enjoy all such servitudes created by law as well as retain the right to create such additional servitudes, including for the passing of services and utilities (including water, sewage, electricity and telecommunications) as may be necessary for the proper and full development, maintenance and operation of the Car Park Area.

6. Included in the transfer of the TM Land is the non-exclusive right of use over the common parts of the Car Park Development which right of use may, subject to the written approval of the Government, be transferred to third parties together with the TM Land and the Bus Depot once completed. The common parts of the Car Park Development shall remain property of the Sub-Grantor. Provided that use of such common parts shall be limited to what is strictly necessary for accessing the TM Land.

7. The common parts of the Car Park Development include any and all communal parts within the car park area and any other common parts, areas, services, installations and objects within the Car Park Development as may be designated by the Sub-Grantor from time to time for the common use or benefit of the users of the Car Park Development.

Provided that it is expressly agreed that the following are not included in the common parts of the Car Park Development: (i) the common dividing walls, (ii) the roof and airspace of the Car Park Development.

8. The external walls of the Car Park Development shall remain the property of the Sub-Grantor. Maintenance and repair to

the external walls shall be the responsibility of the Sub-Grantor.

9. The Sub-Grantor moreover guarantees that the Bus Depot shall be built in accordance with the applicable development permits.
10. This emphyteutical grant of the TM Land and the obligation and undertaking to build a Bus Depot in accordance with specifications, terms and conditions attached herewith which shall be agreed subject to the following conditions:
 - a. No structural alterations shall be allowed without prior written consent of the Sub-Grantor or its successors in title and that all shall be carried out according to regularly issued planning permits and under appropriate supervision by competent architects and/or engineers;
 - b. The Sub-Emphyteuta or his successors in title will not obstruct encumber or in any manner lessen the enjoyment of the common parts of the Car Park Development;
 - c. The Sub-Emphyteuta shall take out and maintain in force throughout the Term, an insurance policy thereby insuring the TM Land and all improvements made and assets, Movable and Immovable Property (as defined in the First Part of this Deed) situated thereon, for their full value against loss or damage resulting from fire, lightning, tornado, storm, tempest, floods and explosions, bursting or overflowing of water tanks, apparatus or pipes, earthquakes and volcanic eruptions, subterranean fire, aircraft, impact, riots, strikes, malicious damage and other insurable perils and casualties (unless resulted from terrorist attacks), as are commonly insured against, with respect to properties of a similar type. The Sub-Emphyteuta undertakes to keep the sums under this cover updated to reflect the replacement value at all times.

- d. The Sub-Emphyteuta shall furthermore take out and maintain in force throughout the Term, an all risks insurance cover and a public liability insurance cover.
 - e. The Sub-Emphyteuta shall ensure that the interest of the Government qua *directus dominus* and the interest of the Sub-Grantor is noted on all insurance policies and that the Government and the Sub-Grantor are entitled to claim under such policies.
 - f. The Sub-Emphyteuta shall produce copies of all insurance policies taken out or renewed within one month from the date of issuance or date of renewal. Should the Sub-Emphyteuta fail to take out or renew any of the aforementioned insurance covers, the Sub-Grantor may at its sole discretion take out such policies and charge the relative expenses to the Sub-Emphyteuta.
 - g. The Sub-Emphyteuta shall take all preventive and remedial maintenance as may be necessary in accordance with applicable law and internationally recognized industry standard and all ordinary and extraordinary repairs to the TM Land.
11. The Sub-Emphyteuta and his successors in title shall be required to include the conditions outlined in this deed in every future transfer.
12. The Sub-Emphyteuta accepts that the Sub-Grantor or its successors in title retains the right to make modifications to the common parts or to further encumber their use. The Sub-Grantor or its successors in title shall have the right to attach the drainage system for any additional storey or storeys to the then existing drainage system serving the Car Park Development and shall have all other rights incidental to the construction of any further storeys for the better enjoyment of any further storeys. In addition, the Sub-Grantor shall be entitled to extend the common parts and services of the Car Park Development to serve the additional storeys.

13. The Sub-Emphyteuta shall maintain at its exclusive costs the Bus Depot once this has been built and constructed and shall contribute to the maintenance of the common parts of the Car Park Development with the Sub-Grantor, *pro rata*.
14. The Sub-Emphyteuta shall be required to apply at his own expense for the water and electricity services intended to serve the Bus Depot. All consumption, meter rental and other charges relative to the Bus Depot and the pro rata share of the common parts of the Car Park Depot shall be at the sole charge of the Sub-Emphyteuta and its successors in title.
15. The Sub-Emphyteuta shall keep the Sub-Grantor harmless and fully indemnified of any and all costs, expenses, losses and damages whatsoever that may be suffered by the Sub-Grantor as a result of the operation and use by the Sub-Emphyteuta, and/or its assigns or successors in title, of the TM Land.

Third Part – Constitution of Servitude

On the one part:

Marsa Race Track Limited a company registered and incorporated in Malta with registration C number eight zero zero nine six (C80096) and having its registered address at 254, First Floor, Regency House, Republic Street Valletta VLT 1114 represented hereon by - _____, (holder of Identity Card Numbered _____ as duly authorised by virtue of a resolution of the Board of Directors of the company annexed to this deed as **Annex A**.(hereinafter referred to as “**the Developer**”);

On the other part:

EneMalta plc, a public limited liability company registered and incorporated under the laws of Malta with company registration number C 65836 and having its registered office situated at Triq Belt il-Hazna, Marsa, MRS 1571, Malta (hereinafter referred to as “**Enemalta**”)

And on the third part:

_____, _____ son of the _____ and of _____, born at _____ on the _____ and residing at _____, holder of identity card number _____ who is appearing on this deed for and on behalf of the **Lands Authority** and the _____, as duly authorized by virtue of Government Notice numbered _____, published in the Government Gazette of the _____, (hereinafter called ‘**the Government of Malta**’).

The parties to this deed declare and premise that:-

1. Whereas by means of a Private Agreement dated the twenty-fifth (25th) August, of the year two thousand and fourteen (2014) the Government of Malta granted to the EneMalta Corporation (Private Agreement) of which appeared Enemalta is the successor in title the exclusive use from the height of five (5) metres upwards of the land in Marsa, measuring approximately six thousand, five hundred and sixty square

metres (6,560sm) bounded on the North and South by Government Property and on the West by Triq l-Iljun or more correct boundaries, as shown in red on the attached plan which is being marked **Annex G** and this exclusively for the purpose of installing an unlimited number of photovoltaic panels including their supporting structures affixed to the ground. A copy of the afore-mentioned Private Agreement is being herewith attached and marked **Annex H** and shall be considered as forming part of this Deed for the purposes of providing for and regulating the Obligations of EneMalta as per Clause 4 of the said Private Agreement;

2. Whereas the temporary emphyteutical title to the afore-mentioned land is being granted to the Developer by the Government of Malta (The Grantor) by means of the First Part of this Deed;
3. Whereas the afore-mentioned grant of temporary emphyteutical title of the Land to the Developer is being made subject to the condition that Enemalta shall retain its exclusive right to exclusively install an unlimited number of photovoltaic panels including their supporting structures affixed to the ground;
4. Whereas the Developer shall be developing a Car Park Development (as defined in the Second Part of this Deed) over the Emphyteutical Site as mentioned and referred to in the First Part of this Deed and therefore including the Land referred to in the afore-mentioned Agreement of the 25th August, 2014;
5. Whereas the Developer has agreed that the Car Park Development shall remain subject to the exclusive right of EneMalta to exclusively install on the roof level of the Car Park Development an unlimited number of photovoltaic panels including their supporting structures affixed to the ground;
6. Whereas the Developer and Enemalta wish to regulate their Rights and Obligations emanating from the afore-mentioned condition.

Now therefore by virtue of this third part of this Deed the Developer and Enemalta are agreeing the following:-

- I. The Developer is hereby constituting, once the Car Park Development is constructed, in favour of Enemalta, by way of an active servitude for the duration of its emphyteutical title in terms of the First Part of this Deed, the right of access and use and transferable to third parties, of the airspace on the uppermost floor of the Car Park Development, for the exclusive installation of an unlimited number of photovoltaic panels including their supporting structures affixed to the ground. Enemalta shall also have the right to access the abovementioned photovoltaic panels including their supporting structures affixed to the ground from the common parts of the Car Park Development, during reasonable hours, solely for reasons of repairs and maintenance of the said photovoltaic panels including their supporting structures after giving prior notification to the Developer of at least twenty-four (24) hours unless the access would be required in cases of emergency.

- II, The Government is hereby acknowledging the servitude created in favour of Enemalta in terms of the immediately preceding paragraph.

- III. Enemalta shall abide and adhere to all the conditions set out and laid down in Clauses four (4), five (5) and six (6) of the Private Agreement of the 25th August, 2014 be responsible for the general upkeep and ordinary maintenance of the photovoltaic panels, their structures and any electrical/water installations and also for routine service.

- IV. Enemalta shall take out and maintain in force throughout the Term, an insurance policy covering the value of the photovoltaic panels (and their structures) as well as an all risk and public liability insurance. Enemalta shall produce copies of all insurance policies taken out or renewed within one month from the date of issuance or date of renewal. Should Enemalta fail to take out or renew any of the aforementioned insurance covers, the Developer may at its sole discretion take out such policies and charge the relative expenses to the Sub-Emphyteuta

- V. The Developer and Enemalta agree and accept that the Developer or its successor/s in title *qua* owner of the roof and airspace of the Car Park Development shall have the right to build additional storeys or property over any roof and airspace of the Car Park Development, which may exist from time to time, provided this does not cause any damage to the stability of the Car Park Development and is permitted by the building laws and regulations, in which case:
- a. The new storey/s to be built shall form an integral part of the Car Park Development;
 - b. the Developer or its successor/s in title shall be obliged to undertake and complete the necessary works without interruption;
 - c. the Developer shall be entitled to remove the Photovoltaic Panels and the Structures and all other installations on the then existing roof, provided twenty one (21) days prior notice in writing is given to Enemalta, without the necessity of any other formality and provided further that this is done with the active participation and supervision of Enemalta;
 - d. upon completion of the aforesaid additional development, the Developer shall at its expense install anew the Photovoltaic Panels and the Structures and all other installations, on the new roof then constructed and thereafter all rights granted to Enemalta on the roof of the Car Park Development shall be enjoyed on the new roof provided that the new roof shall not have smaller areas and provided further that the installation anew of the Photovoltaic Panels and the Structures and all other installations is done with the active participation and supervision of Enemalta and in accordance with building regulations;
 - e. In the event that the Developer transfers its title to the Car Park Development, as far as this is permitted and under those applicable terms and conditions, to third

parties, all rights and obligations of the Developer arising from this Deed whether real or personal, shall be enjoyed or assumed by the Developer's successor in title;

f. the Developer warrants in favour of Enemalta, which accepts, that the additional storey/s shall be built in full compliance with approved Full Development Permit and that all architect fees, building permit fees, road and drainage contributions, and all fees and expenses of the contractors and suppliers for the construction of the additional storey/s have been paid and that no claims for payment may be brought against Enemalta and the Developer agrees to hold Enemalta fully indemnified against any claims by any such person.

- VI. The Developer and its successor/s in title shall be subject to all the terms, conditions and regulations mentioned in this deed. The Developer undertakes to observe the said terms, conditions and regulations at all times and to impose them on its successor/s in title. The said terms, conditions and regulations shall, apart from the Developer and its successor/s in title, also bind tenants/possessors of the Car Park Development and the Developer or its successor/s in title shall be bound *in solidum* with such tenants/possessors for any breach of such terms, conditions and regulations.
- VII. This constitution of servitude and respective rights and obligations is being made and accepted without the payment of any consideration and parties agree that a nominal value one hundred Euro (€100) is being assigned to the constitution of this servitude and the respective rights and obligations.
- VIII. The Sub-Emphyteuta shall keep the Sub-Grantor harmless and fully indemnified of any and all costs, expenses, losses and damages whatsoever that may be suffered by the Sub-Grantor as a result of the operation and use by the Sub-Emphyteuta, and/or its assigns or successors in title, of the TM Land.

Statutory Declarations

- A. For the purposes of the Government Lands Act, Chapter 753 (five hundred and seventy-three) of the Laws of Malta, this deed and each one and all its Parts and the transactions contained therein have been approved by the House of Representatives of Malta by special resolution made during the sitting of the _____
- B. For the purposes of the Immovable Property (Acquisition by Non-Residents) Act, Chapter two hundred and forty six (246) of the Laws of Malta (the "AIP Act") the representative on this deed of _____ (the "Emphyteuta") and the representative on this deed of _____ (the "Sub-Emphyteuta") and the representative on this deed of _____ Enemalta declare
- C. For the purposes of the Duty on Documents and Transfers Act, Chapter three hundred and sixty-four (364) of the Laws of Malta, the ad valorem duty due by the Emphyteuta, Sub-emphyteuta and Enemalta on this deed amounts to.....
- D. For the purposes of the Income Tax Management Act, Chapter three hundred and seventy-two (372) of the Laws of Malta and the Income Tax Act, Chapter one hundred and twenty-three (123) of the Laws of Malta:
- i. All of the parties to this deed declare that for the purposes of sub-article twelve (12) of article five capital A (5A) of the Income Tax Act, they have declared to the undersigned Notary all the facts that determine if the transfers made by virtue of this deed is one to which the aforesaid article 5A applies or otherwise and that are relevant for ascertaining the proper amount of tax chargeable or any exemption, including the value which, in their opinion, reasonably reflects the market value of the temporary *utile dominium* of the Property transferred by virtue of this deed, if this value is higher than the consideration for the transfer. The Government and the Emphyteuta make such declaration after I the undersigned Notary warned them about the importance of the truthfulness of this declaration of theirs.
 - ii. I the undersigned Notary declare that the Government does not pay income tax or capital gains tax.

iii. The tax due on this deed by the Sub-Emphyteuta amounts to
.....

- E. For the purposes of the Land Registration Act, Chapter two hundred and ninety-six (296) of the Laws of Malta, I the undersigned Notary declare that the Property is.....
- F. Fees and expenses relative to the contract, including notarial fees will be at the charge of the Emphyteuta.
- G. For the purposes of Article nine (9) of Chapter three hundred and sixty-four (364), the Duty on Documents and other Transfers Act it is hereby being declared.....

For the purpose of the second proviso to Sub-Article five (5) of Article eighty four letter C (84C) of the Notarial Profession and Notarial Archives Act, it is being declared that paragraph letter 'd' of the regulation number four (4) of the Legal Notice regarding the 'Examination of Title Regulations', the Notary is exempt '*ipso iure*' from examining the title with regards to the immovable property being acquired by means of this deed and the parties declare that I the undersigned Notary explained to them the importance and consequences of such exemption.

Since the documents annexed to this deed are more than five (5), a list of the annexed documents is also annexed to this deed as a document marked with the letter "" for the signature of the parties in lieu of the documents themselves as allowed by law.

This deed has been done, read and published by me the undersigned Notary after I explained the contents hereof to the Parties hereto according to the law in

Annexes

Annex A – Board Resolution

Annex B – Car Park Area

Annex C – Concession Agreement

Annex D – Site Plan

Annex E – Bus Depot Area

Annex F – Transport Malta Site Plan

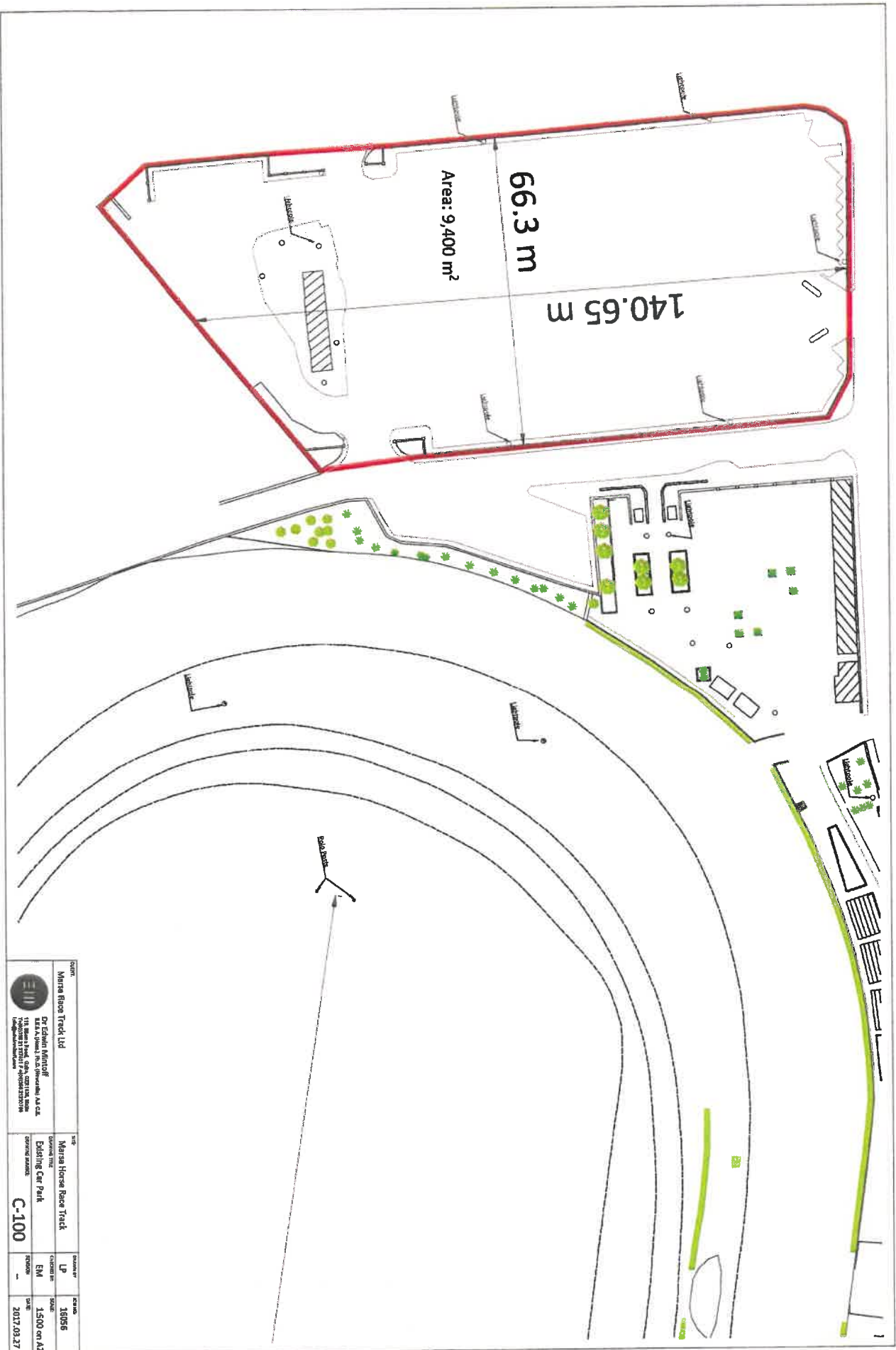
Annex G – Car Park Roof Area


Annex H – Private Agreement

Annex A- Board Resolution

To be provided on Signing of Concession Agreement

Annex B - Car Park Area



	Client: Marasa Race Track Ltd Dr. Ebrahim Almaghrabi 111, Marasa Road, Cape Town, 7801, South Africa Tel: +27 (0)21 799 1111 Email: info@marasrace.com	Site: Marasa Horse Race Track Existing Car Park (existing assets)	Drawing No.: LP-18056	Scale: 1:500 on A2
	Project No.: C-100	Revision: EM	Date: 2017.03.27	

Annex C - Marsa Race Track Concession Agreement

START OF CONCESSION AGREEMENT



The Government of Malta

Concession Agreement

Between

**Ministry for Education and Employment
Lands Authority
“Grantor”**

And

**Marsa Race Track Limited
“Grantee”**

2020

CONCESSION AGREEMENT FOR THE DESIGN, DEVELOPMENT, CONSTRUCTION AND OPERATION OF THE HORSE RACING TRACK IN MARSA

An Agreement signed this <> day of <> of the year two thousand and twenty ([] [] 2020) (the “**Concession Agreement**” or the “**Agreement**”) between:

The Parties

Of the first part:

- 1) **Ministry for Education and Employment**, duly represented by Dr. Francis Fabri, holder of identity card numbered _____ (M), acting for and on behalf of the Ministry for Education and Employment, duly authorised by _____ and the **Lands Authority**, duly represented by _____, holder of identity card numbered _____ (M), duly authorised by _____, acting for and on behalf of the Lands Authority, (hereinafter referred to collectively as the “**Grantor**”);

And

- 2) **Marsa Race Track Limited** a company registered and incorporated in Malta with registration C number eight zero zero nine six (C80096) and having its registered address at 254, First Floor, Regency House, Republic Street Valletta VLT 1114 represented here on by _____, (holder _____ as duly authorised by virtue of a resolution of the Board of Directors of the company annexed to this deed as **Annex A.**(hereinafter referred to as “**Grantee**”);

(The Grantor and the Grantee shall hereinafter also individually be referred to as each “**Party**” and collectively as the “**Parties**”).

And

- 3) **Ministry for Finance and Financial Services**, duly represented by Mr. Alfred Camilleri, holder of identity card numbered _____ (M), acting for and on behalf of the Ministry for Finance and Financial Services, duly authorised by _____, appearing on this Agreement for any interest the Ministry for Finance and Financial Services might have arising out of this Agreement, in particular in relation to the dispositions of Article 3.6 of this Agreement.

PREAMBLES

- A. **Whereas** the Grantor is desirous of realizing, in collaboration with the private sector, a modern equestrian centre, stabling facilities and other ancillary facilities within the ‘Marsa Horse Racing Track’ and with this aim

in mind, on the 19 June 2015, the Government, acting through the Privatisation Unit, issued a Request for Proposal in connection with a Concession for the Design, Development, Construction and Operation of the Horse Racing Track in Marsa (hereinafter referred to as the “RFP”) inviting interested parties to submit their proposals;

- B. Whereas** the shareholders of the Grantee, acting as a consortium (“MRTL Consortium”), proceeded with submitting its proposal in response to the RFP (as defined herein);
- C. Whereas** an Evaluation and Adjudicating Committee was appointed to assist the Privatisation Unit in the technical and financial evaluation and assessment of all proposals submitted to it in response to the RFP;
- D. Whereas** following the technical and financial evaluation and assessment of the Proposal made by the Evaluation and Adjudicating Committee, the Privatisation Unit, acting on behalf of the Government, identified the MRTL Consortium as the preferred bidder;
- E. Whereas** in the light of the benefits which the development of the Marsa horse racing track in accordance with the Proposal and the terms herein would potentially generate for the Maltese economy and particularly the economic activity associated with horse racing and the equine industry in general and other ancillary activities, the Government has, on the recommendation of the Privatisation Unit, decided to enter into discussions and negotiations with the Grantee with a view to reaching an agreement on all commercial, technical and legal aspects of the Project to be reflected in one or more agreements thereby regulating the concession subject of the RFP;
- F. Whereas** on the 22 March 2017 the Grantor and the Grantee signed a Memorandum of Understanding (“MOU”) whereby they have crystallized their understanding and agreement on certain matters whilst continuing discussions and negotiations in connection with other matters relating to the Concession;
- G. Whereas** the Site is currently mainly used as a horse racing track and the Parties are highly conscious of the need to maintain a balance between ecologically friendly development, low-density, high-quality build and achieve sustainable development for the benefit of the Maltese economy and community, the Grantee is proposing, through this environmental friendly project, to develop and operate the horse racing track at Marsa to the highest quality standards comparable to an international horse racing track. The Project will also incorporate an open area and educational family park and modern facilities to be used for polo, dressage, show jumping and horse shows competitions;

- H. Whereas** the Parties have now reached an agreement to ensure that no revenue or capital support for the development and operation of the Site, other than such revenue or capital support which is available to undertakings in terms of applicable law, will be required from the Government, and to maximise the benefits to the Maltese economy through increased investment, employment prospects and business operations;
- I. Whereas** the Parties have now reached an agreement to ensure that the horse racing programme continues while works are being conducted on the Site and that the works on the racing track itself will not exceed six (6) months;
- J. Whereas** the Grantee agrees and accepts that it shall be precluded from using the Site to build residential development;
- K. Whereas** Grantee has reached an agreement with ENEMALTA and Transport Malta in connection with their respective rights within the area identified as the Roof and Bus Depot Area, respectively as reflected in the Deed of Emphyteusis;
- L. Whereas** the Parties have now reached an agreement on all legal, technical, financial and commercial matters in connection with the Concession and are desirous of crystallising their agreement by means of this Concession Agreement and the Deed of Emphyteusis.
- M. Whereas** the terms and conditions herein and the publication of the Deed of Emphyteusis have been approved by means of the Parliamentary Resolution dated the in accordance with the provisions of the Government Lands Act (Chapter 573 of the Laws of Malta);
- N. Whereas** the Planning Authority has granted the Grantee an outline development permit approving the Expected Development;
- O. Whereas** Grantee accepts that the Site is granted on a temporary emphyteutical basis under the terms and conditions set forth in this Agreement and the Deed of Emphyteusis signed concurrently with this Agreement today;

NOW THEREFORE, THE PARTIES HAVE AGREED TO ENTER INTO THIS AGREEMENT TO REFLECT AND RECORD THEIR AGREEMENT IN CONNECTION WITH THE CONCESSION.

1 Definitions

In this Agreement, unless otherwise expressly stated or the contrary intention appears and in addition to any other definitions contained elsewhere in this Agreement, the following terms have the meanings respectively assigned to them below:

“Building” means a permanent structure forming an enclosure and the term **“Buildings”** shall be construed accordingly;

“Building Permits” means the permit/s for the full development of the Site and approved plans issued by the PA for the Development of the Site, including all approved amendments and/or modifications made thereto and any future amendments and/or modifications (including additional plans) as approved by the PA;

“Bus Depot Area” means the area within the Car Park Area which shall be used by Transport Malta, or any other authority as the Grantor may deem appropriate, as a bus depot as better described and shown in Green in the attached plan marked as **Annex B**;

“Car Park Area” means the area hatched in red as identified in **Annex C** measuring at least nine thousand five hundred and thirty square meters (9,530m²);

“Certificate of Completion” means the certificate issued by the Grantee’s Architect and counter certified by the Grantor’s Architect in accordance with clause 6.6 and clause 6.7 of this Agreement and confirming a Complete State;

“Complete State” means that the entire Project, or part thereof as the case may be in accordance with the terms of this Concession Agreement, is developed and completed in full compliance with the Building Permit/s, the Development Laws and the specifications and requirements emanating therefrom and is in a state of readiness and fit for use in accordance with the Permitted Use and in accordance with the standards, specifications and requirements as determined by the authority referred to in article 11.1 hereof;

“Components” means the different areas identified in Clause 6.8 and the term **“Component”** shall mean any one of such Components;

“Companies Act” shall mean the Companies Act, Chapter 386 of the Laws of Malta;

“Concession” means the concession to set-up, operate and manage the Site and the rights which shall be granted by the Grantor to the Grantee over the Site by title of temporary emphyteusis subject to the terms hereof and the Deed of Emphyteusis for the purposes of implementing the Project;

“Concession Agreement” means this Concession Agreement regulating the Concession signed concurrently with the Deed of Emphyteusis;

“Deed of Emphyteusis” means the deed in terms of which the Grantor shall grant unto the Grantee the Site by title of temporary emphyteusis in accordance with the terms and conditions outlined therein;

“Development” means any and all buildings, facilities and amenities, fixtures and fittings constructed and/or installed on or under the Site and in general all movables and immovable things forming part of the Project;

“Development Laws” means the Development Planning Act (Chapter 552 of the Laws of Malta), as may be amended from time to time and all applicable laws, subsidiary legislation, bye-laws and regulations in respect of buildings in general, including sanitary and environmental matters;

“Development Infrastructure” means the infrastructure within the Site required strictly in connection with the Project, and includes road networks (both pedestrian and vehicular) networks for water, electricity, sewerage, electrical and electronic transmissions, communication and reception systems but excludes any Excluded Infrastructure;

“Development Permit/s” means a development permit/s issued by the Planning Authority in terms of Article 71(2) of the Development Planning Act (Chapter 552 of the Laws of Malta) and/or any and all other permits and authorization required by applicable laws and regulations, validly and definitively issued without being subject to any form of quasi-judicial/judicial review;

“Enemalta” means the public limited liability company bearing the name Enemalta p.l.c registered and incorporated under the laws of Malta with company registration number C six five eight three six (C65836) and having its registered office situated at Triq Belt il-Hazna, Marsa, MRS 1571, Malta;

“Environmental Laws” means the Environment Protection Act (Chapter 549 of the Laws of Malta) as may be amended form time to time and all applicable laws, subsidiary legislation, bye-laws and regulations in respect of environmental matters;

“Excluded Infrastructure” means infrastructure works within the Site which are required not solely for the Project but are to serve other purposes;

“Effective Date” means the date of this Concession Agreement and the date of publication of the Deed of Emphyteusis;

“Expected Development” means the development (including all excavation and construction work) which the Grantee expects to carry out for the implementation of the Project;

“Financial Offer” is the upfront payment to be made by the Grantee in terms of clause 7 and clause 10;

“Force Majeure” means any act, event or circumstance which is beyond the reasonable control of a Party, including but not limited to acts of God, war, civil

commotion, fire, flood or other calamity, strike, riot, lockout or other industrial disturbance, terrestrial or extraterrestrial interference, blockade, insurrection, action, order, direction, judgement, which makes that party's performance of its obligations under this contract impossible, or so impractical as to be considered impossible under the circumstances;

“Government” means the Government of Malta and/or its successors in title and/or the *dominus* of the Site and/or its successors in title;

“Grantee’s Architect” means the architect or architects whom the Grantee shall engage for the purposes of the Project and to the extent required under this Agreement;

“Grantor’s Architect” means the architect or architects whom the Grantor shall engage for the purposes of the Project and to the extent required under this Agreement;

“Ground Rent” means the ground rent payable by the Grantee to the Grantor as established in, and in accordance with the terms of, the Deed of Emphyteusis and as referred to in Clause 8, Clause 9 and Clause 10 hereof;

“Group Company” means a body corporate which is a parent company, subsidiary, associated, affiliated and/or related entity of the Grantee, and/or in any way, whether directly or indirectly, owned by the same beneficial owners of the Grantee;

“Immovable Property” means all buildings, structures, developments, infrastructure, facilities, installations, and other improvements, now existing, or which in the future shall exist, within the boundaries of the Site, whether installed, constructed or erected on, in or under the Site or which otherwise appertain to the Site but to the extent only that they are considered immovable things in terms of the Civil Code, Chapter sixteen (16) of the Laws of Malta;

“Malta” means the Republic of Malta as defined in the Constitution of Malta;

“Polo Club/s” is an organisation that organises the game of polo in Malta which organisation is registered in the Register of Sport Persons as a sport person with SportMalta and is duly recognised as a sport person in terms of the Sports Act (Chapter 455 of the Laws of Malta) and other applicable laws;

“Malta Racing Club” is the official organisation which is legally appointed by the Race Course Control Board under the Race Course Betting Ordinance (Chapter 78 of the Laws of Malta);

“Outline Development Permit” means a permit issued in terms of Article 71(2)(a) of the Development Planning Act (Chapter 552 of the Laws of Malta);

“Parties” means the parties to this Agreement (each a **“Party”**);

“Performance Security” means the irrevocable and unconditional bank guarantee issued by the Grantee in favour of the Grantor in terms of clause 26;

“Permitted Use” means the use of the Site as specified respectively in clause 6 of this Agreement;

“Planning Authority/PA” means the Planning Authority set up in terms of the Development Planning Act (Chapter 552 of the laws of Malta) and any other authority which has or which may from time to time have the function to issue or sanction real estate and other development permits in Malta;

“Project” means the development and operation of an international horse racing facility and shall include a track for pony racing, a training area, a pitch to be used for polo games, modern facilities to be used for dressage, show jumping and horse shows competitions, stables to accommodate local and visiting horses, a paddock area to be used by all equestrian competitors, a spa facility for horses, a main grandstand designed in a way to offer diverse options to horse enthusiasts, support facilities which include race track equipment like machinery, big screen and photo finish facilities, judging offices, filming facilities, media centre, first aid clinic and equipment and dope testing facilities, open area and educational family park, Club House facilities for the Malta Racing Club, the Polo Club (if there is, at any point in time, more than one Polo Club, the different Polo Clubs will share the same club house facilities) and the Malta Equestrian Federation, commercial facilities which may include retail outlets, offices, food and drink outlets, leisure and assembly (or similar gaming and betting uses), child-care and parking facilities, as well as other ancillary, supporting and/or secondary facilities;

“Proposal” means the proposal submitted by the MRTL Consortium in response to the RFP;

“Qualifying Shareholding” means a direct or indirect shareholding in a company representing five percent (5%) or more of the share capital issued by such company or a direct or indirect five percent (5%) or more attaching to the issued share capital of a company or similar interest in an entity (corporate or otherwise) or any shareholding or other similar interest in a company or entity (corporate or otherwise) that makes it possible to exercise significant influence over the management of the company or entity. The term “Qualifying Shareholder” shall be construed accordingly;

“Racecourse Betting Ordinance” means the Racecourse Betting Ordinance (Chapter 78 of the Laws of Malta);

“RFP” shall have the meaning assigned to it under Preamble A;

“Roof” shall mean the roof of the upper most floor of the development within the Car Park Area measuring approximately six thousand five hundred and sixty square meters (6,560m²), as better described and shown in red on the attached plan which is being marked as **Annex D**.

“Site” means the portion of land shown in red on the site plan annex to this agreement as **Annex E** measuring circa one hundred and eighty-eight thousand nine hundred and thirty square meters (188,930m²) with the amenities constructed thereupon including their airspace and sub-soil and shall include the car parking area;

“Specified Rate” means eight per cent (8%) per annum;

“Temporary Emphyteutical Grant” means the temporary emphyteutical title over the Site to be granted by the Grantor to the Grantee in terms of the Deed of Emphyteusis subject to the terms therein;

“Term” means the term of Concession as set out in clause 5 of this Agreement;

“Termination” means the date stated or otherwise determined in terms of clause 27 of this Agreement, whichever date shall be the later to occur;

“Transferee” shall have the meaning assigned to it in this Agreement;

“Transfer of Business (Protection of Employment) Regulations” means Subsidiary Legislation 452.85 of the Laws of Malta;

“Transport Malta” means the authority responsible for transport in Malta, or any other authority, entity, or corporation, as the Grantor may establish for such purposes;

“Ultimate Beneficial Owner” means the natural person who ultimately owns and/or controls the Qualifying Shareholder/s of the Grantee and/or its successors in title and the term “Ultimate Beneficial Ownership” shall be construed accordingly;

“Undesirable Person” shall have the meaning assigned to it in clause 13.

2 Interpretation

2.1 In this Agreement, unless otherwise expressly stated or the contrary intention appears:

- a) words importing the masculine gender shall include the feminine gender and vice-versa and words importing the neuter gender shall include the masculine and the feminine gender;
- b) references to a Preamble, Part, heading, section, clause, paragraph, document or schedule is to a Part, section, clause, paragraph, document or schedule of or annexed to this Agreement;

- c) references to a person include references to any person, whether natural or legal and whether registered or not and whether incorporated or unincorporated, and includes (without limitation) an undertaking;
- d) any reference to any law shall be deemed to include any amendment, replacement or re-enactment thereof for the time being in force and to include any subordinate legislation, legal notices, rules, regulations, orders, notices, directions, consents or permissions (together with any conditions attaching to any of the foregoing) made thereunder;
- e) any reference to any right or reservation exercisable by or for the benefit of any Party will be deemed to include the exercise of such right or reservation by any person or persons authorised by such Party, and further, such right or reservation may be exercised with agents, employees, professional advisers, workmen, contractors and others;
- f) reference to any authority established by law shall be deemed to refer to (i) the said authority irrespective of any change in the name of the authority and (ii) to any other authority or authorities which by operation of law shall replace and/or take over all or part of the powers and functions of that authority;
- g) The RFP shall be deemed to form and be read and construed as part of this Agreement and therefore the terms and conditions established therein meant to regulate the Concession shall, except to the extent lawfully excluded or modified hereby and/or in the Deed of Emphyteusis, also be construed as forming part of the terms and conditions governing the Concession and the Emphyteutical Grant. In the event of any conflict between the following documents comprising or forming part of the Concession Agreement, the order of priority shall be: (i) Concession Agreement (ii) Deed of Emphyteusis (that is, for present purposes, the notarial deed proper, without the appendices); (iii) the RFP; (iv) and the Proposal;
- h) Without prejudice to the immediately preceding paragraph, unless otherwise agreed, the Deed of Emphyteusis and the terms and conditions established therein shall supersede and all negotiations, understandings, discussions, memoranda and agreements whether verbal or written as may have taken place or may have been reached between the Parties prior to the Deed of Emphyteusis;
- i) the headings in this Agreement are inserted for convenience only and do not affect the construction hereof;
- j) the documents, annexes, schedules and/or plans attached hereto shall be construed to form an integral part of this Agreement and reference to this Agreement shall be construed as including a reference to the said documents, annexes, schedules and plans.

3 Concession to Set-Up, Operate and Manage the Site

- 3.1 The Grantor is hereby granting to the Grantee, which hereby accepts, the Concession for the Term in accordance with the terms and subject to the conditions outlined in this Concession Agreement.
- 3.2 Upon the Effective Date, the Grantee shall guarantee and honour all current employment contracts whether definite or indefinite, full time, part time or casual, oral or in writing, in any form, including the employees' conditions of employment, of employees currently employed with the Malta Racing Club, as listed in Annex F to this Agreement (the "**Current Employees**").
- 3.3 As soon as practicable after the Effective Date, the Current Employees shall be transferred to the Grantee, or to a Group Company as the Grantee may determine.
- 3.4 The Grantor declares and confirms that the Current Employees have been informed of the transfer contemplated in clause 3.3 above in terms of the Transfer of Business (Protection of Employment) Regulations and have been provided with the written statement as set out in the Transfer of Business (Protection of Employment) Regulations at least fifteen (15) days prior to the date of this Concession Agreement. The Grantor further declares and confirms that the Director responsible for employment and industrial relations has been provided with a copy of such written statement on the same day the Current Employees were notified.
- 3.5 The Grantee shall observe industrial and employment regulations in particular Chapter 452, Employment and Industrial Relations Act and any Subsidiary Legislation emanating therefrom.
- 3.6 The Grantor confirms and warrants that the Marsa racecourse is an approved racecourse in terms of the Racecourse Betting Ordinance and that the Grantee shall, as from the Effective Date, be licensed to use the Marsa racecourse as an approved racecourse in terms of the Racecourse Betting Ordinance (Chapter 78 of the Laws of Malta). Provided that in the light of the legislative amendments which shall see the regulation of gaming taking place within the Site falling within the scope of the Gaming Act (Chapter 583 of the Laws of Malta) and no longer regulated by the Racecourse Betting Ordinance (Chapter 78 of the Laws of Malta) in accordance with Article 59 of the Gaming Act (Chapter 583 of the Laws of Malta), the Minister responsible for the gaming sector, by virtue of the authority granted to it by Article 11 of the Gaming Act (Chapter 583 of the Laws of Malta), grants as part of the concession granted in terms of this Concession Agreement, with effect from the date Article 59 of the Gaming Act (Chapter 583 of the Laws of Malta) comes into effect in accordance with sub-paragraph (4) of the said Article 59 and for the Term, to the Grantee a concession to operate gaming premises within the Site limitedly to offer pool betting and fixed-odds betting, both based solely on the result of sporting events, through the use of gaming devices limited to such gaming verticals, as part of the Project. The Grantor and Grantee agree that such a concession is, in terms of the same article 11 of the Gaming Act (Chapter 583 of the Laws of Malta), without prejudice to the requirement of the Grantee to acquire and retain the necessary authorisations from the Malta Gaming Authority, and subject to such requirements and conditions as may be imposed according to the Gaming Act (Chapter 583 of the Laws of Malta) and the regulatory instruments, as defined therein, issued under it. The Grantee

acknowledges and accepts that any other gaming operations or services (other than fixed-odds betting and pool-betting activities on sporting events offered through the use of gaming devices, as specified in this proviso with respect to which a concession is being granted) taking place within the Site shall not form part of the concession granted to the Grantee in terms of this Concession Agreement and shall be categorised in accordance with the provisions of the Gaming Act (Chapter 583 of the Laws of Malta) and the regulatory instruments issued thereunder, and shall require the necessary authorisation from the Malta Gaming Authority accordingly.

- 3.7 The Grantor confirms and warrants that, as from the Effective Date, no other person, entity, club and/or authority, has any rights whatsoever (including but not limited to carrying out betting activities within the Site, whether in the form of fixed odds betting, sweepstakes, or pool betting through the use of a Totalisator) over the Site and operation thereof and that the Grantee shall have exclusive rights over the Site and operation thereof, in accordance with the terms and subject to the conditions outlined herein and in the Deed of Emphyteusis.
- 3.8 The Grantor shall cooperate and collaborate with the Grantee to ensure a smooth transition and operation of the Site, including but not limited to the horse racing operations, unto the Grantee.

4 Temporary Emphyteutical Grant

- 4.1 As of the Effective Date, the Grantor and the Grantee shall enter into the Deed of Emphyteusis whereby the Grantor is granting to the Grantee, by title of temporary emphyteusis, the Site, to be used by the Grantee for the implementation of the Project under the Concession for the Term.

5 Term

- 5.1 Unless terminated earlier pursuant to the terms of the Concession Agreement and the Deed of Emphyteusis, the Concession is being granted by the Grantor to the Grantee, which accepts, for a period of sixty five (65) years commencing on the Effective Date.

6 Site Permitted Use, Design, Build and Development

- 6.1 The Grantee agrees and accepts that the Project shall consist of the development and operation of an international horse racing facility and shall include a track for pony racing, a training area, a pitch to be used for polo games, modern facilities to be used for dressage, show jumping and horse shows competitions, stables to accommodate local and visiting horses, a paddock area to be used by all equestrian competitors, a spa facility for horses, a main grandstand designed in a way to offer diverse options to horse enthusiasts, support facilities which include race track equipment like machinery, big screen and photo finish facilities, judging offices, filming facilities, media centre, first aid clinic and equipment and dope testing facilities, open area and educational family park, club house facilities for the Malta Racing Club, the Polo Club (if there is, at any point in time, more than one Polo Club, the different Polo Clubs will share the same club house

facilities) and the Malta Equestrian Federation, commercial facilities which may include retail outlets, offices, food and drink outlets, leisure and assembly (or similar gaming and betting uses), child-care and parking facilities, as well as other ancillary, supporting and/or secondary facilities. Any material variation in the use of the Site will require the prior written approval of the Grantor.

- 6.2 The Grantee shall engage a qualified, experienced and competent project manager who has undertaken projects of similar magnitude to manage the implementation of the Project.
- 6.3 The Grantee agrees and accepts that it shall be precluded from using the Site to build residential development. Moreover, the Grantee binds itself to use the Site solely in relation to the Project.
- 6.4 The Grantee undertakes to carry out all works relating to the design, build and development of the Project at its own risk and cost in compliance with all applicable required and issued Development Permits, Development and Environmental legislation and in full respect of all other applicable legislation.
- 6.5 The Grantee will be responsible for all the works related to the Development Infrastructure and will finance all such works. Provided that the Grantor shall ensure that the Site is fully and appropriately serviced by all the appropriate infrastructural works and services, up to the boundary of the Site as may be required for the Project.
- 6.6 The Grantee shall ensure that the Grand Stand area and horse racing track area is in a Complete State within eighteen (18) months from the issuance in favour of the Grantee by the respective authorities of all relative permits, licenses and authorisations, including the Development Permit/s or in four (4) years from the signing of the Concession Agreement and the Deed of Emphyteusis. The Complete State shall be evidenced by means of a Certificate of Completion.
- 6.7 The Grantee shall ensure that the other Components not mentioned in the immediately preceding paragraph shall be in a Complete State within twenty-four (24) months from the issuance in favour of the Grantee by the respective authorities of all relative permits, licenses and authorisations, including the Development Permit/s, or four (4) years from the signing of the Concession Agreement and the Deed of Emphyteusis. The Complete State shall be evidenced by means of a Certificate of Completion.
- 6.8 The Parties agree that when constructed the Project at minimum shall consist of the following:
 - a) Horse racing track area that extends to circa one [1] mile one [1] furlong with a straight sprint track of nearly four [4] furlongs. This site with circuits and its multi-functional surface shall allow all racing disciplines (including trotting races, galloping races and pony racing).

- b) The Polo pitch area which measurements are not less than the existing area and provided that the pitch is in conformity to the Federation of International Polo (FIP) Regulations. The Polo pitch must also be boarded in conformity with the FIP Regulations and must be provided with flood lighting conforming to CIBSE LG 4: Sport, 1990 standard or to such standard as is commonly used for such sport.
 - c) The Grand Stand area which complies with international recognised safety and viewing standards including grandstand gangways, entrances and exits (vomitories) and tunnels, press boxes and other amenities. The Grand Stand shall have a minimum capacity of around three thousand four hundred (3,400) spectators, with a seating capacity of one thousand five hundred (1,500), which seating capacity may be expanded according to exigencies.
 - d) The Grantee shall, inter alia, use the Car Park Area for the development of car park intended for parking vehicles. The Car Park Area shall also play a dual role in green law by achieving specific site planning and environmental goals.
 - e) The Equestrian facilities area shall include an educational and family park, horse training area, a paddock with a cantilevered roof over the track servicing the paddock subject to architect's final design, a horse SPA, doping protocol facilities, stables, adequate number of jockey showers and changing rooms facilities, and equipment storage, camera van lane and judges track of at least five (5) meters wide, amongst other amenities.
- 6.9 The Grantee shall bear any and all costs and expenses, whether ordinary or extraordinary, that may be necessary or desirable in connection with the Permitted Use as prescribed herein, and in accordance with the Grantee's rights over the Site, the Grantee shall be entitled to retain all revenues generated from the development and operations of the Project.
- 6.10 The Grantee shall be solely responsible for the maintenance, repairs (ordinary and extraordinary) and upkeep of the Site and all Immovable Property thereon including the Development Infrastructure.
- 6.11 The Grantee undertakes to continue to operate the Site for the duration of this Concession, subject to what is hereunder further stipulated and agreed.
- 6.12 No other use is permitted in respect of the Site other than the Permitted Uses unless otherwise expressly approved and agreed in writing by the Grantor, which approval and agreement cannot be unreasonably refused if the proposed operations are compatible activities or are in the interest of the Project in accordance with the objectives set out in the RFP.
- 6.13 All permits required for the development of the Project and its operation including any Development Permits and, approvals, authorisations, licenses and permits shall the responsibility of the Grantee.

7 Horse Racing Track Site Financial Offer

- 7.1 The Temporary Emphyteutical Grant shall be made in consideration of the payment by the Grantee in favour of the Grantor of an upfront payment (the "Financial Offer") amounting to one hundred thousand Euro (€100,000) as set forth in clause 7.1 of the Deed of Emphyteusis. The Financial Offer is being paid by the Grantee to the Grantor on the date of publication of the Deed of Emphyteusis.

8 Horse Racing Track and Adjoining Facilities Area–Ground Rent and other obligations

- 8.1 The Grantee shall also pay unto the Grantor an annual ground rent, as set forth in clause 7.2 of the Deed of Emphyteusis, amounting to one hundred thousand Euro (€100,000) payable annually in advance. The Ground Rent shall be revisable upwards as from the fifth (5th) year of the Emphyteutical Grant (to be calculated as having commenced on the date of publication of the Deed of Emphyteusis), and every fifth (5th) year thereafter. The Ground Rent fee shall be so increased by fifteen percent (15 %) on the Ground Rent then current or by the accumulation of the official Retail Price Index for the five (5) years in question, whichever shall be the higher.
- 8.2 The Ground Rent shall be paid by the Grantee without demand, deduction or set-off unless otherwise agreed to in writing by the Grantor.
- 8.3 Interest at the Specified Rate shall automatically accrue without the need of any other formality, judicial or otherwise, on the Ground Rent and any other sums due and remaining unpaid by the Grantee. Such interest shall accrue on the daily balance of the sum due with effect from the due date up to the date of effective payment.
- 8.4 In order to secure the payment of the Ground-Rent due as well as the proper performance of the other obligations arising from the Deed of Emphyteusis, the Grantor shall on the Deed of Emphyteusis reserve in its favour the special privilege and special legal hypothec in terms of Article 2010 and Article 2022 of the Civil Code (Chapter 16 of the Laws of Malta) respectively.

9 Commercial Complex Area–Ground Rent and other obligations

- 9.1 Six hundred and fifty thousand Euro (€650,000) shall be payable annually in advance for the area defined in clause 11.2 of the Deed of Emphyteusis. Provided that until the commercial complex is fully operational or until the end of the fifth (5th) year from the Deed of Emphyteusis, whichever occurs first, the annual ground rent shall be one hundred and thirty thousand Euro (€ 130,000) per annum, paid annually in advance. Provided further that in the event that the commercial complex is fully operational prior to the end of the fifth (5th) year, the next payment of annual ground due shall be six hundred and fifty thousand Euro (€ 650,000) less the amount of ground rent payments which would have already been paid in the previous years. Thereafter, the annual ground rent shall be six hundred and fifty thousand Euro (€650,000), payable annually in advance.
- 9.2 The Ground Rent shall be revisable upwards as from the fifth (5th) year commencing from the first payment of six hundred and fifty thousand

Euros (€650,000) and every fifth (5th) year thereafter. The Ground Rent fee shall be so increased by fifteen percent (15 %) on the Ground Rent then current or by the accumulation of the official Retail Price Index for the five (5) years in question, whichever shall be the higher.

The Ground Rent shall be paid by the Grantee without demand, deduction or set-off unless otherwise agreed to in writing by the Grantor.

- 9.3 Interest at the Specified Rate shall automatically accrue without the need of any other formality, judicial or otherwise, on the Ground Rent and any other sums due and remaining unpaid by the Grantee. Such interest shall accrue on the daily balance of the sum due with effect from the due date up to the date of effective payment.
- 9.4 In order to secure the payment of the Ground-Rent due as well as the proper performance of the other obligations arising from the Deed of Emphyteusis, the Grantor shall on the Deed of Emphyteusis reserve in its favour the special privilege and special legal hypothec in terms of Article 2010 and Article 2022 of the Civil Code (Chapter 16 of the Laws of Malta) respectively.

10 Car Park Area Financial Offer–Ground Rent and other obligations

- 10.1 The Grantor and the Grantee have identified a parking site that will be transferred by the Grantor to the Grantee by title of temporary emphyteusis, for a period of sixty-five (65) years in connection with the Project as per RFP Section 25.2.
- 10.2 The Grantee shall pay to the Grantor as set forth in clause 7.1 of the Deed of Emphyteusis a further sum amounting to one hundred thousand Euro (€100,000) as an upfront payment (the “**Financial Offer-Car Park**”) on the date of publication of the Deed of the Emphyteusis.
- 10.3 The Grantee shall also pay unto the Grantor as set forth in clause 7.2 of the Deed of Emphyteusis an annual ground rent (the “**Ground Rent-Car Park**”) amounting to ten thousand Euro (€10,000) payable annually in advance during the first three (3) years and thereafter shall be increased to fifty thousand Euro (€50,000). The Ground Rent shall be revisable upwards as from the fifth (5th) year of the Emphyteutical Grant (to be calculated as having commenced on the date of publication of the deed of Emphyteusis), and every fifth (5th) year thereafter. The Ground Rent fee shall be so increased by fifteen percent (15 %) on the Ground Rent then current or by the accumulation of the official Retail Price Index for the five (5) years in question, whichever shall be the higher.
- 10.4 The Grantee binds himself to provide parking facilities with a minimum capacity of one thousand two hundred (1,200) parking spaces.

- 10.5 The Grantee binds itself to provide parking spaces free of charge for horse owners trailers and vehicles participating in the events during race days.
- 10.6 The Grantee binds itself to service the car parking area with elevators in accessing all floors.

Rights to be granted to Enemalta

- 10.7 The Grantee agrees and accepts that once the development within the Car Park Area is constructed and developed, Enemalta shall, for the Term, enjoy exclusive rights to install photovoltaic panels, including their supporting structures, on the Roof in accordance with the terms set forth in the Deed of Emphyteusis.

Rights over the Bus Depot Area to Transport Malta

- 10.8 The Grantee agrees to grant, by title of temporary sub-emphyteusis in favour of Transport Malta, for the Term, the Bus Depot Area under the terms set forth in the Deed of Emphyteusis.

11 Undertaking by Malta Race Track Ltd

- 11.1 In the light that the Government will be setting up an Authority which will take up the functions, inter alia, of MRC, the Grantee undertakes to comply with any laws, rules and regulations which shall apply to the Grantee as an operator of the Marsa Race Course.
- 11.2 The Grantee acknowledges that as Regulator, the MRC (or any Authority set up in its stead) shall employ starters, stewards, dope testing personnel, paddock officers, a racing manager and administrative staff. In accordance with the terms of the RFP, the Grantee shall reimburse to the MRC (or any Authority set up in its stead) the costs of the services being provided by the aforementioned personnel. For such purpose, the Grantee shall, unless otherwise agreed, pay the following:
- a. An annual fixed fee which shall be payable in advance by the Grantee to the Authority and this annual fee shall not be lower than one hundred thousand Euros (€100,000) per annum. Any amount over and above the one hundred thousand Euros (€100,000) per annum will be payable against valid documentation and shall be paid by the Grantee within one (1) month from presentation. Provided that until such time as the Grand stand area has reached a Complete State, the Grantee shall advance the reimbursement of such costs (pro rata to the costs incurred) as mentioned in this clause 1 every quarter; and
 - b. A fee of not less than two thousand five hundred Euros (€2,500) per race meeting payable by the Grantee to the Authority; and
 - c. With reference to paragraph (a) and (b) above, the said fees shall be increased yearly at the rate of three per cent (3%) commencing a year after the date when each payment becomes due.
- 11.3 The Grantee shall establish and determine the Prize monies for race meetings in consultation with the Authority. The Grantee shall be responsible for the

payment of the Prize monies and shall ensure that it complies with any and all laws, rules and regulations that may be imposed on it by MRC (or the Authority set up in its stead) in relation to the payment thereof, which may include the requirement to deposit (6) months prize monies not later than the December of the previous years as well providing bank guarantees in favored MRC (or the Authority set up in its stead) and lodged with the MRC (or the Authority set up in its stead) by not later than December of the previous year.

- 11.4 The Grantee undertakes that the sum of the prize money shall not be less than four hundred and twenty eight thousand Euro (€ 428,000) and shall increase, as a minimum by ten per cent (10%) once the racetrack is operational which term shall not exceed eighteen (18) months from the issuance of the relevant building permits issued by the Planning Authority, and by a further three per cent (3%) per annum thereafter.
- 11.5 The Grantee agrees to provide the MRC (or any other Authority set up in its stead) with an office space to be identified by the Grantee following discussions with the MRC and which, unless otherwise agreed, shall measure circa 450 square metres (internal area) and shall be fully furnished, with lift and accessible to disabled people. The allocated office space to the Authority by the Grantee shall be standalone and have four (4) car parking spaces. The Authority will relinquish its rights over the current MRC Club House which is currently located at the historical building, subject to the issuance of relevant PA permits of the office space that will be allocated to the Authority.
- 11.6 In the event that the Parties do not agree on particular activities that require their joint contribution, the matter shall be referred to a Technical Board to settle the dispute for the particular racing season only.
- 11.7 The Technical Board shall be composed of three (3) persons, all of whom shall be competent and experienced in equestrian racing events. The First Party and the Second Party shall each submit the names of three persons one of who will represent the Party naming it on the Technical Board. If the First party or the Second Party fail to submit the names as aforesaid within five (5) working days from the date when the referral was made, the Government of Malta shall submit the names of the three persons.
- 11.8 Each of the Parties shall appoint one (1) member from its list of persons named to the Technical Board and the two (2) members appointed by Party 1 and Party 2 shall choose and appoint the third member of the Technical Board. The third member does not need to be appointed from the list of names submitted by Party 1 and Party 2.
- 11.9 If the persons appointed by Party 1 and Party 2 fail to agree on the appointment of the third member of the Technical Board within five (5) days from the appointment of the said two members appointed by Party 1 and Party 2, the third member shall be selected and chosen by ballots from the remaining persons in the lists provided by Party 1 and Party 2 in terms of Clause 11.7 above.
- 11.10 Once validly constituted, the Technical Board shall have the power to regulate and set its own procedure and determine the racing programme to be followed provided that the Technical Board shall make its final decision as soon as practicable and in any event within five (5) days from the date of its valid constitution as aforesaid. The costs and expenses of such determination shall

be borne by Party 1 and Party 2 equally. The Technical Board would be constituted and hence empowered to determine a dispute for only a particular racing season.

11.11 The Parties agree that the race entry fees shall be determined at the sole discretion of the Authority.

12 Polo

12.1 The Grantee is hereby undertaking and obliging itself to:-

- i. allow the MPC and its members to use the Polo Pitch on Mondays, Wednesdays and Saturdays between the first (1st) day of September to the fifteenth (15th) day of June hereinafter referred to as "Polo Playing Days". It is being specifically agreed that the Polo Pitch shall not be used by the MPC on Sundays. MRTL and the MPC shall collaborate and work closely to devise and set out a schedule of events to be held on the Polo Pitch site during Polo Playing Days, which whilst ensuring that the MPC can efficiently and effectively organise, hold and manage its Polo season and any related events and activities, would allow MRTL to realise its project namely that of a multi-disciplinary equine facility and event centre for sport enthusiasts and families. Moreover, MRTL undertakes to honour all Polo Tournament events which the MPC has been organising over the years provided that details and dates of these Tournaments are communicated by the MPC to the MRTL six (6) months prior to the start of the Polo season, that is, six (6) months prior to the first (1st) week of September of each year. Notwithstanding the above, the Parties agree that MRTL shall be entitled to take up a maximum of twelve (12) Polo Playing Days (not being Polo Tournament events) in any Polo season to be split as follows: eight (8) Polo Playing Days between October and the fifteenth (15th) day of June and four (4) Polo Playing Days during the month of September to utilize at its full discretion. In the eventuality that MRTL were to make use of any Polo Playing Days, as aforesaid, MRTL shall inform MPC at least twelve (12) weeks in advance. MRTL may request to MPC the use of the Polo Pitch on other Polo Playing Days if commercial and organisational exigencies so dictate the grant of which request shall be in the discretion of the MPC, which grant shall not be unreasonably withheld, and provided further that alternative days are granted by MRTL to MPC in substitution of the Polo Playing Days so made use of by MRTL. MRTL shall ensure that necessary safety measures are taken if and when activities are carried out by the MRTL during the Polo Playing Days.
- ii. ensure that the polo pitch shall have an adequate surface to permit the game of polo to be played in accordance with the RFP document. The Grantee shall be responsible to seed, grow and mature the polo pitch with *Cynodon Dactylon* or other similar grass as the Grantee deems fit, provided that if it results that the grass surface is not fit for purpose, the Grantee would have the right to revert to the surface which is currently being used by the MPC and this after discussing with MPC and subject to Government's approval;
- iii. be responsible for the general upkeep and preventive maintenance of the polo pitch including its irrigation and watering;

- iv. Ensure that the polo pitch forming part of the Site shall also contain:
 - (a) pony lines to accommodate a minimum of sixty (60) horses and
 - (b) a safety and exercise area better defined as a cinder track;
- v. ensure that necessary safety measures are taken if and when activities are carried out during the same time that Polo is being practiced;
- vi. use its best endeavours to prevent any person from having access to the polo area whilst this is being used by the MPC and its members;
- vii. In view of the fact that the use of the polo pitch shall be suspended for a period of circa nine (9) months when the laying of the surface of the Polo Pitch is being executed. The Grantee undertakes to use its best endeavours, in consultation with the MPC, to identify an alternative area which may be used by MPC as a practice field on those occasions and instances when the works related to the development of the Project are being executed and undertaken, if such is not possible the Grantee agrees that the MPC may, during such times as the Grantee shall identify, use the race track to exercise their horses;
- viii. allow the use by MPC of the stewards' lane surrounding the polo area by the members of the MPC and its grooms as long as this use does not interfere with the racecourse activities of the Grantee or any other bona fide activities which may be programmed and/or organised by the Grantee;
- ix. Ensure that there shall be unrestricted, pre-determined fixed points of access for players, spectators, horses and any materials or supplies used in polo activities to access the polo pitch. These shall be identified and determined by the Grantee in consultation with the MPC;
- x. Any use of the polo pitch by the Grantee as part of its commercial activities shall be made at the Grantee's exclusive responsibility and the Grantee undertakes to ensure that all measures are taken to ensure that the surface is adequately protected and hence that it does not sustain any damage. The Grantee undertakes not to use the polo pitch as a paddock area, a grazing area, or for lunging and/or parking.
- xi. The MPC shall have the right to seek and obtain sponsorships for its polo events and activities and to retain the proceeds from such sponsorships. Such advertising material will only be used for the duration of the tournament and can only be placed within the polo pitch and facing the Club House (if applicable) without the consent and approval of the Grantee. The Grantee shall have the right to impose such reasonable terms and conditions as it deems fit in relation to any advertising on the surroundings of the pitch, which advertising would require its prior approval or consent;

12.2 The Grantee shall furthermore grant the use of a Club House to the MPC which shall also be subject to the following restrictions, terms and conditions:

- i. The Grantee shall provide an area of circa 190 square meters which area shall be in a basic finished state namely with tiling throughout, with plastering, double glazing apertures, electricity points and water connection. The Grantee shall not have the obligation to furnish the area allocated to the MPC as a Club House. Subject to any and or permits, authorisations and licences being obtained from the relative authorities, the Grantee anticipates that the first floor of the area indicated in the attached plan marked as <<insert doc number>> shall be the area that will host the MPC club house;
- ii. The utilities to the MPC club house shall be procured and installed by the Grantee and shall be registered in the name of the MPC, as occupier with respect to the area allocated to the MPC as the MPC club house. The Grantee shall not be responsible and shall not bear any costs relating to the consumption resulting from these utilities. The Grantee shall have the right to request MPC to bear such cost associated with its consumption of these utilities;
- iii. The Grantee agrees that the MPC shall have exclusive and unrestricted use and operation of that area allocated to it as Club House, as a place where it organises and holds activities and events for its members in accordance with all applicable laws and regulations this may include a duly licenced bar and restaurant. Provided that the Grantee shall not in any way be responsible for the application, the obtainment, the maintaining of any and or licences, authorisation and or permits that may be required for the bar and the restaurant including the payment of the relative fees. The Grantee shall have the right to request MPC to assume such responsibilities and bear any and all related and resulting costs and expenses. Provided further that in the event that the MPC decides to have the bar and restaurant, the Grantee shall provide to the MPC a lease agreement regulating the grant of a leasehold title with respect to the bar and restaurant area, which agreement shall, inter alia, set forth the commercial terms and the duration (as applicable to restaurants in the restaurant area of the Project), provided that in such circumstances the rent shall be the market rent rate as applicable to the other restaurants within the Project but discounted by fifty per cent (50%);
- iv. The Grantee shall be entitled to request from the MPC an annual contribution in the sum of ten thousand Euros (€10,000), excluding VAT, if applicable, towards the maintenance costs of the polo pitch and the said amount will increase every year in accordance with and proportionately to the increase of the Retail Price Index. Subject to agreement reached between the Grantee and the MPC regarding the nature and extent of expenses linked to the maintenance of the Polo Pitch, the MPC shall contribute a further fifty per cent (50%) of such expenses incurred by the Grantee in connection with the maintenance of the polo pitch. If no agreement is reached regarding the sharing of these expenses as aforesaid, then the parties shall apply a dispute mechanism which will be agreed on.

12.3 Furthermore, the Grantee shall make a pavilion area available for viewing of polo to all club members and friends at no cost during the Polo Tournament events.

12.4 The Grantee shall be entitled to include in the agreement with the MPC a provision which would grant to the MPC a grace period of ninety (90) days, from the service of a notice by registered mail sent by the Grantee to the MPC, to remedy any breach by the MPC of any terms and conditions of the agreement between the MPC and the Grantee. In the event that any such default is not remedied by the MPC within the above mentioned time frame, the agreement between the MPC and the Grantee shall terminate ipso jure and the Grantee shall be entitled to request the MPC to vacate the polo pitch and the Club House within a period not exceeding thirty (30) days. The Grantee shall be entitled to hold the MPC responsible and liable to any damages which may be incurred by the Grantee as a result of the MPC's default.

Provided that if the nature of the breach is such that more than ninety (90) days are reasonably required for its cure, and provided that the MPC commences such cure and diligently prosecutes it to completion without interruption or delay within the ninety (90) days, the Grantee shall grant an additional reasonable time frame within which the MPC is to remedy the default.

12.5 In the event that the Polo Pitch is not available to the members of the MPC due to damage caused or unavailability of the pitch as a result of bad maintenance (not resulting, directly or indirectly, from any act/omission of the MPC) or damage through the utilisation of the pitch by the Grantee, MPC shall be entitled to remedy the damage itself, if after giving a seven (7) day written notice to the Grantee no remedial action has been taken by the latter within the seven (7) day written notice period. The Grantee shall give access to the MPC to bring in the necessary equipment to remedy the damages and to enable MPC to practice the sports of Polo. The Grantee accepts that the MPC may claim reimbursement of all the expenses incurred by it, from the Grantee.

12.6 In the event that the polo pitch is damaged and hence is not available to the members of the MPC as a result of the use made by the members of the MPC, the Grantee shall have the right to include a provision in the agreement between the MPC and the Grantee, to request the MPC to remedy any damage caused by its or its members within a reasonable time at the MPC's exclusive expense.

12.7 The Grantee agrees that it may request from the MPC a consideration for the use of the polo field which shall not exceed the sum of one thousand two hundred and fifty Euro (€ 1,250) per annum.

12.8 In case of a dispute between the Grantee and the MPC on any issue arising out of this Article 12, then the matter shall be referred to a Technical Board to settle such dispute. Any determination made by the Technical Board relating to the official Polo programme shall apply for the particular season only.

12.9 The Technical Board shall be composed of three (3) persons, all of whom shall be competent and experienced in equestrian sports events. The First Party and the Second Party shall each submit the names of three persons one of who will represent the Party naming it on the Technical Board. If the First party or the Second Party fail to submit the names as aforesaid within five (5) working

days from the date when the referral was made, the Government of Malta shall submit the names of the three persons.

12.10 Each of the Parties shall appoint one (1) member from its list of persons named to the Technical Board and the two (2) members appointed by Party 1 and Party 2 shall choose and appoint the third member of the Technical Board. The third member does not need to be appointed from the list of names submitted by Party 1 and Party 2.

12.11 If the persons appointed by Party 1 and Party 2 fail to agree on the appointment of the third member of the Technical Board within five (5) days from the appointment of the said two members appointed by Party 1 and Party 2, the third member shall be selected and chosen by ballots from the remaining persons in the lists provided by Party 1 and Party 2 in terms of Clause 12.9 above.

12.12 Once validly constituted, the Technical Board shall have the power to regulate and set its own procedure and determine the dispute provided that the Technical Board shall make its final decision as soon as practicable and in any event within five (5) days from the date of its valid constitution as aforesaid. The costs and expenses of such determination shall be borne by Party 1 and Party 2 equally. The Technical Board would be constituted and hence empowered to determine a dispute for only a particular dispute.

13 Undesirable Person

13.1 An undesirable person means a person who has been convicted by a Maltese Court or tribunal of a crime, wherever committed:

- a) against the safety of the Government in terms of articles fifty five (55) to fifty-nine (59), both articles included, of the Criminal Code, Chapter nine (9) of the Laws of Malta (in this deed referred to as the “**Criminal Code**”), or
- b) against public safety in terms of articles three hundred and eleven (311) to three hundred and seventeen (317), both articles included, of the Criminal Code, or
- c) specified in the Schedule to the Extradition Act, Chapter two hundred and seventy six (276) of the Laws of Malta, and for a term of imprisonment of more than three (3) years;
- d) against the Prevention of Money Laundering Act, Chapter three hundred and seventy three (373) of the Laws of Malta;

- e) in violation of the articles three hundred and seven (307) to three hundred and fifteen (315) (both articles included) of the Companies Act, Chapter three hundred and eighty-six (386) of the Laws of Malta (in this deed referred to as the “**Companies Act**”) and in violation of article one hundred and ninety-one (191) of the Criminal Code;
 - f) against Sub-Titles IVA and B of Title IX of Part II of Book First of the Criminal Code;
 - g) against the laws or by the courts of another country with respect to the crimes substantially equivalent to those specified in paragraphs a, d, and e above.
- 13.2 is the subject of sanctions or restrictions issued by the United Nations, the European Union or other international governmental body of which Malta is part and which are adopted or applied by the Government in terms of the National Interest (Enabling Powers) Act, Chapter three hundred and sixty-five (365) of the Laws of Malta and / or other applicable law, and this for such time as such sanctions remain in force.
- 13.3 is the subject of an international arrest warrant or of a European Arrest Warrant or is otherwise wanted by INTERPOL or other equivalent trans-national police organisation, and this for such time as he so remains.
- 13.4 is insolvent or bankrupt and unable to pay his debts as they fall due.
- 13.5 being a legal entity, the director or other officer or the controlling shareholder of which is:
- a) an Undesirable Person, or
 - b) in case of a director or officer, disqualified to be a director of a company in terms of the Companies Act or of a similar law of a jurisdiction of which the director or officer is a national or resident and this for as long as such person remains so disqualified.

14 Transfer of the Concession- Sub-Concessions–Assignment of Rights – Change in Control

- 14.1 Except as provided in clause 14.4 herein, the Grantee may not, without the prior written consent of the Grantor, transfer, dispose of, alienate or otherwise assign the whole or any part of the Site, to a person other than a Group Company, under any title whatsoever, including but not limited to (i) a transfer of the *utile dominium* enjoyed over the Site or (ii) granting of a sub-emphyteutical title, assignment, lease, possession, operation or management agreement or similar arrangement or granting and/or constituting in favour of third parties (other than a Group Company) any personal or real right over the Site, or part thereof.
- 14.2 Any prospective transfer of rights as aforesaid over the Site which the Grantee wishes to effect shall be notified to the Grantor three (3) months in advance for its approval. The Grantor may request the Grantee to

provide information on the prospective Transferee/s with a view to ascertain whether such person is an Undesirable Person and the Grantee undertakes best endeavours to provide the Grantor with the requested information promptly and without delay. In such case the Grantor shall have the right to object to a transfer as aforesaid only in the event that on the basis of its findings the Grantor deems, acting reasonably, the prospective Transferee/s or any of the Ultimate Beneficial Owners of the Transferee/s is an Undesirable Person. Provided that failure by the Grantor to provide its response within the following time-limits from receipt of written notification from the Grantee of the intended transfer of rights shall be deemed an approval:

- (i) Sixty (60) working days in case where some or all of the Ultimate Beneficial Owners of the proposed transferee are non-Maltese residents;
- (ii) Thirty (30) working days where all the Ultimate Beneficial Owners of the proposed transferee are Maltese residents.

14.3 The Grantee shall upon request by the Grantor make available to it copies of any agreements referred to in clause 14.1 above within three (3) months from such request. The Grantor undertakes to keep confidential and not disclose the contents of such agreements to any third parties unless it will be compelled to do so by any public authority or court order.

14.4 Notwithstanding the provisions of clause 14.1 above, the Grantee may grant leases, operation agreements, management agreements or other similar rights over any part of the Site and this exclusively for the purposes of the Permitted Use.

Provided that no such lease, operation agreements, management agreements or other similar rights may be granted with respect to the horse racing track and other equine sport activities or to a single third party over the whole Site, other than to a Group Company. In the event that the company is no longer a Group Company, then any such lease, operation agreement, management agreement or other similar rights so granted shall terminate with immediate effect, unless otherwise expressly agree by the Grantor in writing.

Provided further that leases, operation agreements, management agreements or other similar rights may only be made subject to the following terms and conditions, namely, they shall:

- (a) The duration of the agreement shall not exceed the Term;
- (b) The terms of the agreement shall not conflict with the terms hereof;
- (c) The transferee and the Ultimate Beneficial Owners thereof shall not be Undesirable Persons; and
- (d) Not be entered into for any illicit purposes or contrary to public policy.

14.5 Any change in the shareholding structure of the Grantee resulting in a change in majority control of the Grantee shall be deemed an indirect transfer of the Concession and the provisions of the preceding sub-clauses of this clause 14 shall *mutatis mutandis* apply. Provided that for the purposes of this sub-clause 14.5, reference to "majority control" shall mean the direct or indirect ownership or right to exercise (directly or indirectly) the majority of the shareholders' voting rights in the Grantee, the right to exercise (directly or indirectly) a dominant influence over the Grantee through the right to appoint or remove (directly or indirectly) the majority of the members of the board of directors of the Grantee: for the purposes of this definition, the provisions of the Ninth Schedule to the Companies Act (Chapter 386 of the Laws of Malta) shall apply *mutatis mutandis*.

14.6 Upon a transfer *in toto* of the Concession to a third party, either through a direct transfer or through a transfer of majority control in the Grantee (which transfer would require the consent of the Grantor in terms of clause 14.1 above), the following shall apply:

- a. If transfer of ownership occurs within two (2) years from the signing of the concession agreement a premium of two million and five hundred thousand Euro (€2,500,000) shall be payable by the Grantee to the Grantor;
- b. If transfer of ownership occurs within five (5) years from the signing of the concession agreement a premium one million and five hundred thousand Euro (€1,500,000) shall be payable by the Grantee to the Grantor;

Provided that the premiums above mentioned shall be payable when the transfer of the Concession (or the transfer of majority control in the Grantee) to a third party has been effected.

14.7 Any third party successor in title to all or any part of the Site shall be bound by the same terms and conditions herein.

14.8 Unless the Grantor approves of a transfer *in toto* of the Grantee's rights and obligations arising in terms of the Concession Agreement / Deed of Emphyteusis, the transfer of rights under any title whatsoever shall not exonerate the Grantee from its obligations under the Deed of Emphyteusis with respect to the Site or part thereof subject of such transfer and the Grantee shall remain jointly and severally liable together with the Transferee for the full and due observance of the said conditions.

14.9 Notwithstanding the above, any direct or indirect transfer of shares within the Grantee Company in the first four (4) years, may only be made subject to Government approval, which shall not be unreasonably withheld.

15 Facilities and Standards

15.1 In developing the Site and throughout the Term, the Grantee shall ensure that the Development Infrastructure and the Site in general

shall include facilities and amenities and that same shall be maintained and operated in such a way as to provide a high standard of service to the users thereof. The obligation of the Grantee herein shall *inter alia* include the following:

- (a) undertake all reasonable endeavours to maintain high levels of customer satisfaction;
- (b) preserve and maintain all facilities in a safe, serviceable and efficient condition;
- (c) carry out a continuing programme of maintenance and repair activities on the equipment, fixtures and fittings which will ensure that all facilities are at all times in good working order and in a serviceable condition;
- (d) ensure that all structures are inspected frequently for deterioration and, where necessary, carry out repairs or replacements;
- (e) affect all routine repairs including replacement and enhancement of equipment and systems necessary for the efficient and adequate operation of the various facilities;
- (f) adopt and periodically update a high standard of environmentally-friendly energy saving solutions and sustainable use of resources;
- (g) establish adequate rules covering sanitation, security, accessibility, sustainable energy and resource use and conservation, crowd control and fire protection;
- (h) comply with all safety, sanitary and security standards in accordance with applicable laws;
- (i) maintain all facilities at an adequate standard including housekeeping and cleaning, decor and their availability to customers.

16 Maintenance and Repairs

16.1 The Grantee shall throughout the Term keep the Site and the Development at all times well maintained and in a good state of repair according to law and to the satisfaction of the Grantor, acting reasonably, at its own risk, cost and expense. The Grantee shall carry out *inter alia*:

- (a) all preventive and remedial maintenance as may be necessary in accordance with applicable law and internationally recognized industry standards; and
- (b) all ordinary and extraordinary repairs; and

- (c) on the termination of the Emphyteutical Grant by lapse of time or on the dissolution of the Emphyteutical Grant for any other reason, the Grantee shall relinquish and/or return the Site and the Development without any compensation and/or in a good state of repair and operation, fair wear and tear excepted. Any damage occurring not only through ordinary causes but also through fortuitous, extraordinary and unforeseen circumstances or by Force Majeure (excluding those events which are not customarily insurable perils at the time of the occurrence of such circumstance), shall be made good by the Grantee which shall be bound to repair, reconstruct or replace (as the case may be) the damaged part of the Site and/or Development at its own expense.
- 16.2 The Grantor may once every five (5) years from the date of this publication of the Deed of Emphyteusis, request the Grantee to compile and present to it a condition report in respect of the maintenance and upkeep of the Development.
- 16.3 It is agreed and understood that the maintenance and upkeep obligations relating to such parts of the Site the *utile dominium* to which is transferred to a third party in accordance with the terms of stipulated herein, shall vest in such third parties.

17 Permits, Licences and Authorisations

- 17.1 The Grantee shall be responsible for applying and obtaining any and all licences, permits and authorisations as may be required in connection with the Development, the Management Areas and to operate the various Components, facilities and amenities therein.
- 17.2 The Grantor shall, to the extent permissible by the Laws of Malta and good governance, and within its powers as direct owner, cooperate with the Grantee in obtaining all necessary planning and other permits and authorisations required for the implementation of the Project.

18 Compliance with Law

- 18.1 The Grantee shall, at its sole cost and expense, comply with all legislation, rules, regulations, and administrative orders applicable in Malta, now in force, or which may come into force during the Term as these may be applicable to the Site and its operation and management in general, and shall faithfully observe all conditions included in all licences, permits and authorisations issued to the Grantee or relating to the Development.
- 18.2 The Grantor shall, to the extent permissible by the Laws of Malta and good governance, and within its powers as direct owner, cooperate with the Grantee for the implementation of the Project.

19 Obligations and Charges Imposed by Law on Owners

- 19.1 The Grantee shall be bound to comply with and to carry out any obligation or duty imposed by law on the owners of buildings or lands and this according to what is stated in Article 1507 of the Civil Code (Chapter 16) of the Laws of Malta.

20 Investment and Financing

- 20.1 The development of the Project, with the exclusion of the Commercial Complex mentioned in Clause 9 of this Concession Agreement, is estimated to require an investment of a minimum of circa twenty-eight million Euros (€28,000,000). The Grantee is committing to invest a minimum of twenty-four million Euros (€24,000,000) on sport facilities. The Grantee shall be responsible for financing the Project and to this end undertakes the following:
- (a) that it shall at all times be adequately financed partly via equity and/or partly via debt (in the form of shareholder loans or third party finance - which cannot exceed forty percent (40%) of the total investment cost) to complete the Project and to maintain the Development to the levels required in terms of the conditions set in this Agreement; and
 - (b) No support (other than such support as is available to undertakings under the laws of Malta), financial or otherwise shall be requested from the Government of Malta and/or any public authority/governmental entity;
- 20.2 The Grantee shall increase the current authorised share capital of one hundred thousand Euros (€100,000) to six million Euros (€6,000,000) divided into six million (6,000,000) ordinary shares of €1 each on the signing of the Deed of Emphyteusis.
- 20.3 The Grantee shall not grant or create or suffer to subsist any security interests, whether by way of privilege, hypothec (whether general or special) or other real right, over the Site or any part thereof except:
- (a) for the purpose of obtaining financing through a licensed credit or a licensed financial institution, or through the issuance of instruments by the Grantee and/or Group Company, for the purpose of and subject to the proceeds from such funding being utilized for the Project as set out herein;
 - (b) for the purpose of securing its obligations in favour of the Grantor in terms of this agreement;
 - (c) by operation of law; or otherwise
 - (d) on such parts or the whole of the Site for such purposes as the Grantor may in its sole and absolute discretion otherwise consent in writing.

- 20.4 Save as permitted under this agreement, no security interest shall be created over the Site by way of suretyship or for the purpose of guaranteeing any third party obligation or liability. It is agreed and understood however that "third party obligations" shall not be deemed to include obligations entered into by the Grantee for the purposes of or in connection with the development and/or operation of the Project.

21 Antiquities/ Finds

- 21.1 The Grantee shall give immediate notice to the Grantor and to the competent authorities of the discovery of any trace of objects or monuments of local antiquarian or archaeological importance (including but not limited to all old remains such as caves, tombs, wells, stonewalls, pottery, coins, bones and other objects of a similar nature) on the Site. Any such find shall *ipso facto* become the site of the Grantor.
- 21.2 On obtaining information of each such discovery the Grantor shall have the right to access any part of the Site to which the finds purport to relate, for the purposes of causing the latter to be inspected by any person delegated for the purpose and on ascertaining the existence of such finds, the Grantor shall have the right to rescind the Temporary Emphyteutical Grant in entirety or over such part of the Site subject of the discovery and this on service of notice to this effect on the Grantee by means of a judicial letter. In the event of the rescission of the Temporary Emphyteutical Grant *in toto*, the Grantee shall be reimbursed for any and all costs and expenses incurred by the Grantee in relation to the Project including but not limited to in applying for any Development Permit or any other permits, licences, authorisations required in connection with the development and operation of the Project and for actual cost of any works carried out on any part of the Site. The works shall be valued jointly by the Grantee's Architect and Grantor's Architect. The Grantee shall not be entitled to any further compensation or indemnification.

Provided that in case of disagreement between the Grantee's Architect and Grantor's Architect as to the value of the works the Parties shall endeavour to agree to the appointment of an independent architect who shall be entrusted by the Parties to determine the value of the reimbursed amount payable as aforesaid. The valuation provided by the independent architect shall be final and binding on the Parties who shall therefore be guided thereby.

- 21.3 Provided further that:

- a) The Grantee may nonetheless opt either to retain that part of the Site not affected by such finds with a relative diminution of ground rent or where this is possible and approved by the Grantor following consultation with the competent authorities, integrate such finds within the Site; and
- b) Should action by any competent authority relative to any such discovery, cause any hindrance or delay in the progress of the works in relation to the Project, a pro-rata reduction of Ground Rent for the duration of such hindrance and delay and an extension of all applicable and relative time limits for completion of the works will become effective.

21.4 The Grantee shall nonetheless have itself the right to demand the rescission of the Temporary Emphyteutical Grant if it considers that the retention by itself of that part of the Site not affected by the finds with a relative diminution of the Ground Rent or the integration of such finds within the Site would render the development and operation of the Project not economically viable. In such event, the Grantee shall be entitled to same compensation mentioned and determined in accordance with the provisions of clause 21.2 and it shall not be entitled to any further compensation or indemnification.

22 Government Access Rights

22.1 The Grantee shall permit the Grantor through its appointed representatives, to have access to any part of the Site as well as any Buildings and other structures and facilities constructed thereon at reasonable times and in such a manner as not to disrupt the development and operation of the Project. When requested to do so by the Grantor, the Grantee shall give the Grantor's appointed representatives all possible assistance to enable the Grantor, to verify whether the conditions of the herein are being, or have been complied with.

23 Insurance

23.1 The Grantee shall throughout the of Temporary Emphyteutical Grant, at its expense, take out and maintain in force an insurance policy thereby insuring the Site and all improvements made and assets movable and Immovable property situated thereon, for their full value against loss or damage resulting from fire, lightning, tornado, storm, tempest, floods and explosions, bursting or overflowing of water tanks, apparatus or pipes, earthquakes and volcanic eruptions, subterranean fire, aircraft, impact, riots, strikes, malicious damage and other insurable perils and casualties (unless resulted from terrorist attacks), as are commonly insured against, with respect to properties of a similar type. The Grantee undertakes to keep the sums under this cover updated to reflect the replacement value at all times.

23.2 The Grantee shall throughout the duration of Temporary Emphyteutical Grant, at its expense, take out and maintain in force an adequate insurance policy covering the loss of one year's worth of Ground Rent. The amount

of cover shall increase *pari passu* with the increase in the Ground Rent payable by the Grantee to the Grantor.

23.3 The Grantee shall furthermore throughout the duration of the Temporary Emphyteutical Grant, at its expense, take out the following additional insurance covers:

(a) An all risks insurance cover;

(b) A public liability insurance cover.

The Grantee shall ensure that all insurance policies provide a cover and insure values adequate considering the type of Development and use of the Site.

23.4 The Grantee shall ensure that the interest of the Grantor qua *directus dominus* is noted on all insurance policies and that the Grantor is entitled to claim under such policies.

23.5 The Grantee shall produce copies of all insurance policies taken out or renewed within one month from the date of issuance or date of renewal.

23.6 Should the Grantee fail to take out or renew any of the aforementioned insurance covers, the Grantor may at its sole discretion take out such policies and charge the relative expenses to the Grantee.

23.7 All insurance covers shall be obtained or placed with a reputable insurance company licensed to write business in the European Union.

24 Indemnity

24.1 The Grantee shall at all times keep the Grantor indemnified and held harmless from and against all losses, damages costs, expenses and liabilities arising out of or in relation to any liability arising out of any grossly negligent acts or omissions or willful misconduct of the Grantee in occupying the Site, developing and/or operating the Project.

25 Interest

25.1 Any sum due by the Grantee to the Grantor by virtue of any of the provisions of the Emphyteutical Deed shall, if not paid within thirty (30) days from the date due, be due with interests at the Specified Rate of eight percent (8%) which shall run from the date due and until it is so paid.

26 Performance Security

26.1 The Grantee shall deliver to the Grantor an unconditional and irrevocable, on-demand bank guarantee (hereinafter referred to as the “**Performance Security**”) in the form prescribed in **Annex H** hereto attached, to be issued by a reputable bank or financial institution (which shall be acceptable to

the Grantor), in favour of the Grantor to secure the due and punctual performance of all its obligations under the Deed of Emphyteusis. The Performance Security shall have a value of three hundred thousand Euro (€300,000).

- 26.2 Without prejudice to the any other rights and remedies which may vest in the Grantor in terms of the provisions of the Deed of Emphyteusis and/or its rights at law, should there be an Event of Default as defined in clause 28.1 hereof, then the Grantor shall be entitled to call on the Performance Security and make withdrawals of any sums by way of compensation (in whole or in part) for any loss or damage suffered by it due to the Grantee's failure.
- 26.3 Whenever the Grantor makes a withdrawal of any amount under the Performance Security, it shall communicate such fact to the Grantee, which shall in turn procure that, by not later than fifteen (15) days from the aforesaid communication, the Performance Security is topped up by the issuing bank, so that the amount thereof is increased by the amount so withdrawn as if no such withdrawal has been made.

27 Termination of the Concession

- 27.1 At the end of the Term or on the earlier termination of the Concession (whichever occurs earlier) for any reason whatsoever, the Site shall, revert back to the Grantor together with any Immovable Property and other improvements appertaining thereto, whatsoever their value, with vacant possession, free and unencumbered, fully operational (to the extent possible in terms of this Agreement) in a good state of repair (fair wear and tear excepted) and unless stipulated otherwise herein the Grantee shall have no right to receive any compensation whatsoever.
- 27.2 Upon termination of the Concession as aforesaid the Grantor shall have the right to take back the operation and management of the Site and any and all Immovable Property and other improvements and any ongoing operations thereon. The Grantee undertakes, to the best of its abilities in the light of its obligations set forth herein, to maintain or procure that the operations carried out from the Site are conducted in such a way as to enable the Grantor to step in and take over same at the end of the Concession without any major disruptions.
- 27.3 During the final year of the Term or in case of earlier termination, as soon as it becomes known to the Grantee that the termination of the Concession is imminent, the Grantee shall cooperate fully with the Grantor in order to ensure the smooth transfer of responsibility of the Site to the Grantor and/or to a third party concessionaire as may be instructed by the Grantor. For this purpose the Grantee shall be responsible to *inter alia*:

- a) provide the Grantor any and all information concerning the Site any and all Immovable Property, movables, fixtures, fittings, and other improvements made thereon, any information about the operations carried out therefrom and in general any and all information as may be required and requested by the Grantor, acting reasonably, to take over from the Grantee and/or to launch a competitive process for a new concession relating to the Site and to ensure the smooth hand over to the new concessionaire;
- b) all access, as may be reasonably requested and necessary, to the Grantor and/or to prospective concessionaires to all parts of the Site, including Buildings built thereon as well as access to all facilities;
- c) liaising with the Grantor (within reason) and the new concessionaires and providing reasonable assistance and information about the Site and all improvements and assets thereon and operations carried out therefrom;
- d) carrying out all necessary acts to ensure that the new concessionaire obtains all rights, title to and interests in the Site, improvements and assets thereon and operations carried out therefrom.

28 Events of Default

28.1 The occurrence of one or more of the following events (in this Agreement collectively referred to as the “**Events of Default**” and each one an “**Event of Default**”) shall constitute a default and breach of the Concession by the Grantee and their occurrence shall, save as provided hereunder, entitle the Grantor to dissolve the Emphyteutical Grant and in general the Concession:

- a) if the Grantee fails to pay the Ground Rent for one (1) year or if although it has made part payments in each year, a sum equal in amount to three (3) years’ Ground Rent is still owed to the Grantor whether by way of Ground Rent or interest thereon;
- b) if, the Grantee fails to complete the Project within the term stipulated;
or
- c) if, the Site is used for any purpose other than the Permitted Use, unless the Grantor has consented in writing to such other purpose; or
- d) if the Grantee becomes insolvent, a winding up order against the Grantee is made by a Court, a liquidator or provisional administrator is appointed to take over the affairs of the Grantee, a resolution for the voluntary winding up of the Grantee is passed, the application for, or sanctioning by a Court of a compromise or arrangement involving the Grantee in terms of Article 327 of the Companies Act (Chapter 386 of the Laws of Malta); or

- e) the Grantee fails to obtain any and all required permits to operate the activities intended and permitted from the Site; or
- f) the Grantee's failure to punctually and faithfully observing any and all laws and regulations relevant to the development of the Project and the conduct of operations therefrom; or
- g) the Grantee abandoning the Site. For the purposes of this provision abandoning the Site shall mean if the Grantee ceases works, for no justifiable reason, on the Site for a consecutive period exceeding six (6) months following the issuance of all relative permits, licenses and authorisations from any authority as may be necessary for the implementation of the Project; or
- h) failure to take out insurance policy covers as stipulated herein; or
- i) the Grantee ceases operations of the race course for a period exceeding six (6) consecutive months; or
- j) if the Grantee is in breach of any other material obligation under the Deed of Emphyteusis; or
- k) if the Grantee becomes an Undesirable Person or if, either because of supervening circumstances or if because there is a change in either management or control of the Emphyteuta or in the beneficial ownership of an entity which determines management and control of the Emphyteuta becomes an Undesirable Person; or

Provided that in the event of (a) above the Grantor shall only be entitled to terminate the Concession if the Grantee remains in default for one (1) month after notice of such default is given by the Grantor by judicial letter; in the event of (b) above the Grantor shall only be entitled to terminate the Concession if the Grantee remains in default for six months (6) after notice of such default is given by the Grantor by judicial letter; and in the case of (c) to (k) above if the Grantee remains in default for three (3) months after notice' of such default is given as aforesaid.

On the termination of the Concession for any of the reasons above stipulated the rights acquired by a 'bona fide' third party acknowledged or entitled to be acknowledged by the Grantor shall not be in any way affected. Following such termination, any fees, rents or other dues falling due after termination payable by third parties to the Grantor shall on dissolution become the property of the Grantor:

Provided further that in the event of (a) above, if there is any dispute about the amount due, the Grantee shall effect payment of the amount not in dispute and the balance in dispute shall be payable together with interest thereon from the date when the balance was originally due up to the date of effective payment, if such dispute is resolved in favour of the Grantor;

Provided further that the Grantor may terminate this Concession immediately upon the termination of the Deed of Emphyteusis.

28.2 Without prejudice to the other provisions of this Agreement, the Grantee waives its right to any compensation arising as a result of the reversion of the Site to the Grantor for any reason whatsoever, including any compensation which would otherwise be due in terms of Article 1523 of the Civil Code of the Laws of Malta.

29 Force Majeure

29.1 Neither Party shall be liable for delay in performing or failure to perform any of its obligations if the delay or failure results from Force Majeure. Such delay and/or failure resulting from Force Majeure shall not constitute a breach of this Agreement or of the Deed of Emphyteusis (as the case may be) and the time for performance of the concerned obligation shall be extended by a period equivalent to that during which performance has been prevented by Force Majeure. If the Force Majeure persists and is such that it renders the development and operation of the Project impossible to achieve, each of the Parties shall have the right to be released from its obligations in this Agreement or in the Deed of Emphyteusis. Provided that in such eventuality, the Grantee shall be entitled to be reimbursed the costs and expenses it incurred in relation to the development and operation of the Project in accordance with clause 21.2 above.

30 Waivers

30.1 No waiver by any party (the “**Non-Defaulting Party**”) of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by the other party (the “**Defaulting Party**”) of the same or any other breach. The Non-Defaulting Party’s consent to or approval of any act shall not be deemed to render unnecessary the obtaining of the Non-Defaulting Party’s consent to or approval of any subsequent act by the Defaulting Party. The acceptance of Ground Rent or of any other dues under the Deed of Emphyteusis by the Grantor shall not be a waiver of any preceding breach by the Grantee of any provision hereof other than the failure of the Grantee to pay the particular ground rent or dues so accepted, regardless of the knowledge of the Grantor of such preceding breach at the time of acceptance of such ground rent or other dues.

30.2 Unless otherwise provided in this Agreement or in the Deed of Emphyteusis, no remedy or election hereunder shall be deemed exclusive but shall whenever possible be cumulative with all other remedies available at law.

31 Entire Agreement

31.1 Each Party hereto acknowledges and agrees that (i) this Agreement together with the Deed of Emphyteusis shall contain the entire agreement between them with respect to any matter mentioned herein and that no other prior agreement, understanding or document, pertaining to any such matter is effective and (ii) it has not relied upon any oral or written representation made to it by the other party or by the latter’s employees, servants or agents, save as otherwise specifically stated in this deed.

32 Applicable Law and Jurisdiction

- 32.1 This Agreement and the Deed of Emphyteusis (as the case may be) deed shall be read, governed by and construed according to the Laws of Malta.

33 Good Faith

- 33.1 The Parties, undertake to honour this Agreement in good faith, and not to engage in conduct which may prejudice the other Party. Furthermore the Parties shall act in a manner to reach their desired objectives including but not limited to the signing of the Deed of Emphyteusis.

34 Notices

- 34.1 Unless otherwise expressly provided in this Agreement or in the Deed of Emphyteusis (as the case may be), any notice, notification or other communication under or in connection herewith shall be in writing and shall be delivered by hand or recorded delivery or sent by pre-paid first class post to the relevant party at the relevant address for service set out below or to such other address in Malta as each party may specify by notice in writing to the other party to the Agreement/Deed of Emphyteusis:

Grantor	
Name:	
Address:	
Attention:	
Grantee	
Name:	
Address:	
Attention:	

- 34.2 Any such notice or other communication shall be deemed to have been served on the party to whom it is addressed as follows:
- (a) If sent by hand or recorded delivery when so delivered;
 - (b) If sent by pre-paid first class post from and to any place within Malta, three days after posting, unless otherwise proven.
- 34.3 For the avoidance of doubt, it is agreed that the provisions of this clause 34 shall not apply to judicial acts filed in the Courts of Malta which will be served in accordance with applicable Court procedures and service of such judicial acts shall be deemed to have been made in terms of law.

35 Costs and Expenses

- 35.1 Notarial fees and expenses payable upon publication of the Deed of Emphyteusis and Duty on Documents charges shall be paid by the Grantee.
- 35.2 Otherwise each Party shall be responsible for the payment of the fees of its own consultants and advisors.

36 Resolution of Disputes

- 36.1 Any dispute, controversy or claim arising out of or relating to this deed, or the breach, termination or invalidity thereof, shall be subject to the jurisdiction of the Courts of Malta

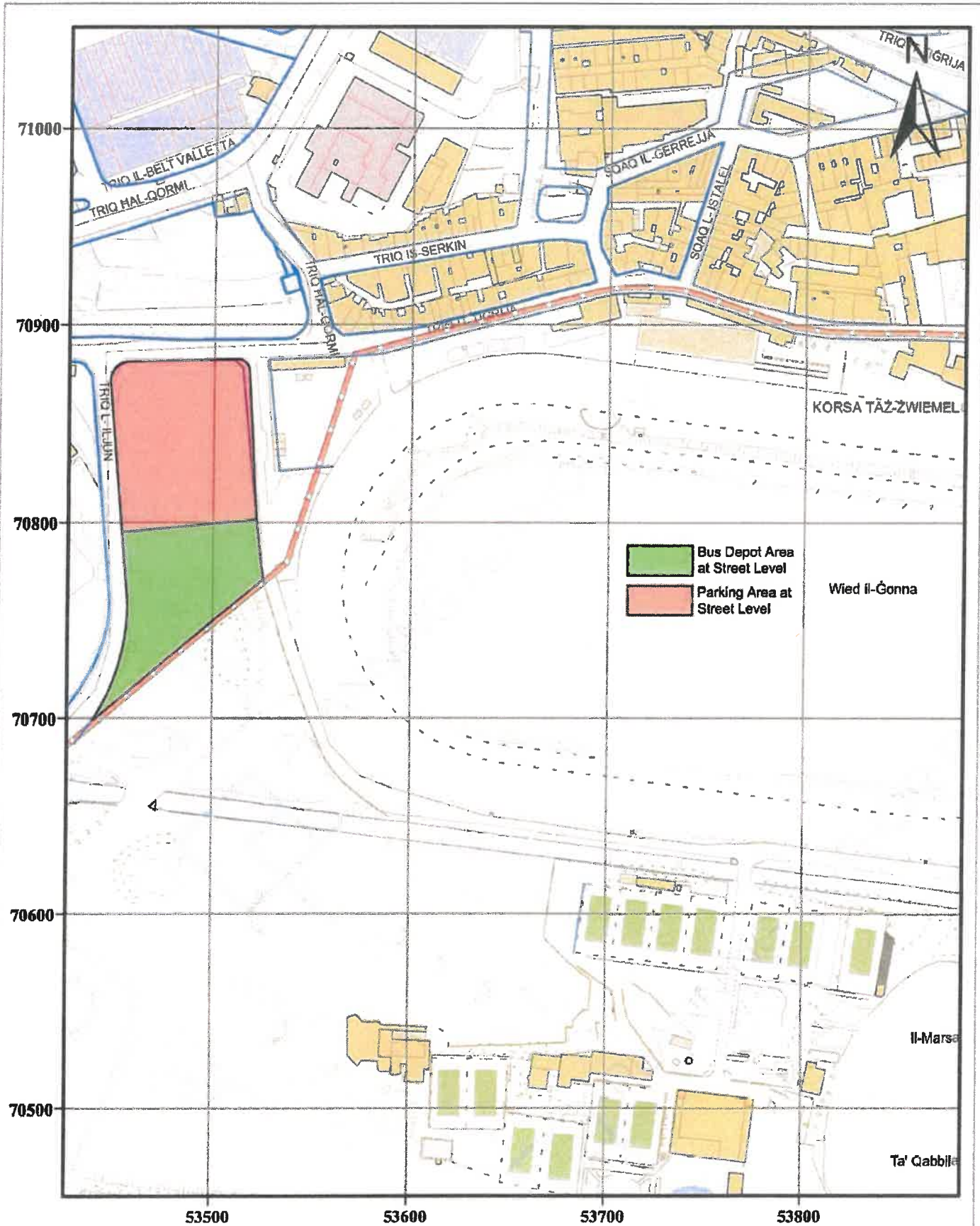
37 Annexes

- Annex A – Board Resolution
- Annex B – Bus Depot Area
- Annex C – Car Park Area
- Annex D – Car Park Roof Area
- Annex E – Site Plan
- Annex F – List of Current Employees
- Annex G – Performance Security

Annex A- Board Resolution

To be provided on Signing of Concession Agreement

Annex B - Bus Depot Area



1:2,500 Date Printed: 25/06/2018

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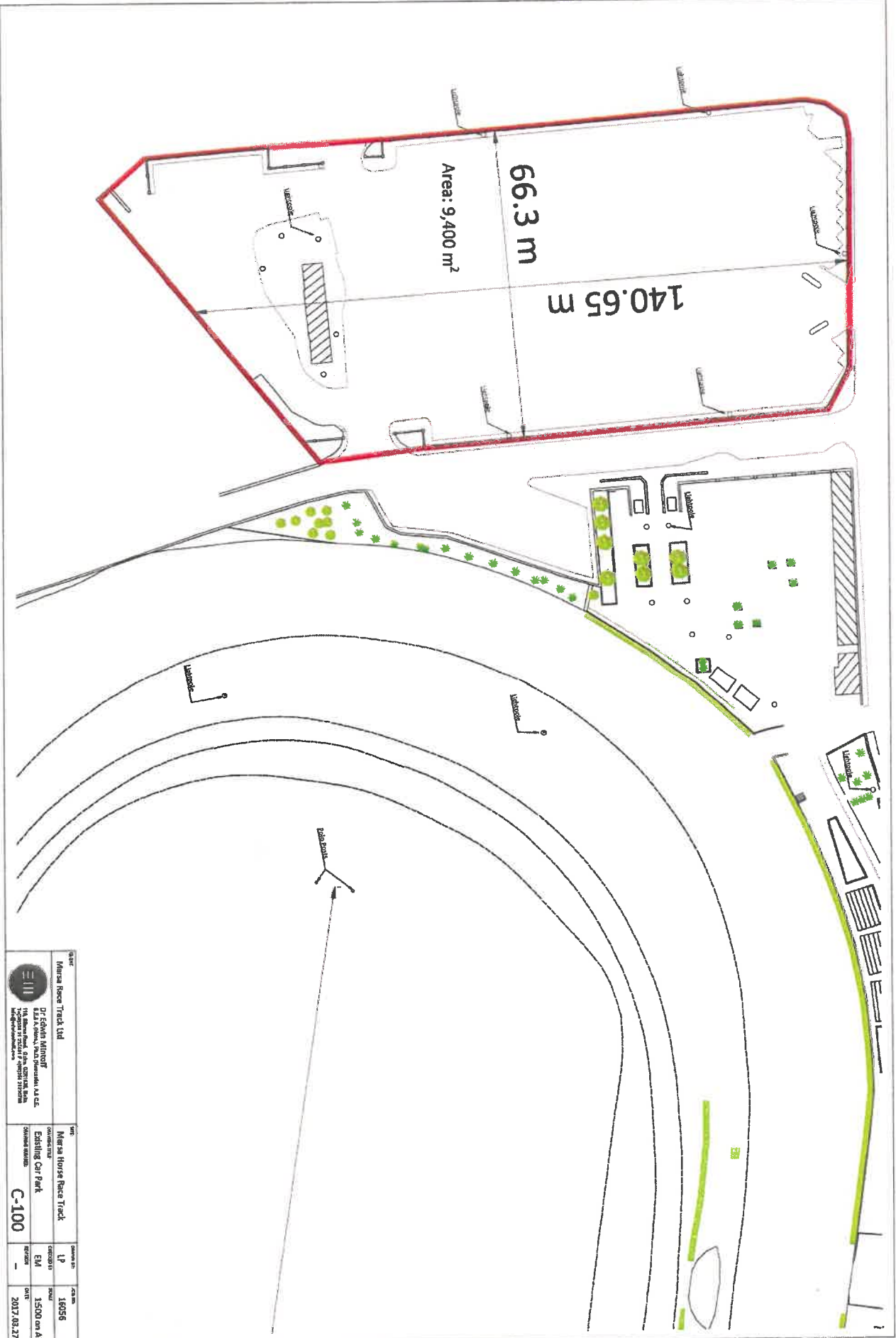
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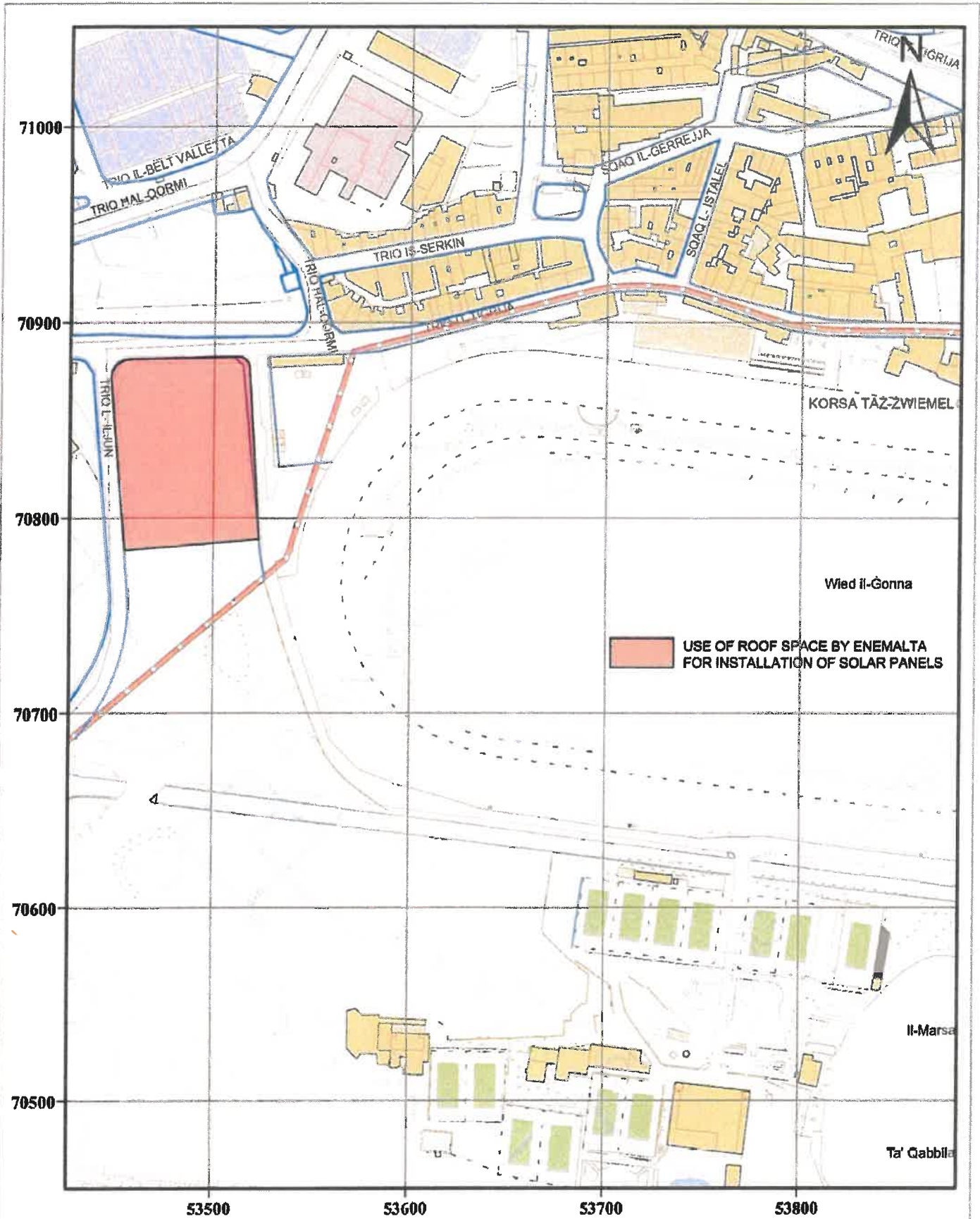
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Annex C – Car Park Area

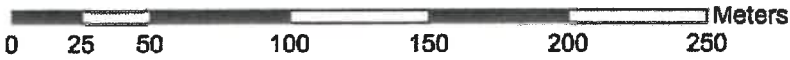


 PT. EDWIN MITROR PT. EDWIN MITROR 118, Jalan Pahlawan, 40130, Kuala Lumpur, Malaysia. T: 603-2011-1111 www.edwinmitror.com	Nama Projek Merasa Race Track Ltd	Nama Pelanggan Merasa Horse Race Track	No. Projek 16096
	Nama Pelanggan Edwin Car Park	No. Pelanggan EM	No. Pelanggan 1500 on A2
C-100	No. Pelanggan -	No. Pelanggan -	Tarikh 2017.08.27

Annex D Car Park Roof Area



 **USE OF ROOF SPACE BY ENEMALTA FOR INSTALLATION OF SOLAR PANELS**



1:2,500 Date Printed: 25/06/2018

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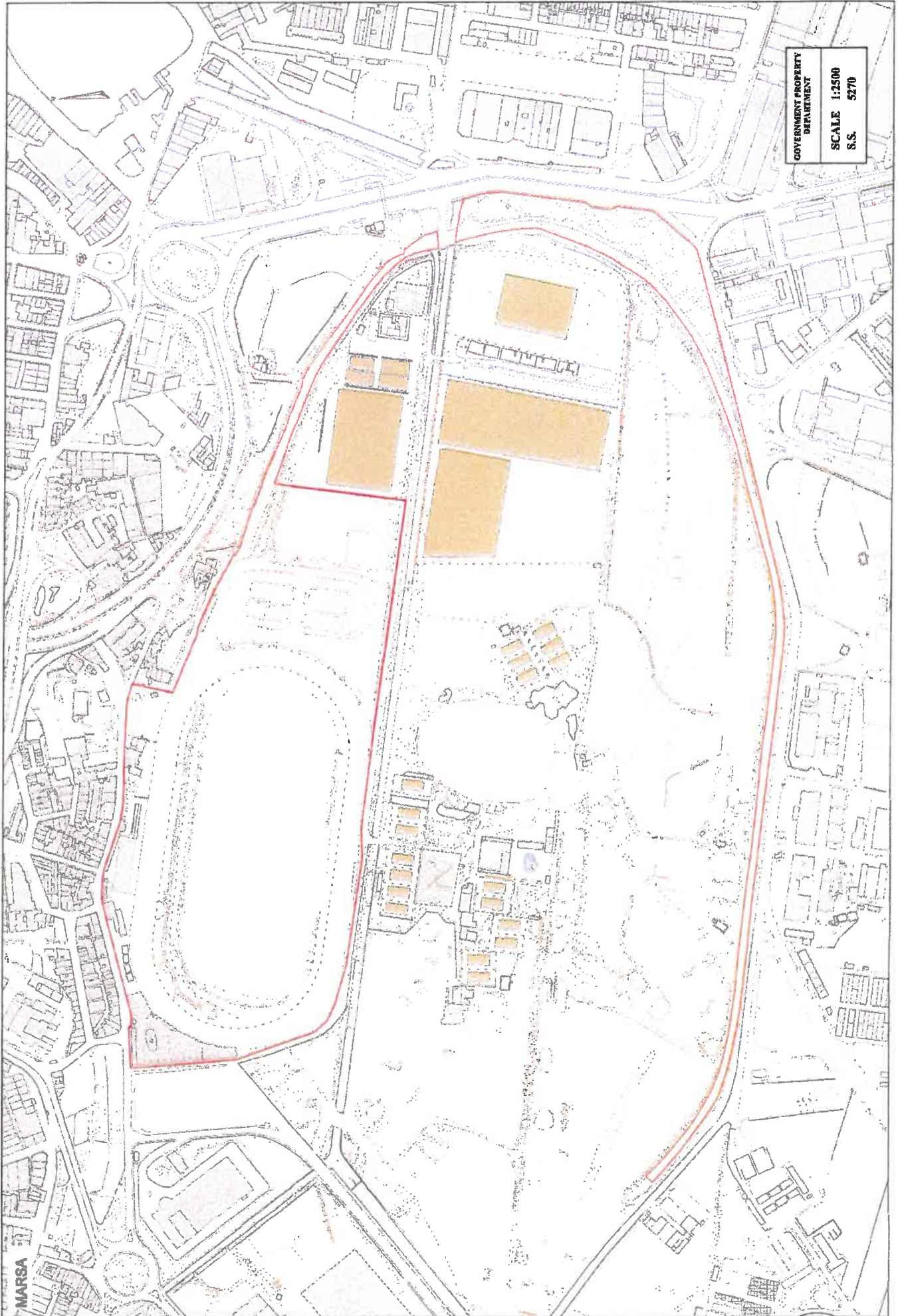


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Annex E - Site Plan - Marsa

GOVERNMENT PROPERTY
DEPARTMENT
SCALE 1:2500
S.S. 5270



MARSA

Annex F - List of MRC Employees

FULL TIMERS AT THE MALTA RACING CLUB - WAGES AS AT 1st JANUARY 2018

	Wkly Wages		Monthly 2018	O'time		O'time		Per Race Meeting	Notes
	01.01.18	€		x 1½	€	x 2	€		
1	Mark Consiglio	455.70	1974.70	17.09	22.79		N/A	23,696.40	
2	Ray Mifsud	342.64	1484.77	12.85	17.13		N/A	17,817.28	2
3	Joe Gixtli	272.98	1182.91	10.24	13.65		35.00	14,194.96	4
4	Alfred Spiteri	269.15	1166.32	10.09	13.46		60.00	13,995.80	1
5	Aurelio Sammut	251.66	1090.53	9.44	12.58		35.00	13,086.32	3
6	Noel Baldacchino	214.24	928.37	8.03	10.71		N/A	11,140.48	5
7	Gaetano Grech	214.24	928.37	8.03	10.71		35.00	11,140.48	6
8	Joe Zerafa	214.24	928.37	8.03	10.71		58.50	11,140.48	
9	Collins Nyavor	204.22	884.95	7.66	10.21		35.00	10,619.44	
								126,831.64	

Basic gross salaries for 2018

Note 1

A Spiteri is paid Euro 120 on Sundays per race meeting since he starts at the MRC in the morning and he does not claim any overtime for that day. Payment for attendance at Races held during the week the remuneration is Euro 60 per meeting.

Note 2

Re Ray Mifsud: Included in his wages is attendance during race meetings based on 54 meetings during the whole season. Payment is effected at Euro 58.50 per meeting for attendance in excess of 54 meetings.
A salary review had to be undertaken after five years from the date of employment which was on 30.10.2012 i.e. was due in October 2017. This has not been carried out except for the inclusion of meeting attendances with his salary.

Note 3

Re Aurelio Sammut: According to his contract of employment, a salary increase review had to be undertaken in November 2015. Notwithstanding reminders from my end, the issue has not been tackled.

Note 4

Re **Joe Grixti**: Grixti had his designation changed from Labourer to Gardener in May 2013 by the then Chairman and confirmed by Treasurer. Jobplus (then ETC) was informed in this change of designation. His wage was assimilated to that of Gardener in the Civil Service and started enjoying the same salary. A new Collective Agreement for Employees in the Public Service covering period January 2017 to December 2024 was signed a year ago, the outgoing Committee has not approved the increase in his salary.

Note 5

Re **Noel Baldacchino**: Monthly allowance of Euro 231.41 (taxable) re maintenance of Track

Note 6

Re **Gaetano Grech**: Monthly allowance of Euro 368.08 for opening Track early

Annex G - Performance Security

ANNEX III: FORMAT OF PERFORMANCE SECURITY

To: The Government of Malta

DATE

Dear Sirs,

Our Guarantee Number _____

We refer to the Concession Agreement entered or proposed to be entered into between _____ (*name and address of Successful Proponent*) (the "Successful Proponent") and the Government of Malta (hereinafter the **Government**) for the Concession for the , Development, Construction and Operation of the Horse Racing Track in Marsa, pursuant to a Request for Proposals (hereinafter referred to as the **RFP**) issued by the Privatisation Unit on behalf of the Government on 19 June 2015 inviting the submission of Proposals and the subsequent selection of the Successful Proponent following the submission of its Proposal and the Evaluation and Selection Process in terms of the RFP. We also refer to your requirement that the Successful Proponent should provide you with a bank guarantee in the amount of _____ Euros (€) to warrant the due and proper performance by the Successful Proponent of all its obligations under or pursuant to the Concession Agreement.

Now, therefore, we _____ (Name of Bank) _____ hereby irrevocably and unconditionally guarantee to pay you on demand a maximum amount of _____ Euros (€ _____) in case any of the payments, performances or obligations to be undertaken by the Successful Proponent under or in pursuance of the Concession Agreement is not duly, properly and punctually performed by the Successful Proponent.

It is understood that this guarantee will become payable on your first written demand and that it shall not be incumbent upon us to verify whether such demand is justified.

For the avoidance of doubt it is hereby declared that although this guarantee gives rise to legal relations between us as guarantor and yourself, this does not exempt the Successful Proponent from any obligation/s or undertaking/s assumed or given by it under or in pursuance of the Concession Agreement.

This guarantee shall become effective on the execution of the Concession Agreement by the relative parties thereto and shall expire on _____³ and unless it is extended by us or returned to us for cancellation before that date, any demand made by you for payment must be received in writing not later than the aforementioned expiry date.

This guarantee should be returned to us for cancellation on utilisation or expiry or in the event the guarantee being no longer required by you.

Yours faithfully,

o.b.o (Name of Bank)

Countersigned by Successful Proponent

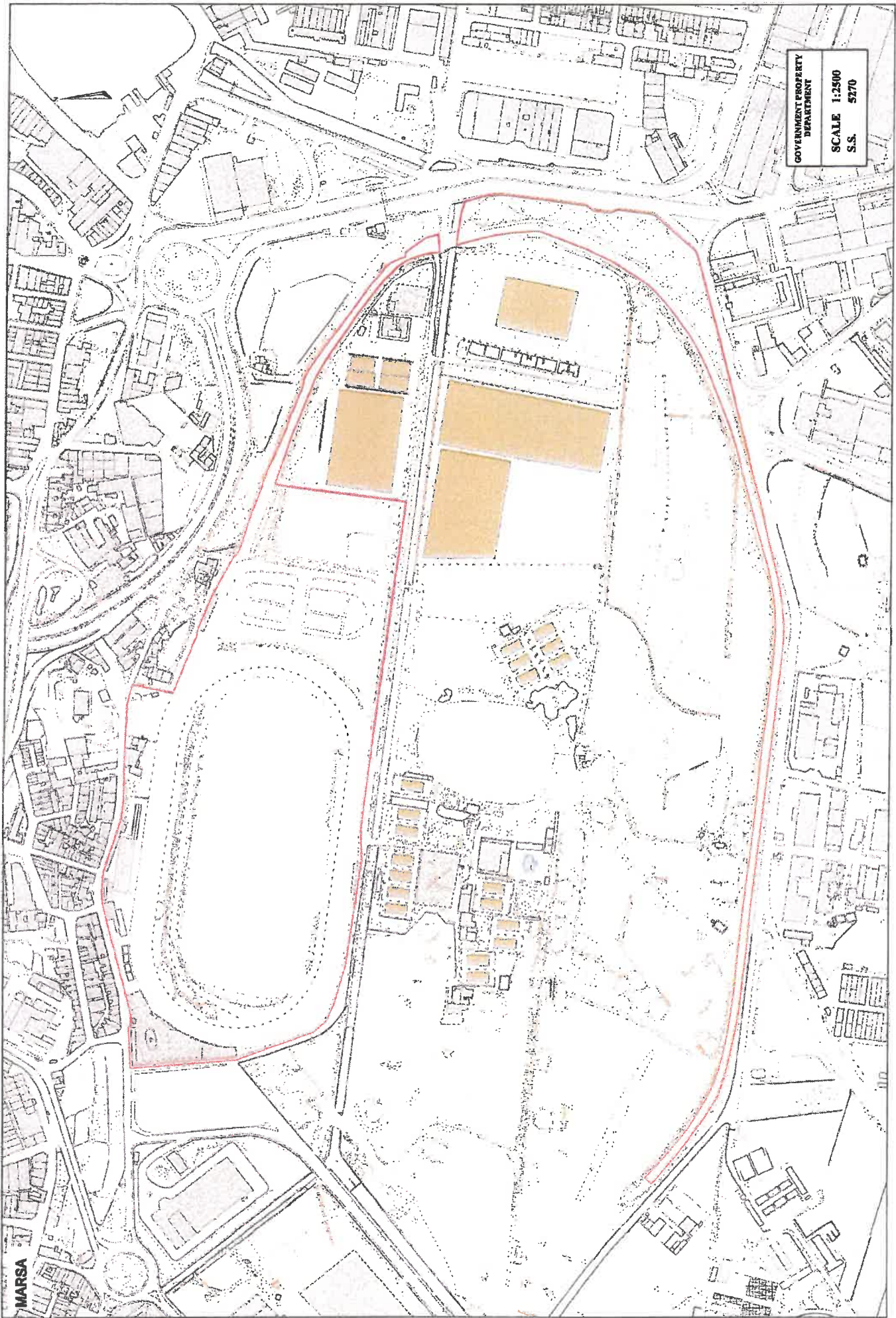
³Insert date corresponding to the expiration of twelve months from the date of expiry of the term of the Concession Agreement.

END OF CONCESSION AGREEMENT

Marsa Race Track Concession Agreement

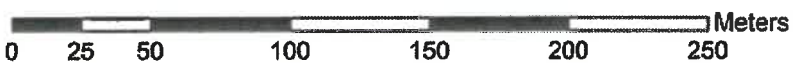
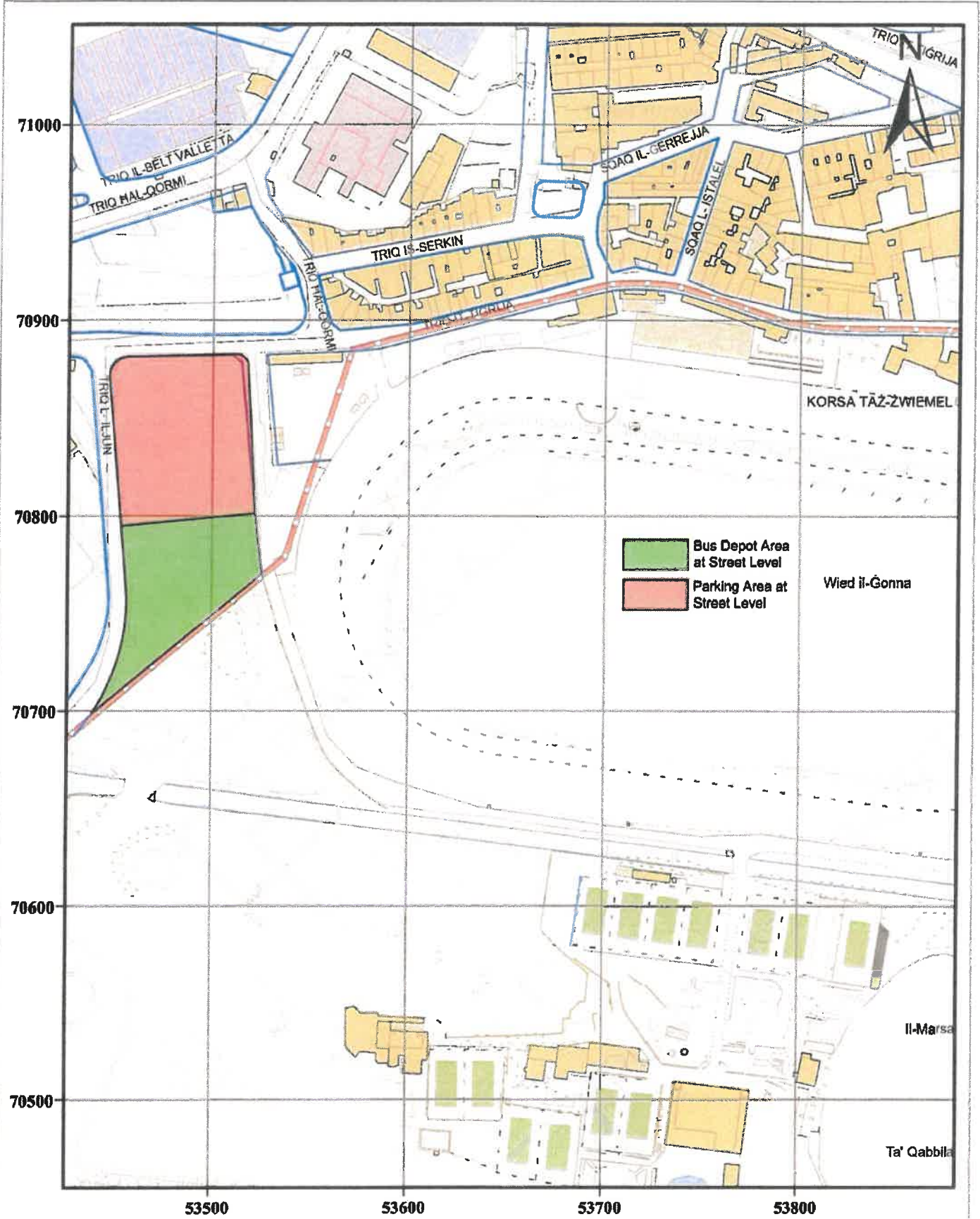
Annex D - Site Plan - Marsa

GOVERNMENT PROPERTY
DEPARTMENT
SCALE 1:2500
S.S. 5770



MARSA

Annex E - Bus Depot Area



1:2,500 Date Printed: 25/06/2018

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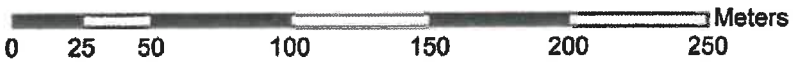
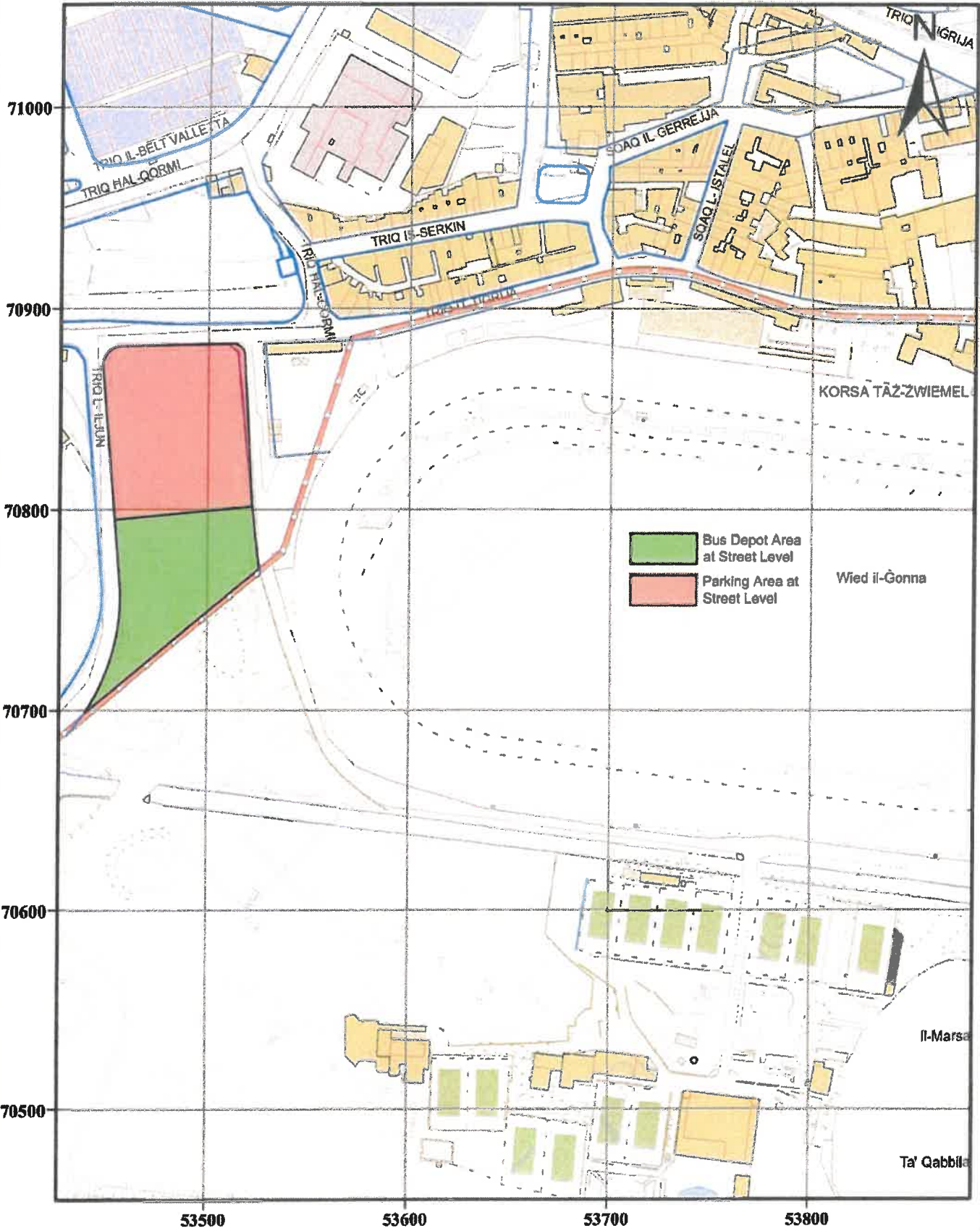
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Annex F - Transport Malta Site plan



1:2,500 Date Printed: 25/06/2018

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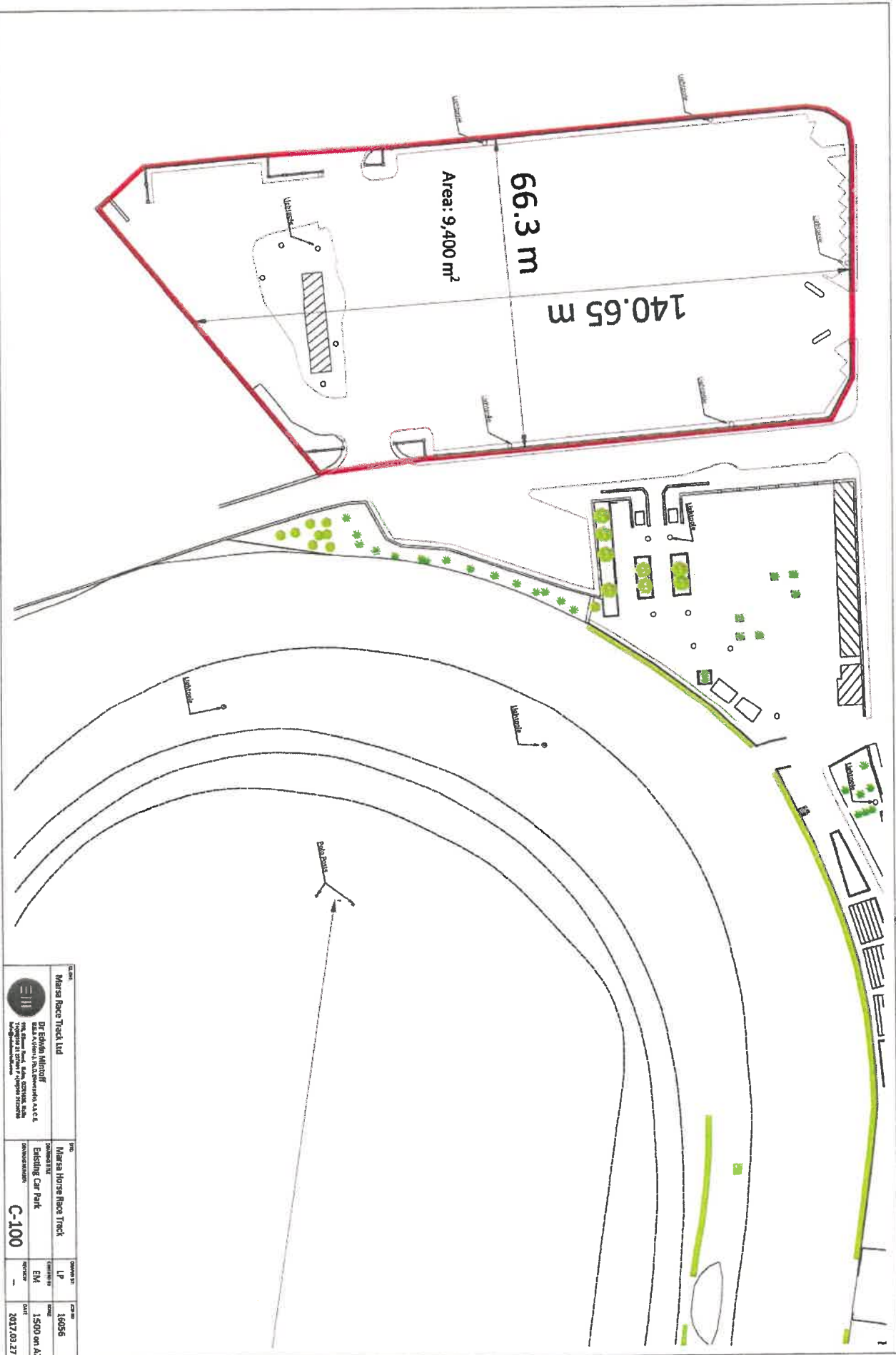
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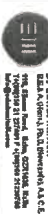
PLANNING AUTHORITY

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Annex G - Car Park Area



CLIENT	Mara Race Track Ltd	PROJECT	Mara Race Track	DATE	16056
DESIGNER	DR Edwin Mbitiro	CONTRACT	Existing Car Park	SCALE	1:500 on A2
APPROVED BY	DR Edwin Mbitiro	PROJECT NO.	C-100	DATE	2017.03.27



Annex H – Private Agreement

Today the twenty fifth (25th) day of August
of the year two thousand and fourteen (2014)

Private Agreement entered into between:

Of the first part:

Doctor of Laws Joseph Bugeja, Commissioner of Land, son of the late George and Philippa nee` Carabott, born in Attard on 23/4/1969 and residing in Tarxien, bearer of identity card number 181569M who is appearing on this Agreement on behalf and in representation of the Government of Malta and Government Property Department as duly authorised by means of Legal Notice number four hundred sixty three (463) published in the Maltese Government Gazette dated sixth (6th) day of December of the year two thousand and thirteen (2013) and Government Notice number one hundred and one (101) published in the Maltese Government Gazette dated twenty eighth (28th) day of January of the year two thousand and fourteen (2014) and according to the Public Administration Act, Chapter four hundred ninety seven (497) of the Laws of Malta, hereinafter referred to as **'The Government of Malta'** or the **'grantor'**.

Of the second part:

Fredrick Azzopardi, Chief Executive Officer of Enemalta Corporation, son of Emmanuel and Carmen nee` Agius, born in Attard on the thirty first day of December one thousand nine hundred seventy five (1975), residing in Rabat, holder of identity card number 152076M, who appears on this Agreement in the name and on behalf of Enemalta Corporation, a public corporation established by virtue of the Enemalta Act, Chapter two hundred and seventy two (272) of the Laws of Malta, having its principal business address at Central Administration Building, Church Wharf, Marsa MRS 1000, Malta, in his capacity as Chairman duly vested with legal representation of the Corporation in terms of the above mentioned Enemalta Act, Chapter 272 and as duly authorised by virtue of a resolution of the board of directors of the Corporation a copy of which is annexed to this Agreement and marked document letter "A" hereinafter referred to as **'Enemalta Corporation'** or the **'grantee'**.

Enrolled in the
records of
Notary Dr.
Keith Francis
German dated
25/8/2014

Grant

The grantor and the grantee are in this agreement collectively referred to as the **'Parties'** and each one a **'Party'**.

Definitions

In this Agreement unless otherwise expressly stated or the contrary intention appears and in addition to any other definitions contained elsewhere in this Agreement, the following terms shall have the following meanings respectively assigned to them:

"Access" means that the grantor grants to the grantee the right to enter the ground floor sites without hindrance at any time. However the grantee shall not obstruct or occupy the ground floor sites unless authorised by the Commissioner of Land.

"Feasibility Period" means the period of one (1) year from today for the grantee to establish that there are the right conditions for the efficient and proper functioning for the permitted use.

"Force Majeure" means any act, event or circumstance which is beyond the reasonable control of a Party, including but not limited to acts of God, war, civil commotion, fire, flood or other calamity, strike, riot, lock-out or other industrial disturbance, terrestrial or extra-terrestrial interference, blockade, insurrection, action, order, direction judgement, including but not limited to prohibitory injunction of the Grantor, or any Court, Tribunal, Regulatory Authority or other judicial and/or quasi-judicial body, or any other cause of a similar nature, which makes that Party's performance of its obligations under this Agreement impossible, or so impractical as to be considered impossible under the circumstances.

"Ground Floor Sites" means the site of the property from subterrain level and up to a height of five (5) meters above road level.

" Property" means the airspace starting from five (5) metres above road level or to such extent mutually agreed by both parties of the following sites:

- (a) Land in Attard, limits of Ta' Qali, measuring approximately seventeen thousand seven hundred ninety seven square meters (17,797sm), bounded by all sites by Government Property as shown bordered in red on Plan Property Drawing Number two thousand and fourteen underscore five hundred thirty one

- underscore seven (P.D. No. 2014_531_7), hereby being attached to this Agreement and marked as **Document 'B'**. The Fee attributed for this site amounts to eight thousand eight hundred ninety nine Euro (€8899) per annum;
- (b) Land in Floriana, measuring approximately seventeen thousand six hundred eighty seven square meters (17,687sm), bounded by all sides by Government Property , as shown bordered in red and indicated with the letter 'C' on Plan Property Drawing Number two thousand and fourteen underscore five hundred thirty one underscore five (P.D. No. 2014_531_5), hereby being attached to this Agreement and marked as **Document 'C'**. The Fee attributed for this site amounts to eight thousand eight hundred forty four (€8844) per annum;
- (c) Land in Attard, limits of Ta' Qali, measuring approximately two thousand seven hundred and twenty eight square meters (2,728sm), bounded on all sides by Government Property, as shown bordered in red and indicated with the letter 'B' on Plan Property Drawing Number two thousand and fourteen underscore five hundred thirty one underscore six (P.D. No. 2014_531_6), hereby being attached to this Agreement and marked as **Document 'D'**. The rent attributed for this site amounts to one thousand three hundred sixty four Euros (€1364) per annum;
- (d) Land in Attard, limits of Ta' Qali, measuring approximately eight thousand five hundred ninety six square meters (8,596sm), bounded on all sides by Government Property , as shown bordered in red and indicated with the letter 'C' on Plan Property Drawing Number two thousand and fourteen underscore five hundred thirty one underscore six (P.D. No. 2014_531_6), hereby being attached to this Agreement and marked as **Document 'D'**. The rent attributed for this site amounts to four thousand two hundred and ninety eight Euros (€4298) per annum;
- (e) Land in Attard, limits of Ta' Qali, measuring approximately three thousand four hundred and eighty six square meters (3486sm), bounded on all sides by Government Property, as shown bordered in red and indicated with the letter 'D' on Plan Property Drawing Number two thousand and fourteen underscore five hundred thirty one underscore six (P.D. No. 2014_531_6), hereby being attached to this Agreement and marked as **Document 'D'**. The fee attributed for this

- site amounts to one thousand seven hundred forty five Euros (€1,745) per annum;
- (f) Land in Attard, limits of Ta' Qali, measuring approximately six thousand five hundred ninety one square meters (6,591sm), bounded on all sides by property of Government of Property, as shown bordered in red and indicated with the letter 'E' on Plan Property Drawing Number two thousand and fourteen underscore five hundred thirty one underscore six (P.D. No. 2014_531_6), hereby being attached to this Agreement and marked as **Document 'D'**. The Fee attributed for this site amounts to three thousand two hundred ninety six Euros (€3,296) per annum;
- (g) Land in Attard, limits of Ta' Qali, measuring approximately eight thousand sixty six square meters (8,066sm), bounded on all sides by property of Government of Malta, as shown bordered in red and indicated with the letter 'F' on Plan Property Drawing Number two thousand and fourteen underscore five hundred thirty one underscore six (P.D. No. 2014_531_6), hereby being attached to this Agreement and marked as **Document 'D'**. The Fee attributed for this site amounts to four thousand thirty three Euros (€4,033) per annum;
- (h) Land in Xaghra Gozo in the limits of 'Il-Qortin t'Ghajj Damma', measuring approximately twenty two thousand nine hundred twenty eight square meters (22,928sm), bounded on all sides by property of Government of Malta , as shown bordered in red on Plan Property Drawing Number two thousand and fourteen underscore five hundred thirty one (P.D. No. 2014_531), hereby being attached to this Agreement and marked as **Document 'E'**. The Fee attributed for this site amounts to eleven thousand four hundred sixty four Euros (€11,464) per annum;
- (i) Land in Pembroke, measuring approximately sixteen thousand ninety two square meters (16,092sm), bounded on the North by Triq Patri Serafin Zarb, on the West by Triq Dun Guzepp Farrugia and South by Government Property, as shown bordered in red on Plan Property Drawing Number two thousand and fourteen underscore five hundred thirty one underscore two (P.D. No. 2014_531_2), hereby being attached to this Agreement and marked as **Document 'F'**. The rent attributed for this site amounts to eight thousand forty six Euros (€8,046) per annum;

- (j) Land in Marsa, measuring approximately six thousand five hundred sixty square meters (6,560sm), bounded on the North and South by Government Property and the West by Triq l-Iljun, or more correct boundaries, as shown bordered in red on Plan Property Drawing Number two thousand and fourteen underscore five hundred thirty one underscore three (P.D. No. 2014_531_3), hereby being attached to this Agreement and marked as **Document 'G'**. The rent attributed for this site amounts to three thousand two hundred and eighty Euros (€3,280) per annum;
- (k) Land in Rabat (Victoria) Gozo, measuring approximately four thousand two hundred and fifty five square meters (4,255sm), bounded on the North by Triq Salvatore Psaila, on the West by Triq Giorgio Borg Olivier and East by Public Garden, or more correct boundaries, as shown bordered in red on Plan Property Drawing Number two thousand and fourteen underscore five hundred thirty one underscore four (P.D. No. 2014_531_4), hereby being attached to this Agreement and marked as **Document 'H'**. The rent attributed for this site amounts to two thousand one hundred twenty eight Euros and fifty cents (€2,128) per annum;
- (l) The Leased Sites one (1), two (2), three (3) and four (4) described hereunder;

'Leased property' means Government owned property subject to the grant agreement in favour of The Authority for Transport Malta and to the Cleansing Services Department and includes the airspace of the following sites:

- (a) **Leased site one (1)** presently allocated to the Authority for Transport Malta comprising land in Floriana, measuring approximately thirteen thousand seven hundred forty two square meters (13,742sm), bounded on all sides by Government property, as shown bordered in red and indicated with the letter 'A' on Plan Property Drawing Number two thousand and fourteen underscore five hundred thirty one underscore five (P.D. No. 2014_531_5), hereby being attached to this Agreement and marked as **Document 'C'**. The Fee attributed for this site amounts to six thousand eight hundred seventy one Euros (€6,871) per annum;
- (b) **Leased site two (2)** presently allocated to the Authority For Transport Malta comprising

Land in Floriana, measuring approximately five thousand six hundred forty square meters (5640sm), bounded by all sides of Government Property, as shown bordered in red and indicated with the letter 'B' on Plan Property Drawing Number two thousand and fourteen underscore five hundred thirty one underscore five (P.D. No. 2014_531_5), hereby being attached to this Agreement and marked as **Document 'C'**. The Fee attributed for this site amounts to two thousand eight hundred twenty Euros (€2,820)per annum;

- (c) **Leased Site three (3)** presently allocated to the Cleansing Services Department comprising Land in Naxxar, measuring approximately seventy three thousand eight hundred forty two square meters (73,842sm), bounded by all sides by unknown owners, or more correct boundaries, as shown bordered in red on Plan Property Drawing Number two thousand and fourteen underscore five hundred thirty one underscore one (P.D. No. 2014_531_1), hereby being attached to this Agreement and marked as **Document 'I'**. The Fee attributed for this site amounts to thirty six thousand nine hundred twenty one Euros (€36,921) per annum;
- (d) **Leased Site four (4)** presently allocated to the Cleansing Services Department comprising land in Zurrieq, measuring approximately one hundred and one thousand five hundred sixteen square meters (101,516sm), bounded on the South by foreshore, North East and North West by property of unknown owners or more correct boundaries, as shown bordered in red on Plan annexed to this Agreement and marked as **Document 'J'**. The Fee attributed for this site amounts to fifty thousand seven hundred fifty eight Euro (€50,758) per annum;

"Permitted Use" means that the Property is used by the Grantee exclusively for the installation of an unlimited number of photovoltaic panels, including their supporting structures affixed to the ground.

"Planning Acts" means the Development Planning Act (Chapter 356 of the Laws of Malta) and the Environment Development Act Chapter five hundred and four (504) of the Laws of Malta and any subsidiary legislation issued thereunder and any subsequent legislation of a similar nature;

"Grant Fee" or "Fee" means the annual consideration of the payment by the Grantee to the Grantor attributed to each site described above under property payable yearly in advance with the first payment falling due from today. The Fee shall be increased by fifteen per cent (15%) every five (5) years.

"Term" means a twenty five (25) year grant by the grantor to the grantee of the Property commencing from today.

Construction

1. In this Agreement, unless otherwise expressly stated or the contrary intention appears:

a) words importing the masculine gender shall include the feminine gender and vice-versa and words importing the neuter gender shall include the masculine and the feminine gender;

b) The headings in this Agreement are inserted for convenience only and do not affect its construction.

c) The documents annexed to this Agreement shall be construed to form a substantial and integral part of this Agreement and any reference to this Agreement shall include a reference to the said documents.

d) any reference to any law shall be deemed to include any amendment, replacement or re-enactment thereof as may be in force from time to time and to include any subordinate legislation, rules, legal notices, orders, notices, directions, permissions made thereunder.

Recitals

Whereas:

(a) The Grantor has the right to grant the property;

(b) The Authority of Transport Malta and the Cleansing Services Department hold by Title of Lease the leased property;

(c) The Grantor has agreed to grant the property to the grantee, who wishes to grant, the property with Access in consideration of the Grant Fee and for the Term and for the Permitted Use and subject to other terms and conditions contained in this Agreement.

First Part

1. The Grant

1.1 The Government of Malta hereby grants the property subject to Access, Grant Fee and for the Term established in this Agreement with effect from today and upon the other terms and conditions set out and contained in this Agreement.

1.2 The Grantee is paying today the global sum of one hundred fifty four thousand seven hundred sixty seven Euro (€154,767) representing the global grant fee in advance attributed to each site being granted.

2. Terms and Conditions

2.1 The grantee may terminate this grant at any time during the feasibility period by simple notice in writing to the Commissioner of Land;

2.2 Upon expiry of the Term or on the date of earlier termination of this grant in terms of clause 2.1 (two point one) above, the grant shall terminate ipso jure without the need of any formality, procedure or further agreement between the Grantor and the Grantee.

3. Grant Fee

3.1 Interest at the rate of eight per cent (8%) per annum shall automatically accrue without the need of any other formality, judicial or otherwise, on the Grant Fee not paid when it falls due with effect from the due date up to the date of effective payment.

3.2 The Grant Fee is exclusive of Value Added Tax (VAT), if applicable; such tax or any other tax if any shall be at the charge of the Grantee. The Grant Fee shall be paid by the grantee without demand, deduction or set-off unless otherwise agreed to in writing by the Grantor.

4. Obligations of the Grantee

4.1 The Grantee binds and obliges itself:

(a) To install an unlimited number of photovoltaic panels.

(b) to be responsible for the general upkeep and ordinary maintenance of the photovoltaic panels, their structures and any electrictrical/water installations throughout the term, and also for their routine service.

(c) to engage a qualified engineer to certify the safety of the Structures supporting the photovoltaic panels.

(d) to comply, at its own expense, with the provisions and requirements of all European Union and Maltese law and subsidiary legislation, regulations and directives to carry out all works to the property directed or required by any local or public authority by virtue of any such law or subsidiary legislation, regulation or directive;

(e) not to do or omit or permit to be done or omitted anything on or in connection with the Property the doing or omission of which shall or might be a contravention of the Planning Acts (or of any notices, orders, licences, consents, permissions and conditions (if any) granted or imposed thereunder or under any enactment repealed thereby) and to free and relieve the Grantor from the costs of any application for planning permission in respect of the Property and the works and things done in pursuance thereof;

(e) in the event of permission from any planning authority under the Planning Acts and/or other statutory consent being required for any purpose to apply at its own expense to the Malta Environment and Planning Authority and such other authorities or bodies as may be requisite for all licences, consents and permissions which may be required;

(f) to free, relieve and indemnify the Grantor from and against liability in respect of any injury to or the death of any person, damage to the Property of whatsoever nature, any court action, the infringement, disturbance or destruction of any right, servitude or privilege or otherwise by reason of or arising directly or indirectly out of the repair, state of repair or condition of the Property and from any act, omission or default of the Grantee in the implementation and observance of its obligations contained in this Agreement;

(g) in the event of any damage being caused to the Property, directly or indirectly through any act, omission or default on the part of the Grantee, forthwith at the Grantee's own expense to restore and repair the same and further to pay and so free, relieve and indemnify the Grantor and the Authority for Transport Malta and the Cleansing Services Department where applicable of and from any liability and all loss, injury or damage which may be sustained by any third parties;

(h) to observe all the conditions mentioned in the second part of this Agreement.

(i) shall not obstruct or in any other way hinder the operation of current and future transport related and/ or ancillary operations and services in the leased property.

5. Grantor's Entitlement to Dissolve the Grant

5.1 The Grantor shall be entitled to revoke this Grant forthwith by written notice by judicial letter in any one or more of the following events:

(a) The non-payment of Grant Fee or any other sum due to the Grantor under this Grant, which remains unpaid for a period of thirty (30) days after notice in writing by judicial letter specifying the default is sent to the Grantee;

(b) Use of the Property manifestly contrary to the Permitted Use if such failure continues for a period of thirty (30) days after notice in writing by judicial letter specifying the default is sent to the Grantee. For the purposes of this paragraph, non-use for a period of five (5) years shall be deemed to be equivalent to use of the Property that is manifestly contrary to the Permitted Use.

5.2 In the events stated in clause 5.1 (five point one) of this agreement, the Grantor may revoke this Grant forthwith by judicial letter, and the Grant shall be revoked *ipso jure*, and, without limiting the Grantor in the exercise of any right or remedy which the Grantor may have at law by reason of such event, to remove the Grantee from possession of the Property, and repossess and enjoy the same as if this Grant had not been granted, and to exercise all rights and claims competent to the Grantor in terms of this Grant (including those in respect of Fee, insurance premiums and other monies due to the date of such removal and termination).

5.3 If the Grantee shall breach or fail to perform or observe any other material obligations undertaken by it in this Agreement, the Grantor shall be entitled to demand the revocation of this Grant after:

(a) a first written notice by judicial letter is sent to the Grantee specifying the breach or non-observance or non-performance and requiring the same to be remedied within such period as may be stated in the notice (being such reasonable period of time as the Grantor shall stipulate in the notice, which shall be a period of not less than thirty (30) days from the date of service of the notice); and

(b) a second written notice by judicial letter is sent to the Grantee requiring the same to be remedied within

such period as may be stated in the notice (being such reasonable period of time as the Grantor shall stipulate in the notice, which shall be a period of not less than thirty (30) days from the date of service of the notice and intimating its intention to demand the revocation of the Grant); and the Grantee shall have failed to remedy the same within either of the said periods.

5.4 The parties agree that the Grant may only be revoked, terminated or rescinded in accordance with, and on the terms of, this Agreement. Without prejudice to the right of either party to request the specific performance of their respective obligations arising under this Agreement or under law, any other ground for the revocation or termination or rescission of the Grant arising under law is hereby excluded.

6. INDEMNITY

6.1 The Grantee shall be responsible for and shall indemnify, keep indemnified and hold the Grantor (its officers, directors, employees, agents, any concessionaires and any other person), including Government departments and Government entities including the Authority for Transport in Malta and its officers, directors, employees and agents and any concessionaires or third party operators, harmless from and against all losses, damages, injuries, costs, expenses and liabilities of any kind (including legal fees and expenses) arising out of and in relation to:

- a) third party liability,
- b) loss or damage to third party property, and
- c) any other liability,

in each case arising out of any negligent acts or omissions or willful misconduct of the Grantee in relation to the Grantee's possession, operation and maintenance of, or failure to operate and maintain, the Property or any of them.

General Provisions

7. Notices

7.1 Unless otherwise expressly provided in this agreement, any notice, notification or other communication under or in connection with this Agreement shall be in writing and shall be delivered by hand or recorded delivery or sent by pre-paid first class

post to the relevant party at the relevant address for service set out below or to such other address in Malta as each party may specify by notice in writing to the other party to the Agreement:

(a) in the case of the Grantee, to the Grantee at the following address:

Chairman Enemalta Corporation,
Administration Block,
Church Wharf,
Marsa.

(b) in the case of the Grantor, to the Grantor at its registered office or such other address as the Grantor may have notified in writing:

Commissioner of Land,
Government Property Division
Auberge de Baviere,
St. Sebastain Street,
Valletta

7.2 Any such notice or other communication shall be deemed to have been served on the party to whom it is addressed as follows:

(a) If sent by hand or recorded delivery when so delivered;

(b) If sent by pre-paid first class post from and to any place within Malta, three days after posting, unless otherwise proven.

7.3 For the avoidance of doubt, it is agreed that the provisions of this clause seven *Notices* do not apply to judicial acts filed in the Courts of Malta which will be served in accordance with applicable Court procedures and service of such judicial acts shall be deemed to have been made in terms of law.

8. Severability

If any part, clause or provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of law or other tribunal finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

9. Applicable Law

This Agreement shall be read, governed by and construed according to the Laws of Malta.

10. Resolution of Disputes

Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, revocation, termination or invalidity thereof, shall be subject to the jurisdiction of the Maltese Courts.

11. Compliance with Law

The Grantee shall, at its sole cost and expense, comply with all legislation, rules, regulations, and administrative orders applicable to Malta, whether made by the Government of Malta, or otherwise, now in force, or which may hereafter be in force, applicable to the Property, and shall faithfully observe all conditions included in all licences, permits and authorisations issued to the Grantee or for the Property, now in force or which may hereafter be in force. In particular but without prejudice to the generality of the foregoing the Grantee shall obtain and comply with all licenses and permits necessary for the use of the Property in accordance with the Permitted Use.

12. Environmental Obligations

The Grantee expressly recognizes its duty to observe to the highest standards all applicable laws relating to the preservation and protection of the environment including those aimed at the prevention of pollution.

13. Insurance

13.1 At all times for the duration of this Grant, the Grantee shall keep in full force and effect, at its sole expense, a policy of public insurance which shall cover all the grantees obligations and liabilities under clause six (6) including but not limitedly to the property and the business of the Grantee operated therefrom, issued by companies authorized to do business in Malta and approved by the Grantor, which approval shall not be unreasonably withheld or delayed, to adequately cover for injury or death to any one person and for damage to property.

13.2 The Grantee shall furnish to the Grantor within ten (10) days from when works begin to be carried out and thereafter when reasonably required certificates or other evidence satisfactory to Grantor of the Grantee's

Insurance Policy. Each certificate shall state that the Grantor shall be entitled to at least thirty (30) days prior written notice of any cancellation, material change, or non-renewal.

14. Surrender of the property

14.1 On expiry of the term or on the revocation or rescission of this Grant for any reason whatsoever and by whoever, the Grantee shall surrender the Property to the Grantor and or the lessees where applicable, free and unencumbered, and unless the Grantor and the Grantee agree otherwise, the Grantee shall be obliged to dismantle and remove from the Property all Photovoltaic panels, structures and improvements at its sole risk and expense.

Provided that the Grantee shall have six (6) months from date of expiry or earlier termination of the Grant to dismantle and remove the photovoltaic panels structures and improvements from the Property; and provided further that such obligation shall be subject to the obligation of the Grantor to grant unfettered access to the Grantee to carry out the dismantling and removal of works.

15. Utilities

15.1 The Grantee shall have the right to apply for and procure in its name and its sole cost the installation of water and electricity meters on sites that are close to the property. Provided that the Grantee obtains the necessary approval from the Grantor before so applying to determine the best location for the water and/or electricity meters to be installed.

15.2 The Grantee shall be exclusively responsible for payment of all water and electricity bills as per metered usage from date when water and/or electricity meters are functional till the date of expiry or earlier termination of the Grant.

15.3 On expiry or earlier termination of the Grant the Parties shall procure that the registration of any water and/or electricity meters installed on any site of the property shall at the Grantee's option, be transferred to Grantor or otherwise removed, in each case at the cost of the Grantee.

16. Force Majeure

16.1 Neither Party shall be liable for delay in performing or failure to perform obligations if the delay or failure

results from Force Majeure. Such delay and/or failure resulting from Force Majeure shall not constitute a breach of this Agreement and the time for performance of the concerned obligation shall be extended by a period equivalent to that during which performance has been prevented by Force Majeure.

17. Costs and Expenses

17.1 Notarial fees and expenses payable upon publication of this Agreement shall be paid by the Grantee and each Party shall be responsible for the payment of the fees of its own advisors.

18. Assignment of Operations

The Grantee with the consent of the grantor may in accordance with any law in force at the relevant time assign his rights and obligations under this Agreement to third parties provided that the Grantee remains responsible in solidum for five (5) years from the assignment to guarantee the fulfilment of all obligations arising from this grant.

19. Construction Management Plan

Prior to the commencement of the erection or any maintenance, the parties agree to enter into a construction management plan.

The Second Part

James Piscopo, Chairman and Chief Executive Officer, Authority for Transport Malta, son of Mario and Giovanna nee Gambin, born in Pieta on the eleventh (11th) May one thousand nine hundred seventy eight (1978), and residing in Marsascala, holder of identity card number 225578M, together with Christopher Cachia, Architect and Deputy Chairman Authority For Transport Malta, son of Joseph and Mary nee` Bonello, born in Attard on the fourth (4th) April of the year one thousand nine hundred and sixty seven (1967), and residing in Zejtun, holder of identity card number 156867M who appear on this Agreement in the name and on behalf of the **Authority for Transport in Malta**, a body corporate established by virtue of the Authority for Transport in Malta Act, Chapter four hundred and ninety nine (499) of the Laws of Malta, having its principal business address at Transport Malta Centre, Marsa, MRS 1917, as duly authorised by virtue of a resolution of the Board of Directors of the Authority for Transport in Malta annexed to deed in records of Notary Doctor Keith Francis German dated twenty fifth

(25) day of August of the year two thousand and fourteen (2014) in Deed Number eight (8), hereinafter referred to as the "**Authority**".

Whereas the Authority, who is presently holding by title of lease the leased sites, acknowledges and accepts the grant and access created between the Grantor and the Grantee in the first part of this Agreement under the following conditions where applicable:

- (a) The grantee shall obtain clearance from the Authority before erecting the structure for the installation of the photovoltaic panels.
- (b) The grant in the first part of this Agreement shall not obstruct or alter in any way, any of the services provided by the Authority and its concessionaires and or public transport operators included but not limited to all car parking spaces, all bus wash facilities and fuel depots;
- (c) The Authority reserves the right to use at its discretion part of the leased sites as a depot and the other part for parking facilities.
- (d) Any and all structures erected for the purposes of supporting the Photovoltaic Panels during the operation of this grant shall not prejudice the movement of the buses throughout the Leased Property.
- (e) The Authority shall at all times retain full access rights to the leased property. Concessionaires, special designated officials, including bus operators, shall always have the right to access for the purposes of carrying out their functions, to the leased property and in no instance shall the maneuverability of the buses and other vehicles be restricted in and out of the leased property, and within the leased property itself.
- (f) The maneuverability of the buses and vehicles in and out of the leased sites, and within the leased sites cannot be compromised at all costs since most of the leased sites are used as depot facilities for the bus operators to park buses there overnight;
- (g) The Leased sites are to retain parking availability for vehicles and all the services mentioned above including bus wash facility and fuel depots.
- (h) The height of the structures supporting the Photovoltaic Panels should accommodate the height of the buses and due consideration shall be

taken to account for future electric buses that will have a pantograph on the roof of such buses.

The Third Part

Joseph Callus, Permanent Secretary, son of Daniel and Maryanne nee` Theuma, born in Pieta on the thirteenth (13th) April nineteen hundred and fifty nine (1959) and residing in Kalkara, holder of identity card number 292659M, who appears on behalf of the **Cleansing Services Department**.

For all intents and purposes the Cleansing Department, who is presently holding by title of lease the leased sites three (3) and four (4), acknowledges and accepts the grant and access created between the Grantor and the Grantee in the first part of this Agreement.

This Agreement has been signed today between the concerned parties before me Notary Doctor Keith German, done at Auberge de Baviere, Saint Sebastian Street Valletta.

SIGNED:

DR. JOSEPH BUGEJA;
FREDRICK AZZOPARDI;
JAMES PISCOPO;
CHRISTOPHER CACHIA;
JOSEPH CALLUS

DR. KEITH FRANCIS GERMAN
WITNESS TO SIGNATURES



Site Plan S.S. 5270 Scale 1:2500 Map Ref. 53485 70831

PROPERTY No.: E264759
 AREA : 6660m²

**GOVERNMENT PROPERTY DEPARTMENT
 ESTATE MANAGEMENT DIRECTORATE**

LOCALITY: MARSALA

P.D. No: 2014_531_3 SCALE 1:1000

FILE: L241/2014 DRAWN BY: GAUCN003

(sgd. S. Scotto) (sgd. C. Camilleri)

A&CE Director Estate Management
 DATE: 20/08/2014

