

**RIZOLUZZJONI DWAR RENUNZJA TA' PARTI MILL-ENFITEWSI TEMPORANJU, KONĊENZJONI B'ENFITEWSI TEMPORANJU TA' ART TAL-GVERN FIL-KONFINI TA' SMARTCITY U VARJAZZJONI TAL-KUNTRATT FL-ATTI TAN-NUTAR TANIA SPITERI DATAT 11 TA' MARZU 2016**

**IL-MINISTRU GHALL-EKONOMIJA FONDI EWROPEJ U ARTIJIET** Jipproponi illi l-Kamra tad-Deputati tapprova din ir-Rizoluzzjoni:-

Illi permezz ta' kuntratt fl-Atti tan-Nutar Tania Spiteri datat il-ħdax (11) ta' Marzu 2016 (l-att oriġinali), ġew konċiżi b'titolu ta' enfitewsi temporanju għal 99 sena, siti f'Bormla tal-kejl komplessivament ta' madwar erbgħa t'elef mija u ħdax-il metru kwadru (4,111m<sup>2</sup>) kif ukoll siti fl-inħawi hekk imsejha taż-Żonqor, f'Wied il-Għajn tal-kejl ta' madwar wieħed u erbgħin elf metru kwadru (41,000 m<sup>2</sup>) lil Sadeen Education Investment Limited hawn imsejha (AUM) bil-pattijiet u kundizzjonijiet li hemm fl'att.

L-għan tal-konċessjoni kien sabiex b'investiment barrani, stmat f'dak iż-żmien għal-mija u erbgħa miljun ewro (€104 miljun) jiġi stabbilit istituzzjoni edukattiva akkreditata, msejha – American University of Malta. Hu stmat ukoll illi meta tkun qed tiffunzjona b'mod sħiħ l-istituzzjoni, jkunu ġew maħluqa mat-tlett mitt (300) impjeg illi fil-maġġoranza tagħhom ikunu '*high end employment*'.

Illi ix-xogħol f'partijiet mis-siti f'Bormla sabiex jservu bħala kampus għall-fakultajiet tal-Inġinerija, Arti u Kummerċ/Negożju nbeda immedjatament wara l-għotja enfitewtika.

Illi bir-restawr tal-binjiet li kienu prinċiparjament użati bħala mħażen tat-Tarzna għal-għexieren ta' snin fid-Dock 1 area ta' Bormla u li tali restawr sar b'investiment ta' madwar ħamsin miljun ewro (€50 miljun) fil-proġett tal-AUM, ingħata nifs u ħajja ġdida lil dawg l-inħawi, nifs li tant kien meħtieġ lil dik il-parti tan-nofsinar ta' Malta. Ma hemm ebda dubju li x-xogħol li sar mill-AUM fil-Kottonera kien ta' benefiċċju għall-poplu tat-tlett ibliet u tal-madwar.

Illi l-permessi mill-awtoritajiet kompetenti biex jitkomplew il-proġetti oriġinarjament maħsuba mill-AUM u li għandhom jikkumplimentaw il-

kampus ta' Bormla, għadhom pendenti, u il-proġett u x-xogħol ta' riġenerazzjoni ta' dawk l-inhawi kellhom jieqfu kważi hesrem.

Illi riċentament, anke minhabba l-effetti tal-pandemija COVID 19 u r-restrizzjonijiet relatati, speċjalment fl-ivvjagġar kienet anke affettwata sew is-sistema edukattiva globali in ġenerali, u l-istituzzjoni ġiet ristretta illi tirriorganizza f'diversi aspetti fosthom l-iżvilupp tal-proġett kif kien maħsub.

Illi l-Gvern, f'konformita' mal-mandat li ingħata, huwa impenjat li jipprioritizza dejjem aktar favur kwalita' ta' haġja aħjar għall-Maltin mhux lanqas bit-tgawdija ta' iktar spazji pubbliċi mifutha u ħodor . Fuq quddiem nett il-gvern għandu l-impenn li l-art fiż-Żonqor tibqa' zona barra mill-iżvilupp u fil-Kottonera, proprju bejn Bormla u l-Isla, jinvesti fi spazju miftuħ ġdid.

Illi nonstante id-diffikultajiet kollha, l-AUM temmen fil-proġett tagħha u hija impenjata li twettaqhom, speċjalment dawk fejn għandhom x'jaqsmu l-iżvilup u r-riċerka moderna.

Illi biex jitkompla l-proċess, il-partijiet għarfu u huma konsapevoli li wħud mis-siti enfitewtiċi fil-konċessjoni tal-AUM huma ambjament, storikament u kulturalment sensitivi.

Illi għaldaqstant, bħala rimedju biex jitkompla l-investment pattwit, huwa propost fuq aċċettazzjoni tal-partijiet illi l-AUM tirrinunzja għal-enfitewsi temporanju ta' dak is-sit aktar magħruf bħala 'Saint Paul's Car Park' u s-sotterran tat-triq biswit l-istess 'Saint Paul's Car Park' li t-tnejn li huma jinsabu inti u diehel l-Isla, kif aħjar murija fil-pjanta hawn annessa Dok A: Annex A kif ukoll għat-tlett porzjonijiet t'art li jinsabu fl-inhawi taż-Żonqor, Wied il-Għajn kif aħjar murija fil-pjanta hawn annessa Dok B: Annex B. Dawn is-siti, ta' Bormla u ta' Wied il-Għajn flimkien għandhom kejl komplessiv ta' madwar hamsa u erbgħin elf, sitt mija u sitta u sittin metro kwadru (45,666 m<sup>2</sup>).

Illi l-partijiet jipproponu li tali renunzja tkun soġġetta inter alia għall-kundizzjonijiet segwenti:-

Il-Gvern ta' Malta jsebbah (*embellish*) is-sit rinunzjat int u diehel l-Isla, cioe, Saint Paul's Car Park.

Peress li l-AUM, bir-renunzja tal-art imsemmija f'Bormla, tkun qed tnaqqas madwar 220 parkeġġ proġettat f'Bormla, il-Gvern jipprovdi 10 parkeġġi fil-vicinanza tal-istess inħawi.

L-AUM tiġi kompensata għall-ispejjes relattivi li saru fejn jirrigwardja is-siti rinunzjati bħal spejjeż ta' periti, applikazzjonijiet mal-Awtorita tal-Ippjanar u spejjeż oħra kwantifikabbli.

Illi l-obbligi ta' investiment u ħolqien ta' xogħol imponuti bil-kuntratt originali fl'Atti tan-Nutar Tania Spiteri datat il-ħdax (11) ta' Marzu 2016 iridu jibqgħu jiġu onorati.

Għaldaqstant, peress li l-art tal-Gvern fil-konfini ta' SmartCity, Xgħajra, tal-kejl ta' madwar wieħed u tletin elf, sitt mija u tmienja u ħamsin metru kwadru (31,658 m<sup>2</sup>) immarkata M2 kif aħjar murija fil-pjanta hawn annessa Dok C: Annex C, msejha '*SCM Site*' hija maħsuba mill-partijiet bħala sit idejali biex jiġu trasferita lil-AUM, sew biex din tkun tista tonora l-obbligi rimanenti ta' investiment u ħolqien ta' xogħol naxxenti mill-atti originali fl'Atti tan-Nutar Tania Spiteri datat il-ħdax (11) ta' Marzu 2016 u sew biex il-proġett ta' SmartCity jingħata spinta importanti b'injezzjoni ta' investiment ġdid.

U illi flimkien ma' l-art hawn fuq deskritta li tinsab immarkata M2 f'Dok C: Annex C, hu propost li l-ħames imħazen li jokkupaw ir-'*Retaining Arches*' ta' taħt Triq il-Wiehed u Tletin ta' Marzu 1979 f'Bormla, murija fil-pjanta hawn annessa Dok D: Annex D, liema mħazen huma aċċessibbli biss mill-art diġa konċiża lill-AUM fil-kuntratt originali fl'Atti tan-Nutar Tania Spiteri datat il-ħdax (11) ta' Marzu 2016.

Illi l-enfitewsi temporanju tad-'*SCM Site*' hu propost li jkun ta' disgħa u disgħin sena (99 sena) illi bdew ukoll jiddekorru mill-ħdax ta' Marzu 2016 biċ-ċens imponut jkun ekwivalenti għal dak li kien jinkorri fuq l-art renunzjata taż-*Zonqor*, f'Wied il-Għajn, skond il-kuntratt originali fl'Atti tan-Nutar Tania Spiteri datat il-ħdax (11) ta' Marzu 2016.

Illi iċ-ċens originarjament gravanti lill-artijiet rinunzjati, bis-sostituzzjoni taċ-ċens gravanti lil-*SCM site* u tal-ħames Imħazen murija fil-pjanta hawn annessa Dok D: Annex D, flimkien huwa ekwivalenti.

U peress li l-*SCM site* u li l-ħames Imħazen jiġu konsidrati parti mis-sit emfitewtiku riżultanti, għaldaqstant iċ-ċens riżultanti jibqa dak imponut fl'Atti tan-Nutar Tania Spiteri datat il-ħdax (11) ta' Marzu 2016, mingħajr ebda tibdil.

Illi għalkemm kif spjegat il-konċessjoni enfitewtika tkun waħda indipendenti mill-konċessjoni enfitewtika ta' SmartCity, hu propost illi kundizzjoni integrali tkun illi l-enfitewta huwa obligat li josserva xi kundizzjonijiet imposti fil-konċessjoni enfitewtika ta' SmartCity kif aħjar deskritti fl'abbozz ta' kuntratt hawn anness Dok E.

Illi l-abbozz ta' kuntratt enfitewtiku hawn anness Dok E jipprovdi ukoll il-parametri sabiex, skont il-konċessjoni enfitewtika ta' SmartCity fl'Atti tan-Nutar Vincent Miceli datat 22 ta' April 2007, enfitewsi temporanja eliġibbli tkun tista' tiġi konvertita f'enfitewsi perpetwa li sussegwentament iċ-ċens riżultanti jista' jiġi mifdi skont il-kundizzjonijiet fl'abbozz tal-kuntratt hawn anness Dok E.

Illi l-abbozz Dok E jistipula ukoll il-parametri tal-gholi tal-bini permissibbli li jistgħu jinbnew u l-parametri tal-Gross Floor Area massimu (max GFA), dejjem bl'approvazzjoni u l-permessi approvati mill-awtoritajiet kompetenti.

Illi jiġi propost li dan it-trasferiment jkun soġġett għall-pattijiet u kundizzjonijiet addizzjonali, inter alia fosthom li l-iżvilup fuq l-'SCM Site' fil-konfini ta' SmartCity għandu jiġi żvilupat f'żewġ fażijiet, sugġetti għal 'time lines' tal-proċessi relatati ma' permessi jew/u żvilupp tal-proġett u f'dawk iċ-ċirkostanzi fejn jkun hemm '*events of default*', sew minn naħa tal-enfitewta u sew minn naħa tal-Gvern, ir-rimedji odjerni huma dawk deskritti fl'abbozz tal-kuntratt hawn anness Dok D.

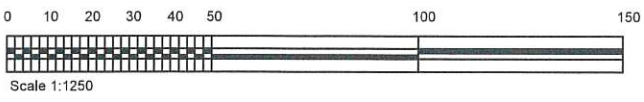
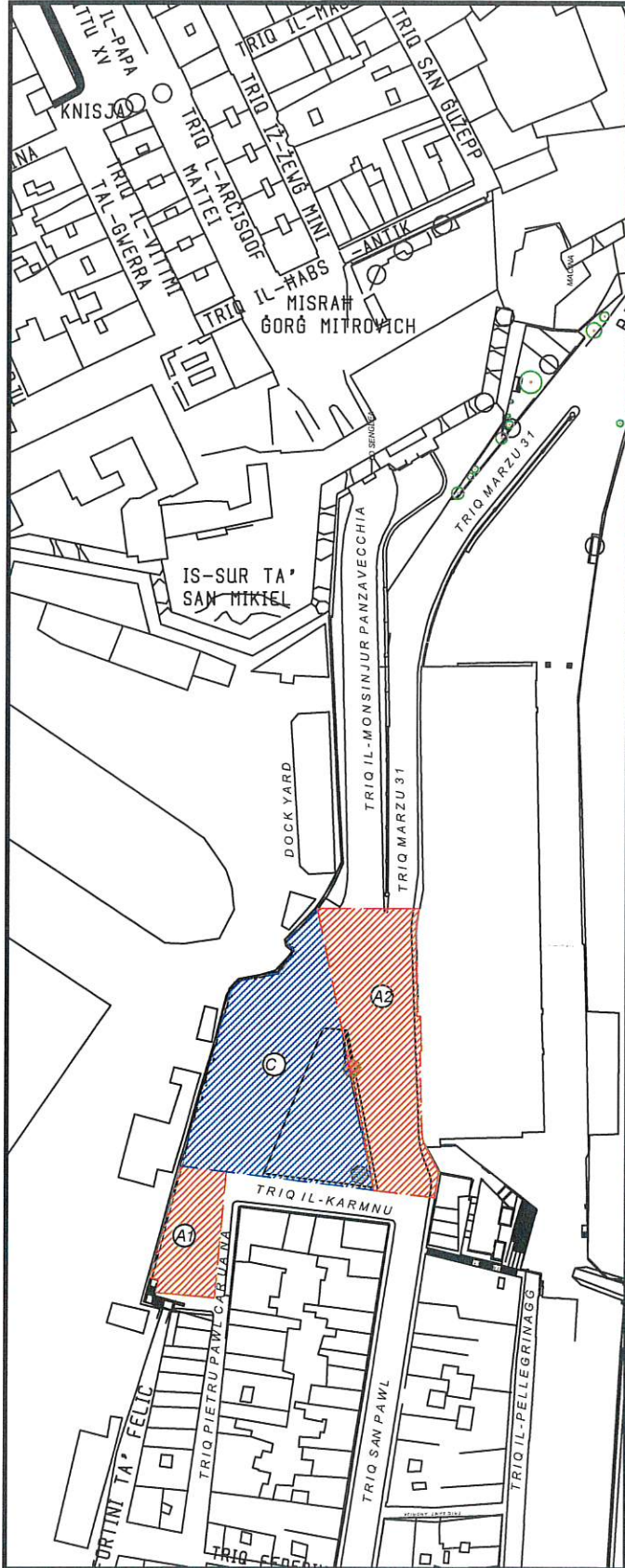
Billi fit-tranzazzjonijiet proposti mhux se jkun hemm ebda qliegħ kapitali, hu propost li l-Ministeru għall-Finanzi u x-Xogħol japprova eżenzjoni mill-ħlas ta' taxxa kapitali.

Billi d-definizzjoni ta' trasferiment fl'Att dwar Artijiet tal-Gvern (Kapitolu 573) tinkludi ukoll kull tibdil ta' xi kundizzjoni.

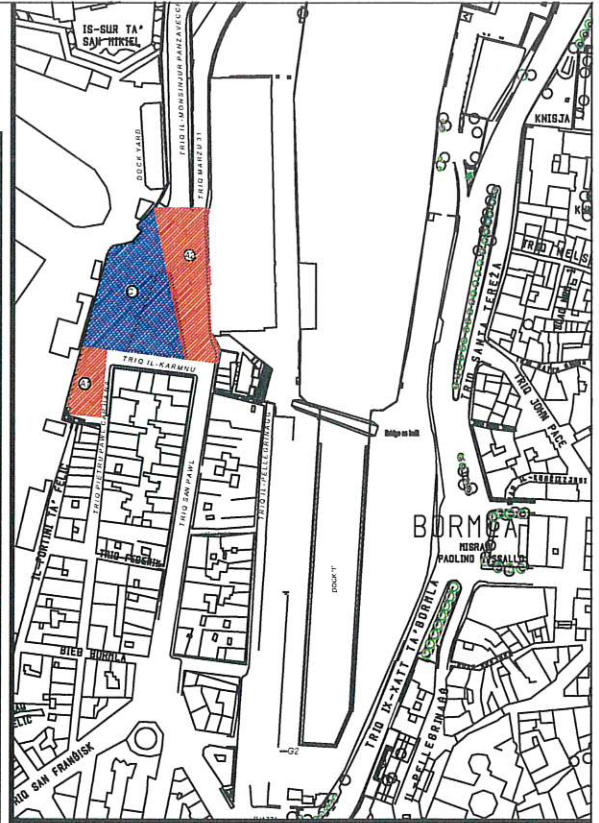
Għaldaqstant huwa propost li l-enfitewsi temporanju fuq l-art li tinsab fil-pjanti hawn annessi bħala Dok A: Annex A u Dok B: Annex B jigu rinunzjati minn Sadeen Education Investment Limited u li l-art fix-Xgħajra immarkata M2 f'Dok C: Annex C u l-Ħames imħażen taħt Triq il-wieħed u tletin ta' Marzu 1979 f'Bormla kif jinsabu murija f'Dok D: Annex D hawn anness jkunu konċiżi b'enfitewsi temporanju lil-istess Sadeen Education Investment Limited skond il-kundizzjonijiet u pattijiet imsemmija fl'abbozz ta' kuntratt hawn anness Dok D.

# Dok A: Annex A - Artijiet Rinunzjati f'Bormla

Scale 1:1250



Scale 1:1250



Site Plan  
S.S. 5671

Scale 1:2500  
Map Ref.: 56632  
71468

Sites being dismembered from Property No.: E268795

- A1** Area : 492m<sup>2</sup>
- C** Area : 2,129m<sup>2</sup>
- A2** Area : 1,490m<sup>2</sup>



Auberge de Baviere  
St. Sebastian Str, Valletta  
Phone (00356) 2295 3238/39/40/42  
Website landsauthority.org.mt

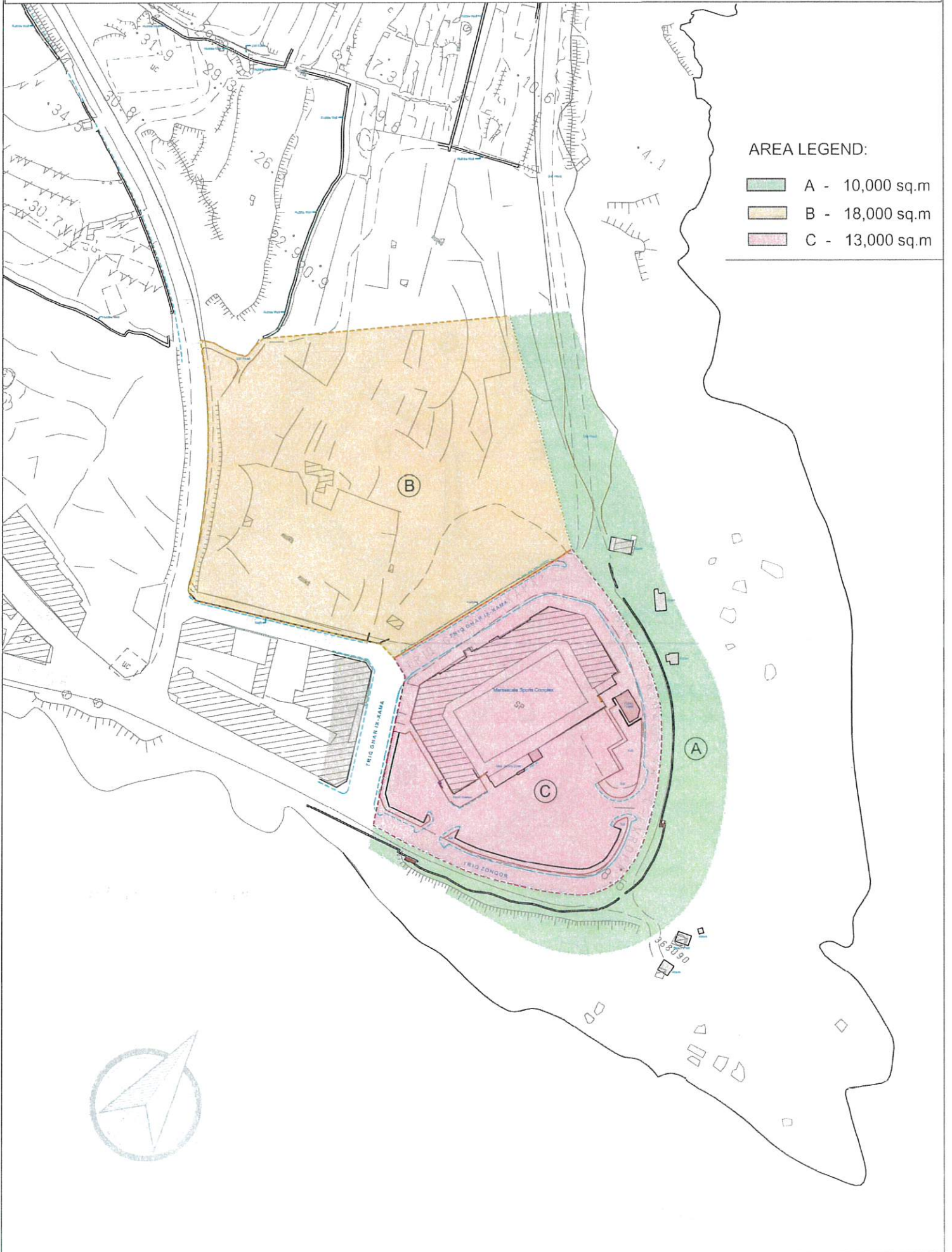
**Estate Management & Business Development**

Locality: Bormla, Isla	
P.D. No.: 2015_1011_A_1_B	Scale : 1 : 1250
File No.: L 246/2015	Drawn by : demir001

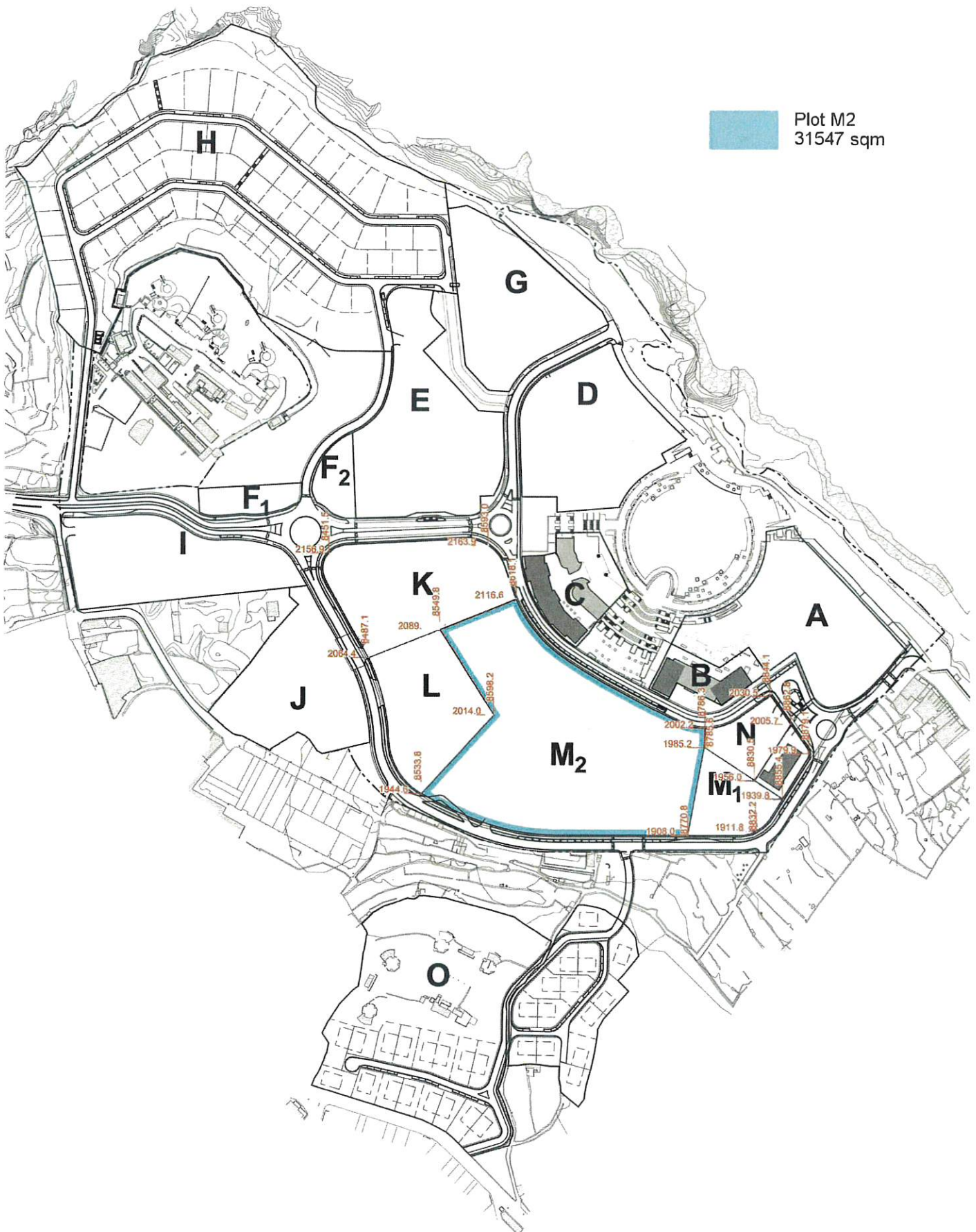
A&CE  
sgd (S. Scotto)

Date : 4 th March 2022

# Dok B: Annex B - Artijiet Rinunzjati f'Wied il-Ghajn, Zonqor

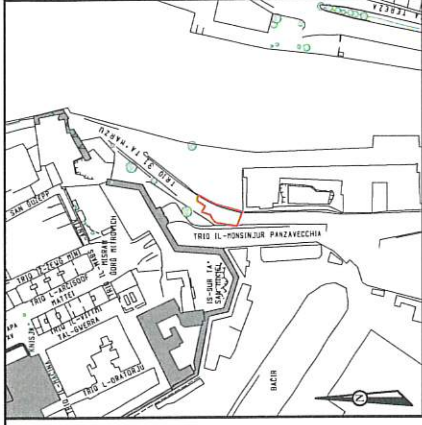
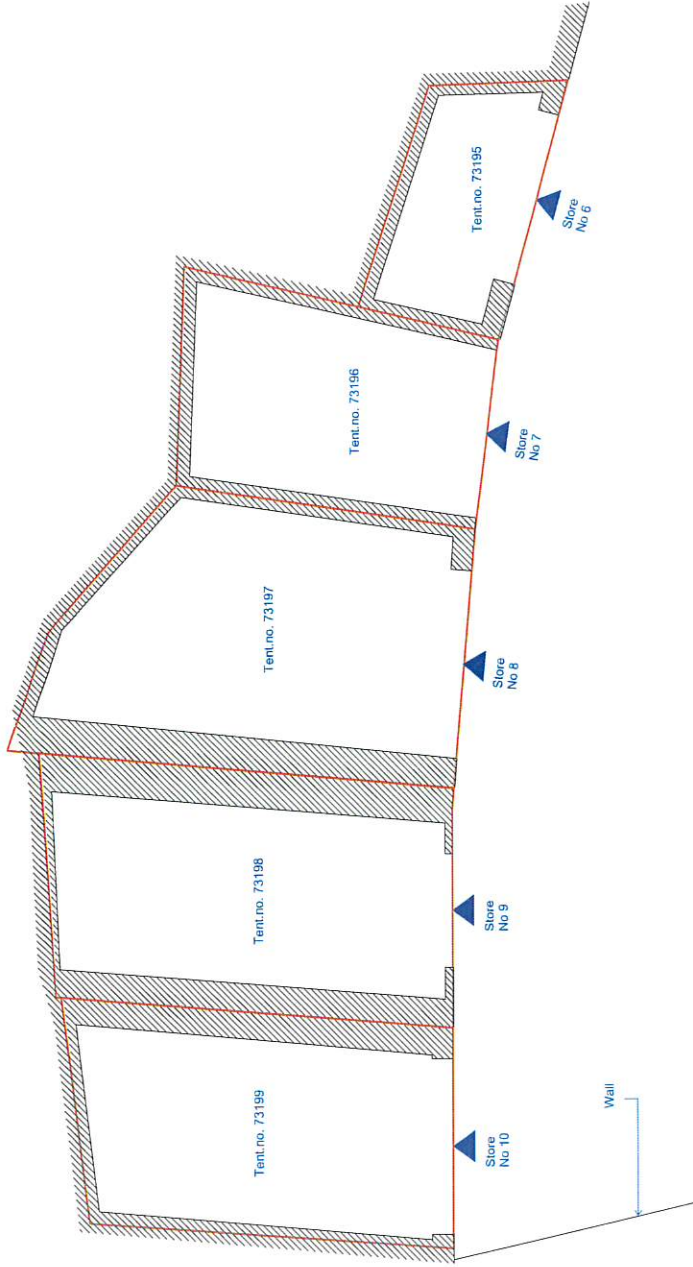


# Dok C: Annex C - Art fi SmartCity



# Dok D: Annex D - Hames Imħazen f'Bormla

Triq 31 ta' Marzu

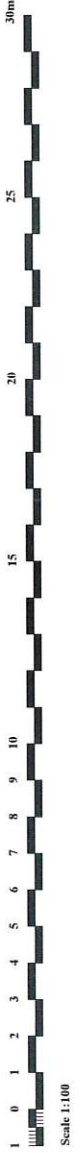


Site Plan  
S.S. 5671

Scale 1:2500  
Map Ref. 56678  
71434

- Tent.No 73195 Store No 6  
File No L130/80/6  
Net floor area: 21m<sup>2</sup>
- Tent.No 73196 Store No 7  
File No L130/80/7  
Net floor area: 41m<sup>2</sup>
- Tent.No 73197 Store No 8  
File No L130/80/8  
Net floor area: 64m<sup>2</sup>
- Tent.No 73198 Store No 9  
File No L130/80/9  
Net floor area: 53m<sup>2</sup>
- Tent.No 73199 Store No 10  
File No L130/80/10  
Net floor area: 51m<sup>2</sup>

LANDS AUTHORITY - ESTATE MANAGEMENT AND BUSINESS DEVELOPMENT DIRECTORATE	
LOCALITY: ISLA	
P.D. 2006_943_A	SCALE 1:100
FILE: L130/80	DRAWN BY: demir001
(sgn. J. Schembri)	CHECKED BY: (sgn. R. Demicoli)
AK/CE	// Director Estate Management
DATE: 17/06/2022	DATE: 17/06/2022





Number:

**Partial  
Renunciation to  
Temporary  
Dominium Utile**

Before me, Doctor , a Notary Public of Malta, duly admitted and sworn, there personally appeared after having been identified by virtue of the official documents mentioned hereunder: -

**Temporary  
Emphyteusis**

Of the one part:

who appears on this deed in his capacity Chief Executive Officer of the Lands Authority in the name and on behalf of the **Government of Malta** as duly authorized by means of Government Notice number and in accordance with The Public Administration Act, Chapter four hundred and ninety seven (Chapter 497) of the Laws of Malta, in this deed the Government of Malta, as represented by the Commissioner of Land is referred to as the "**Government**".

**Amendments to  
Deed**

Enrolled on:

Enr.

I.

Of the other part:

who appears on this deed for, on behalf and in representation of the limited liability company **Sadeen Education Investment Limited**, a company bearing registration number 'C' six five five seven six (C 65576), having its registered office at No. 1 , Triq Dom Mintoff, Cospicua, BML 1013 , as duly authorised by virtue of the Memorandum and Articles of Association of the same said company and also as duly authorised by virtue of a board resolution of the board of Directors of Sadeen Education Investment Limited herewith attached and marked as Document 'A' , hereinafter in the said capacity referred to as the "**Emphyteuta**" on this deed.

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## Recitals

**WHEREAS** the Government has been working towards establishing Malta as an educational hub and continues to invest significantly in the education sector and towards attracting foreign investment to this sector;

**WHEREAS** by virtue of a deed of temporary emphyteusis in the records of Notary Doctor Tania Spiteri of the eleventh (11<sup>th</sup>) day of March of the year two thousand and sixteen (2016) (hereinafter referred to as 'the Original Deed'), the Government granted to the Emphyteuta, by title of temporary emphyteusis the Designated Land (as defined therein) for the development of the Project (as defined hereunder) on the terms and subject to the conditions as set forth in the Original Deed;

**WHEREAS** the Emphyteuta is licensed by the Malta Further & Higher Education Authority to operate a university and has established and operates the American University of Malta;

**WHEREAS** it is acknowledged that the Project requires a significant capital outlay which is expected to run into circa one hundred and four million Euro (€ 104,000,000);

**WHEREAS** throughout these years the founder of the 'American University of Malta' has continued to invest substantially into the Project, with his investment already reaching circa fifty million Euro (€50,000,000);

**WHEREAS** the Government appreciates and acknowledges that parts of the Designated Land (as defined in the Original Deed) which has been granted to the Emphyteuta pursuant to the said Original Deed, are environmentally sensitive and has requested the Emphyteuta, and the Emphyteuta has agreed, to renounce the temporary dominium utile over the Renounced Land (as defined hereunder) on the terms and subject to the conditions as outlined herein;

**WHEREAS** in line with its commitment to invest further in the Southern region of Malta, it is the Government's intention to identify another site to replace the Renounced Land also situated in the Southern part of Malta;

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**WHEREAS** by virtue of public deed in the records of <<to insert details of notary publishing deed which will see the GoM taking over the land from SCM>> dated the <<insert date of publishing of the said deed>> the Government has taken back a portion of the land that it granted to SmartCity (Malta) Limited(C41194) by virtue of public deed in the records of Notary Dr Vincent Miceli dated the 22<sup>nd</sup> April 2007 and has earmarked such site within the confines of SmartCity as appropriate for the development of the components in the Project as defined in this deed.

**WHEREAS** the Emphyteuta has agreed to renounce the temporary dominium utile over the Renounced Land and whereas the Emphyteuta is being granted title over the New Designated Land (as defined hereunder) on the terms and subject to the conditions outlined herein, and this subject to the fulfilment of, and adherence to, all legal requirements in terms of the Laws of Malta;

**WHEREAS** the Parties agree that the Original Deed shall be amended as is reflected in this deed and that the terms of the Original Deed shall continue to apply to the extent that they are not varied or amended by virtue of this deed.

Now, therefore, the Parties have appeared on this deed in execution of the Project for the reasons above mentioned.

## **1. DEFINITIONS**

The Parties agree that the definitions found in the Original Deed shall continue to apply to the Original Deed and shall also apply to this deed, unless it is otherwise expressly stated in this deed or the contrary intention appears. The Parties further agree that, as from the New Commencement Date (as defined hereunder), the definitions found in this deed shall, where applicable, replace *in toto* the relative definition found in the Original Deed and such definitions shall, unless expressly stated otherwise herein, be applicable to the Original Deed and also to this deed. In addition to any other definitions made elsewhere in this deed and the Original Deed the following terms shall have the meaning attributed to them hereunder:

**"American University"** means any individual or body corporate operating as a university, college, academy or other educational institution, in collaboration with or independently from another university, college, academy or other educational institution, providing further education or higher education services consisting of full-time and/or part-time taught, research or vocationally-oriented courses, which can be accredited or based on programmes accredited by United States national and/or regional accrediting organisations under United States standards or otherwise.

**"Approved Master Plan"** means the series of plans, maps, drawings and associated development schedules supported by a written statement, as may be amended and updated from time to time, as represented in the master plan and accepted by the Government and approved by the relative competent authorities, which determines the land uses and structures to be built within SmartCity, the general layout of the various components, the maximum heights and subterranean levels of the structures to be built within SmartCity.

**"Bormla Site"** shall collectively incorporate within its boundaries the divided areas consisting of: -

- the **"Boat Yard"** in Triq il-Wiehed u Tletin (31) ta' Marzu, Bormla, occupying a superficial area of approximately one thousand four hundred and sixty square metres (1,460m<sup>2</sup>) bounded on the North-West by the aforementioned street, on the South in part by the Knights Building better described hereunder and in part by the Curtilage better described hereunder and on the East by Zone B better described hereunder, or truer and/or more accurate boundaries, as shown bordered in yellow and marked with the letter 'E' on the plan attached to this deed marked as Annex "X1";
- the **"British Building"** in Triq ix-Xatt ta' Bormla, Bormla, occupying a superficial area of approximately one thousand seven hundred and ninety six square metres (1,796m<sup>2</sup>) bounded on the West by the aforementioned street, on the South in part by the Gateway Building better described hereunder and in part by the Curtilage better

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described hereunder and on the East by the Curtilage better described hereunder, or truer and/or more accurate boundaries, as shown bordered in orange and marked as 'G1' on the plan attached to this deed marked as Annex "X1";

- the "**Curtilage**" collectively consisting of two (2) separate curtilages, the first one facilitating the Knights Building better described hereunder, bounded on the West by the said Knights Building, on the East by Zone B better described hereunder and on the North by the Boat Yard better described above, or truer and/or more accurate boundaries, occupying a superficial area of four hundred and sixty three square metres (463m<sup>2</sup>), shown bordered in blue and hatched in black and marked as 'F2' on the plan attached to this deed, marked as Annex "X1"; and the second one facilitating the British Building better described above, bounded on the West in part by the said British Building, in part by the Gateway Building better described hereunder, and in part by Triq ix-Xatt ta' Bormla, on the North by Zone B and on the East by Zone B better described hereunder, or truer and/or more accurate boundaries, occupying a superficial area of six hundred and twenty four square metres (624m<sup>2</sup>), shown hatched in orange and marked as 'G2' on the plan attached to this deed, marked as Annex "X1";
- the "**Gateway Building**" in Triq ix-Xatt ta' Bormla, Bormla, occupying a superficial area of approximately two hundred and sixty four square metres (264m<sup>2</sup>), bounded on the West by the said street, on the North by the British Building better described above and on the East by the Curtilage, or truer and/or more accurate boundaries, as shown bordered in cyan and marked with the letter 'H' on the plan attached to this deed, marked as Annex "X1";
- the "**Stores within the Boat Yard**" shall refer to five (5) stores at ground floor level, adjacent to each other, unofficially numbered six (6) to ten (10), bounded from the East with the Boat Yard, from the West with Triq il-Wiehed u Tletin (31) ta' Marzu and from the South with the Knights Building or more precise boundaries, shown marked "Store No 6", "Store No 7", "Store No 8", "Store No 9" and

"Store No 10" on the plan attached to this deed and marked Annex "X3", which collectively incorporates within its boundaries five (5) divided areas consisting of:- the store unofficially numbered six (6) measures approximately twenty-one square metres (21sqm), the store unofficially numbered seven (7) measures approximately forty-one square metres (41sqm), the store unofficially numbered eight (8) measures approximately fifty-four square metres (54sqm), the store unofficially numbered nine (9)) measures approximately fifty-three square metres (53sqm) and the store unofficially numbered ten (10) measures approximately fifty-one square metres (51sqm), excluding the airspace above the stores;

- the "**Knights Building**" having its facade on the Curtilage marked F2 above described, occupying a superficial area of approximately three thousand eight hundred and fifty three square metres (3,853m<sup>2</sup>) bounded on the North by the Boat Yard better described above, on the West in part by Triq il-Wiehed u Tletin (31) ta' Marzu and in part by the sub-terrain of the said Triq il-Wiehed u Tletin (31) ta' Marzu and on the East by the Curtilage better described above, or truer and/or more accurate boundaries, as shown hatched in blue and marked as 'F1' on the plan attached to this deed, marked as Annex "X1";
- the "**Area Underneath the Road**" means the area beneath the surface of a part of a public roads (that is, Triq il-31 (wiehed u tletin) ta' Marzu) between the Knights Building and Triq il-Monsinjur Panzavecchia occupying a superficial area of approximately five hundred and fifty five square metres (555m<sup>2</sup>), bounded on the East by the Knights Building, on the West by the underlying sub-terrain of Triq il-Monsinjur Panzavecchia, and on the North by the underlying sub-terrain of Triq il-Wiehed u Tletin (31) ta' Marzu, or truer and/or more accurate boundaries, as shown bordered in red and marked as "A1" on the plan attached to this deed, marked as Annex "X1". For the sake of clarity and the avoidance of any doubt it is understood that the Grant does not incorporate any rights over the public roads above referred and shall only be limited to the subsoil rights, without prejudice to any subsoil rights, whether

belonging to third parties or to the Government;

- the "**Staircase Area**" abutting and accessible from Zone B better described hereunder, occupying a superficial area of approximately two hundred and eight square metres (208m<sup>2</sup>), bounded on the North and the East by Zone B better described hereunder and on the South by Triq it-Tarzna, or truer and/or more accurate boundaries, as shown bordered in pink and marked with the letter 'D' on the plans attached to this deed, marked as Annex "X1";

"**Boulevard**" means the divided portion of the Smart City Development measuring circa four thousand five hundred and ninety eight square meters (4,598 m<sup>2</sup>), which shall be continually open and accessible to the general public at no expense, and forming part of the SmartCity Road Network, and which divided portion of land is bounded on all compass points by the remainder of the SCM Site save for the perimeter point on the west which abuts on and is bounded with a prolongation of Triq Santu Rokku, marked in the colour blue on the plan annexed to this deed and marked as Annex "X5".

"**Commencement Date**" means the date of the Original Deed.

"**Community Fee**" shall have the same meaning assigned to it in clause three sub-clause twenty-three (3.23) of this deed;

"**Community Fee Commencement Date**" shall mean the date that is referred to in the Smartcity Facilities Agreement.

"**Complete State**" shall mean a fully certified development, covered by the necessary compliance certification in line with approved building permits, and is, in its entirety, in a state of readiness and fit for use in accordance with the permitted use and approved permission.

"**Deed**" shall refer to this deed being published today and/or the Original Deed, unless the context implies otherwise.

"**Definitively Issued**" when used with reference to a development

permission means the full and final development permission definitively issued by the Planning Authority (including approved plans) in executable form and that the development permission is valid and immediately effective, and that the development permission is not subject to any form of appeal, including, but not limited to, any third party appeal, or to an appeal by the Emphyteuta or the Government, before any Court of Law or Tribunal or other entity and that the statutory period for the filing of any appeal has expired.

**“Designated Land”** means and collectively incorporates the Bormla Site and the SCM Site both as better described in this deed.

**“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, a pandemic, 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 any other cause of a similar nature, which makes that party’s performance of its obligations under the Deed impossible, or so impractical as to be considered impossible under the circumstances.

**“Grant”** means the grant by title of temporary emphyteusis, for a period of ninety nine (99) years with effect from the Commencement Date, of the Designated Land, affected by virtue of the Original Deed and this deed.

**“Gross Built-up Area”** or **“GBA”** means the total area of the whole unit including all rooms and internal spaces; this includes wall thickness (owned party wall to be included) but excluding yards, backyards and shafts. The measure includes lobbies; mezzanines; attic space with a headroom of at least two point fifty metres (2.50m); enclosed balconies and porches; floor areas developed to accessory uses and stairwells; all corridors accessing non GBA space; storage rooms and mechanical rooms; any underground spaces whether used for commercial, residential or other purposes, but excludes; shafts; underground parking and service areas; external spaces, uncovered balconies; external roofed over areas which are open to all sides; roof overhangs; open porches.

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**"Gross Floor Area (GFA)"** means the total gross floor area of the development (irrespective as to whether the destination of the area is residential, commercial or otherwise) including all rooms and internal spaces: this includes wall thicknesses (owned party wall to be included) but excluding yards, backyards and shafts. The measure includes lobbies, mezzanines, attic space with a headroom of at least two point fifty metres (2.50m) or more enclosed balconies and porches, floor area developed to accessory uses and stairwells, all corridors accessing non-GFA areas, storage rooms and mechanical rooms, and excludes shafts, underground spaces (even if these are used for commercial, residential or other purposes), underground parking and service areas, external spaces, uncovered balconies, external roofed over areas which are open to all sides, roof overhangs and open porches.

**"Linking Facilities"** the term 'Linking Facilities' shall be removed from the definitions under Section 1 of the Original Deed and all references to Linking Facilities shall be disregarded.

**"MFHEA"** shall mean the Malta Further and Higher Education Authority established and incorporated by virtue of Article three (3) of the Further and Higher Education Act (Chapter six hundred and seven (607) of the Laws of Malta), which has replaced the National Commission for Further and Higher Education established by means of the Education Act (Chapter three hundred and twenty seven (327) of the Laws of Malta), and/or its successor/s. The term MFHEA shall, therefore, replace, where appropriate, any reference to NCFHE in the Original Deed.

**"New Commencement Date"** shall mean the date of this deed.

**"New Date of Completion"** shall mean such date as is determined pursuant to Clause twelve sub-clause three (12.3) hereof.

**"New Designated Land"** shall mean the SCM Site (as defined) and the Stores within the Boat Yard (as defined).

**"New Grant"** means the grant by title of temporary emphyteusis, for a

period of ninety-nine (99) years with effect from the Commencement Date, of the New Designated Land.

**“Original Designated Land”** means and collectively incorporates the Bormla Site (as defined in the Original Deed), having a global superficial area of approximately thirteen thousand three hundred and thirty four square metres (13,334m<sup>2</sup>), and the Żonqor Site, having a global superficial area of approximately thirty one thousand square metres (31,000m<sup>2</sup>), both as better described in the Original Deed.

**“Original Deed”** means the deed of temporary emphyteusis in the records of Notary Tania Spiteri of the eleventh (11<sup>th</sup>) day of March of the year two thousand and sixteen (2016).

**“Original Grant”** means the grant by title of temporary emphyteusis, for a period of ninety-nine (99) years with effect from the Commencement Date, of the Original Designated Land, affected by virtue of the Original Deed.

**“Peripheral Ring Road”** means the divided portion of land measuring circa thirteen thousand two hundred and thirty six square meters (13,236m<sup>2</sup>) which, shall be continually open and accessible to the general public at no expense, its title cannot be converted from temporary emphyteusis to perpetual emphyteusis (even when developed), and when developed, shall form part of the SmartCity Road Network, and which divided portion of land borders on the north and north west by the remainder of the SmartCity Development and in part by the SCM Site and on the south in part by the remainder of the SmartCity Development and in part by property of unknown third parties, and is marked Annex 'X5';

**“Planning Authority”** or **“PA”** shall mean the Planning Authority set up in terms of the Development Planning Act, Chapter five hundred and fifty two (552) of the Laws of Malta or any other body or authority set up by Law in its stead.

**“Plot Development Guidelines”** shall mean the Plot Development Guidelines annexed to this deed and marked as Annex 'X10'.

**“Project”** means the setting up and operation in Malta of an international University which shall operate under the name and/or trade mark of the “American University of Malta” (“AUM”), and/or such name as the Emphyteuta may, from time to time, decide and subject to any necessary approvals by competent authorities, and which shall have adequate laboratories, a library, a language institute, a lodge and any and all other amenities and ancillary facilities which are deemed necessary by the Emphyteuta and the nature of the university, and, where applicable, authorised by the competent Government authorities.

**“Property”** means and collectively incorporates the Designated Land and Zone B;

Provided that without prejudice to any provisions of the Deed, the foreshore extending up to three (3) meters from the shoreline on any part of the Property shall be and shall remain accessible to the public at all times as subject to the prevailing laws, rules and regulations by the Government and Local Councils from time to time.

**“PRR Underground Facilities”** means the underground culverts, ducts and trenches situated under the Peripheral Ring Road forming part of the SmartCity Facilities, holding infrastructure as may be required to connect the buildings developed on the SCM Site and other areas of the SmartCity Development abutting onto or served by the Peripheral Ring Road with the electricity distribution center, the sewerage network, the potable water network, the storm water network and any available networks for the supply of telecommunications services and which PRR Underground Facilities connect to the relative networks situated in the adjoining roads.

**“Public Space”** means those parts of the SmartCity Development and the SCM Site (as may be applicable) which shall be shown on the Approved Master Plan, or as may be otherwise reflected in more detail by the relevant applicable Development Permit, as designated for such use which excludes those parts of the SCM Site which shall be shown on the Approved Master Plan, or as may be otherwise reflected in more detail by the relevant applicable Development Permit, as private open spaces; and also excludes any area below the road surface level of the Public Space which is

developed.

**“Renounced Land”** shall refer to the “Zonqor Site”, “Zone A” and the Renounced Parts of Bormla Site;

**“Renounced Parts of Bormla Site”** shall collectively incorporate within its boundaries the divided areas consisting of: -

- the **"Saint Paul's Car Park"** in Triq tal-Karmnu, cornered with Triq il-Monsinjur Panzavecchia, Bormla, occupying a superficial area of approximately two thousand one hundred and twenty nine square metres (2,129m<sup>2</sup>), bounded on the South by the said Triq tal-Karmnu, on the East by the said Triq il-Monsinjur Panzavecchia, and on the West by property belonging to the Government of Malta, or truer and/or more accurate boundaries, as shown shaded in blue and marked with the letter 'C' on the plan attached to this deed, marked as Annex "X2";
- the area beneath the surface of Triq tal-Karmnu and Triq Pietru Pawl Caruana occupying a superficial area of approximately four hundred and ninety two square metres (492m<sup>2</sup>) bounded on the North by the underlying sub-terrain of the Saint Paul's Car Park, on the East in part by the underlying sub-terrain of Triq tal-Karmnu and in part by the underlying sub-terrain of Triq Pietru Pawl Caruana and on the West by property belonging to the Government of Malta, or truer and/or more accurate boundaries, as shown shaded in red and marked as "A1" on the plan attached to this deed, marked as Annex "X2";
- the area beneath the surface of a part of two public roads (that is Triq il-Monsinjur Panzavecchia and Triq il-31 (wiehed u tletin) ta' Marzu) between Saint Paul's Car Park and the Knights Building, occupying a superficial area of approximately one thousand four hundred and ninety square metres (1,490m<sup>2</sup>), bounded on the East in part by the Knights Building, in part by Zone B and in part by property belonging to unknown third parties, on the West by the underlying sub-terrain of the Saint Paul's Car Park and on the North in part by

the underlying sub-terrain of Triq il-Monsinjur Panzavecchia and in part by the underlying sub-terrain of Triq il-Wiehed u Tletin (31) ta' Marzu, or truer and/or more accurate boundaries, as shown shaded in red and marked as "A2" on the plan attached to this deed, marked as Annex "X2";

**"Reserve Fund Contribution"** shall have the same meaning assigned to it in the SmartCity Facilities Agreement.

**"SCM"** means SmartCity (Malta) Limited, a limited liability company registered in Malta with registration number C41194 and having its registered office situated at Ricasoli, SCM1001, Malta.

**"SCM Deed of Emphyteusis"** means the deed of emphyteusis published in the records of Notary Dr Vincent Miceli on the 22<sup>nd</sup> April 2007.

**"SmartCity Site/ SCM Site"** shall refer to the divided portion of land, which forms part of SmartCity, bounded from all compass points by other parts of SmartCity, which divided portion of land collectively measures approximately thirty-one thousand, five hundred and forty-seven square metres (31,547sqm) and including all the spaces above and below it, as shown bordered in colour light blue and marked with the letter "M2" on the document attached hereto as Annex 'X4'.

**"SmartCity"** means the knowledge-based township known as 'SmartCity Malta' developed or to be developed in accordance with the provisions of the SCM Deed of Emphyteusis.

**"SmartCity Development"** means the development within SmartCity but excluding the development within the SCM Site.

**"SmartCity Facilities"** means the areas, parts, infrastructure, services and utilities intended for common utility within SmartCity and falling within the scope of the SmartCity Facilities Agreement.

**"SmartCity Facilities Agreement"** means the document annexed to this deed as Annex X9, which regulates the use, control and maintenance of the

SmartCity Facilities, and the nature and settlement of expenses incurred for the proper upkeep, maintenance, repair, replacements and administration of the SmartCity Facilities.

**“SmartCity Road Network”** means the road network within SmartCity which forms part of the SmartCity Facilities, including roads, walk-ways, pathways and pavements (whether Public Spaces or otherwise) which shall be constructed within SmartCity, which are required for the development within SmartCity to have access to and from Triq Santu Rokku in Kalkara and Dawret Ix-Xatt in Xghajra as indicated in the Approved Master Plan or as may be modified from time to time and include, but without limitation, the Boulevard and the Peripheral Ring Road.

**“Substantial Completion”** shall be achieved when at least seventy-five per cent (75%) of the Gross Built-up Area within the site as better delineated in Annex X4 annexed hereto and marked with the letters “M1”, “M2”, and “L” is in a Complete State and that seventy-five percent (75%) of the works to be carried out in Public Spaces within the said site as better delineated in above, have been completed, landscaped, and provide a clean and tidy environment. For the avoidance of any doubt when calculating Substantial Completion the development within the site identified and marked as “L” in Annex X4 annexed hereto, currently earmarked as the Institute for Tourism Studies, and the Public Spaces within the site identified and marked as “M1” in Annex X4 annexed hereto, shall be taken into account.

**“Student”** means a person who is registered to study at the AUM.

## 2. Interpretation

2.1 Paragraph (f) of Clause 2.1 shall be replaced in its entirety with the following:

- (f) where the context permits, the terms **“Designated Land”**, **“New Designated Land”**, **“Original Designated Land”** and **“Property”** shall include any part of the **“Designated Land”**, **“New Designated Land”**, **“Original Designated Land”** and **“Property”**, together with all the immovable things which

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now, or in the future, shall appertain to them.

**Immediately following paragraph (i) of Clause 2.1, the following paragraphs are being added:**

- (j) The Parties agree that the Original Deed shall be amended as is reflected in this deed and that that the terms of the Original Deed shall continue to apply to the extent that they are not varied or amended by virtue of this deed. Any provisions in the Original Deed referring, whether directly or indirectly, to the Renounced Land or any part thereof which, by implication, are to be deemed no longer applicable in the context of the Deed shall not apply. Should any conflict arise between any provisions of this deed and the Original Deed, the provisions of this deed shall prevail;
- (k) any obligation of the Emphyteuta and the Government, or their respective successors in title and assignees shall, where required in terms of law, be subject to the attainment of all relative permits and/or authorisations.
- (l) Any time-periods specified in this deed as commencing to run from the date of issue of the Approved Master Plan shall be considered to have commenced to run from the date of approval in a definitive manner of the outline application submitted within ten (10) months from the << *insert date of SmartCity deed* >> in terms of Clause three sub-clause eleven (3.11) of this deed irrespective of any proposed revisions or amendments to the said Approved Master Plan submitted thereafter, in which case the said time period shall not be suspended, nor interpreted to commence to run afresh.

## **The First Part of this deed: The Renunciation**

- 2A.1 By virtue of the first part of this deed, the Emphyteuta is hereby irrevocably and with immediate effect, renouncing to the grant over the Renounced Land in favour of the Government, which accepts. The Emphyteuta is thus hereby, transferring back the temporary utile dominium, to the Government, which accepts, over the Renounced Land, *tale quale* and in an 'as is' state and condition and subject to all existing servitudes and services listed and described in Annex D to the Original Deed (as applicable), with all its rights and appurtenances, and including all the spaces above and below it.
- 2A.2 Pursuant to the transfer back to the Government of the temporary utile dominium over the Renounced Land in accordance with Clause two capital letter 'A' sub-clause one (2A.1), as from the New Commencement Date, all references to the Designated Land in the Original Deed and in this deed shall, for all intents and purposes and unless otherwise stated, refer to the Designated Land (as defined in this deed).
- 2A.3 Any improvements and structures constructed and developed over the Renounced Land since the date of the Original Deed shall accrue to the Government without any compensation due to the Emphyteuta. Furthermore, the Emphyteuta shall not be entitled to any compensation related to any relocation costs that the Emphyteuta may incur save for the reimbursement from the Government of the actual costs sustained by the Emphyteuta in relation to the Renounced Land.

## **The Second Part of the Deed: The New Grant**

For ease of references numbering of this part of this deed follows the numbering of the Original Deed.

### **3. New Grant**



**The following provision shall be introduced immediately after Clause 3.1 of the Original Deed**

3.1A By virtue of the second part of this deed, the Government hereby grants, transfers and assigns, by title of temporary emphyteusis to the Emphyteuta, which on its part accepts and acquires by the same title of temporary emphyteusis, the New Designated Land, for the Term and upon the terms and conditions set out and contained in this deed. The New Designated Land includes all its rights and appurtenances.

As from the New Commencement Date, all references to the Designated Land in the Original Deed shall, for all intents and purposes and unless otherwise stated, refer to the Designated Land as defined in this deed.

**The following provision shall be introduced immediately after Clause 3.2 of the Original Deed.**

3.2A The New Designated Land is being granted and accepted as free and unencumbered, save for all existing servitudes as mentioned in this deed and its annexes, *tale quale*, and with the exclusion of the warranty of hidden/latent defects.

**Clause 3.5 of the Original Deed shall be deleted and replaced in its entirety by the following provision:**

3.5 The grant over the Bormla Site may not, under any circumstance, be converted to a perpetual emphyteusis. The grant over the SCM Site may be converted to a perpetual emphyteusis and thereafter redeemed in accordance with the terms and subject to the conditions outlined in Clause three sub-clause ten paragraph one (3.10.1) and Clause three sub-clause ten paragraph two (3.10.2) herein.

**Clause 3.7 of the Original Deed shall be deleted and replaced in its entirety by the following provision:**

3.7 The Government warrants the peaceful possession and uninterrupted full enjoyment of the Designated Land, including the New Designated Land, subject only to the servitudes and third party rights as outlined in Annex D or as otherwise stipulated in this deed.

**The following provision shall be introduced immediately after Clause 3.8:**

3.9 In relation to the Stores within the Boat Yard, it is being agreed that should the Government intend to carry out road or infrastructural works on the street over the Stores within the Boat Yard, the Emphyteuta is hereby irrevocably and unconditionally consenting to the above and irrevocably and unconditionally binds itself to provide any further consent which may be required for the development, proposal and execution of such works. Provided that reasonable prior written notice of at least three (3) months is duly given to the Emphyteuta.

The Emphyteuta further binds itself in an absolute manner to comply with any reasonable instructions given by the competent authorities to ensure proper and effective completion of such works, including, where the circumstances may require, any temporary non-utilization or dispossession of the Stores within the Boat Yard until such works are completed. The Government undertakes to complete such works as expeditiously as possible and with the least inconvenience and interruption possible to the operations of the Emphyteuta. The Government further undertakes that in the eventuality that the Stores within the Boat Yard sustain any damages, the Government shall reinstate the Stores within the Boat Yard to a good state of repair and fit for its intended use.

**The following provisions shall be introduced immediately after Clause 3.9:**

*Additional terms and conditions relating to the SCM Site*



3.10.1 The Parties acknowledge and agree that in accordance with the terms of the SCM Deed of Emphyteusis, the Emphyteuta shall have the right, unless it is in default of its obligations under the Deed, at any time, to convert its title of temporary emphyteusis over any part of the SCM Site which is in a Complete State into a title of perpetual emphyteusis subject to the payment by the Emphyteuta of a premium of forty-seven Euro cents (€0.47) [which is equivalent to twenty Malta cents (Lm 0.20)] per square meter of the land area subject of the conversion.

Provided that such right to convert the title from temporary emphyteusis into a title of perpetual emphyteusis shall not apply to Public Spaces.

Provided further that following conversion from temporary emphyteusis to perpetual emphyteusis, the Emphyteuta shall be entitled to immediately redeem the ground rent burdening its property at the capitalisation rate of five per cent (5%) of the *pro tempore* ground rent (without abatement) provided that the redemption is done concurrently on the same notarial deed published for the conversion from the temporary to perpetual emphyteusis. It being understood that nothing in this clause shall prejudice the rights of the Emphyteuta under article one thousand five hundred and one (1501) of the Civil Code, Chapter sixteen (16) of the Laws of Malta.

3.10.2 The Government shall appear on and sign a notarial deed to affect the conversion of title and redemption of the ground rent (as applicable) as contemplated above within three (3) months from the date that it is notified with a judicial letter filed for this purpose by the Emphyteuta.

3.10.3 Within the one (1) year prior to the termination date of the Grant, the Emphyteuta, provided there was no Event of Default (which was not remedied), shall have the option to request the Government to extend the Grant over the Public Spaces within the SCM Site, by an additional period of ninety-nine (99) years to be calculated from the

termination date of the Grant. The extension shall be made by notarial deed under the same terms and conditions of this Grant, insofar as shall then be applicable, including the method of revision of the ground rent, it being understood that the ground rent due for the first year of the extended period shall be equivalent to the ground rent due for the preceding year increased by five per cent (5%) and that the right to extend this emphyteusis shall not apply to the extended emphyteutical grant.

Provided further that in the event of termination or dissolution (for any reason whatsoever and by whoever) of the SCM Deed of Emphyteusis in respect of any part of the SmartCity Development and/or the Deed, in respect to the SCM Site, and its reversion to the Government, any necessary servitudes including without limitation any necessary right of access and any necessary right of passage of services and utilities which burden the said parts of the relative site (including for the avoidance of doubt the Public Spaces) or which may be necessary as a result of such reversion, shall continue to exist or be created (as the case may be) in favour of other parts of the Smart City Development and/or the SCM Site, as the case may be.

- 3.11 The Emphyteuta acknowledges that SCM shall be submitting, at its expense, an application in a validated form for an outline development permit or a fresh outline development permit (including, addition to or in substitution of or amending any outline development permit already issued) requesting an amendment to the currently Approved Master Plan by not later than ten (10) months from the date of <<to insert date of deed of SCM>> over the SmartCity Development and requires the Emphyteuta to provide, at the Emphyteuta's expense, the necessary documentation covering the Emphyteuta's intended development of the SCM Site. The Emphyteuta undertakes best endeavours to collaborate with SCM and to provide SCM with the required documentation within a period of eight (8) months of this deed. In the event that the Emphyteuta fails to provide SCM with the agreed documentation by the said term, SCM shall be entitled to submit the application for such outline development permit or fresh outline development permit for

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the SmartCity Development (which also includes the SCM Site) in terms of and in accordance with the Plot Development Guidelines.

- 3.12 The SCM Site shall enjoy the right of access from and the right of way over the SmartCity Road Network including the Peripheral Ring Road and the Boulevard which link Triq Santu Rokku in Kalkara to Dawret Ix-Xatt in Xghajra or any such other public road which the Government may itself construct in the future and which shall lead to the SCM Site (the "Right of Access and Right of Way").

The easement consisting in the Right of Access and Right of Way is as subject to the following terms and conditions:

- (a) The Right of Access and Right of Way:
- i. shall not be exclusive to the SCM Site and shall also be available to the other users of the remainder of the SmartCity Development and also to the public in general; and
  - ii. shall be regulated by such signage as may be set up, painted or otherwise installed by SCM from time to time to regulate both vehicular and pedestrian traffic and subject to any reasonable rules and regulations imposed by SCM for health, safety and security reasons, as well as in the interest of good estate management by SCM; and
  - iii. subject to Government's rights in terms of the SCM Deed of Emphyteusis.
- (b) The access routes between Triq Santu Rokku in Kalkara and Dawret Ix-Xatt in Xghajra and the SCM Site and all internal roads forming part of the SmartCity Road Network may be changed by SCM from time to time at SCM's sole discretion, provided that the Government shall procure that all reasonable efforts are undertaken not to disrupt the Emphyteuta's operations (including its development works), and provided further that the new access routes provide



alternative but equally suitable pedestrian and / or vehicular access as applicable.

- (c) The Emphyteuta acknowledges that SCM shall have the right to temporarily interrupt passage over any road, driveway, pathway, passages, stairway or open spaces, for the purpose of carrying out maintenance and repairs thereon or therefrom, provided that in such eventuality prior notice is given to the Emphyteuta well in advance before the maintenance/repair works is planned to take place, and provided that such works shall be carried out with the least inconvenience to the Emphyteuta and provided that alternative adequate access to the SCM Site is duly provided. Maintenance and repair works which may, directly or indirectly, affect the Emphyteuta need to be planned well in advance and reasonable notice shall be given by SCM to the Emphyteuta so as to ensure the least disruption possible to the Emphyteuta. The Emphyteuta acknowledges that certain emergency repairs may need to be actioned promptly and in such extraordinary cases, it understands that the notice period mentioned above may not be reasonable. SCM shall ensure that it regularly maintains the SmartCity Facilities, including the relative infrastructure, to ensure that the emergency repairs are avoided as much as possible. Any and all works shall be carried out and completed as expeditiously as possible and with the least interruption possible to the operations carried out from the SCM Site.

Provided that once the SCM Site has reached Substantial Completion, adequate vehicular and pedestrian access between the SCM Site and Triq Santu Rokku in Kalkara and Dawret Ix-Xatt in Xghajra must be provided and allowed at all times except in cases of force majeure or circumstances which are unavoidable.

- (d) The Emphyteuta acknowledges that the use, control and maintenance of the SmartCity Road Network, including the

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Peripheral Ring Road, and the nature and settlement of expenses incurred for the proper upkeep, maintenance, repair, replacement and administration of the same are further regulated by and shall also be subject to the conditions of the SmartCity Facilities Agreement.

- 3.13 The Emphyteuta acknowledges that the Peripheral Ring Road including, but without limitation the underground infrastructure and facilities under the Peripheral Ring Road shall remain property of SCM pursuant to the SCM Deed of Emphyteusis.
- 3.14 Until such time when the SCM Site has reached Substantial Completion, the Government shall ensure that the SCM Site, and any improvements thereon, shall enjoy adequate access through the existing site access road for all construction vehicles and equipment required for the development and completion of the SCM Site, at no charge whatsoever to the Emphyteuta. Provided that the provisions of paragraphs letters (a), (b), (c) and (d) of Clause three sub-clause twelve (3.12) above shall mutatis mutandis apply.
- 3.15 The SCM Site shall enjoy the following perpetual easements consisting of:
- (a) the opening of entrance and exit points on the Peripheral Ring Road and Boulevard, as servient tenements. Provided that any car park or garage complex, may include an emergency entrance / exit point abutting on the Boulevard if so required for safety reasons under any law or regulation;
  - (b) Subject to the obligation to pay the relative Community Fee in accordance with the terms of this deed, the SCM Site and each and every part thereof, as dominant tenement, shall enjoy the perpetual easement consisting in the non-exclusive right to connect to and use the SmartCity Facilities as servient tenement, as well as the non-exclusive right to pass the connections for any other utility or service, not comprised in the SmartCity Facilities, required for the operation of the SCM Site

or any part thereof, at such points that shall be determined by SCM and the Emphyteuta;

- (c) Those easements over the neighbouring lands within SmartCity (as servient tenements) as may be created by the position of the development within the SCM Site.

3.16 The Emphyteuta shall be responsible for procuring and contracting directly with any utility provider for the provision of any utility service including, but not limited to, water, electricity, drainage and telecommunications, required by it in connection with the SCM Site and shall have the right to connect such utility service to the SCM Site. The Government shall, to the extent permissible by the Laws of Malta, collaborate with the Emphyteuta, and/or shall procure from SCM the required collaboration, to ensure that the Emphyteuta can obtain the supply of the utilities and services from the utility service providers in order for the Emphyteuta to fully enjoy its rights.

Provided that where the provision of any such utility service requires a connection with any infrastructure situated outside the SmartCity Development and/or is not part of the SmartCity Facilities, including but not limited to the passing of cabling, pipes and/or other physical infrastructure, it is hereby agreed that any such infrastructure shall not pass over any part of the SmartCity Development except through the purposely constructed underground culverts or ducts provided by SCM, and this subject to such utility provider having previously entered into an agreement with and/or otherwise obtained authority from SCM (directly or indirectly) for the use of the said underground culverts or ducts; provided further that the Emphyteuta shall be solely responsible for any expenses in connection with the passing of any such cabling, pipes and/or other physical infrastructure through the underground culvert and duct infrastructure.

3.17 All bills and charges relating to SCM Site including deposits, fees and charges for water, electricity, drainage, telecommunications and any other service or utility used in or upon or furnished to the SCM Site shall be paid by the Emphyteuta.

- 3.18 The Emphyteuta shall be responsible for any damages caused by the contractors or sub-contractors engaged by the Emphyteuta, its successors in title and assignees, to any part of the SmartCity Facilities completed by SCM in fulfilment of its obligations under the SCM Deed of Emphyteusis.
- 3.19 Save as may otherwise be allowed in writing by SCM, the Emphyteuta shall not allow third party utility providers to install, place or provide in, on or under the SCM Site equipment (including antennae) and other infrastructure which is not for the exclusive use of the SCM Site.
- 3.20 The use of the SmartCity Facilities is subject to the following terms and conditions:
- a) subject to the obligation of the Emphyteuta to punctually pay the Community Fee in accordance with the terms outlined in this deed;
  - b) the right to use the SmartCity Facilities is in respect only of those SmartCity Facilities which are provided by SCM, in SCM's discretion from time to time subject to the provisions of the immediately preceding paragraphs and without prejudice to the provisions of Article seventeen point two (17.2) of the SCM Deed of Emphyteusis the right to use and benefit from the SmartCity Facilities which have been completed shall continue for the entire duration of the Grant;
  - c) the SmartCity Facilities shall be used with prudence and in accordance with their destination;
  - d) the right of use shall be enjoyed in common with others as determined by SCM, acting reasonably, from time to time;
  - e) the right of use of the SmartCity Facilities or any part thereof is not exclusive for the Emphyteuta, its successors in title and assignees and SCM has conferred and reserves the right to confer without limitation similar non-exclusive rights of use over the SmartCity Facilities to owners or users of other properties in the SmartCity Development, provided that SCM

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shall ensure that the SmartCity Facilities are adequate for the use for which they are intended;

- f) Without prejudice to any other rights that the Emphyteuta may have in terms of the proviso to Clause three sub-clause twenty-one letter 'c' (3.21 (c)) below, the Emphyteuta and its successors in title or assignees shall not have any right to limit, in any way, the utilisation by SMC or its successors in title of the SmartCity Facilities, or any part thereof, or to limit in any manner, the number of persons making use of, or holding any right or obligation over, the SmartCity Facilities, provided that SCM shall ensure that the Smart City Facilities are adequate for the use for which they are intended;
- g) the right to use the SmartCity Facilities is for the advantage and benefit of the SCM Site and all parts thereof and shall be transferred together with the SCM Site or any part thereof in the event of any future transfer of the SCM Site or any part thereof;
- h) the SmartCity Facilities are further regulated by the provisions contained in the SmartCity Facilities Agreement which forms an integral part of this deed and is hereby subscribed to by the Emphyteuta. Provided that should a conflict arise between any provision of the SmartCity Facilities Agreement and any provision of this deed, the provisions of this deed shall prevail.

3.21 The Emphyteuta acknowledges that parts of the SmartCity Facilities constitute Public Spaces and are subject to the provisions of Articles 7.2.1 (seven point two point one), 7.2.2 (seven point two point two) and 7.2.3 (seven point two point three) of the SCM Deed of Emphyteusis and accordingly:

- a) shall be made accessible free of charge to the general public at all times, subject to the rules and regulations implemented, from time to time, by SCM;
- b) the Government, as the government of the Republic of Malta, will retain control of the Public Spaces in respect only of public order and policing, whereas the management, upkeep, maintenance,

repair and cleanliness of the Public Spaces will be the sole and exclusive responsibility of SCM subject to the payment of the Community Fee and the Reserve Fund Contribution by the Emphyteuta, its successors in title and assignees as owner of the Property; and

- c) SCM enjoys the exclusive right to organize or allow others to organize commercial and/or social events and parking areas in the Public Spaces (not being within the boundaries of the SCM Site) and to allow any third party to erect kiosks, place tables and chairs and to organize events and activities, all being of such a nature as it is customary to allow in other public places in Malta, in the Public Spaces (not being within the boundaries of the SCM Site), on encroachment terms; and any fee charged for encroachment or any revenue made from any commercial and/or social events, as well as from the use of parking areas will accrue in favour of SCM.

Provided that for the avoidance of any doubt, it is expressly stated that the Emphyteuta enjoys the exclusive right to organize or allow others to organize commercial and/or social events and parking areas in the Public Spaces within the boundaries of the SCM Site and to allow any third party to erect kiosks, place tables and chairs and to organize events and activities, all being of such a nature as it is customary to allow in other public places in Malta, in the Public Spaces within the boundaries of the SCM Site, on encroachment terms; and any fee charged for encroachment or any revenue made from any commercial and/or social events, as well as from the use of parking areas will accrue in favour of the Emphyteuta.

Government acknowledges that SmartCity is designated as a Special Designated Area for the purposes of the Immovable Property (Acquisition by Non-Residents) Act, Chapter two hundred and forty six (246) of the Laws of Malta and expressly declares and confirms that the SCM Site shall for all intents and purposes, be considered as a Special Designated Area, and that in terms of Immovable Property (Designation of Special Areas) Regulations (Subsidiary Legislation

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246.02 of the Laws of Malta), SCM will retain the management and regular maintenance of all the area, including the infrastructure and utilities thereof, intended for public or common use; provided that such management and maintenance may be delegated to a management company with a proven track record or any subsidiary or associate of, or any entity related to SCM, directly or indirectly.

3.22 The Emphyteuta acknowledges that the concept of the SmartCity Development is that of a self-contained knowledge-based township and that with the development and provision of the SmartCity Facilities, controlled and maintained by SCM, the Contributors (as this term is defined in the SmartCity Facilities Agreement) shall benefit from enhanced environs and facilities which shall promote a community environment and increase the prestige of the buildings in the SmartCity Development. The Emphyteuta further acknowledges that subject to the provisions contained in the SmartCity Facilities Agreement and this deed, the SCM shall control, operate, manage and maintain the SmartCity Facilities including the Peripheral Ring Road, as these may be replaced, repaired, modified, reduced or improved from time to time and that SCM may delegate this function to a management company. SCM or its delegate shall be entitled to charge an administration fee in the manner provided in the SmartCity Facilities Agreement.

3.23 In consideration of the rights of use of the SmartCity Facilities, the Emphyteuta, its successors in title and assignees, as owners of the SCM Site, are obliged and the Emphyteuta for itself and its successors in title and assignees hereby promises and undertakes to contribute towards the costs and expenses incurred for the operation, cleaning, upkeep, preservation, maintenance, repair and replacements of the SmartCity Facilities (including any administration fee charged by SCM or its delegate for these purposes) as well as contribute towards a reserve fund set up for the purpose of financing any extraordinary repairs, replacements, upgrades and improvements to the SmartCity Facilities, and accordingly the Emphyteuta hereby undertakes to pay the Community Fee in accordance with and in the manner provided in

the SmartCity Facilities Agreement. Provided that it is hereby being agreed that notwithstanding what is provided for in the SmartCity Facilities Agreement, the Community Fee Commencement Date (as defined in the SmartCity Facilities Agreement) in respect of any building to be developed on the SCM Site shall be construed as being the date that the relative Full Development Permit for that building has been Definitively Issued, which definition shall prevail over any other definition that may be found in the SmartCity Facilities Agreement. Provided that from the date when the relative Full Development Permit for a building has been Definitively Issued until the date when such building has reached a Complete State of construction and is operational, the Parties agree that the Community Fee, including the Reserve Fund Contribution, applicable in respect to such building shall be shared equally between the Emphyteuta and the Government.

3.24 The Emphyteuta hereby subscribes to the SmartCity Facilities Agreement as if the provisions thereof were contained in the body of this deed and accept to be bound by the provisions thereof and it hereby promises and undertakes to include the SmartCity Facilities Agreement in any transfer under any title of the SMC Site. Any person acquiring property within the SmartCity Development shall be considered to have immediately and automatically subscribed to the SmartCity Facilities Agreement and to have accepted and assumed to be bound by the provisions contained therein, without the need of any other formality. The Emphyteuta hereby agrees that for all effects and purposes at law, it shall be considered to be a Contributor (as defined in the SmartCity Facilities Agreement). Provided that should a conflict arise between any provision of the SmartCity Facilities Agreement and any provision of this deed, the provisions of this deed shall prevail.

3.25 The Community Fee is transferable and divisible in the sense that in the event of transfer by the Emphyteuta of the SCM Site in parts made in full compliance with the provisions of the Deed, each unit transferred shall be liable for the payment of the Community Fee applicable to that unit and the Emphyteuta shall not remain

responsible for the payment of that part of the Community Fee and the Reserve Fund Contribution.

Where any condominium is set-up to administer the SCM Site or parts thereof, SCM shall, upon the setting up of the said condominium or condominiums within the SCM Site, have the right to charge and collect the Community Fee and the Reserve Fund Contribution due by any and/or all units forming part of any such condominium or condominiums directly from the said condominium or condominiums and in turn each condominium shall recover the said Community Fee and Reserve Fund Contribution from the owners of the relative units. In this respect, save as provided hereunder, the Emphyteuta hereby undertakes to impose on any relative deed of transfer of any part of the SCM Site any provision as may be required for SCM to be able to exercise the right herein reserved to charge the Community Fee and the Reserve Fund Contribution relative to any such unit transferred on the condominium of which the relative unit forms part., have the right to charge and collect the Community Fee and the Reserve Fund Contribution due by any and/or all units forming part of any such condominium or condominiums directly from the said condominium or condominiums and in turn each condominium shall recover the said Community Fee and Reserve Fund Contribution from the owners of the relative units. In this respect, save as provided hereunder, the Emphyteuta hereby undertakes to impose on any relative deed of transfer of any part of the SCM Site any provision as may be required for SCM to be able to exercise the right herein reserved to charge the Community Fee and the Reserve Fund Contribution relative to any such unit transferred on the condominium of which the relative unit forms part.

- 3.26 The Emphyteuta acknowledges that notwithstanding anything stated or implied elsewhere, the SCM Site does not include the ownership or co-ownership of, or condominium rights on, the SmartCity Facilities or any part thereof unless such facilities are situated within the boundaries of the SCM Site. The temporary dominium utile of the SmartCity Facilities including, but without limitation, of the Peripheral Ring Road are held by SCM for itself and

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/ or its successors in title subject to any and all easements and rights of use granted or which may be granted by SCM.

For the avoidance of doubt it is hereby agreed to between the Emphyteuta and the Government that the Public Spaces to be developed by the Emphyteuta, or its successors in title or assignees, within the boundaries of the SCM Site shall, once constructed, for the purposes of this deed and the SmartCity Facilities Agreement be construed to form part of the SmartCity Facilities and consequently, whilst the Emphyteuta shall retain its title, in terms of this grant, over said Public Spaces, the maintenance and reparation of said Public Spaces shall be regulated by the provisions of the SmartCity Facilities Agreement.

For the purposes of the Condominium Act, Chapter three hundred and ninety eight (398) of the Laws of Malta (the Condominium Act), the Government and the Emphyteuta agree and acknowledge that the SmartCity Development is not a condominium in terms of the Condominium Act and that the SmartCity Facilities do not constitute common parts of condominium and the Emphyteuta, its successors in title and assignees shall not have any condominium rights thereon.

- 3.27 The SCM Site and consequently the development within the boundaries of the SCM Site (when constructed), as servient tenement, is subject in favour of the Peripheral Ring Road, as dominant tenement, to the perpetual easement consisting in the obligation to screen any and all services, machinery, plant infrastructure and any other movable items (including movable items which are fixed or fastened to the immovable structure of the said development) installed on any part of the roof or roofs of the said development.
- 3.28 The SCM Site, as servient tenement, is subject in favour of the Peripheral Ring Road, as dominant tenement, to the perpetual easement of *altius non tollendi* which consists of the restriction from constructing on the SCM Site any development which exceeds the

height plus sixty metres (+60m) from mean sea level. Provided that no other building within the SmartCity Development or a radius of two hundred (200) meters from any boundary of the SCM Site exceeds the height plus sixty metres (+60m) from mean sea level. In such eventuality, namely that there are other buildings within the SmartCity Development and/or within a radius of two hundred (200) meters from any boundary of the SCM Site having a height exceeding plus sixty metres (+60m) from mean sea level, this perpetual easement of *altius non tollendi* shall instead of a restriction from constructing any development which exceeds the height plus sixty metres (+60m) from mean sea level be converted into a restriction from constructing any development which exceeds the height of such other buildings, and the Emphyteuta shall thus be entitled to develop on the SCM Site buildings up to the height of such higher development, always subject to the attainment of all the necessary permits issued by the competent authorities.

- 3.29 (1) The Emphyteuta acknowledges that at least thirty per cent (30%) of the entire surface area as shown marked with the letters "M1" and "M2" in the plan annexed to this deed and marked as Annex X4, shall be a Public Space over which the general public shall have continuous and unrestricted access. The Emphyteuta undertakes to allocate as Public Space such area within the SCM Site as is necessary to meet the minimum thirty per cent (30%) defined above. Provided that when calculating the said thirty percent (30%) of the plot marked "M2", regard shall also be made to the area shaded in dark blue and marked as "M1" in the plan annexed hereto and marked as Annex X4 which area, the Parties are agreeing, shall, in its entirety, constitute a Public Space.
- (2) The Emphyteuta shall develop within the SCM Site further components of the Project in accordance with the Permitted Use over a proposed GFA of eighty-two thousand square metres (82,000sqm), subject however to the attainment of the necessary permits issued by the relevant competent authorities. The Emphyteuta shall have the obligation to

develop a minimum GFA of fifty-two thousand square metres (52,000sqm).

3.30 At least forty-five (45) days prior to submitting any development application to the PA for the issuance of the Development Permits in connection with the SCM Site or any part thereof, the Emphyteuta shall deliver to SCM a copy of the said development application together with plans and drawings, (including annotations and additional documents as may be reasonably necessary) for SCM to ascertain and confirm that the development application and the plans and documents are in line with the Plot Development Guidelines and the relative conditions directly effecting the development within the SCM Site as outlined in this deed. SCM shall only be entitled to object to the development applications, plans and documents if these are not in line with the Plot Development Guidelines. SCM is obliged to provide the Emphyteuta, its successors in title and assignees with its response to the plans and drawings submitted within thirty (30) days from receipt thereof. Provided that in the event that SCM fails to provide its response within the aforementioned thirty (30) days from receipt of all relative applications, plans, drawings and/or documents as may be required in order for it to be in a position to ascertain and confirm that the development application and the plans and documents are in line with the Plot Development Guidelines and the conditions and restrictions of this deed, then SCM shall be deemed to have approved the said application/plans/documents.

3.31 Once the development within the SCM Site has been finished and completed in accordance with the approved building permits, the external parts of the development within the SCM Site shall be considered servient tenements subject to the perpetual easement being constituted on this deed in favour of the Peripheral Ring Road and the Boulevard as dominant tenements, in the sense that, without the written consent of SCM or its successors in title, the Emphyteuta shall be prohibited from:



- (a) making changes or alterations, whether structural, decorative or otherwise, to the external parts of the development within the SCM Site (including, but without limitation, the external doors, windows, jalousies, shutters, balconies, terraces and other external apertures and their railings, the external walls including boundary walls and the outside areas and landscaping, and the fixtures and finishes thereto and colours thereof); and
- (b) fixing, placing or hanging any signs or any other thing whatsoever on the external walls including boundary walls of the development within the SCM Site or the outside areas of the SCM Site or from the external windows, balconies, terraces or other external areas or spaces of the SCM Site; provided that such prohibition shall not extend to any name or identification sign and other signage directly related to the Permitted Use or the directions to any part of the SCM Site;

which in any of the cases mentioned in this Article thirty point thirty-one (3.31) would (i) change any one or more of the design, appearance, aesthetics and/or décor of the external fabric of the development within the SCM Site; or (ii) its functioning as approved in the approved building permits; or (iii) disrupt the sense of uniformity which the development within the SCM Site bears to other parts of, and to the general design and aesthetic concept of the SmartCity Development;

Provided that SCM shall only be entitled to withhold or refuse its consent if the changes or alterations mentioned in the immediately paragraphs (a) and (b) proposed by the Emphyteuta are not in line with the Plot Development Guidelines and the conditions and restrictions of this deed.

- 3.32 Internal alterations to the SCM Site may be made without the need of obtaining the consent of SCM, provided these are first approved (if such approval is required by law) by the PA.

- 3.33 The Emphyteuta, its successors in title and assignees shall not permit oil, grease, trade wastes or other deleterious matter to enter the public or common drains and sewers, save any such waste which would naturally be generated through the ordinary and diligent operation of the development within the SCM Site, and shall employ such plant for treating any deleterious effluent before permitting the same to enter such drains and sewers as may be reasonably required by the Government or by law, from time to time.
- 3.34 The Government shall, or shall procure, that at its sole cost and expense, the PRR Underground Facilities adequately accommodate the components of the Project to be developed on the SCM Site, both in terms of capacity and in terms of levels. Provided that solely in the case of the sewerage connection in respect of any component of the Project built on the SCM Site having its predominant GFA along the Boulevard and with regard to which it will not be reasonably possible to connect the sewerage system thereof to the sewerage infrastructure forming part of the PRR Underground Facilities, the Emphyteuta shall also have the right to connect the sewerage system of such component of the Project, at the existing levels and subject to the available capacity, to the existing sewerage system presently passing beneath the Boulevard and this at the sole and exclusive expense of the Emphyteuta.

The Emphyteuta shall be entitled to connect its sewage, storm water and potable water pipes to the said infrastructure once constructed, thus allowing the Emphyteuta to obtain water supply and manage sewage and storm water as per the requirements of the Project and in terms of law. The potable water, storm water and sewage pipes shall be of an adequate size considering the proposed design of part of the components of the Project and in general, the Permitted Use.

The SCM Site shall in this respect enjoy an easement over the land within the SmartCity Development (other than the SCM Site) for the purposes of connecting to the sewage, storm water and potable water piping system as aforesaid as well as the right of access to the

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underground infrastructure for maintenance purposes as may be required from time to time.

- 3.35 The Government shall allow, or shall procure, that the Emphyteuta is allowed, to connect to the electricity power source via the underground infrastructure culverts for the provision of temporary electricity supply for its construction requirements.
- 3.36 The Government shall, or shall procure, that, at its sole cost and expense, it completes an underground culvert infrastructure as may be required to allow the Emphyteuta to connect the development with the SCM Site with the SmartCity high voltage distribution centre to obtain permanent and adequate electricity power supply from Enemalta plc (or its successors in title) as well as to connect the development within the SCM Site with any telecommunications network or networks for the supply of telecommunication services. The said underground culvert shall be of an adequate size, considering the proposed design of the components part of the Project and in general the Permitted Use.
- 3.37 The Emphyteuta is aware and acknowledges that there shall be further building and development on and in the SmartCity Development. The Government shall bind SCM not to hinder the enjoyment by the Emphyteuta, and/or its successors in title, of any part of the SCM Site and that any nuisance which may be caused by the said building and development works shall cause the least inconvenience possible to the Emphyteuta. Similarly throughout the building and development works in relation to the development within the SCM Site, Emphyteuta shall itself and/or procure that its contractors shall not hinder the enjoyment by SCM and/or its successors in title (including any tenants occupying any property within the SmartCity Development) of any part of the SmartCity Development and that any nuisance which may be caused by the said building and development works shall cause the least inconvenience possible to SCM and/or its successors in title.

3.38 The Emphyteuta is constituting in favour of (i) the areas marked with the letter "K" and "L", respectively, (the dominant tenements), as shown in the annexed plan Annex X4 the easement that no buildings or other structures of whatever nature may be constructed within a distance of less than five meters (5m) from the dividing line between the SCM Site and the mentioned areas marked as "K" and "L"; and (ii) the area marked with the letter "N", as shown in the annexed plan attached hereto as Annex X4 the easement that no buildings or other structures of whatever nature may be constructed within a distance of less than five meters (5m) from the dividing line between the SCM Site and the mentioned area marked with the letter "N"; and (iii) the Boulevard and the Peripheral Ring Road (the dominant tenement) the easement that no buildings or other structures of whatever nature may be constructed within a distance of less than three meters (3m) from the dividing line between the SCM Site and the mentioned Boulevard and the Peripheral Ring Road.

The Emphyteuta further acknowledges that the site marked with the letter "L" in the plan annexed hereto as Annex X4, currently earmarked as the Institute of Tourism Studies, shall enjoy the right of continued, uninterrupted and direct access through the SCM Site linking the said site marked with letter "L" to the Boulevard through the Public Spaces (within the SCM Site).

3.39 The Government undertakes that the areas marked with the letters "L" and "M1", respectively, as marked on the plan attached as Annex X4 shall be fully developed in a Complete State within Phase I as defined in Clause twelve sub-clause three (12.3) hereunder.

3.40 (a) The Government shall, at its own costs and expense, develop an underground car park within the area marked with the letter "M1" measuring four thousand square metres (4,000 sqm), as better delineated in the plan annexed to this deed and marked as Annex X4.

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The Government guarantees that the surface level of the said the area marked with the letter "M1" shall be continuously accessible to the general public and shall be designated and developed as a Public Space. The Government shall embellish and landscape the said area within Phase I as defined in Clause twelve sub-clause three (12.3), and thereafter and in perpetuity, maintain same.

- (b) The Government, as owner of the underground carpark referred to in (a) above, as servient tenement is hereby constituting in favour of the SCM Site as dominant tenement a servitude of *altius non tollendi* restricting the development and construction of the roof and airspace of the underground car park within the area marked with the letter "M1" measuring four thousand square metres (4,000 sqm), as better delineated in the plan annexed to this deed and marked as Annex X4 which shall thus remain in perpetuity as an open public space.
- (c) The SCM Site as dominant tenement shall moreover enjoy over the underground car park within the area marked with the letter "M1" measuring four thousand square metres (4,000 sqm), as better delineated in the plan annexed to this deed and marked as Annex X4, as servient tenement, the perpetual and uninterrupted servitude of access over the servient tenement, and the perpetual and uninterrupted servitude of opening of any apertures, including windows and doorways, overlooking and/or abutting onto the servient tenement.

3.41 The Government acknowledges that it is of utmost importance for the Project to have proper road connectivity between the sites hosting the American University of Malta. The Government undertakes to complete certain road infrastructure works to ensure adequate connectivity between the Bormla Site and the SCM Site, including where necessary the construction of roads, the resurfacing of roads, the introduction of adequate cycle lanes, footpaths and landscaping and all such other road works as are necessary to ensure good and proper connectivity between the said two (2) sites by not



later than twelve (12) months from the issuance of the Approved Master Plan referred to in Clause three sub-clause eleven (3.11) herein.

Without prejudice to the generality of the above, the Government undertakes at its sole cost, risk, legal and financial liability to affect the required improvements to the road infrastructure leading to the gates of the SmartCity Development (the "**Road Infrastructure Works**"). The obligation of the Government to construct, develop and complete the aforesaid road infrastructure shall be divided into phases as shall be agreed to between the Parties and each phase must be completed by the Government within the time frames agreed.

Provided that, the Road Infrastructure Works, shall as a minimum include:

(i) the road infrastructure required to connect 'Point A' to 'Point B' shown on the plan herewith attached and marked as Annex X6 as well as the improvements required to connect 'Point B' up to the gates of the SmartCity Development shown as 'Point C', shown on the attached Annex X7 namely along Triq Santu Rokku, Triq il-Missjoni Taljana and Triq Joseph Calleja, which infrastructure/ improvements shall be completed by the Government by not than twelve (12) months from the issuance of the Approved Master Plan referred to in Clause three sub-clause eleven (3.11) herein, always in accordance with the necessary permits issued by the relevant competent authorities; and

(ii) any additional improvements to the road infrastructure as arising from the Approved Master Plan referred to in Clause three sub-clause eleven (3.11) herein or the relative Development Permit, of any building developed on the SCM Site, which improvements shall be completed by the Government by not later than such date that the relative building on the SCM Site has been developed to a Complete State, always in accordance with the necessary permits issued by the relevant competent authorities.

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## **The Third Part of this deed: Amendments and Additions to Original Grant**

The Parties agree that unless expressly modified or stipulated in any part of this deed, the provisions in the Original Deed shall continue to regulate and govern the Grant in favour of the Emphyteuta. For ease of references numbering of this part of this deed has followed the numbering of the Original Deed.

### **4. Terms and Conditions**

**Paragraph (b) of Clause 4.2 of the Original Deed shall be deleted and replaced in its entirety by the following provision:**

- (b) The Original Deed and this deed shall supersede any and all negotiations, understanding, discussions, memoranda, letters and agreements, whether verbal, written or otherwise, as may have taken place or been reached between the Parties prior to the date of this deed. The Original Deed and this deed, together with their annexes, shall thus constitute the whole and sole agreement between the Parties, provided that should a conflict arise between any provision contained in this deed and any provision contained in the Original Deed or any annex to this deed or to the Original Deed, the provisions of this deed shall prevail.

### **5. Term**

- 5.1A The New Grant is being granted by the Government and accepted by the Emphyteuta for a period of ninety-nine (99) years commencing from the Commencement Date.

### **7. Ground-Rent**

**Clause 7.1 of the Original Deed shall be deleted and replaced in its entirety by the following provision:**



7.1 The Grant and the New Grant are being made in consideration of the ground-rent indicated in the attached schedule marked as Annex X8 (subject to what is stated hereunder or otherwise agreed upon in the Deed). Following the thirtieth (30<sup>th</sup>) year from the signing of the Original Deed, the ground-rent shall be increased annually according to the official rate of inflation which shall be taken to be the official rate of inflation published in respect of the year immediately preceding such year and thereafter, on the lapse of every subsequent year, by said rate of inflation on the *pro tempore* ground-rent payable annually in terms of the Deed.

## 8. Use of Additional Lands

Clause eight sub-clause one (8.1) and Clause eight sub-clause one paragraph one (8.1.1) of the Original Deed shall be deleted in their entirety and shall be replaced by the term 'Deleted'.

Clause eight sub-clause three (8.3) and Clause eight sub-clause three paragraph one (8.3.1) of the Original Deed shall be deleted in their entirety and shall be replaced by the term 'Deleted'.

## 12. Development

**Clause 12.3 of the Original Deed shall be deleted in its entirety and replaced by the following provision:**

12.3 The Emphyteuta undertakes to have Substantial Completion at the SCM Site within a period of five (5) years from having all the required Development Permits referred to in Clause twelve sub-clause four (12.4), which have been Definitively Issued (hereinafter referred to as '**Phase I**').

The Emphyteuta undertakes to complete the remaining part of the Project (hereinafter referred to as '**Phase II**') by not later than five (5) years from when Phase I reaches Complete State.

Provided that the Parties agree that, in the case of exceptional

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circumstances totally independent of, and extraneous to, the Emphyteuta's own actions or omissions, which effectively prevent the Emphyteuta from completing Phase I and/or Phase II of the Project within the said time-limit, the Government shall grant the Emphyteuta a grace period not exceeding twenty-four (24) months, within which to complete the Project.

Provided further that any delays by the Government in the execution of any of its obligations in terms of the Deed shall, without prejudice to any other rights that the Emphyteuta may have in terms of law and/or other provisions in the Deed, automatically extend any and all time limits for the performance of the Emphyteuta's obligations undertaken in virtue of the Deed and by a term equal to any such period of delay.

**Clause 12.4 of the Original Deed shall be deleted in its entirety and replaced by the following:**

12.4 The Emphyteuta shall, at its expense, apply for Development Permits for works, construction, restoration, rehabilitation and adaptation on the Designated Land. The Emphyteuta agrees and undertakes that by not later than twelve (12) months from the approval of the application relative to the master plan over the Smart City Development (which revised master plan shall also include the SCM Site) submitted by SCM as outlined in Clause three sub-clause eleven (3.11) herein, it shall submit with the PA all necessary applications in a validated form for the development within the SCM Site to reach Substantial Completion and shall thereafter, diligently and expeditiously pursue such application/s, within the shortest time-frames possible.

### **13. Expected Employment Opportunities and Student Capacity**

The parties re-affirm the agreement in the Original Deed namely that the Emphyteuta expects that the operation of the Project, at its full capacity, shall: -



- i. generate direct employment in the region of three hundred (300) new jobs. Preference shall be given to individuals with a minimum of eight (8) years education in Malta. This is not to be construed as a direct or indirect restriction to engagement of individuals who do not possess Maltese citizenship; and
- ii. attract approximately four thousand (4,000) Students by the fourth (4<sup>th</sup>) year from the Date of Completion (“Full Capacity”), with an annual intake of approximately one thousand (1,000) Students.

#### **14. Further Obligations of the Parties**

**The Parties agree that immediately after Clause 14.3, the following Clauses 14.4 – 14.7 shall be inserted:**

- 14.4 The Government intends to embellish the area known as ‘Saint Paul’s Car Park’ (as defined in the Original Deed), in such a manner not to interfere with the development works to be carried out by the Emphyteuta, which area forms part of the Renounced Land. The Government shall provide the Emphyteuta with the right of use of ten (10) parking spaces within a reasonable walking distance from the Bormla Site. For the purposes of this provision, a reasonable walking distance shall be considered as being a walking distance which would not take more than five (5) minutes to reach.
- 14.5 The Government shall be obliged to construct and lay the infrastructure of the Peripheral Road Ring by not later than twelve (12) months from the date that the permit in pursuance of application PA/08566/20 is definitely issued.
- 14.6 The Government shall, at its cost and expense, provide a free of charge land public transport shuttle service from the Cospicua landing place of the Grand Harbour and Port of Marsamxett Maritime Ferry Service to SmartCity and vice versa. The said shuttle service shall commence operations by not later than two (2) years



from the New Commencement Date and shall operate regularly during the same hours of the said maritime ferry service.

14.7 In the event of termination or dissolution (for any reason whatsoever and by whoever) of the SCM Deed of Emphyteusis, Government shall ensure that the revision process of the master plan over the Smart City Development and the execution of works on the SCM Site are not unreasonably stalled in such a way as to materially hinder the performance of the Emphyteuta's obligations in terms of the Deed.

14.8 The Parties undertake to set up a steering committee composed of an equal number of representatives from the Government and from the Emphyteuta to oversee the implementation of the Project and to ensure, *inter alia*, that the development progresses in line with the agreed phasing plan.

## 24. Insurance

**Clause 24.2.1 of the Original Deed shall be deleted in its entirety and shall be Purposely Left Blank**

24.2.1 Deleted

**Clause 24.2.2 of the Original Deed shall be deleted in its entirety and shall be Purposely Left Blank and the content of such clause shall be added to clause 24.2.3**

24.2.2 Deleted

**Clause 24.2.3 of the Original Deed shall be deleted in its entirety and shall be replaced by the following provision:**

24.2.3 To guarantee the timely completion of Phase I, the Emphyteuta shall, by not later than one (1) month after the issuance of the Development Permit/s over the SCM Site, take out an insurance policy for a value of one million Euro (€1,000,000), which amount is being fixed as pre-liquidated damages, and shall not be subject to abatement, review or



adjustment by any court or arbitral tribunal.

**Clause 24.2.4 of the Original Deed shall be deleted in its entirety and shall be replaced by the following provision:**

24.2.4 Saving any right at law and in terms of this deed pertaining to Government to ensure the entire completion of the Project in a timely manner, the insurance policy as set out above shall be kept in force during the construction period of Phase I of the Project and until such date as Phase I is complete.

**Clause 24.2.5 of the Original Deed shall be deleted in its entirety and shall be replaced by the following provision:**

24.4.5 The insurance policy shall be payable upon a claim being made by the Government, without the direct or indirect intervention, or assistance of the Emphyteuta, should the Emphyteuta fail to complete the Phase I of the Project in accordance to Clause twelve sub-clause three (12.3), or any extension mutually agreed between the Parties. Provided that the Emphyteuta shall not be deemed to be in delay if such delay is justified in terms of any other clause of the Deed.

Provided that the Government shall be bound to notify the Emphyteuta, if or when it shall lodge a claim in terms of this Clause.

**Clause 24.2.6 of the Original Deed shall be deleted in its entirety and shall be replaced by the following provision:**

24.2.6 The Parties agree that in the case of delays in the completion of Phase I of the Project as detailed in Clause twenty four sub-clause two paragraph five roman number two (24.2.5 (ii)) the amount payable shall be one hundred thousand Euro (€100,000) for every month of delay, or part thereof, up to a maximum of one million Euro (€ 1,000,000).

## 26. Events of Default

**It is being agreed that the second proviso to Clause 26.1 of the Original Deed shall be replaced in its entirety by the following provision:**

26.1 Provided further that In the event that an Event of Default occurs, the Government shall give formal notice to the Emphyteuta, by means of a judicial letter, of such default and request the Emphyteuta to rectify its position. The Emphyteuta shall be entitled to a cure period of twelve (12) months, within which it may rectify the default. Failure to remedy such default within the said cure period (which shall be of a of twelve (12) months) shall, bring about the termination of the Grant in terms of Clause twenty-six sub-clause two (26.2), in which case all provisions regulating the termination of the Grant contained in the Deed shall apply.

**Clause 26.2 of the Original Deed shall be deleted in its entirety and shall be replaced by the following provision:**

26.2 The Government shall, prior to requesting the dissolution of the Grant on the basis of Clause twenty-six sub-clause one (26.1), notify the Emphyteuta of the Government's intention to dissolve the Grant and the reasons thereof, by means of a judicial letter.

Provided that the Government shall only be entitled to dissolve the Grant if the Emphyteuta shall remain in breach for a period of twelve (12) months from the date of filing of such judicial letter.

**Clause 26.3 shall be replaced in its entirety by the following:**

26.3 The Government shall be entitled to recover from the Emphyteuta those direct costs and expenses incurred by the Government by reason of the Emphyteuta's default provided that the compensation payable to the Emphyteuta in the circumstances mentioned, and in terms of, Clause twenty-seven sub-clause three (27.3), shall not be construed as any such costs or expenses.



**Clause 26.4 of the Original Deed shall be deleted and replaced in its entirety by the following provision:**

26.4 Without prejudice to the Parties' rights arising in terms of law and the Deed, in the event that all necessary permits, including the issuance by the competent authorities of the revised Approved Master Plan referred to in Clause three sub-clause eleven (3.11) which shall be submitted by SCM, which shall include the proposed development of eighty-two thousand square meters (82,000sqm) GFA at the SCM Site, are not issued, the Emphyteuta shall not be obligated to carry out the Project and may thus, by giving notice to the Government, terminate the Grant and this without the Emphyteuta being liable for any damages or claims in favour of the Government.

**27. Right of Compensation**

The Parties agree that there was a typological error in the numbering of the sub-clauses within Clause twenty-seven (27) and such provisions shall be renumbered and replaced in their entirety by the following:

27.1 In events referred to in Clause twenty-six sub-clause one (26.1) that would give rise to termination for reasons attributable to the Emphyteuta, Government shall not have the right to proceed with such termination if it can reasonably be shown that the breach was induced by or arose directly or indirectly from:

- i. Any act or omission of the Government or any government owned or controlled entity in breach of the Government's obligations under the Deed which materially hinders or interferes with the performance by the Emphyteuta of its obligations under this deed and any authorisation duly issued to it;
- ii. Any unreasonable demand or constraint made by any authority issuing any relevant authorisations referred to in the Deed

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where such unreasonable demand or constraint would impact the revenues, cost, return on capital or financial position of the Project;

iii. Any act or omission of any entity or unreasonable delay in the performance of its duties in terms of law where such delay would impact revenues, cost, return on capital or financial position of the Project.

27.2. The persistence of any of the circumstances referred to in Clause twenty-seven sub-clause one (27.1) paragraphs (i)(ii)(iii), where such persistence would make it unreasonable for the Emphyteuta to continue with the operation of the Project, shall be deemed as a breach attributable to Government and shall give the Emphyteuta the right to terminate the Grant and/or claim for compensation in terms of clause twenty-seven sub-clause three (27.3) hereunder.

27.3 In the event of termination (i) for reasons attributable to the Government, or in the eventuality that the Grant is terminated by the Emphyteuta or the Government for any reason other than those listed in Clause twenty-six sub-clause one (26.1), the Emphyteuta shall be entitled to compensation of the value of the development actually executed on the Designated Land or the actual cost of the works carried out, in compliance with the relevant permits and in accordance with all applicable standards, valued at the instance of termination, whichever may be the higher; (ii) for any of the reasons listed in Clause twenty-six sub-clause one (26.1), the Emphyteuta shall be entitled to compensation of the actual costs of the works, carried out in compliance with the relevant permits and in accordance with all applicable standards on the Designated Land, valued at the instance of termination, without prejudice to Government's right to recover the costs and expenses in terms of Clause twenty-six sub-clause three (26.3), which shall be deducted from any compensation due in terms of this clause. Such valuation as outlined in (i) and (ii) above shall be made by a board of three (3) experts, one of whom shall be appointed by the Government, another by the Emphyteuta and the third expert who shall be appointed by

the other two (2) experts. The valuation of the said board shall be final and conclusive, and shall not be subject to any review or amendment.

27.4 For the avoidance of doubt the above clauses shall be without prejudice to the regulation of compensation in terms of Clause twenty-two (22) and Clause thirty (30) of the Deed.

27.5 Without prejudice to any stipulation in the Deed regulating circumstances which bring about termination of the Deed, the parties may, only if in mutual agreement, enter into negotiations with the intent to conclude upon an alternative solution as against the termination of the Deed.

**The following new Clause 28A shall be introduced immediately after Clause 28 of the Original Deed:**

**28A. Other Assistance by the Government**

28A.1 The Government shall, in strict adherence to the Laws of Malta, assist, facilitate and expedite the processing of applications related to:

- a. residence in Malta to partners and representatives and their spouses and immediate family of the Emphyteuta and/or any entity forming part of the Emphyteuta's Group of Companies, which entity is involved in the development and/or operation of the Project;
- b. the entry into Malta and/or residence as the case may be, for employees, administrative and financial staff, advisors and consultants (including financial, administrative, engineering, academic and legal) that may be reasonably needed in the development and/or operation of the Project, for the duration of the Project;

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- c. the entry into Malta for AUM students, lecturers, employees, administrative and financial staff, including their spouses and immediate family, for the entire period of the intended duration of their studies or employment with the AUM.

28A.2 Any due diligence which the Government shall conduct in terms of the Deed, as well as any VISA applications, shall be conducted and processed, *inter alia*, for the purposes of ensuring the national and internal security of Malta in a manner acceptable to the Government.

28A.3 The Parties agree that the Emphyteuta shall, where it considers expedient during the admission periods, at its own cost, provide an office within the Designated Land to facilitate the processing of all residency, work-permits and other applications required in the implementation of the Project. The Government shall man this office with a number of employees to be agreed upon by both Parties, subject to the condition that the Emphyteuta shall reimburse the Government for the remuneration paid to the employees manning this office.

28A.4 Any delay in the provision of VISAs and/or residency permits as provided for in this Clause twenty-eight capital letter 'A' (28A) shall not give rise to and bring about the same consequences and effect *mutatis mutandis* provided for in Clause twenty-seven (27) of the Deed unless such delay is unreasonable.

28A.5 The Parties reaffirm that nothing in this Agreement shall, in any manner or form, affect the Government's prerogative and sovereign power to issue VISAs or residence permits in its absolute administrative discretion according to the Laws of Malta.

28A.6 The Government shall, to the extent permissible by the Laws of Malta and within its powers, as direct owner, cooperate with the Emphyteuta for the attainment of all necessary planning and other permits required for the implementation of the Project.

28A.7 The Government shall grant the Emphyteuta, to the extent permissible by the Laws of Malta, any and all such exemptions, facilities and incentives as are normally afforded to similar investments for the implementation and execution of the Project, the running of the Project and the employment or hiring of personnel for the Project.

**Clause 33.2 of the Original Deed shall be amended to reflect that the Parties shall resort to arbitration only if there is no resolution of their dispute within a ninety (90) day term. Clause 33.2 of the Original Deed shall be deleted and replaced in its entirety by the following:**

33.2 Unless otherwise stipulated in this deed, disputes in connection with any matter connected to or arising from this deed and/or the New Grant shall be subject to international arbitration in Malta according to UNCITRAL Arbitration Rules. The number of arbitrators shall be three (3), where one (1) arbitrator is chosen by the Government, one (1) by the Emphyteuta, and another one (1), who shall act as chairperson, shall be chosen by the other two (2), provided that such latter arbitrator shall not be of Maltese nationality, nor of the same nationality as the majority beneficial owner of the Emphyteuta.

Provided that, in every dispute, the Parties shall first seek amicable resolution through mediation, and only if the process of mediated dispute resolution shall have failed after ninety (90) days from its commencement, will the Parties go to arbitration. Arbitration proceedings shall be decided within a maximum period of three (3) months. Appeal to the Maltese Courts shall lie only on points of law. The language used in the arbitration shall be the English language.

**The following general provisions as found in the Original Deed (numbered the same way as in the Original Deed) shall be re-stated and re-affirmed herein and are also applicable to this deed. For the avoidance of doubt, the changes to Clause 33.2 stipulated above shall also be applicable to this deed.**

31. Severability



31.1 If any part, clause or provision 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.

### **32. Waivers**

32.1 No waiver by any party (the "Non-Defaulting Party") of any provision hereof shall be deemed a waiver of any other provision 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 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 such preceding breach at the time of acceptance of such ground rent or other dues.

### **33. Applicable Law and Dispute Resolution**

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

33.2 Unless otherwise stipulated in this deed, disputes in connection with any matter connected to or arising from this deed and/or the New Grant shall be subject to international arbitration in Malta according to UNCITRAL Arbitration Rules. The number of arbitrators shall be three (3), where one (1) arbitrator is chosen by the Government, one (1) by the Emphyteuta, and another one (1), who shall act as chairperson, shall be chosen by the other two (2), provided that such

latter arbitrator shall not be of Maltese nationality, nor of the same nationality as the majority beneficial owner of the Emphyteuta.

Provided that, in every dispute, the Parties shall first seek amicable resolution through mediation, and only if the process of mediated dispute resolution shall have failed after ninety (90) days from its commencement, will the Parties go to arbitration. Arbitration proceedings shall be decided within a maximum period of three (3) months. Appeal to the Maltese Courts shall lie only on points of law. The language used in the arbitration shall be the English language.

#### 34. Notices

34.1 The Parties agree that any form of notification, service of information and/or any other communication to be effected by either party in favour of the other in terms of this deed and in execution of the obligations undertaken herein, shall be delivered at the following addresses in the manner specified in this deed: -

**The Government:** Lands Authority, Auberge de Baviere, St. Sebastian Street, Valletta, VLT 2000, Malta, or any other such address in Malta as may be notified in writing by Government to the Emphyteuta.

**The Emphyteuta:** No. 1 , Triq Dom Mintoff, Cospicua, BML 1013, or any other such address in Malta as may be notified in writing by the Emphyteuta to the Government.

Effective notice shall be deemed to have been effected if any form of notification, service of information and/or any other communication, if delivered by hand, at the addresses above referred and a receipt of such delivery is duly received by the receiving party.

#### 35. Costs

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

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

## **36. General**

### **36.2 Value and Consideration of the Transactions Executed by the Deed**

36.2.1 The Government and the Emphyteuta have attributed the following values with respect to the transactions executed by virtue of this deed that is:

- a) The value of the SmartCity Site/ SCM Site is of forty-five million, four hundred and seventy-three thousand, nine hundred and seventy-one Euro (€45,473,971);
- b) The value of the Renounced Parts of Bormla Site is of three million, two hundred and ninety-four thousand, six hundred and seventy-three Euro (€3,294,673);
- c) The value of the Renounced Zonqor Site is of forty-three million and nine hundred thousand Euro (€43,900,000); and
- d) The value of the Stores Within the Boat Yard is of four hundred and forty-two thousand, two hundred and sixteen Euro and ninety-seven cents (€446,216.97).

36.2.2 I the undersigned Notary declare that I have warned the Government and the Emphyteuta of the importance of the truthfulness of these values.

36.2.3 The Government and the Emphyteuta are hereby agreeing to mutually offset the monetary consideration referred to in clause 36.2.1

### **Statutory Declarations**

For the purposes of the Government Lands Act, Chapter 573 (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 \_\_\_\_\_ as approved on the \_\_\_\_\_,  
numbered \_\_\_\_\_ of the year \_\_\_\_\_.

For the purposes of the Duty on Documents and Transfers Act (Chapter three hundred and sixty-four (364) of the Laws of Malta), it is being declared that no duty on documents is due on this deed in terms of the exemption issued by the Commissioner for Revenue hereto attached and marked as Document '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), it is being declared that in so far as the site in Smart City is concerned, no permit is required since the property lies within a Special Designated Area, whereas in so far as the Stores within the Boat Yard are concerned (in Bormla), a permit is herewith being attached marked as AIP numbered \_\_\_\_\_ issued by the Director General (Inland Revenue Department) dated \_\_\_\_\_ and letter relating to the same dated \_\_\_\_\_ which permit and letter are together marked as Document 'C' authorising the transfer of this deed.

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. The Government and the Emphytueta 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 *dominium utile* of the properties transferred by virtue of this deed, if this value is higher than the consideration for the transfer. The Government and the Emphytueta make such declaration after I the undersigned Notary warned them about the importance of the truthfulness of this declaration of theirs.

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- ii. I the undersigned Notary declare that the Government does not pay income tax or capital gains tax.

For the purposes of the Notarial Profession and Notarial Archives Act (Chapter fifty five (55) of the Laws of Malta) and the Examination of Title Regulations (subsidiary legislation fifty five point zero six (55.06) of the Laws of Malta), I, the undersigned Notary, declare to have explained to the parties that I am exempted from examining the title of the Designated Land ipso iure according to the hereinmentioned legislation, with particular reference to regulations four paragraph 'd' (4(d)) of the Examination of Title Regulations, by virtue of the fact that the New Designated Land is being acquired by the Emphyteuta, in the manner and subject to the terms and conditions of this deed, from the Government of Malta, and this after I explained unto the Emphyteuta the importance and the consequences which arise from the said exemption. Furthermore, the Emphyteuta declares and confirms that I, the undersigned Notary, have provided this explanation accordingly for all intents and purposes of law.

By virtue of the fact that the documents annexed to this deed exceed five (5) in number, there is being annexed to this deed a schedule of documents, marked Document letter "X", which forms and integral part of this deed.

Done, read and published after due explanation by me to appearers hereto in Malta, Valletta, Saint Sebastian Street, at the Auberge de Baviere, at the Government Property Department, without number.

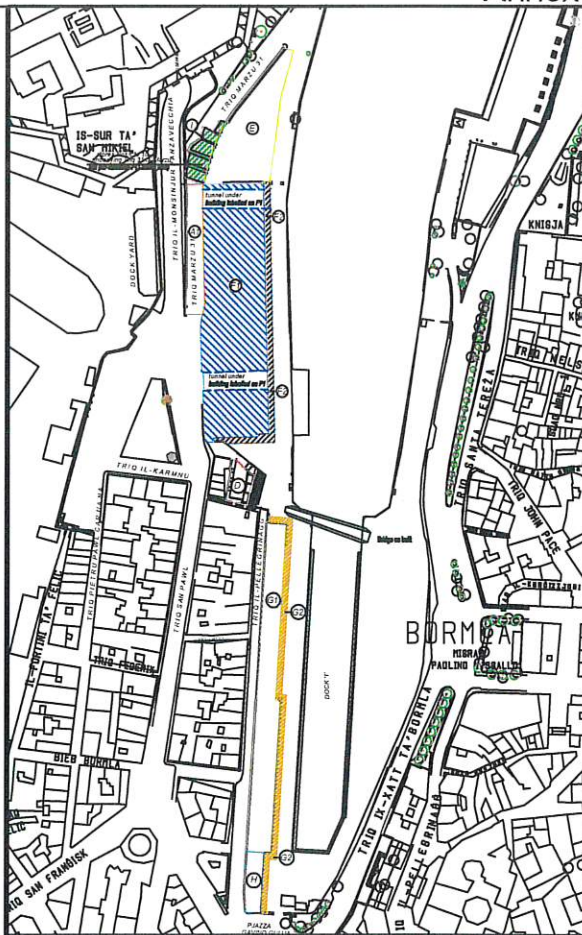
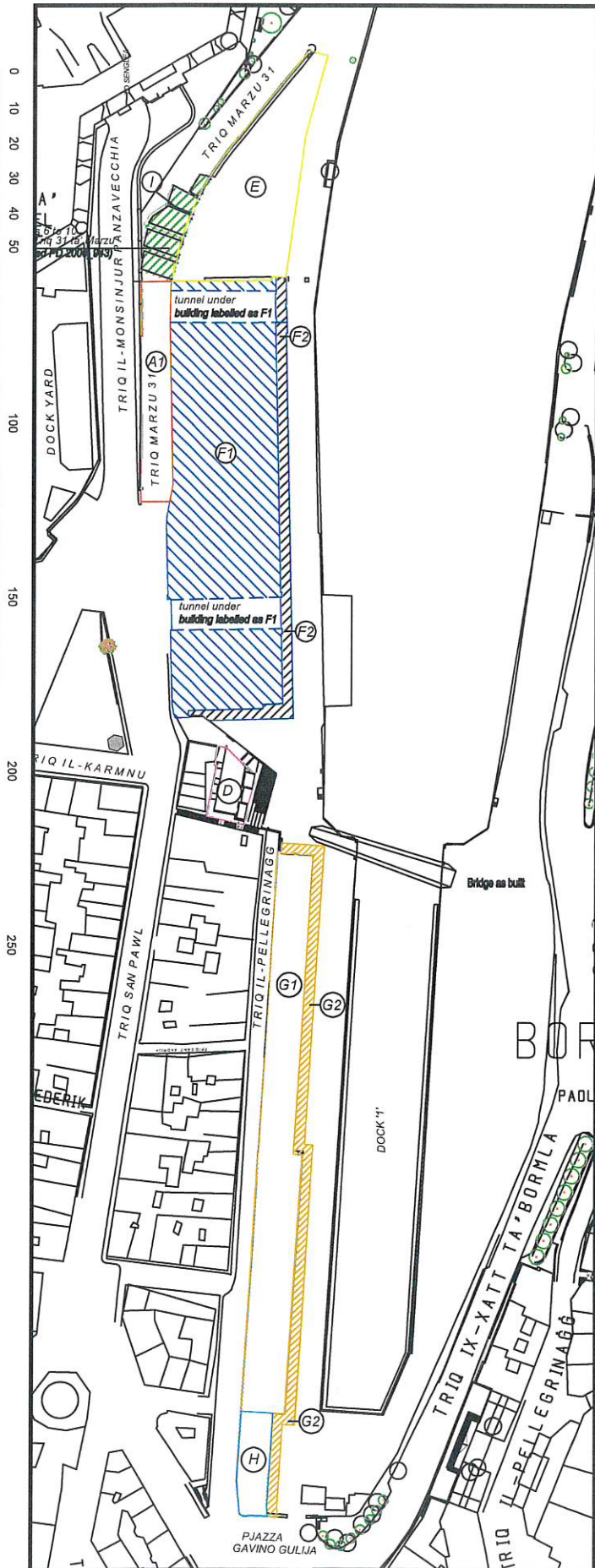


## Document X - LIST OF DOCUMENTS

DOC REF.	DESCRIPTION
Annex 'X1'	Bormla – Site Update
Annex 'X2'	Bormla – Renounced Land
Annex 'X3'	Bormla - Plan of Stores within the Boat Yard
Annex 'X4'	SCM - Plan showing the development within the site - showing Plots K, L, M1, M2 & N
Annex 'X5'	SCM - Plan of the Boulevard and Peripheral Ring Road
Annex 'X6'	SCM - Plan of Road Infrastructure work to connect Point A to Point B
Annex 'X7'	SCM - To insert details of improvements to connect Point B to Point C
Annex 'X8'	Schedule showing Ground-rent
Annex 'X9'	Smart City Facilities Agreement
Annex 'X10'	Plot Development Guidelines
Document 'A'	Board Resolution of the Board of Directors of Sadeen Education Investment Limited
Document 'B'	Exemption from duty – Commissioner for Revenue
Document 'C'	AIP Permit
Document 'D'	List of servitudes and services

SITES FOR A.U.M. BORMLA

Scale 1:1250



Site Plan  
S.S. 5671

Scale 1:2500  
Map Ref.: 56632  
71468

Property No.: E268795  
(All sites)

- A1** Area : 555m<sup>2</sup>
- E** Area : 1,460m<sup>2</sup>
- D** Area : 208m<sup>2</sup>
- F1** Area : 3,853m<sup>2</sup>
- F2** Area : 463m<sup>2</sup>
- G1** Area : 1,796m<sup>2</sup>
- G2** Area : 624m<sup>2</sup>
- H** Area : 264m<sup>2</sup>
- I** Stores Nos 6 to 10 underlying Triq 31 ta' Marzu Isla ( vide attached PD 2006\_943)



Auberge de Baviere  
St. Sebastian Str., Valletta  
Phone (00356) 2295 3238/39/40/42  
Website landsauthority.org.mt

Estate Management & Business Development

Locality:	Bormla, Isla	
P.D. No.:	2015_1011_A_1_A	Scale : 1 : 1250
File No.:	L 246/2015	Drawn by : demir001

A&CE  
sgd (S. Scotto)

Date : 22th June 2022

0 10 20 30 40 50 100 150

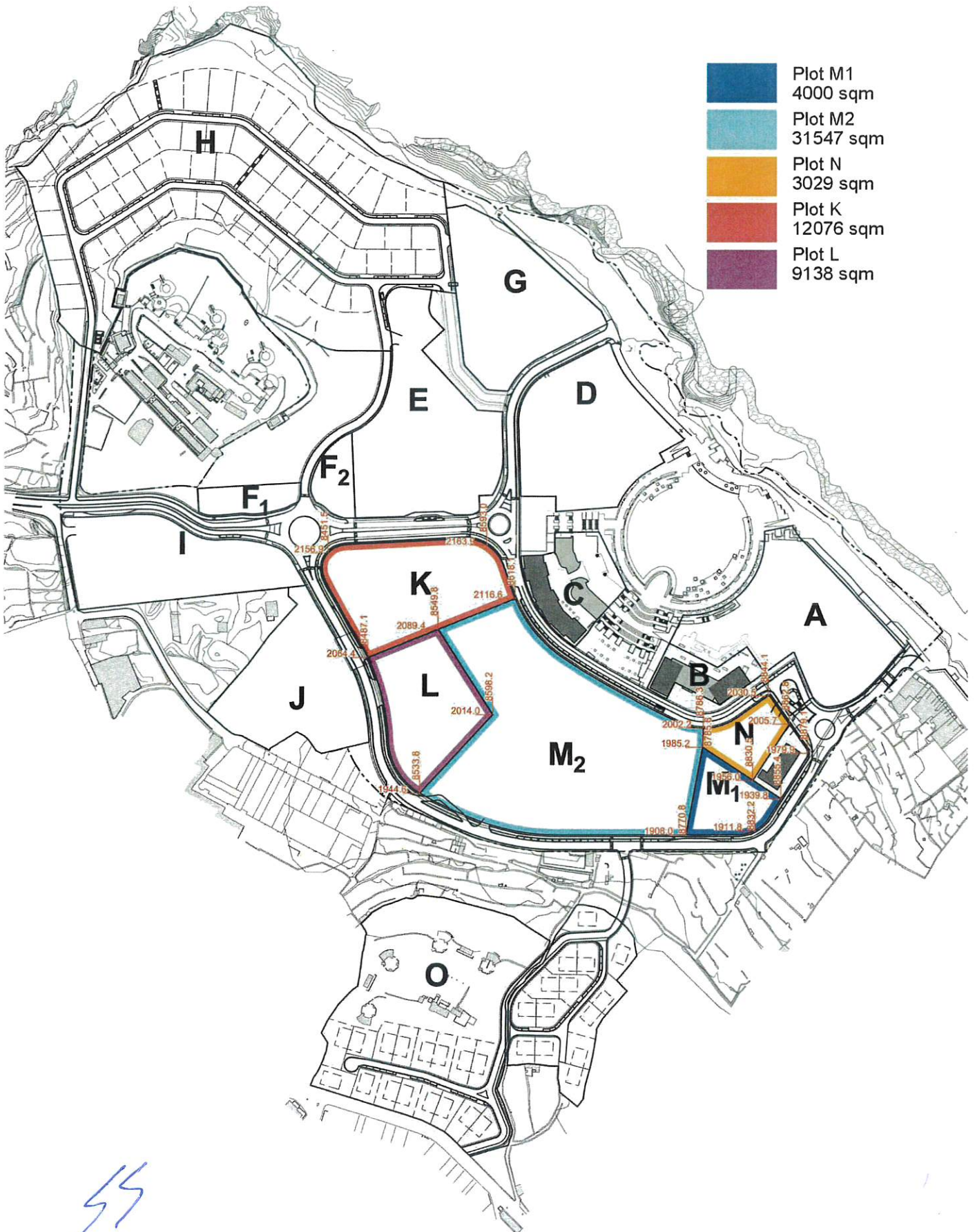


Scale 1:1250





# Annex X4



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# Annex X5

-  Boulevard/ Southern Urban Ring Road  
4598 sqm
-  Peripheral Ring Road  
13236 sqm



# Annex X6

Point A (Cottonera gate/Bieb Haz-Zabbar) to Point B (Capuchin Convent Kalkara) to be joined by a road along the outer bastions.



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# Annex X7



Roads from Point B (Capuchin Convent Kalkara) to Point C (Gates of Smart City) to be upgraded or embellished.



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 ERDF 02.030 - SintegraM data, (2018). Developing Spatial Data Integration for the Maltese Islands, Planning Authority. Reproduction in whole or in part by any means is prohibited without the prior permission of the SintegraM Project Leader. Data captured from: 2019 aerial photography 2020 unmanned aerial vehicles (UAVs) WGS 1984 UTM Zone 33N EPSG:32633 M.S.L. (Mean sea level). Scale factor at the central meridian 0.9995. Central meridian has a false origin of 500,000m at 150 East of Greenwich. Northern coordinates have an origin of 0m at the Equator.  
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 www.pa.org.mt

Date Printed: 19/01/2022

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# Annex X8

	Yearly Ground Rent Bormla site	Yearly Ground Rent SCM site	Total Annual Ground Rent Euro
Year 1	15,200	24,800	40,000
Year 2	15,489	25,271	40,760
Year 3	15,783	25,751	41,534
Year 4	16,463	26,861	43,324
Year 5	16,389	26,739	43,128
Year 6	16,700	27,247	43,947
Year 7	17,017	27,765	44,782
Year 8	17,341	28,292	45,633
Year 9	17,670	28,830	46,500
Year 10	18,006	29,378	47,384
Year 11	18,348	29,936	48,284
Year 12	37,044	60,441	97,485
Year 13	37,748	61,589	99,337
Year 14	38,465	62,760	101,225
Year 15	39,196	63,952	103,148
Year 16	39,941	65,167	105,108
Year 17	80,641	131,572	212,213
Year 18	82,173	134,072	216,245
Year 19	83,734	136,619	220,353
Year 20	85,325	139,215	224,540
Year 21	172,271	281,075	453,346
Year 22	175,545	286,415	461,960
Year 23	178,880	291,857	470,737
Year 24	182,279	297,402	479,681
Year 25	185,742	303,053	488,795
Year 26	348,871	569,211	918,082
Year 27	355,500	580,026	935,526
Year 28	362,254	591,047	953,301
Year 29	369,137	602,276	971,413
Year 30	376,151	613,719	989,870

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## SMARTCITY FACILITIES AGREEMENT

### 1. Defined Terms

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

“**Administration Fee**” means the fee which the Developer or the Management Company are entitled to charge in term of clause 7.2 of this SFA.

“**Asset Classes**” means the different categories in which properties within SmartCity are categorised in accordance with their designated use, namely:

- i. Offices
- ii. Food and Beverage and Retail
- iii. Apartments
- iv. Villas
- v. Townhouses
- vi. Hotels
- vii. Hospitals and health related (including wellness)
- viii. Educational establishments
- ix. Any other class included and approved in the Approved Master Plan;

whether developed and finished or in a state of development and includes (a) land within SmartCity which has been transferred by the Developer to third parties and has not yet been developed and (b) land owned by the Developer in respect of which a Full Development Permit has been issued by the PA; which land described in (a) and (b) shall be categorised in one of the above mentioned Asset Classes in accordance with the intended development.

“**Auditor**” means the qualified person or firm appointed by the Developer or the Management Company for the purpose of auditing the financial statements of the Community Costs as provided in this agreement.

“**Building**” means a permanent structure or a cluster of permanent structures above ground forming an enclosure within SmartCity and including its outside areas, with its own independent entrance or entrances, being a building which is distinct from the other buildings in SmartCity and which has the right to use and / or enjoy the SmartCity Facilities and term “**Buildings**” shall be construed accordingly.

**"Community Costs"** means the summation of the Maintenance Costs, the Administration Fee and the Reserve Fund Contribution.

**"Community Fee"** means a Contributor's share of the Community Costs (which includes the Administration Fee and the sums required to fund the Reserve Fund) as established by means of the Formula.

**"Community Fee Commencement Date"** means the date when a Contributor is to pay the first instalment of the applicable Community Fee in terms of Clause 8.5 of this SFA.

**"Condominium"** shall have the meaning attributed to it in terms of the Condominium Act (Chapter 398 of the Laws of Malta).

**"Contributing GBA"** means the GBA in respect of which a Contributor is to pay its share of Community Costs pursuant to this agreement. For the avoidance of doubt, whenever a Building is split into smaller units, the GBA of the smaller unit shall be grossed up to reflect the net to gross ratio of the Building in such manner that the sum total of the GBA of the smaller units is equal to the GBA of the Building.

**"Contributor"** means:

- (a) any person, not being the Developer, who owns any property within SmartCity (including any portion of any multi-tenanted building), whether such property has been developed or otherwise; and
- (b) the Developer in respect only of property which it owns within SmartCity which has either been developed or in respect of which a Full Development Permit has been issued by the PA.

**"Contributor Class"** means a class of Contributors excluding Significant Contributors who own properties within the same Asset Class.

**"Deed of Emphyteusis"** has the meaning assigned to the term in the Main Agreement.

**"Developer"** means SMARTCITY (MALTA) LIMITED, a limited liability company registered in Malta with registration number letter "C" number four one one nine four (C41194) and registered office at SmartCity (Malta) Limited, Ricasoli, Kalkara SCM 1001 or its successor in title.

**"Emphyteutical Land"** has the meaning assigned to the term in the Main Agreement.

**"Formula"** means the formula set out in the schedule annexed to this SFA as SFA1 Annex 1 with its supporting annexes SFA1 Annex 2 and SFA1 Annex 3

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by virtue of which the applicable Community Fee for each Contributor is established.

"**GBA**" means the total gross built up area including all rooms and internal spaces; this includes wall thickness (owned party wall to be included) but excluding yards, backyards and shafts. The measure includes lobbies; mezzanines; attic space with a headroom of two point one five metres (2.15 m) or more; enclosed balconies and porches; floor areas developed to accessory uses and stairwells; all corridors accessing non GBA space; storage rooms and mechanical rooms; any underground spaces (which are not used for the provision of parking) but excludes shafts; underground parking; external spaces, uncovered balconies; external roofed over areas which are open to all sides; roof overhangs; open porches.

"**Laguna Area**" means the area measuring some eighteen thousand square metres (18,000 m<sup>2</sup>) situated on the sea-facing side of the SmartCity Development bounded by plots A, B, C and D and which currently being used as a water feature.

"**Main Agreement**" means the agreement entered into between the Developer and the Third Party to which this document is annexed as "Document SFA1".

"**Maintenance Costs**" means the annual aggregate of all costs, expenses and outgoings incurred in the interests of good estate management for the general control, management, operation, upkeep, preservation, protection, insurance, cleaning ordinary and extraordinary maintenance, service, repair, alteration, redecoration, renovation or replacement of the SmartCity Facilities for the enjoyment of, comfort and/or convenience of the generality of the Contributors and their employees, customers, invitees, licensees, contractors and suppliers (and irrespective of the extent of use, if any) and /or the buildings within SmartCity as a self-contained high quality knowledge-based township as well as all costs, expenses and outgoings incurred for the rendering of services in the common interest, including security, refuse disposal, and without prejudice to the generality of the foregoing the said Costs shall also include any costs and expenses incurred by the Developer or the Management Company to perform and complete their obligations arising from this SFA including but not limited to:

- (a) all costs incurred to employ the required personnel for the proper fulfilment of their obligations arising from this SFA;
- (b) all the premiums and other costs paid by the Developer or the Management Company to take out and keep in force the insurances mentioned in this SFA;

- (c) the running costs (including utility bills) incurred for the service and operation of the SmartCity Facilities;
- (d) the fees payable to the auditors, accountants, surveyors and other professional consultants;
- (e) all rates, charges, taxes, impositions, duties, assessments and other outgoings now or hereafter payable in respect of the SmartCity Facilities other than any property tax and/or any tax or duty payable on any property transfer;
- (f) costs of compliance with any law, legal notice or legal requirement in respect of the SmartCity Facilities;
- (g) Value Added Tax at the applicable rate in respect of any item of expenditure herein mentioned to the extent not otherwise recoverable by the Grantor.
- (h) expenses reasonably incurred by the SmartCity Facilities Council to fulfil its functions.

**"Management Company"** means a company or other entity engaged by the Developer in terms of this SFA to take over the control, operation, management and maintenance of the SmartCity Facilities and if so engaged shall be responsible for the control, operation, management and maintenance of the SmartCity Facilities in terms of its engagement.

**"Planning Authority"** or **"PA"** is the entity previously referred to as **"MEPA"** and has the meaning assigned to the term in the Main Agreement.

**"Other Party"** means the counterparty to the Developer appearing on the Main Agreement.

**"Reserve Fund"** means the fund established by the Developer in terms of paragraph (d) of clause 5.2 of this SFA.

**"Reserve Fund Contribution"** means the funds required annually to fund the Reserve Fund calculated in the manner stated in clause 7.3 of this SFA.

**"Third Party"** means the other party to the Main Agreement;

**"Rules and Regulations"** means the rules and regulations which set out a code of conduct for the Contributors, which shall be established from time to time by the Developer or the Management Company and which have been approved by the SmartCity Facilities Council and brought to the notice of the Contributors in writing, as may be amended by the Developer or the

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Management Company with the approval of the SmartCity Facilities Council and brought to the notice of the Contributors in writing.

**“Significant Contributor”** means any person who qualifies to be a Contributor and who owns property or properties within SmartCity which qualify him to be a Contributor and where the aggregate Contributing GBA of these properties exceeds twenty thousand square metres (20,000 m<sup>2</sup>) GBA. Provided that a Significant Contributor shall no longer qualify to be a Significant Contributor at the time that he no longer owns property or properties exceeding the said twenty thousand square metres (20,000 m<sup>2</sup>) Contributing GBA within SmartCity.

**“SFA”** means this SmartCity Facilities Agreement.

**“SmartCity”** has the meaning assigned to the term in the Main Agreement.

**“SmartCity Facilities”** means the areas, parts, infrastructure, services and utilities intended for common utility, whether situate underground or on the surface, as may exist within SmartCity from time to time including but not limited to the network of roads, walk-ways, pathways and pavements whether accessible to the public in general or otherwise, all open areas including piazzas and landscaped areas intended for common use, the network of underground culverts for the passage of services and utilities, the main sewage and potable water underground piping system, the high-voltage substations, the storm water management system, the Laguna Area including the system of water fountains and pumps, areas intended for the parking of vehicles.

**“SmartCity Facilities Council”** or the **“Council”** means the council established and composed in accordance with Section 10 (*SmartCity Facilities Council*) of this SFA.

**“Specified Rate”** has the meaning assigned to the term in the Main Agreement.

**“Sub-Emphyteutical Grant”** has the meaning assigned to the term in the Main Agreement.

**“Title Deed”** means a deed by virtue of which the Developer sells, grants or otherwise transfers a divided part of the Emphyteutical Land or of any improvement made thereon to a third party.

- 1.2 Any other capitalised term used in this SFA not defined above and defined in the Main Agreement shall have the same meaning assigned to the term in the Main Agreement.



## 2. Interpretation

- 2.1 In this SFA, unless otherwise expressly stated or the contrary intention appears, the interpretation provisions included in the Main Agreement shall apply. Furthermore, the terms "own", "owned" and "ownership" and other cognate expressions refers to any real title, whether temporary or perpetual, to a property within SmartCity; provided that when a property is owned under title of emphyteusis or sub-emphyteusis the owner for the purposes of this SFA shall be the ultimate *utilista* to the exclusion of the direct owner or the sub-direct owner, as the case may be.
- 2.2 The headings in this SFA are inserted for convenience only and do not affect its construction.

## 3. Ownership of the SmartCity Facilities

- 3.1 The SmartCity Facilities, as may be replaced, repaired, modified, reduced or improved from time to time, as well as all undeveloped land, areas and spaces intended for the development thereon, therein or thereunder of SmartCity Facilities are retained in ownership by the Developer and the Contributors do not have any share, divided or otherwise, thereof or any condominium rights thereto.

## 4. Development of the SmartCity Facilities

- 4.1 Subject to any express agreements entered into between the Developer and the Other Party in the Main Agreement or with any other person in a Title Deed and subject to its obligations arising from the Deed of Emphyteusis the Developer shall have absolute and exclusive control on the development of the SmartCity Facilities and shall design, develop, complete and provide the SmartCity Facilities at its sole risk and expense in accordance with its own development plan and timeframes and at its discretion.

## 5. Control and Management of the SmartCity Facilities

### *Rights of the Developer*

- 5.1 Subject to any over-riding powers or other rights granted to the SmartCity Facilities Council:
- (a) the SmartCity Facilities, as may be replaced, repaired, modified, reduced or improved from time to time, shall at all times be subject

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to the exclusive control, operation and management of the Developer subject to its right of delegation to the Management Company in terms of clause six (6) of this SFA;

- (b) subject to its right of delegation as aforesaid, the Developer shall control, operate, manage and maintain the SmartCity Facilities, as may be replaced, repaired, modified, reduced or improved from time to time, in the manner that the Developer, in its sole discretion, shall determine to be appropriate and commensurate to the concept of SmartCity;
- (c) subject to its right of delegation as aforesaid, the Developer shall have the right to alter, modify, improve, enhance, reduce or remove any of the SmartCity Facilities without the need of obtaining the approval of the Contributors or any of them, provided that no modification, reduction or removal of any of the SmartCity Facilities may be made if these materially affect the proper enjoyment or use of a property within SmartCity owned *pro diviso* by a Contributor;

For the avoidance of doubt the change of use of the Laguna Area and/or the alteration, modification, reduction and/or removal of the Laguna Area or any part thereof, including the development of the said Laguna Area for private use shall for the purposes of this Article 5.1 (c) not be deemed to materially affect the proper enjoyment or use of a property within SmartCity owned *pro diviso* by a Contributor.

- (d) subject to its right of delegation as aforesaid, the Developer shall have the right from time to time to establish, modify and enforce the Rules and Regulations.

#### *Obligations of the Developer*

5.2 Notwithstanding the provisions of clause 5.1 above but without prejudice to the discretionary rights and powers mentioned therein, the Developer or the Management Company (for as long as they shall enjoy exclusive control, operation and management of the SmartCity Facilities) shall ensure:

- (a) to keep the SmartCity Facilities at all times in a state of cleanliness, operation, security, maintenance and repair which shall be of the highest possible standards and for this purpose to carry out regular cleaning and to provide waste disposal arrangements, to make security arrangements, to carry out regular inspection and preventive and remedial maintenance as well as all ordinary and extraordinary repairs necessary from time to time in accordance with



applicable law and internationally recognised industry standards including, but not limited to:

- i. the upkeep, cleaning, plastering, painting, maintenance, repair and replacements of all parts and areas forming part of the SmartCity Facilities;
- ii. the upkeep, cleaning, gardening, landscaping, water irrigation, lighting, maintenance, repair and replacements of all outside areas including all landscaped areas, pathways, passages, stairs, landings, open spaces and driveways, wherever situate, forming part of the SmartCity Facilities;
- iii. the upkeep, cleaning, rain water disposal, lighting, maintenance, repair, resurfacing, signage and traffic control of the public spaces, road network including any pavements / pathways / walkways / pedestrian areas;
- iv. the upkeep, cleaning, filtration, water recycling and replenishment, sanitation, lighting, maintenance, repair and replacements of the Laguna and its facilities and all its equipment and parts wherever situate;
- iv. the replacement of bulbs and electrical/electronic fittings in areas forming part of the SmartCity Facilities;
- v. the upkeep, running, maintenance, repair and replacements of all equipment and fittings forming part of the SmartCity Facilities;
- vi. upkeep, running, maintenance and repairs of communal electricity and electronic systems, drip water irrigation systems, CCTV systems, fire-fighting and fire alarm systems, Building Management System, water tanks, pumps, fans, emergency generator and other equipment and accessories forming part of the SmartCity Facilities;
- vii. upkeep, running, maintenance and repairs of reservoirs, water, drainage and sewerage systems including sewage pumping stations and related equipment, desludging of cesspits, and all installations for water, electricity (high and extra low voltage), as well as fiber-optic systems forming part of the SmartCity Facilities and provided these are not owned or fall under the control of a utility provider, up to where the said installations and systems branch off for the exclusive use of a Building;

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- viii. upkeep, running, maintenance, repairs and replacements of the garbage compactor (if any), the generator, the elevators, lift-pumps and all their accessories, sewage pumping stations and all related equipment and various pumps related to silt tanks, lagoon service trenches, balance tanks, rainwater catchment reservoirs, fire-fighting systems and related accessories forming part of the SmartCity Facilities.
- (b) to take out and keep at all times an insurance policy or policies covering the SmartCity Facilities as may be replaced, repaired, modified or improved from time to time, for their replacement value against any damage caused by any event or circumstance which is insurable by insurance companies operating in Malta and to keep the sums insured under this insurance policy updated to reflect the replacement value at all times; and
- (c) to take out and keep at all times a third party liability insurance for all sums which the Developer may become legally liable to pay as compensation for damages to the Contributors (including their employees, contractors, tenants, guests, agents, clients, and patrons), the general public and/or the properties within SmartCity caused by or through the use of the SmartCity Facilities as are customarily insured with respect to properties and operations of similar character for a minimum limit of liability of one million euro (EUR1,000,000) for each and every accident, which insurance shall also cover the indemnity obligations of the Developer arising from clause 10 (ten) (*Indemnity*) of the Main Agreement;
- (d) to set up a fund (**the Reserve Fund**) funded in the manner stated in clause 7.3 in order to have reserve funds for extraordinary repairs, replacements, upgrades and improvements to the SmartCity Facilities which cannot be reasonably charged to the annual Maintenance Costs and for emergencies;
- (e) to prepare the Action Plan and the Budget (as these terms are defined in paragraph (i) of clause 8.3 of this SFA and to calculate the Community Fee and to retain proper accounts and financial records and generally to fulfil its obligations arising from clause 8.3 and clause 8.6 of this SFA.
- (f) to give due consideration to the proposals, recommendations and requests made by the SmartCity Facilities Council and not to unreasonably refuse or omit to implement such proposals, recommendations and requests.

5.3 The Developer shall have the right to appoint sub-contractors and / or to employ or engage personnel to assist it with the performance of its duties.

**6. The Management Company**

6.1 In order to better fulfill its obligations arising from clause 5.2 and elsewhere in this SFA, the Developer shall have the right to engage the Management Company whose purpose shall be the control, operation and management of the SmartCity Facilities.

6.2 The Developer shall have the right to engage the Management Company to take over the control, operation and management of the SmartCity Facilities and to assign its rights and delegate its obligations in relation thereto to the Management Company, which engagement, assignment and delegation shall be made in writing and notified to the SmartCity Facilities Council and thereafter, where the context allows, all references to the Developer in this Section 5 (*Control and Management of the SmartCity Facilities*) shall be a reference to the Management Company as substitute of the Developer save for the right of the Developer to terminate the engagement, assignment and delegation and take over control, operation and management of the SmartCity Facilities.

6.3 By subscribing to this SFA, the Third Party and any other Contributor hereby give their consent to the delegation of the Developer's obligation under this SFA to the Management Company and accept the Management Company as the entity so delegated to properly and effectively perform the aforesaid obligations.

6.4 During such time when the Management Company is engaged by the Developer a Contributor shall not claim specific performance of the obligations delegated to the Management Company from the Developer but shall direct any such claim directly against the Management Company; Provided that should the Management Company remains in default notwithstanding being the subject of such claim, the Contributor shall be entitled to demand the performance of such obligations from the Developer.

6.5 The engagement of the Management Company shall not affect, limit or diminish the obligations of the Contributor towards the Developer arising from the Main Agreement or this SFA.

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7. **The Maintenance Costs, the Administration Fee, and the Reserve Fund Contribution.**

*The Maintenance Costs*

- 7.1 The costs, expenses and outgoings incurred by the Developer or the Management Company for supplying the general control, management, operation, upkeep, maintenance, service, repair, renovation, replacement and insurance of the SmartCity Facilities and for fulfilling the obligations arising from clause 5.2 shall be charged to the Community Costs.

*The Administration Fee*

- 7.2 The Developer or the Management Company shall be entitled to charge the Administration Fee, namely an annual fee equal to twenty per cent (20%) of the Maintenance Costs. The Administration Fee shall be charged to the Community Costs.

*The Reserve Fund Contribution*

- 7.3 The Developer or the Management Company shall be entitled to charge annually to the Community Costs such funds as may be required to set-up and maintain the Reserve Fund (the "**Reserve Fund Contribution**"), the higher of:
- i. an annual sum equal to one Euro and twenty five cents (€1.25) per square metre of Contributing GBA used to calculate the Community Fee, which sum is based on 2019 as base year and shall increase annually by the rate of inflation as published by the National Statistics Office (NSO) or any replacement national authority; OR
  - ii. Sixty three per cent (63%) of the Maintenance Costs.

For the avoidance of doubt the Reserve Fund Contribution shall be added to the Maintenance Costs and to the Administration Fee and the overall total shall be shared amongst the Contributors to establish the Community Fee based on the Formula.

8. **The Community Fee**

*Obligations of the Contributor*

- 8.1 Each Contributor shall be bound to pay a share of Community Costs in the manner established by the Formula which determines the Community Fee due by each Contributor.



- 8.2 A Contributor is bound to pay his Community Fee on its due date without deduction, retention or demand and may not refuse to pay the Community Fee or to demand to pay a lesser share on the grounds that it has not used or has opted not to use any SmartCity Facilities which it was entitled to use.

Provided that where the Contributor owns property forming part of a Condominium, without prejudice to any right of action that it may have directly against the individual Contributor for the collection of the said Community Fee, the Developer or the Management Company reserves the right to charge the Community Fee due from the said Contributor directly upon the relative Condominium, and in turn the Condominium shall recover the said Community Fee from the relative Contributor

*Procedure to establish the Community Fee*

- 8.3 For the purposes of establishing the Community Fee in accordance with the Formula the following procedure shall be followed:

- i. By not later than the 30<sup>th</sup> September of each year, the Developer or the Management Company shall present an action plan (the "**Action Plan**") and the budget of the estimated Community Costs inclusive of the Administration Fee and the funds required to fund the Reserve Fund (the "**Budget**") for the following year (the "**Relevant Year**") to the SmartCity Facilities Council for its approval;
- ii. As soon as possible, but in any case by not later than the 30<sup>th</sup> October of that year, the Developer and the SmartCity Facilities Council shall meet to review the Action Plan and the Budget for the Relevant Year and by not later than the 30<sup>th</sup> November of that year or such later date agreed in writing between the Developer or the Management Company and the SmartCity Facilities Council, the SmartCity Facilities Council shall approve or otherwise the Action Plan and the Budget for the Relevant Year;

Provided that until the SmartCity Facilities Council is set-up in terms of clause 10.6 of this agreement, the Community Costs which shall be applied in the Formula to determine the Community Fee for the Relevant Year shall be those indicated in the proposed Budget by the Developer or the Management Company.

- iii. If the Action Plan and Budget, as may be modified with the mutual consent of the Developer or the Management Company and the SmartCity Facilities Council, are approved, the estimated Community Costs set out in the approved Budget shall be the Community Costs which shall be applied in the Formula to determine the Community Fee for the Relevant Year;

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- iv. If the Action Plan and/or Budget, are not approved by the SmartCity Facilities Council, then the said Council shall give reasons for such decision and if the Developer or the Management Company disagrees with the said refusal, it shall be entitled to request the Auditor to determine whether the Action Plan and/or Budget proposed by the Developer or Management Company is reasonable and the decision of the Auditor shall be final. The Auditor shall endeavour to make its determination within sixty (60) days from receipt of the Developer's or Management Company's request and this after hearing representations from both the Developer or Management Company and the SmartCity Facilities Council.

Provided if the Developer or the Management Company decides not to refer any dispute relative to the approval of the Action Plan and/or Budget to the Auditor as provided herein, or if the Auditor determines that the refusal of the Action Plan and/or Budget for the Relevant Year by the SmartCity Facilities Council is justified, then the Community Costs which shall be applied in the Formula to determine the Community Fee for the Relevant Year shall be the Community Costs resulting from the audited financial statements of the Community Costs of the previous year increased by the rate of inflation as published by the National Statistics Office (NSO) or any replacement national authority as well as by any increases which may be due to any suppliers in that Relevant Year as resulting from any existing maintenance/supply agreements, and provided that the Developer or the Management Company shall have the right to adjust the Action Plan to align it with the funds which will be available for the Relevant Year.

- v. if the SmartCity Facilities Council fails to approve or otherwise the Action Plan and the Budget for the Relevant Year by the 30<sup>th</sup> November of that year or such later date agreed in writing between the Developer or the Management Company and the SmartCity Facilities Council, then the said Action Plan and the Budget for the Relevant Year shall for all effects and purposes deemed to have been approved by the SmartCity Facilities Council

*Audited Financial Records*

- 8.4 By not later than one hundred and eighty (180) days after the end of each calendar year, the Developer or the Management Company shall make available for inspection of the SmartCity Facilities Council audited financial statements of the Community Costs of the previous calendar year.

*Due date of Community Fee*

- 8.5 A Contributor shall pay to the Developer or to the Management Company his Community Fee for that year (namely the Relative Year), in one annual instalment which shall become due and immediately payable on the first (1<sup>st</sup>) day of January of each year.

Provided that the Community Fee Commencement Date shall be:

- i. in respect of land within SmartCity which has been transferred by the Developer to third parties and has not yet been developed, , the date of the relative deed of acquisition; or
- ii. in respect of land within SmartCity owned by the Developer, the date that a Full Development Permit has been issued by the PA;

The Community Fee due on the Community Fee Commencement Date shall be calculated by pro rating the number of days from the Community Fee Commencement Date to the end of the Relevant Year in which the Community Fee Commencement Date relates.

Provided further that the applicable Community Fee due on the Community Fee Commencement Date in respect of the Relevant Year in which the Community Fee Commencement Date relates shall be reduced by fifty percent (50%).

*Recalculation of the Community Fee*

- 8.6 When the audited financial statements for the Relevant Year (as defined in paragraph i. of this clause 8.3) are completed the Developer or the Management Company shall re-calculate the Community Fee for the Relevant Year on the basis of the Formula by using the actual Community Costs of the Relevant Year and if:

- (a) the Community Fee charged for the Relative Year was less than the Community Fee for the Relevant Year on the basis of the actual Community Costs, the Contributor shall within thirty (30) days of demand made by the Developer or the Management Company pay the difference in full and final settlement of the Community Fee for the Relevant Year; and
- (b) the Community Fee charged for the Relevant Year was more than the Community Fee for the Relative Year on the basis of the actual Community Costs, the Developer or the Management Company shall retain the difference as an advance payment on account of the following's years Community Fee.

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*Default Interest*

- 8.7 Interest at the Specified Rate shall automatically accrue without the need of any other formality, judicial or otherwise, on any sum due by a Contributor to the Developer not paid when due, which interest shall accrue on the daily balance of the sum due with effect from the due date up to the date of effective payment.

*Funds received by the Developer or the Management Company*

- 8.9 All Community Fees and other funds paid to the Developer or the Management Company for supplying the general control, management, operation, upkeep, maintenance, service, repair, renovation, replacement and insurance of the SmartCity Facilities and for fulfilling the obligations arising from clause 5.2 shall be held and controlled by the Developer or the Management Company but shall be kept separate and segregated from any other funds which they may have in a specifically designated bank account. Provided that the Developer or the Management Company shall be entitled to appropriate any portion of the funds that represent the Administration Fee.

**9. Reserve Fund**

- 9.1 The Reserve Fund shall be managed by the Developer or the Management Company and may be used only for the purposes stated in the definition of Reserve Fund.
- 9.2 The funds of the Reserve Fund shall be placed in a separate and segregated specifically designated bank account in the name of the Developer or the Management Company and named SmartCity Reserve Fund.

**10 SmartCity Facilities Council**

*Establishment of the Council*

- 10.1 There shall be a council which shall be known as the SmartCity Facilities Council established for the purposes stated in this Section 10.

*Functions of the Council*

- 10.2 The Council shall have the following functions:
- (a) to review and accept or otherwise the Action Plan and the Budget (as these terms are defined in paragraph i. of clause 8.3 of this SFA;



- (b) to receive a copy of the audited financial statements of the Community Costs of each year;
- (c) to receive a copy of the written contract of engagement of the Management Company by the Developer;
- (d) to make proposals, recommendations and requests to the Developer or the Management Company on the control, management, operation, upkeep, maintenance, service, repair, renovation, replacement and insurance of the SmartCity Facilities and on the engagement of the Management Company;
- (e) to approve the Rules and Regulations;
- (f) to keep the Register of Contributors.

*Composition of Council*

- 10.3 The Council shall be composed of not less than five (5) and not more than fifteen (15) members:
- i. one (1) member appointed by the Developer who shall also be the Chairperson, over and above its rights as a Contributor or Significant Contributor;
  - ii. each Contributor Class shall be entitled to elect one (1) member;
  - iii. each Significant Contributor shall be entitled to elect one (1) member.
- 10.4 If the appointed members shall be five (5) or more, the Council shall be properly composed even if the Developer, and Class Contributors or the Significant Contributors do not nominate or elect the member they are entitled to nominate or elect.
- 10.5 A member of the Council may not be a juridical person.

*Nominations / Elections to the Council*

- 10.6 The first nominations or elections to the Council shall be organised by the Developer by not later than the end of the calendar year during which the total Contributing GBA amounts to a minimum of two hundred and fifty thousand square metres (250,000 m<sup>2</sup>). The Developer shall call a general meeting of the Contributors for this purpose. Subsequent nominations or elections of members of the Council shall be organised by the outgoing

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Council by not later than three (3) months prior to the end of its term and it shall call a general meeting of the Contributors for this purpose.

10.7 The procedure to nominate or elect members of the Council shall be as follows:

- (a) the Developer shall nominate one member;
- (b) Each Contributors Class shall elect one member (if properties within a category are entirely owned by a Significant Contributor, that Contributor Class shall not elect a member in terms of this paragraph for the reason that that Contributor Class is a Significant Contributor);
- (c) Each Significant Contributor shall nominate a member.

10.8.1 For the purposes of the election by each Contributor Class each contributor within that Contributor Class shall have one (1) vote for every one (1) square metres of GBA of the property in virtue of which he is a Contributor within that Contributor Class.

Provided that where the property owned *pro diviso* by a Contributor forms part of a Condominium, it is the administrator of the said Condominium who shall represent and vote for and on behalf of all Contributors forming part of the said Condominium and the vote of the said administrator shall be equivalent to the summation of the votes of each of the individual Contributors forming part of the said Condominium;

Provided further that no quorum or minimum number of votes shall be required for an election to be valid, and the person elected from each Contributor Class shall be the person who obtains the majority number of votes cast irrespective of the percentage of total votes cast which such person may have obtained.

10.8.2 The Council shall be responsible to conduct the elections as required from time to time and shall set any rules and/or procedure as the Council may determine for the proper conduct of such elections.

Provided that the first election shall be conducted by the Developer.

*Duration*

10.9 The members of the Council shall be appointed for a period of two (2) years or until they resign or are removed. If any member resigns or is removed he may be replaced by the Developer, Class Contributors or Significant Contributors who nominated or elected him, provided that such member

appointed during the on-going term of the Council shall serve until the end of that term.

- 10.10 A member may be re-appointed for an indefinite number of times.

*Removal of Members*

- 10.11 A member of the Council shall automatically be disqualified *ipso jure* from holding such office and shall be removed as member if he:

- a) is no longer permitted to hold such office in terms of law;
- b) is convicted of any crime listed in titles V, VI and IX of Part II of Book First (1<sup>st</sup>) of the Criminal Code, Chapter Nine (Chap 9) of the Laws of Malta;
- c) is guilty of misbehaviour or dereliction of his duties as a member.

- 10.12 The member shall be informed in writing of the allegations in his regard and shall be given a reasonable time and due opportunity to rebut same and afforded fair means to conduct make his representations to the Council. After due hearing the Council shall take a final decision on the matter. The member being reviewed shall not be entitled to vote on the matter of his removal or otherwise participate in deliberations regarding the matter of his removal.

*Remuneration*

- 10.13 Members of the Council shall not be remunerated for acting as members but shall be entitled to a refund of expenses incurred in carrying out their duties.

*The Chairperson*

- 10.14 The Chairperson of the Council shall be the member nominated by the Developer.

- 10.15 In the event of early retirement, resignation or removal of the Chairperson, the Developer shall appoint a substitute and if the Developer fails to do so within thirty (30) days, the remaining members of the Council shall appoint a Chairperson from amongst themselves.

*The Secretary*

- 10.16 The Council shall appoint a Secretary from amongst its members.

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*Meetings of the Council*

- 10.17 Meetings of the Council shall be duly convened at least once a year by the Chairperson in order to review and approve or otherwise the Action Plan and the Budget and to make proposals, recommendations and requests to the Developer or the Management Company on the control, management, operation, upkeep, maintenance, service, repair, renovation, replacement and insurance of the SmartCity Facilities.
- 10.18 The Chairperson shall have the right to duly convene other meetings of the Council in his discretion.
- 10.19 The Secretary shall, on the requisition of any three (3) members of the Council, duly convene a meeting of the Council for any purpose they deem fit.
- 10.20 Notices of meetings of the Council shall be given in writing to all members at least fourteen (14) days before the meeting and may be given by electronic mail, unless all members consent in writing to a shorter notice.
- 10.21 A meeting of the Council shall be deemed not to have been duly convened unless at least fourteen (14) days' notice has been given in writing to all the members of the Council unless all members consent in writing to a waiver of notice or to a shorter notice.

*Voting rights of the members of the Council,*

- 10.22 Each member of the Council shall have as many votes as its percentage share of the Total Community Fee (as defined in the Formula).
- 10.23 Save as otherwise provided in this SFA, questions arising at any meeting or otherwise requiring a decision of the Council shall be decided by a simple majority of votes of all the members present. In case of an equality of votes on any motion, the Chairperson shall also have a casting vote.
- 10.24 The non-approval to the Action Plan or the Budget shall require a qualified majority of two-thirds of the votes representing the Total Community Fee.
- 10.25 The Council cannot veto works that are considered urgent and necessary by the Developer or the Management Company.
- 10.26 A member of the Council may from time to time by writing under his hand appoint any other person to be his alternate to receive notice of, attend and vote at any meeting of the Council, and, if the alternate is also a member, he shall be entitled to a separate vote on behalf of that member in addition to his own vote.

*Procedure of the Council*

- 10.27 The minutes of all proceedings at meetings of the Council shall be entered in books kept for that purpose.
- 10.28 The quorum necessary for the transaction of business of the Council shall be half the members in office plus one.
- 10.29 The members of the Council shall meet together for the despatch of business, adjourn and otherwise regulate their meetings, as they think fit. The Council shall regulate its own procedure and may, *inter alia*, appoint any committees or sub-committees it may deem necessary for the attainment of its purpose.

*Costs incurred by Council*

- 10.30 All costs reasonably incurred by the Council to carry out its functions shall be included as part of Community Costs.

**11. Register of Contributors**

- 11.1 The Council shall keep a register of the Contributors from time to time together with their mailing address and other contact details, the property they own and its Asset Class, and the Contributing GBA of the property and the number of votes held by the Contributor from time to time (the "**Register of Contributors**"). The Developer shall provide the Council with all information available to the Developer required by the Council to complete and maintain the register.
- 11.2 Each Contributor, upon subscribing to this SFA, shall indicate to the Secretary of the Council his name, identity card/passport number, address and telephone numbers as well as evidence as to his title to the relative property within SmartCity, and, if available, his facsimile number and e-mail address. Upon such evidence as to title to the property being produced, as may from time to time properly be required by the Secretary of the Council, the above-mentioned details shall be entered in the Register of Contributors.
- 11.3 A Contributor may appoint a representative who, on being entered into the Register of Contributors, shall be the person to whom any notice, including notices of meetings of the Contributors, is to be served and who shall represent the Contributor during a meeting of the Contributors. For this purpose, the Contributor shall indicate to the Secretary of the Council the representative's name, address, telephone numbers and if available, his facsimile number and e-mail address to be entered in the Register of Contributors. Upon such evidence as to such appointment being produced as may from time to time properly be required by the Secretary, the above-



mentioned details shall be entered in the Register of Contributors. Such representative shall continue to represent the Contributor until such time as the Contributor removes or substitutes the representative and informs the Secretary accordingly.

- 11.4 Where a property is owned by more than one Contributor, the Contributors shall be represented by one individual and the provisions of clause 11.3 above shall apply.
- 11.5 When a Contributor is a company or other legal organisation, the Contributor shall be represented by one individual and the provisions of clause 11.3 above shall apply.
- 11.6 Where a property is owned by more than one Contributor, the Contributors shall be bound jointly and severally for all the obligations relating to that property.
- 11.7 A Contributor shall be removed from the Register of Contributors when he no longer owns property within SmartCity.
- 11.8 A Contributor may be removed or suspended from the Register of Contributors by the Council if he fails to pay his Community Fee, provided that such removal or suspension shall not exonerate the Contributor from paying the Community Fee to the Developer in terms of the Main Agreement but the Contributor shall forfeit all voting rights and other rights granted to Contributors in terms of this SFA during such removal or suspension.

## **12. General Principles**

- 12.1 The Developer or the Management Company shall operate within the Budget approved by the Council or if this is not approved on the basis of the audited Community Costs of the previous year. Any material deviations from an approved Budget must be presented to the Council for approval. Non approval shall require a qualified majority of two-thirds of the votes representing the Contributing GBA.
- 12.2 The Developer or the Management Company may incur expenditure that is not catered for in the Budget if it is of an urgent nature, provided that if such expenditure is expected to exceed twenty per cent (20%) of the Maintenance Costs the Developer or the Management Company shall consult the Council prior to commencement of works.
- 12.3 A Contributor who aggravates the common expenditure through his fault must bear the cost of the extra expenses incurred.

**13. Amendments to this SFA**

- 13.1 Amendments to this SFA may only be made by the Developer subject to the approval by the Council.
- 13.2 Non approval of proposed amendments shall require a qualified majority of two-thirds of the votes of representing the Contributing GBA.
- 13.3 Whenever any amendments are made to this SFA an amended and restated version of the SFA shall be enrolled in a public deed.
- 13.4 Until such time when the Council is formed, this SFA may be amended by the Developer with the consent of a qualified majority of two-thirds of the Contributors existing at the time.

**14. Applicable Law and Jurisdiction**

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

**15. Resolution of Disputes**

- 15.1 Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with Part IV (Domestic Arbitration) of the Malta Arbitration Act, 1996 (one thousand nine hundred and ninety six) and the Arbitration Rules of the Malta Arbitration Centre and the parties hereto agree that the:
- i. the appointing authority shall be the Malta Arbitration Centre;
  - ii. the number of arbitrators shall be three;
  - iii. the place of arbitration shall be Malta;
  - iv. the language(s) to be used in the proceedings shall be in English;
  - v. the award shall be final and binding and there shall be no appeal.

**16. Commencement Date**

- 16.1 This Agreement shall become effective with effect from the first (1<sup>st</sup>) day of January of the year two thousand and nineteen (2019)

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## SMARTCITY FACILITIES AGREEMENT

## FORMULA

The formula to establish the applicable Community Fee for each Contributor shall be as follows:

Plot GBA ÷ Total Contributing GBA	= Plot GBA Index
Plot GBA Index x Asset Class Weight x Location Weight	= Plot Weighted Index
Plot Weighted Index combined for all contributing plots (GBA) together	= Total Weighted Index
Plot Weighted Index ÷ Total Weighted Index	= Adjusted Plot Weighted Index
Adjusted Plot Weighted Index expressed as a percentage of 100	= % of Community Fee
Total Maintenance Fee budgeted spend (x) % share of Community Fee	= Maintenance Fee
Higher of (i) 63% of Maintenance Fee and (ii) €1.25 per m <sup>2</sup> of Total Contributing GBA	= Reserve Fund
20% of Maintenance Fee	= Administration Fee
Maintenance Fee + Reserve Fund + Administration Fee	= <b>Total Community Fee</b>
Total Community Fee ÷ Plot GBA	= Community Fee / m <sup>2</sup> of GBA

Asset Class Weighting	
Asset Class Factor	Weight
Office	1.25
Food & Beverages & Retail	1.25
Residential - Apartment	0.90
Residential - Villa	1.00
Residential - Townhouse	1.00
Hotel	1.25
Hospitals + Health Related	1.00
Education	1.00
Other	1.00

Location Weighting	
Location Factor	Weight
Premium	1.30x
Deluxe	1.15x
Standard	0.80x

Location Factor Identification per Location (note 1)	
Location	Indicative plot
Premium	A
Premium	B
Premium	C
Premium	D
Premium	G
Premium	H
Deluxe	E
Deluxe	F
Deluxe	I
Standard	J
Standard	K
Standard	L
Standard	M
Standard	N
Standard	O

**Note 1:**

The plots references "A" to "O", including their size and shape, as outlined in Document SFA1 Annex 2 are for indicative purposes only. The Developer may alter the configuration of plots within each location by changing the shape and size of each indicated plot by combining plots and or split plots.

Any plot within any new configuration of plots will be assigned to the location on the basis of its disposition within the locations indicated in the said Annex 2.

**Worked Example**

A worked example for indicative purposes only is herewith attached as Document SFA1 Annex 3





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**LEGEND**

	STANDARD
	DELUXE
	PREMIUM





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P L O T D E V E L O P M E N T  
G U I D E L I N E S

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**Introduction**

These Plot Development Guidelines (PDGs) are related to the development of SmartCity in Malta and accompany the Stage 2 Master Plan for the development.

The Guidelines are intended to be used by developers involved in the SmartCity Malta site. They are not to be issued to other parties and do not represent statutory guidance.

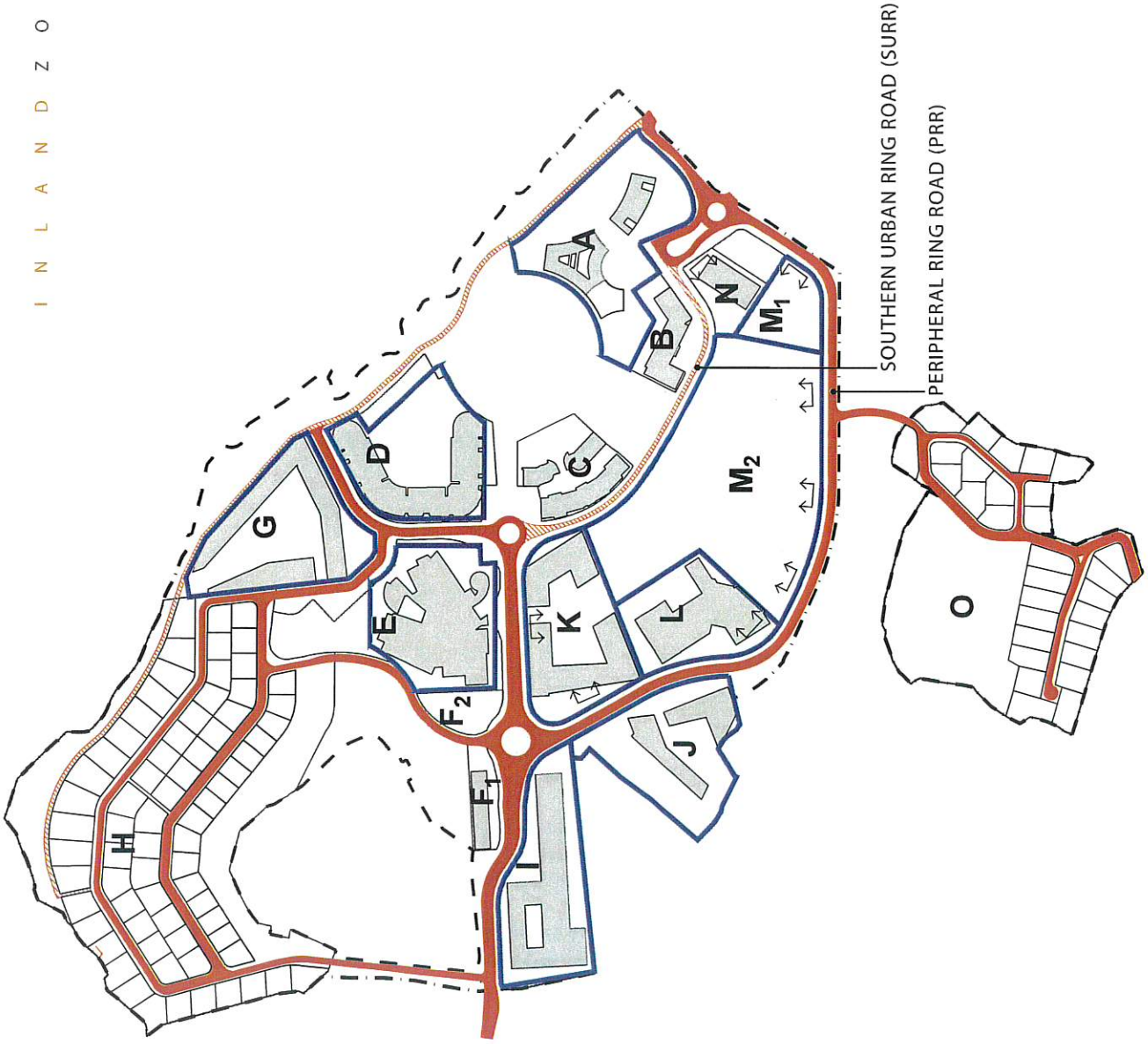
The guidelines describe what SmartCity Malta would consider appropriate development, consistent with the Master Plan and Project Description Statement (PDS). Compliance with the guidelines does not imply nor substitute full Planning Permission, which developers should apply for and obtain directly from the Maltese Authorities. Planning conditions imposed by the Planning Authority will take precedence over these guidelines.

- The purpose of the Guidelines is manifold:
- Ensure that development of individual buildings and plots is consistent with the Master Plan as designed by SmartCity Malta and approved by the Planning Authority through, once issued, the Outline Development Permit.
  - Ensure that the scale, land use, and character of each development is in line with the parameters that have been set by the Master Plan.
  - Provide developers with plot data (such as size, GFA, building height, and indicative co-ordinates etc.).
  - Describe general arrangements for the site (location of entrances, servicing, etc.)

PLOT REF.	INDICATIVE PLOT AREA (SQM)	PLOT GFA (SQM)	MAX. HEIGHT (ASL)	PLOT COVERAGE
K	12,076	22,800	60.0 m	50%
L	9,138	30,000-36,000	60.0 m	50%
M	35,547	52,000-82,000	60.0 m	50%
N	3,029	7,200	60.0 m	50%



- No surface parking; all parking to be provided in underground parking spaces
- All parking requirements of the developments on Plots B, C and N to be provided within Plots N & M<sub>1</sub>.
- All parking requirements of the developments on Plots K, L and M<sub>2</sub> to be provided within the respective plot.
- No Entry/Exit points to the underground car park will be permitted through the pedestrian priority Southern Urban Ring Road (SURRE) shaded in dashed red on the plan except for emergency entry/exit points if required by regulations.
- Underground parking ventilation and any other services should be adequately screened and filtered to minimise visual, noise, heat, and air pollution impacts on pedestrian areas
- Access by service vehicles should be provided through designated loading bays, designed and located in a discrete manner and such that access to/from them has well designed sightlines and does not require traffic to be obstructed by service vehicles waiting to enter or exiting the AUM site.
- Where technically possible, all services (electricity, water, sewage and telecommunications) shall be passed through underground culverts present in the Peripheral Ring Road.
- No services may be passed through poles or affixed to facades.
- Any plant installed at roof level shall not exceed the Maximum Building Height and must be adequately screened.
- Plots to provide for their own storm water storage in line with regulations and discretely accommodate all other on plot services.











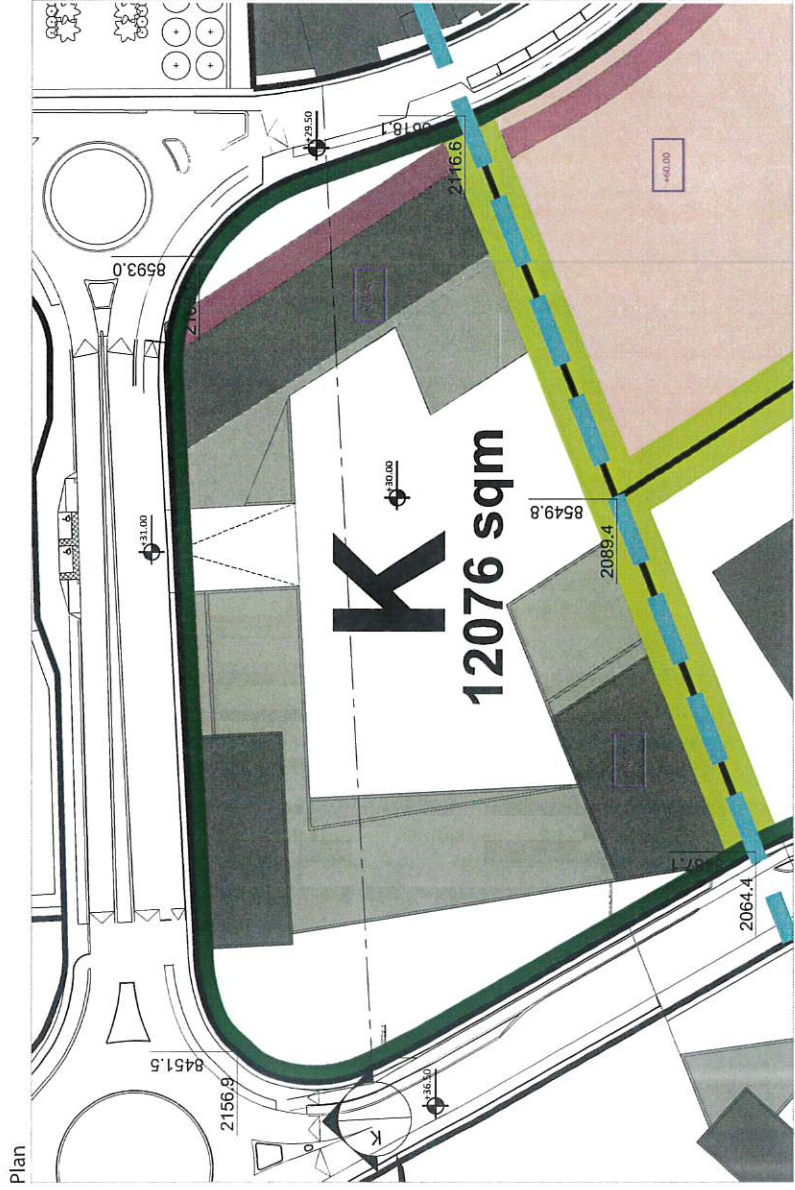
- VEHICULAR STREET / ROW
- ▨ PEDESTRIAN PRIORITY
- ▬ SCM SITE BOUNDARY
- PARKING
- ↔ VEHICULAR PARKING ACCESS

- Visual axes identified in the Masterplan to be respected.
- Strong urban frontages to be retained along the Southern Urban Ring Road.
- More pedestrian intensive / interactive land uses, and where possible, active frontages, should be directed towards the Southern Urban Ring Road (High Street).
- At ground and first floor level along the SURR, floor to floor heights should be designed to achieve a harmonised streetscape.
- The treatment of building envelope and façade design, particularly along the SURR, should be reflective of the scale, material approach and rhythms of the existing SCM blocks and incorporate the use of high quality soft and hard landscaping.



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	Plot Boundary
	Area of Plot M2 on which buildings may be placed
	Max Building height ASL
	Street levels
	Potential retail/commercial frontage
	Visual axis
	5m Building setback
	3m Building setback

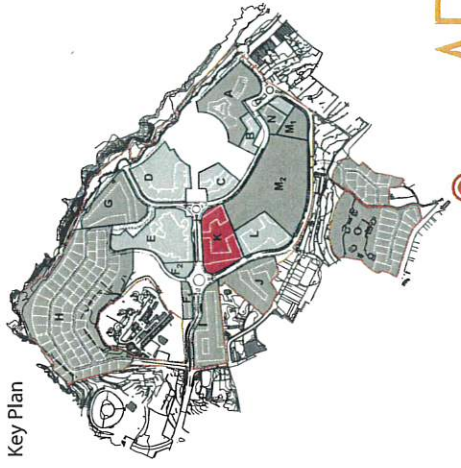


Plan

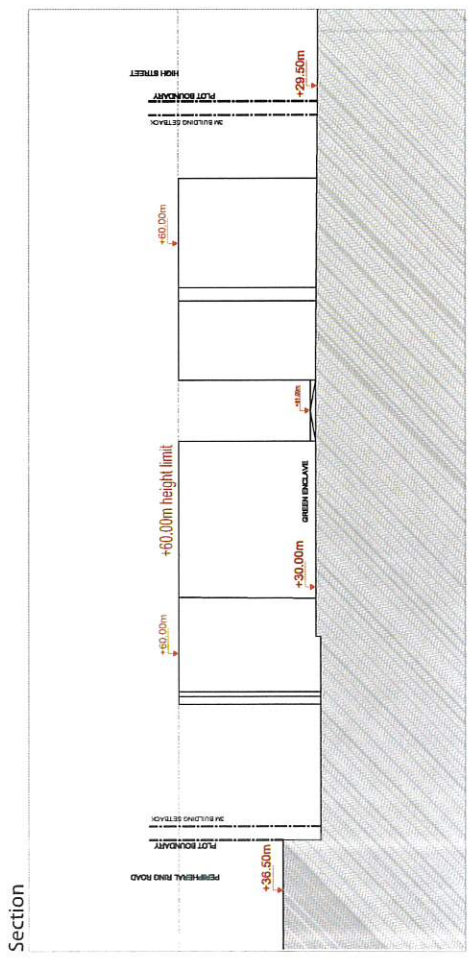
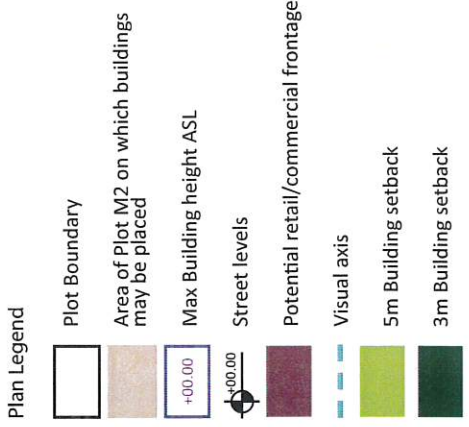
Predominant use: Residential

Plot Details	
Plot Reference	K
Plot Area	12,076 sqm
Max. Plot Coverage	50%
Plot GFA	22,800 sqm

Development Details	
Building Height (ASL)	+60.00
Surface Parking	Not Permitted

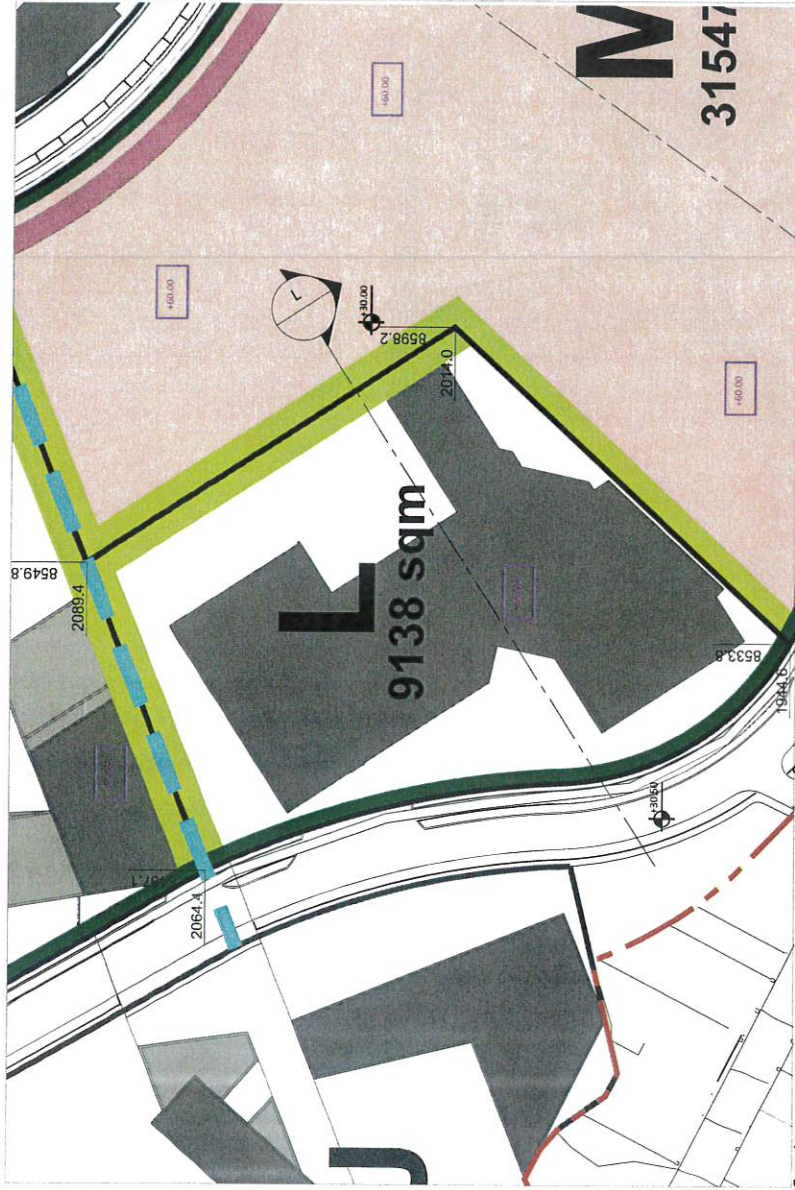


Key Plan

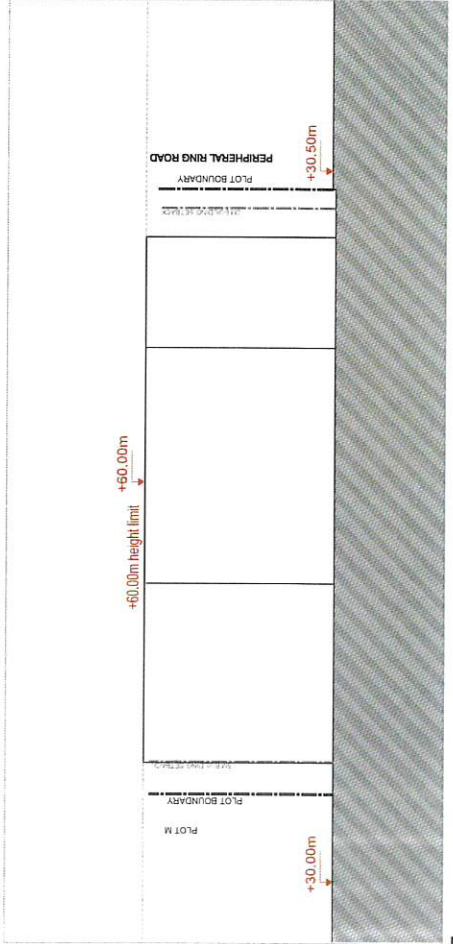


Section

Plan



Section



Plan Legend

- Plot Boundary
- Area of Plot M2 on which buildings may be placed
- Max Building height ASL
- Street levels
- Potential retail/commercial frontage
- Visual axis
- 5m Building setback
- 3m Building setback

Predominant use: Educational campus

Plot Details

Plot Reference	L
Plot Area	9,138 sqm
Max. Plot Coverage	50%
Public Open Space	12%
Plot GFA	36,000 sqm Maximum

Development Details

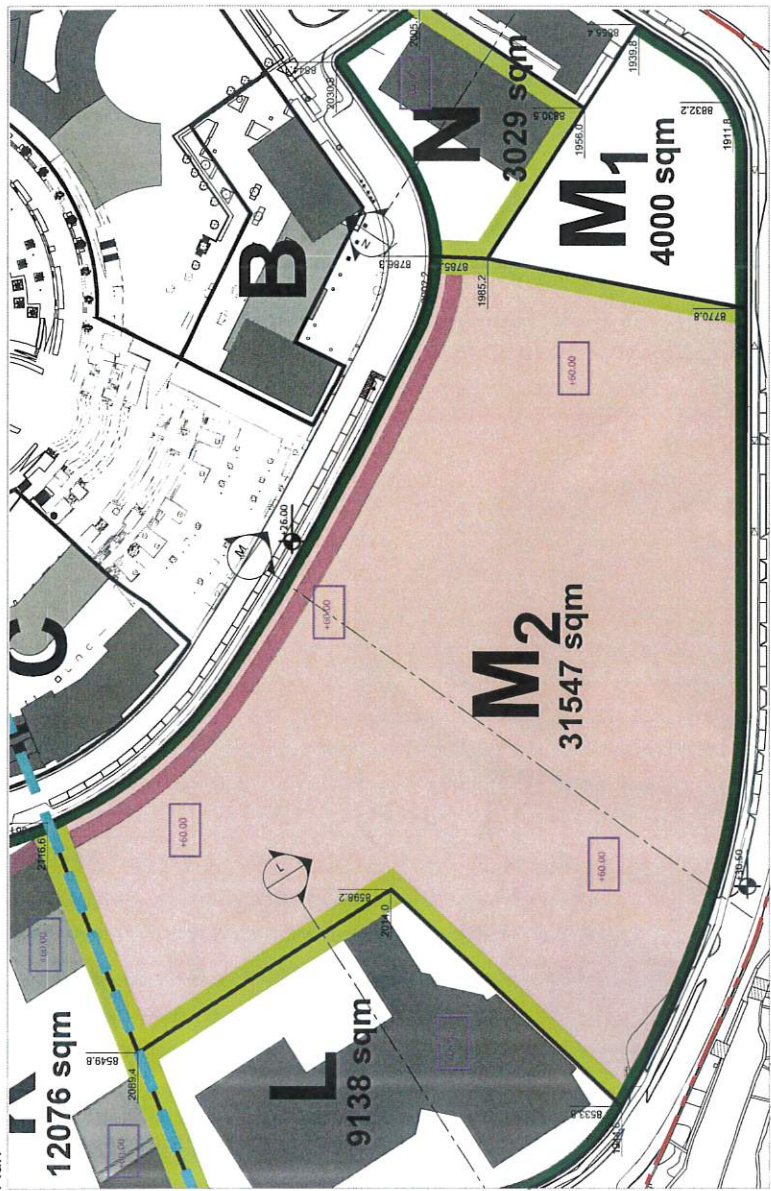
Building Height (ASL)	+60.00
Surface Parking	Not Permitted

Key Plan





Plan



Predominant use: Educational campus

Plot Details

Plot Reference	M
Plot Area	35,547 sqm
Max. Plot Coverage	50%
Public Open Space	30%
Plot GFA	52,000 - 82,000 sqm

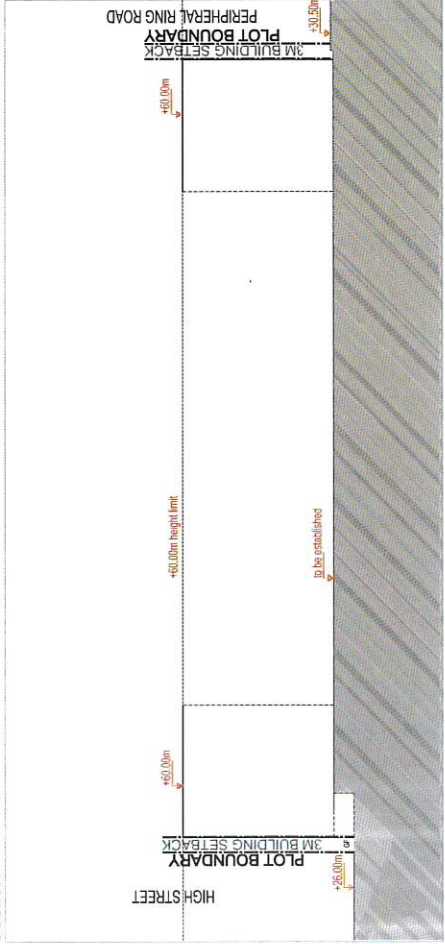
Plot Reference	M1
Plot Area	4,000 sqm
Max. Plot Coverage	0%
Plot GFA	0 sqm (above +28.0m ASL)
Predominant use	600 underground parking spaces

Plot Reference	M2
Plot Area	31,547 sqm
Predominant use	Educational campus & related facilities

Development Details

Building Height (ASL)	+60.00
Surface Parking	Not Permitted

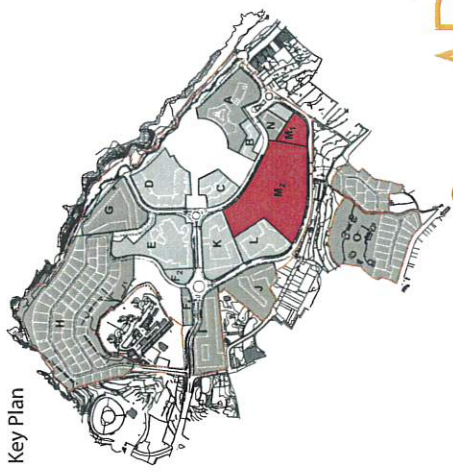
Section



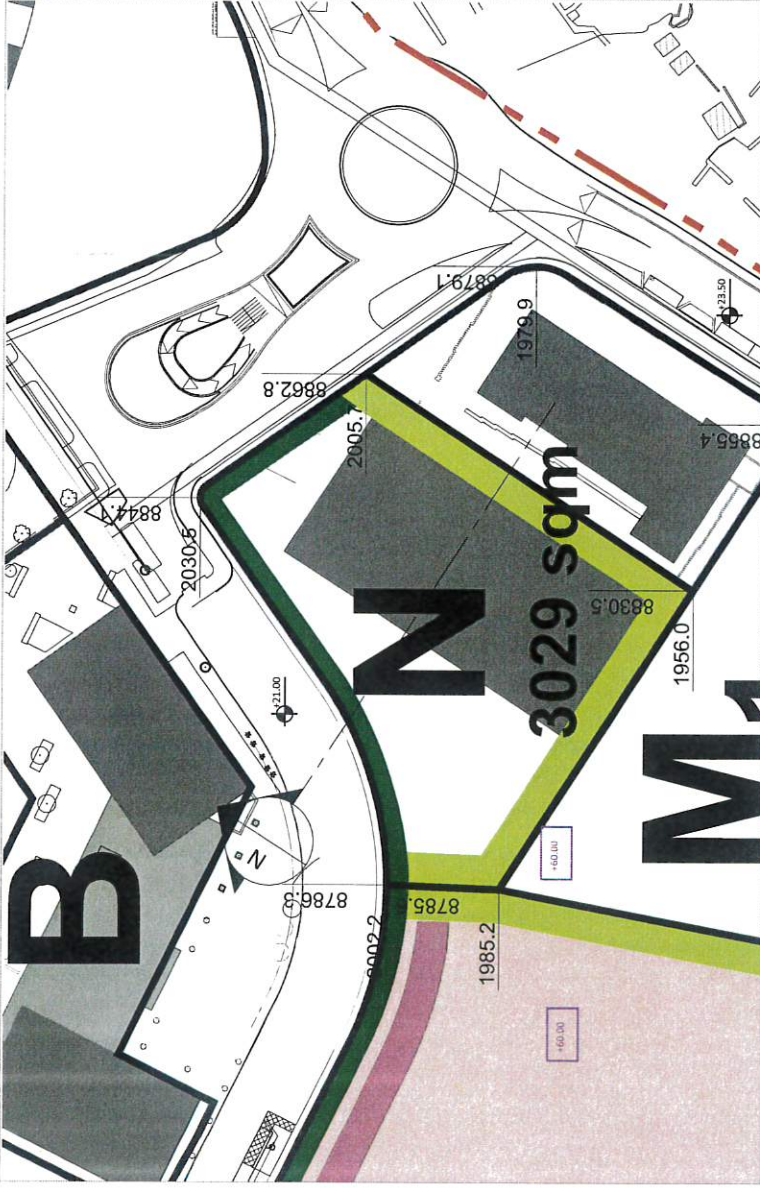
Plan Legend

- Plot Boundary
- Area of Plot M2 on which buildings may be placed
- Max Building height ASL
- Street levels
- Potential retail/commercial frontage
- Visual axis
- 5m Building setback
- 3m Building setback

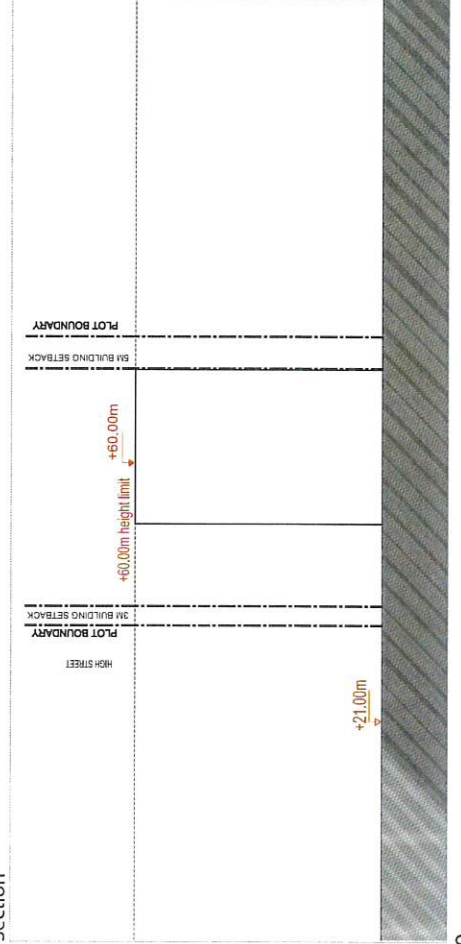
Key Plan



Plan



Section



Plan Legend

- Plot Boundary
- Area of Plot M2 on which buildings may be placed
- Max Building height ASL
- Street levels
- Potential retail/commercial frontage
- Visual axis
- 5m Building setback
- 3m Building setback

Predominant use: Commercial Development

Plot Details

Plot Reference	N
Plot Area	3,029 sqm
Max. Plot Coverage	50%
Plot GFA	7,200 sqm

Development Details

Building Height (ASL)	+60.00
Surface Parking	Not Permitted

Key Plan





## Document D

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This Annex is intended to identify the servitudes, third party rights and existing infrastructures known to Government within the portions of lands in Smart City Malta and Bormla, which are earmarked for the development of the American University of Malta.

*Disclaimer: For the purposes of clarity it is being declared that this Annex is based on the information provided by the relevant authorities/entities and does not include any servitudes or other rights relating to services owned by private entities other than those mentioned in this Annex.*

*The locations of the cables, water pipes and sewers indicated in the provided drawings are for guidance and indicative purposes only and cannot be taken as an 'as fitted' or 'as built' detail.*



## 01. Smart City Malta

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All Servitudes and Third Party rights are identified in the Deed of Amendment and related Annexes, including the Plot Development Guidelines.



## 02. Bormla Site

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### 02.1 Servitudes and Third Party rights

The lands within the Bormla Site are subject to the following servitudes and third party rights:

1. Servitudes and third party rights, where applicable, emanating from the deeds entered into between:
  - a) The Government of Malta and Palumbo Malta Shipyard Limited dated 3/6/2010 in the acts of Notary Diana Charles (herein referred to as the PMS Grant) and;
  - b) The Government of Malta and Palumbo Malta Superyachts Limited dated 18/3/2011 in the acts of Notary Diana Charles (herein referred to as the PSY Grant).

The servitudes and third party rights indicated in these contracts and which are relevant to the 'Bormla Site' are:

- (i) A servitude of a door, marked 'G' in Appendix D8, from the site shaded light blue and marked with the letter 'C' (referred to as 'Saint Paul's Car Park') on the plan attached to this deed, marked as Document letter "A1". The servitude having been constituted in favour of Palumbo Malta Superyachts Limited or its successors in title by virtue of the PSY Grant.
- (ii) A servitude of pedestrian access from and to the Dock 1 area through a tunnel, referred to as the 'short tunnel' in Appendix D8 and having an area of approximately 496m<sup>2</sup>. This servitude consists of an unencumbered passage with maximum dimensions of 2.5 metres width and 2.5 metres height. This right of pedestrian passage straddles the area known as Dock 1 and leads to the nearest public road being Triq il-31 ta' Marzu. The servitude having been constituted in favour of Palumbo Malta Shipyard Limited or successors in title and Palumbo Malta Superyachts Limited or successors in title as better described in the PMS and PSY Grants.
- (iii) A Servitude of the right to access a tunnel, referred to as the 'long tunnel' in Appendix D8, in order to access any utility services and ducts found therein. Said 'long tunnel' has an area of approximately 178 m<sup>2</sup>. The servitude having been constituted in favour of Palumbo Malta Shipyard Limited or successors in title and Palumbo Malta Superyachts Limited or successors in title as better described in the PMS and PSY Grants.
- (iv) A system of subterranean tunnels shown washed in blue-green in Appendix D8, all without relative airspace.

A site plan indicating the above servitudes and third party rights is attached in Appendix D8.

For the sake of clarity, any servitudes and third party rights constituted by virtue of the PMS Grant will cease to be effective on the Second of June Two Thousand and Forty (2/6/2040) and those of the PSY Grant will cease to be effective on the Seventeenth of March Two

Thousand and Forty One (17/3/2041). The relative servitudes and third party rights will thereafter revert in favour of, or as decided by, the Government of Malta.

2. Site shaded light blue and marked with the letter 'C' (referred to as 'Saint Paul's Car Park') on the plan attached to this deed, marked as Document letter "A1", is subject to servitudes and third party rights consisting of:
  - a) A Government owned Lotto Booth, till termination of the current lease according to law – that is, 31<sup>st</sup> March 2016; and
  - b) The servitudes and third party rights imposed by virtue of 1(a) and 1(b) above, which affect the 'Saint Paul's Car Park'.
  
3. Site shaded in orange and marked with the letter 'E' (referred to as 'the Boat Yard') on the plan attached to this deed, marked as Document letter "A1", is subject to servitudes and third party rights consisting of:
  - a) A pedestrian and vehicular passage in favour of the adjacent Government owned boathouses, five in number (5) underlying Triq 31 ta' Marzu, Cospicua; and
  - b) The servitudes and third party rights imposed by virtue of 1(a) and 1(b) above, which affect the 'Boat Yard'.
  

Provided that Government hereby confirms that it has duly given the relevant termination notices, according to law, with regards to the current applicable leases on the Government owned boathouses mentioned in sub-paragraph (a). These notices are here attached and marked 'D-C.'

  
4. Site shown shaded in grey and marked as 'F2' (referred to as the 'Curtilage') on the plan attached to this deed, marked as Document letter "A1", is subject to those servitudes and third party rights imposed by virtue of 1(a) and 1(b) above.
  
5. Site shown shaded in red and marked as "A2" (referred to as the 'Underground Area') on the plan attached to this deed, marked as Document letter "A1", are subject to servitudes and third party rights consisting of:
  - a) A perpetual pedestrian and vehicular passage at surface levels in favour of Government and the general public; and
  - b) The servitudes and third party rights imposed by virtue of 1(a) and 1(b) above, which affect the 'Underground Area'.
  
6. Site shown shaded in green and marked as "B" (referred to as 'Zone B') on the plan attached to this deed, marked Document Letter "A2", is subject to: servitudes and third party rights consisting of:
  - a) A perpetual pedestrian servitude in favour of Government and the general public with regards to the adjoining public roads and public areas;
  - b) The servitudes and third party rights imposed by virtue of 1(a) and 1(b) above, which affect 'Zone B'.

## **02.2 Utilities and Services Infrastructures**

The Bormla Site is subject to the utilities and services passing through, under or over the site including, but not limited, to those indicated in this section.

### **02.2.1 Sewer Main Infrastructure**

The sewer main in Triq Bormla (also known as Triq Dom Mintoff) currently serves for the domestic catchment of Triq ix-Xatt ta' Bormla and connecting alleys terminating primarily in trunk main sewer of Triq San Pawl through Triq it-Tarzna.

A site plan indicating the current sewer infrastructure in the Bormla Site is attached as Appendix D9.

### **02.2.2 Water Main Infrastructure**

The 150mm water main infrastructure is a trunk main feeding the Senglea zone, whilst the 80mm reticulation main in Triq Bormla feeds solely the street in question, presently barely 25 house service connections.

A site plan indicating the location of current water main infrastructure in the Bormla Site is attached as Appendix D10.

### **02.2.3 Electrical Supply Infrastructure**

The Bormla Site is subject to by four (4) underground High Voltage electrical supply cables two (2) of which are in operation whilst the remaining two (2) are redundant. It is also evident that within the periphery of the area there are Enemalta overhead lines supported on brackets which are providing electrical supply to the general public and street lighting.

A site plan indicating the current electricity infrastructure in the Bormla Site is attached as Appendix D11.

### **02.2.4 Telecommunications Infrastructure**

#### **02.2.4.1 GO plc**

A site plan indicating the current telecommunications infrastructure of GO plc in the Bormla Site is attached as Appendix D12.

#### **02.2.4.2 Melita plc**

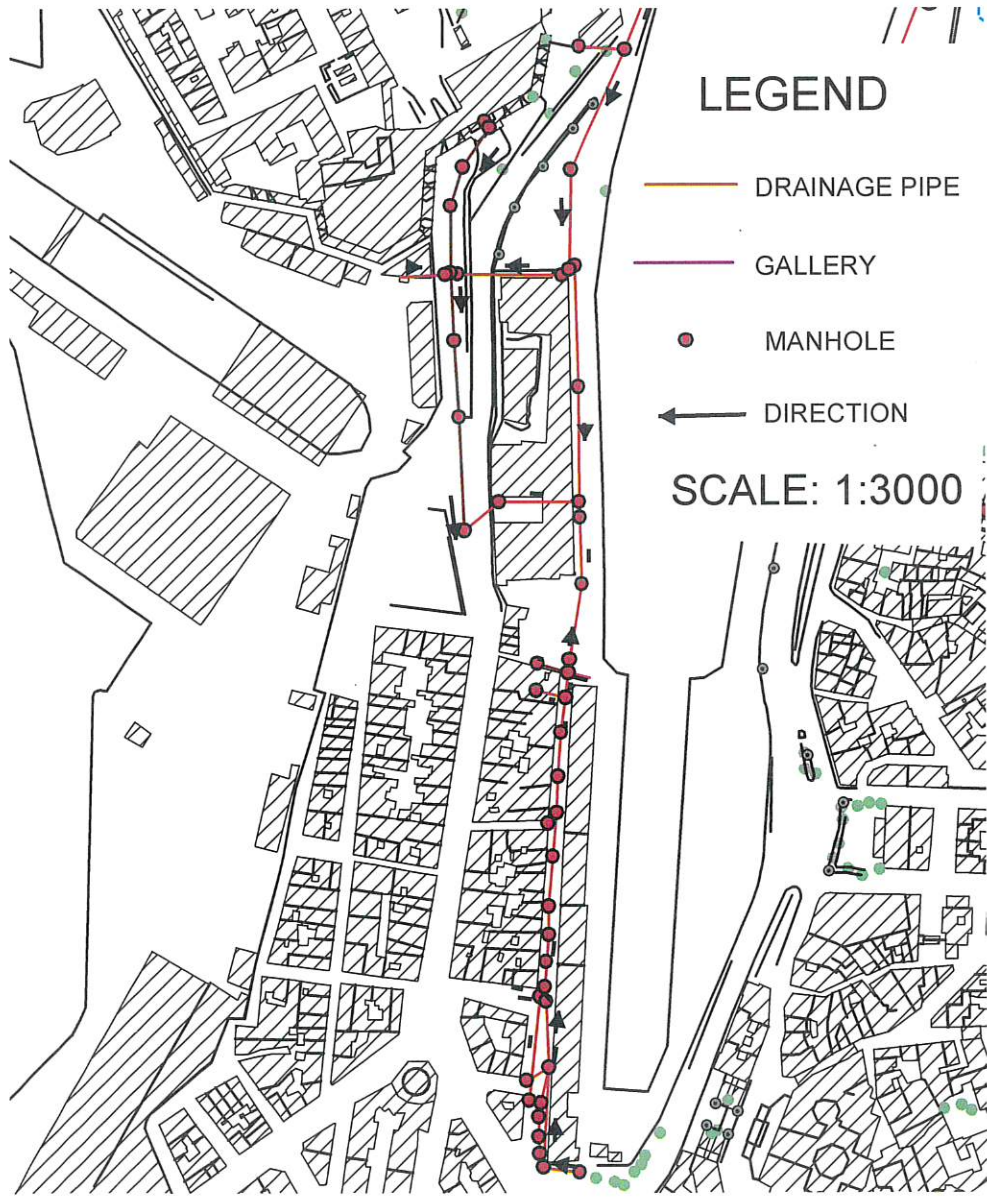
A site plan indicating the current telecommunications infrastructure of Melita plc in the Bormla Site is attached as Appendix D13.



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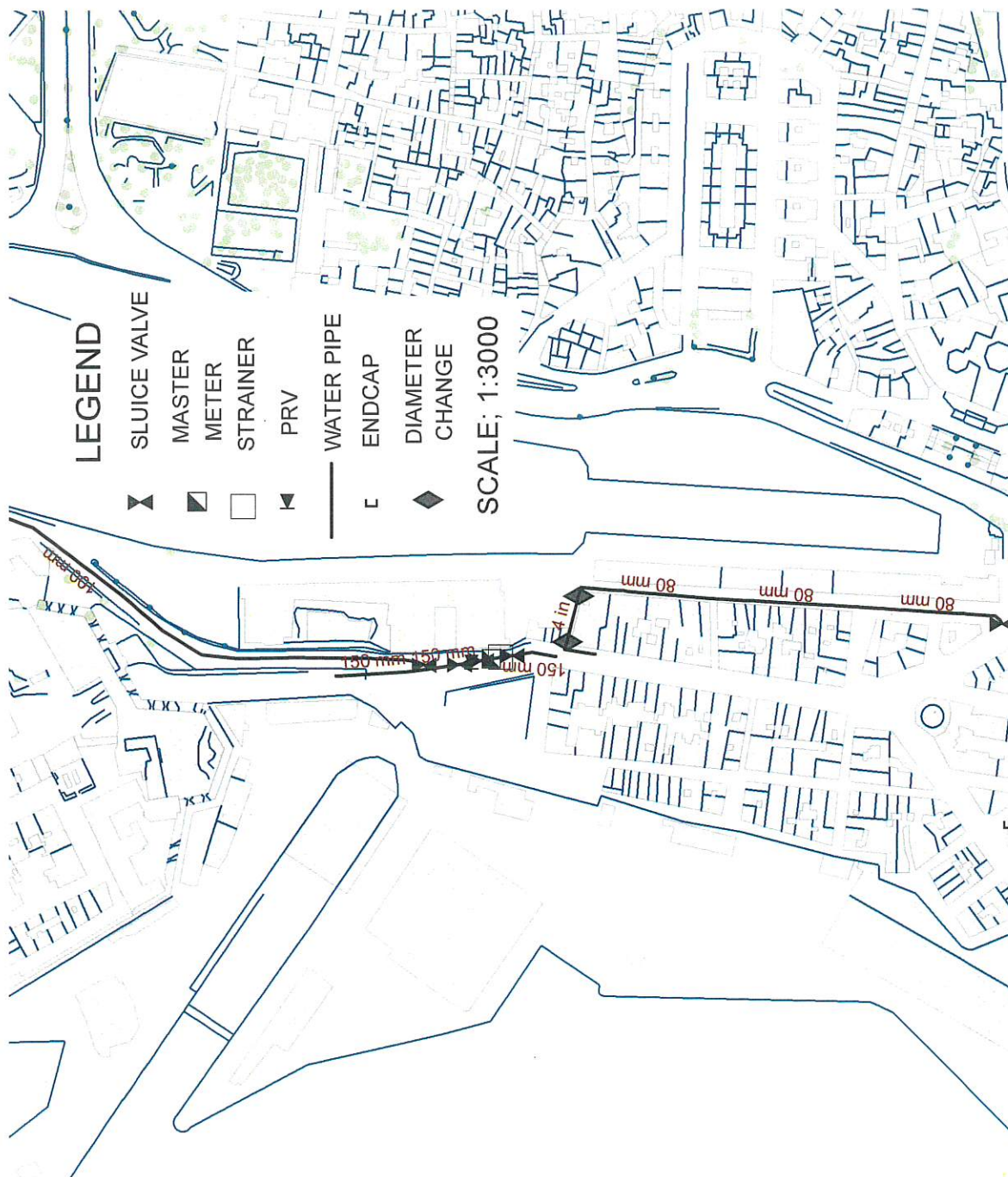
## LEGEND

- DRAINAGE PIPE
- GALLERY
- MANHOLE
- ← DIRECTION

SCALE: 1:3000

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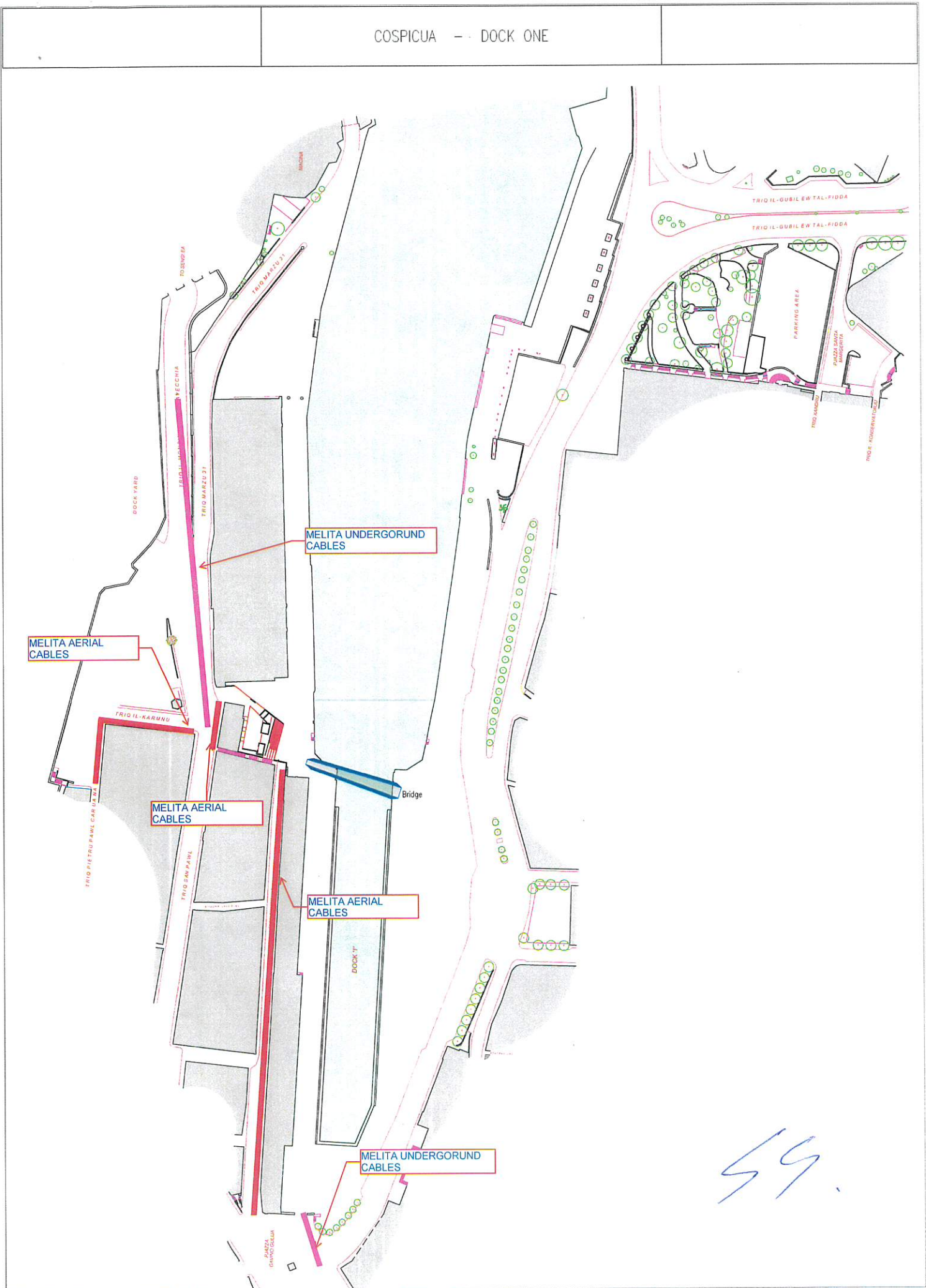


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COSPICUA -- DOCK ONE



59.