

*Roseanne
January 2018*



LEASE

BETWEEN

SMARTCITY (MALTA) LIMITED

("THE LESSOR")

AND

MALTA TOURISM AUTHORITY

("THE LESSEE")

SCM01

OFFICE

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THIS LEASE is made this 27th day of October, 2016

Between:

SmartCity (Malta) Limited, registered in Malta, with Company number C 41194, having its registered office at SmartCity (Malta) Limited, Ricasoli, Kalkara, SCM 1001, Malta (who and whose successors are hereinafter referred to as "the Lessor"), duly represented hereon by Mr Gordon Cachia by virtue of a resolution of the Board of Directors of the 9th May 2016, holder of identity number 246469(M);

And

Malta Tourism Authority (hereinafter referred to as 'MTA'), which has its Head Office at *Auberge d'Italie*, 229, Merchants' Street, Valletta, (hereinafter referred to as "the Lessee") duly represented thereon by Dr. Gavin Gulia in his capacity of Chairperson of MTA, as authorised by virtue of Article 4 of the Malta Travel and Tourism Services Act (Cap 409) of the Laws of Malta, holder of identity card number 447463 (M).

hereinafter referred to as 'the Party', and jointly as 'the Parties'.

1. INTERPRETATION

1.1 Definitions

"Building" means the building as more particularly defined in Schedule 1 of this Lease and refers to each and every part of the Building with all appurtenances thereto belonging, the current extent of which is for identification only shown edged black on the Plan attached as Appendix 1.

"Business Name" means the name under which the Lessee shall carry out the Permitted Use at the Premises and specified in Schedule 1.

"Common Areas" means all those parts, areas, premises and facilities of and in the Building which are not leased by the Lessor to the Lessee or to any other lessees in the Building, including but without limiting the generality of the foregoing foundations, outside walls and roof, all roads, walkways, pavements, passages, entrances, walls, designated car parks, courts, courtyards, vestibules, halls, toilets, stairways, lifts, escalators, gardens, and other amenities, conveniences and grounds pertaining to the Building, and also all service premises, management premises, security premises, stores and all other utilities provided from time to time for the service and/or management of the Building, the Conduits, plant, machinery, equipment, fittings, fixtures and movable items in or upon the foregoing which the Lessor may, from time to time, provide or make available for common or general use of the Lessee and other lessees in the Building and their employees, customers, invitees, licensees, contractors and suppliers.

"Conduits" means all water, telephone, electric, sewerage and other conducting and service media and connections and associated parts used, designed or adapted for use for the carrying of services, for the time being, and from



time to time lying in, or on, or passing through, over, under or across the Premises or Building (save insofar as the same serve exclusively the Premises) as the same may be altered, improved or extended from time to time.

'**Depreciated Lessee's Work**' means the value (including VAT if not claimable) of the Lessee's work depreciated at a straight line basis of ten per cent (10%) per annum.

"**Development**" means the development known as SmartCity Malta constructed or to be constructed on land defined in the deed of temporary emphyteusis in the records of Notary Doctor Vincent Miceli entered into on 22 April 2007 between the Government of Malta (acting through the Commissioner of Land) and the Lessor (the "Deed of Emphyteusis"), the current extent of which is for identification only shown edged black on the Plan attached as Appendix 1.

"**Fitting-Out Period**" means the period referred to in Schedule 1.

"**Floor Area**" means the area measured in accordance with Clause 5, calculated to the nearest one (1) square metre, and stated in respect of the Premises in Schedule 1 being referred to as Unit Size.

"**Force Majeure**" means an event over which neither Party has any control and includes floods, earthquakes, riots, civil commotion, strikes, lockouts, war, insurrections, acts of terrorism, and all other acts of state, God or nature.

"**Handover Date**" means the date of signing of this Lease.

"**Insured Risks**" means the risk of loss or damage caused by fire, storm, tempest, flood, earthquake, lightning, explosion, subsidence, heave and landslip, bursting or overflowing of water tanks or pipes, damage to underground water tanks, oil or gas pipes or electricity wires or cables, malicious damage, aircraft and aerial devices, acts of terrorism and such other risks usually covered under a comprehensive insurance policy available in the market place, and which the Lessor may insure against from time to time.

"**Lease**" means the lease granted under this Agreement including any instruments supplemental thereto and superseding any previous agreement, legally binding or not related to this Agreement.

"**Lessee's Plans**" means the detailed fitting-out design drawings and specifications in respect of the Lessee's Works, which require the Lessor's approval in accordance with Clause 6.

"**Lessee's Works**" means the fitting-out works to be carried out by the Lessee in accordance with Clause 6.

"**Permitted Use**" means the use specified in Schedule 1.

"**Premises**" means the premises more particularly described in Schedule 1 being referred to as Unit No. 301, 302, 303, 304, 305 and 306 forming part of the Building SCM 001, comprising the Floor Area and as shown for identification purposes only demarcated in red on the Plan attached as Appendix 2, and delivered to the Lessee for the Lessee's fitting out.

"**Requisite Consents**" means all or any such permission, consents, approvals, licences, certificates and permits issued by the relevant Authorities in legally effectual form as may be necessary or required by any applicable statute, rule, order, regulation or by-law relating to the Premises.

"**Rent**" means the rent stipulated in Schedule 1 for each year of the Term and payable by the Lessee in accordance with Clause 2.3.



"Rent Commencement Date" means the date specified in Schedule 1.

"Security Deposit" means the sum(s) specified in Schedule 1, to be administered in accordance with Clause 2.4.

"Service Charge" means the amount payable by the Lessee to the Lessor, in accordance with Clause 2.5 and referred to in Schedule 1, calculated by the Lessor, and representing the proportion which, from time to time, the Floor Area of the Premises bears to the aggregate of the Floor Area of all units designed for and capable of being transferred or given by the Lessor by any title for any use in the Building including the Premises. The amount specified in Schedule 1 is payable together with the applicable Value Added Tax (VAT). Following the *di fermo* period and every two (2) years thereafter, the Service Charge is revisable by the Lessor upon good reason and justification, and imposed on all the lessees within the building SCMD1. The Lessor shall upon request provide the Lessee with a breakdown of costs to support the reason and the justification of the Service Charge revised as aforesaid.

"Specified Rate" means the central intervention rate established by the Governor of the Central Bank of Malta plus seven per cent (7%), provided this does not exceed the provisions of Art. 986(2) of Chapter 16 of the Laws of Malta.

"Term" means the period of this Lease specified in Schedule 1 and, subject to Clause 2.3, commencing from the Rent Commencement Date.

1.2 Interpretation

Unless the context otherwise requires:

- (a) Words importing the singular number include the plural number, and vice versa, and words importing the masculine gender shall include the feminine and neuter genders and vice versa, and words denoting natural persons shall include corporations and firms, and all such words shall be construed interchangeably in that manner.
- (b) Words "hereof", "herein", "hereon" and "hereunder" and words of a similar import, when used in this Lease, refer to this Lease as a whole and not to any particular provision of this Lease.
- (c) Headings to Clauses hereof shall not be deemed to be a part thereof or be taken in consideration in the interpretation or construction thereof or of this Lease.
- (d) Reference herein to Clauses, Schedules and Appendices are references to Clauses of, and Schedules and Appendices to this Lease.
- (e) References herein to documents include variations and replacements thereof and supplements thereto.
- (f) References herein to statutes and other legislation include re-enactments and amendments thereof and include any subordinate legislation made under any such statute.
- (g) Where two (2) or more persons are included in the term "Lessee" all covenants, agreements, terms, conditions and restrictions shall be binding on and applicable to them jointly and each of them severally, and shall also be binding on and applicable to their personal representatives and permitted assigns respectively jointly and severally.
- (h) Where the Lessee is placed under a restriction by reason of the covenants and conditions contained in this Lease, the restriction shall be deemed to include the obligation on the Lessee not to permit or allow the infringement

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of the restriction by any person claiming rights to use, enjoy or visit the Premises through, under or in trust for the Lessee.

2. THE GRANT

2.1 Grant of Lease

2.1.1. In consideration of the Rent, terms and conditions set forth herein, the Lessor leases to the Lessee who accepts, the Premises, for the Term, together with:

- (a) The right for the Lessee and others duly authorised by the Lessee of ingress to and egress from the Premises in, over and along all the usual entrances, landings, lifts, lobbies, passages, escalators, forecourts and corridors leading thereto in common with the Lessor and all others so authorised by the Lessor and all other persons entitled thereto;
- (b) The right for the Lessee and others duly authorised by the Lessee to use all Conduits provided for the Premises.

And excepting and reserving unto the Lessor as follows:

- (a) the right to the free and uninterrupted passage and running of all services from and to other parts of the Building in and through the Conduits and ancillary apparatus which now are or may during the Term be in, on, under or over the Premises;
- (b) the right of light, air and support by the Premises for other parts of the Building or neighbouring property of the Lessor;
- (c) the right to take any action to ensure compliance with the requirements of any statute, rule, order, regulation or by-law whatsoever in force during the Term;
- (d) the right to erect scaffolding for the purposes of repairing, maintaining, cleaning or altering the Common Areas or any other part of the Building, despite any temporary obstruction to or interference with the access to or use and enjoyment of the Premises;
- (e) the right to suspend temporarily any rights granted to the Lessee in respect of the Common Areas in connection with the necessary repair and maintenance thereof or any other necessary purpose provided that the Lessor will use all reasonable endeavours to provide alternative rights during such period of suspension;
- (f) the right to regulate and control the use of the Common Areas and to establish, modify and enforce rules and regulations with respect to the Common Areas, and such rules and regulations will be deemed to form part of this Lease;
- (g) the right to vary, alter, restrict or extend the Common Areas so long as proper means of access to and egress from the Premises are afforded, and essential services are maintained;

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- (h) the right to erect and remove kiosks and other structures in any part of the Common Areas, and to grant to any person the right to do so and use the Common Areas for such purposes and upon such terms and conditions as the Lessor may in its absolute discretion think fit;
- (i) During the Term, the Lessee shall have the non-exclusive use in common with the Lessor, the other lessees of the Building, their guests and invitees, of the non-reserved common automobile parking spaces, driveways and footways, subject to rules and regulations for the use thereof as prescribed from time to time by the Lessor. The Lessor reserves the right to designate parking areas within the building, or in reasonable proximity thereto, for the Lessee, and the Lessee's agents and employees;
- (j) the Lessor's rights stated in Clause 8 herein;
- (k) the right to enter onto the Premises:
 - (i) to inspect or to carry out any work to the Common Areas or any adjoining or neighbouring property to which access cannot readily be obtained without entry upon the Premises and to use such property as the Lessor sees fit despite any temporary obstruction to or interference with the access of light and air to the Premises or to any other amenities or rights enjoyed by the Premises;
 - (ii) to remedy any breach of the Lessee's obligations under this Lease;
 - (iii) to inspect, clean, test, repair, remove, alter or divert Conduits on the Premises or to install or connect to the same;
 - (iv) for the purpose of ascertaining that the conditions of this Lease are being duly complied with;
 - (v) to comply with any of its obligations to the Lessee or to any other occupier of the Building; or
 - (vi) for any other reasonable purpose connected with the safety, security, management or use of the Building.

Provided that the foregoing rights shall be exercised in such a manner as to cause as little disruption to the Lessees as is reasonably practicable, and that all rights of entry onto the Premises shall be exercisable at reasonable times and upon reasonable notice, except when there is an emergency when the Lessor shall have the right to enter (or, if necessary, to break and enter) the Premises without giving any notice to the Lessee or being held liable for loss or damage.

2.1.2. The Term may not be extended except with the mutual consent of both Parties in writing.

2.2 Applicability of Provisions

For the avoidance of doubt it is being declared that the provisions of this Lease apply upon the date of execution of this Lease, except for those provisions which are stated to apply, or are intended from the context to apply, from a later date.



2.3 Rent

2.3.1 The Rent will be based on the Floor Area estimated in Schedule 1, and will not be increased if the Floor Area upon the measurement carried out in terms of Clause 5 is greater than the Floor Area estimated in Schedule 1, or decreased if the Floor Area is less than the aforesaid estimate, unless the difference is more than five per cent (5%) whether in excess of or below the aforesaid estimate.

2.3.2 The Rent shall be paid without deduction, retention or demand, in equal instalments quarterly in advance throughout the Term as shown in Schedule 1 with the first payment falling due on the Rent Commencement Date.

2.4 Security Deposit

2.4.1 In the event that the Lessee sub-lets or assigns the Lease in accordance with the provisions of Clause 3.9 hereof, the Sub-Lessee or the Assignee shall pay to the Lessor the Security Deposit and provide the Security Deposit throughout the remaining period of the Term, as security for the due observance and performance by the Sub-Lessee or the Assignee of all its obligations under this Lease, including observance of all obligations during the Fitting-Out Period, whether this Lease is subsisting or not, and, subject to any deductions to be made by the Lessor pursuant to the provisions of this Lease, shall be refunded to the Sub-Lessee or the Assignee at the end of the Lease without interest within one (1) month from the date the Premises are duly repaired, cleaned, decorated and reinstated in accordance with the Sub-Lessee or the Assignee obligations in this Lease, and returned to the Lessor.

2.4.2 Should the Sub-Lessee or the Assignee at any time fail to keep or perform any of the terms or conditions of this Lease, and fail to remedy the breach within ten (10) working days from a notice sent by the Lessor specifying the breach, the Lessor shall be entitled but not obliged to apply the Security Deposit or any part thereof in or towards payment of money outstanding, or making good any breach by the Sub-Lessee or the Assignee, or to deduct from the Security Deposit the losses and expenses to the Lessor occasioned by such breach but without prejudice to any other rights or remedies which the Lessor may be entitled to.

2.4.3 If any part of the Security Deposit shall be applied by the Lessor in accordance herewith, the Sub-Lessee or the Assignee shall, on demand by the Lessor, forthwith deposit with the Lessor such further sum as to reinstate the Security Deposit. Failure to do so within fifteen (15) working days after receipt of Lessor's demand, shall constitute a breach of this Lease. Provided always that no part of the Security Deposit shall be set-off by the Sub-Lessee or the Assignee against any Rent, Service Charge or other sums owing to the Lessor.

2.5 Service Charge

The Service Charge shall be paid without deduction, retention or demand with the first payment falling due on the Handover Date.

3. LESSEE'S OBLIGATIONS

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3.1. Permitted Use of Premises

The Lessee shall use the Premises only for the Permitted Use, and for no other use.

3.2. Conduct of Business

3.2.1 The Lessee is aware that the Lessee and other lessees in the Building, and their employees, agents, guests and invitees have access into the Building at all times. The Lessee shall keep the Premises locked and secure outside its business hours. The Lessee shall take reasonable care not to permit, and shall procure that its employees, agents, guests and invitees shall take reasonable care not to permit unauthorized persons into the Building, especially outside normal business hours.

3.2.2 The Lessee shall, at Lessee's sole cost and expense, comply with all applicable requirements of all Governmental Authorities now in force, or which may hereafter be in force, pertaining to the Premises and the business to be carried out by it therein, and shall faithfully observe all laws and regulations now in force or which may hereafter be in force.

3.2.3 The Lessee shall not do or permit to be done anything whereby the policy or policies of insurance on the Building against loss or damage may become void or voidable, or whereby the rate of premium thereon or on the remainder of the Building may be increased. Furthermore, the Lessee is to repay to the Lessor all losses, costs, expenses and increased premiums incurred by the Lessor brought about by any breach or non-observance of any of the covenants in this Lease.

3.3. Covenants affecting the use of the Premises and Building

The Lessee hereby agrees and undertakes as follows:

- (a) Not to erect or install in the Premises any plant or machinery which causes noise, fumes or vibration which can be heard, smelled or felt outside the Premises;
- (b) Not to store in the Premises any petrol or other inflammable explosive or combustible substance;
- (c) Not to use the Premises or any part thereof for any noxious, noisy or offensive trade or business, or for any unlawful act or purpose;
- (d) Not to do or permit to be done any act or thing which may become a nuisance to or give cause for reasonable complaint from the occupants of the other parts of the Building or to the lessees and occupants of adjoining and neighbouring properties;
- (e) Not to bring into, place or keep in the Premises any heavy articles in such position or in such quantity or otherwise in such manner howsoever as to overload or cause damage to the Premises or the Building or any other adjoining or neighbouring property;

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- (f) Not to overload the lifts, electrical installation or drains, sewers, conduits, flues, gutters, gullies, channels, ducts, shafts, watercourses, pipes, cables, wires and mains or any of them in the Premises and/or the Building;
- (g) Not to do or omit to do anything which interferes with or which imposes an additional load on any ventilation, air-conditioning or other plant or machinery serving the Building;
- (h) Not to reside or sleep, or permit any person to reside or sleep in the Premises or any part thereof;
- (i) Not to store any goods or things upon, or obstruct, litter or make untidy the parts of the Building used in common with the Lessor and others so authorised by the Lessor and all others so entitled thereto;
- (j) Not to erect or install any sign, device, furnishing, ornament or object which is visible from the exterior of the Premises whatsoever and which, in the opinion of the Lessor, is incongruous or unsightly or may detract from the general appearance of the Building;
- (k) To ensure that the decor and design of the Premises which is visible from the exterior is in accordance with the plans and specifications previously submitted to and approved by the Lessor, and not to make any changes to any external parts, or such internal parts as may be visible from the exterior of the Building without the prior written consent of the Lessor;
- (l) To dispose of all rubbish at the rubbish disposal area designated by the Lessor from time to time, and not to throw, place or allow to fall or cause or permit to be thrown or placed in the lift shafts, water-closets, lavatories or other conveniences in the Building any sweepings, rubbish, waste paper or any unsuitable substances and the Lessee shall on demand pay to the Lessor the amount of damage resulting from such breach and to such lift shafts, water-closets, lavatories and other conveniences arising therefrom by the Lessee or its employees, independent contractors, agents, invitees, licensees or any permitted occupier;
- (m) To keep the internal and external Common Areas of the Building clear and free of all obstruction at all times;
- (n) Not to solicit business, display or distribute advertising materials in the car parks or other Common Areas, or in the public walkway outside the Building;
- (o) To observe and perform or cause to be observed and performed any rules and regulations that the Lessor may draw up and promulgate (as may be amended or updated from time to time by the Lessor and which will be regarded as a supplemental document to this Lease) in connection with the orderly and proper use of the Common Areas in the Building and access ways and service areas to the Building and also in connection with the proper management, use of services and utilities and security of the Building;
- (p) Not to install or erect any exterior lighting, shade, canopy or awning, arial, antenna, satellite receiving dish or other structure or thing in front of or elsewhere outside the Premises without the prior written consent of the Lessor and the approval of and/or licence(s) from the relevant authorities in relation thereto. All fees and other charges in connection therewith shall be paid by the Lessee;
- (q) Not to permit vehicles to be parked or stopped at any place except at such place or places, and at such time or times as the Lessor may specifically allow. Furthermore, the Lessee shall prohibit its employees, service suppliers and others over whom it may have control, from parking vehicles in any place other than the permitted areas, and from obstructing in any manner howsoever the entrances, exits, and driveways and the pedestrian footways in or to the Common Areas.

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3.4. Advertisements and Signs

The Lessee agrees and undertakes not to affix, paint, write, place, attach or otherwise exhibit on the exterior of the Premises (or the Building) any figure or letter or any sign, notice, placard, poster, advertisement or others whatsoever, without the previous written consent in writing of the Lessor. Such consent shall not be unreasonably withheld but, if given, may be subject to such conditions as the Lessor may in its sole discretion consider appropriate.

3.5. Utilities and Other Services

3.5.1 (i) The Lessee shall apply to the relevant authorities and/or suppliers, and shall pay all charges, including connection charges, for, telecommunications, and other services used or consumed in or upon the Premises and the hire and installation of separate meters thereof, including any tax now or in future imposed in respect of such charges, throughout the Term, provided that any service provided by the Lessor, including water and electricity, shall be recharged at cost, based on meter consumption.

(ii) The share consumed by the Lessee of electricity for air-conditioning (cooling/heating) will be charged separately by the Lessor to the Lessee, at the same rates as those charged by Enemalta Corporation (or by any supplier of electricity that replaces Enemalta Corporation).

(iii) The Lessor shall be entitled to withhold or disconnect any service or utility provided directly by it should the Lessee fail to pay the relative charges, after that the Lessor would have sent the Lessee a written notice of such failure, until such time that the Lessee remedies the failure in full.

3.5.2 In the event that such water, electricity and any other services are not being metered separately to the Premises during the Term, including the Fitting-Out Period, the Lessee is to pay to the Lessor a proportionate part of the cost thereof including any tax. Such costs shall be calculated by the Lessor and notified to the Lessee by a statement in writing. Such statement shall be conclusive as to the amount thereof. The Lessee shall pay such costs to the Lessor within thirty (30) days of receipt of such statement.

3.5.3 In the event that there is any dispute about the amount due, the Lessee shall effect payment of the amount not in dispute and the balance in dispute shall be payable together with interest thereon from the date when the balance was originally due up to the date of effective payment, if such dispute is resolved in favour of the Lessor, which interest shall accrue at the rate of seven per cent (7%) per annum without the need of any other formality, judicial or otherwise.

3.6. Repair and Maintenance

3.6.1 The Lessee shall carry out all repairs (except structural), maintenance and decoration to keep the Premises, including the flooring and interior plaster or other surface material or rendering on walls and ceilings. 3.6.2 All the Lessee's improvements and additions, and the Lessor's fittings and fixtures therein including doors, windows, glass, locks, fire fighting systems and sprinklers, water and sanitary pipes and installations, electrical wires installations and fittings have to be kept in a clean, good and substantial repair, condition and decoration. Furthermore, the



Lessee has to make good, to the reasonable satisfaction of the Lessor, any damage or breakage to any part of the Premises or to the Lessor's fixtures and fittings therein.

3.6.3 If any damage or injury is caused to the Lessor or to any person whomsoever directly or indirectly on account of the condition of any part of the interior of the Premises (including without limitation the flooring, walls, ceiling, doors, windows and other fixtures), the Lessee shall be responsible thereof and will indemnify the Lessor against all claims, demands, actions and legal proceedings whatsoever made upon the Lessor by any person or persons in respect thereof.

3.7 Alterations

3.7.1 The Lessee shall not make or permit to be made any alterations in or additions to the Premises or any part thereof on the Lessor's fixtures, fittings and decorations therein after the completion of the Lessee's Works without the prior written consent of the Lessor, which consent shall not be unreasonably withheld. The Lessee shall notify the Lessor with any proposed non-structural alterations prior to commencing the relative works. The Lessee shall submit to the Lessor all plans, layouts, designs, drawings, specifications and details of proposed materials to be used for any proposed alterations or additions. Alterations and additions for the purpose of this Clause shall include but shall not be limited to works relating to:

- (a) electrical wiring, conduits, light fittings and fixtures;
- (b) air-conditioning installations, ducts and vents;
- (c) fire protection devices;
- (d) all plumbing and gas installations, pipes, apparatus, fittings and fixtures;
- (e) all mechanical and electrical engineering works.

3.7.2 The Lessor shall be entitled to engage its architect, engineer or other consultant(s) for the purpose of considering the plans, specifications and materials relating to the proposed alterations or additions and for the purpose of supervising all works carried out by the Lessee. Following approval of cost from the Lessee, the fees and expenses of such architect, engineer and consultant(s) reasonably incurred in connection therewith shall be borne by the said Lessee.

3.7.3 If the Lessor shall consent to the Lessee's proposed alterations or additions, the Lessee shall obtain, at the Lessee's own cost and expense, the Requisite Consents if necessary, and comply with the conditions thereof. Upon the expiration or sooner determination of this Lease, if requested by the Lessor, and at the Lessee's expense, the Lessee has to remove the said alterations and additions, and to make good for any damage to the Premises or to the Lessor's fitting and fixtures arising from the removal of the Lessee's alterations and additions. Upon request by the Lessor, the Lessee shall produce to it or its authorised representative the Requisite Consents, including all such other written documents in any way relating to the said alterations and additions and allow the Lessor or its authorised representative to make copies thereof.

3.7.4 The Lessee shall carry out and complete all alterations and additions to the Premises in accordance with the plans, layouts, designs, drawings, specifications and using materials approved by the Lessor and the relevant authorities and in a good and workman-like manner and in compliance with the reasonable requirements of the Lessor. Subject to reasonable notice being given by the Lessor, the Lessee shall allow the Lessor or its authorised

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agent to enter upon the Premises both for the purpose of seeing that no unauthorised alterations, additions or erections have been made and for the purpose of seeing that authorised alterations and additions are carried out in accordance with the Lessor's consent and the permission granted by the relevant authorities.

3.7.5 The Lessee shall, at its own cost and expense, remove any alterations, additions or erections made without such previous consent in writing by the Lessor or in respect of which the permission of the relevant authority is not granted, withdrawn or has lapsed and shall at its own expense comply with every order of such authority requiring the removal or demolition or other work to be done in connection with such alterations, additions or erections. In all such cases the Lessee will, at its own cost and expense, make good all damage caused by such removal, demolition or other work and restore all parts of the Premises affected thereby to their original condition.

3.7.6 In any case where planning permission has been granted subject to conditions imposed by the relevant authority, the Lessor shall be entitled to require the Lessee to provide the security that is requested by the relevant authority for compliance with such conditions, and no work shall be commenced or change of use instituted until such security shall have been provided to the satisfaction of the Lessor.

3.7.7 The Lessee shall not, in the course of any works or at any time for any purpose whatsoever:

- (a) demolish the Premises;
- (b) make any alterations or additions that would or might affect the main structure of the Building;
- (c) make any external alterations or additions to or do anything which would change the external appearance of the Premises;
- (d) make any structural alterations or additions to the Premises whatsoever or do anything which would or might reduce the internal area of the Premises;
- (e) erect any new structure on or make any other alteration or addition to the Premises, except in accordance with the provisions above.

3.8. Lessee's Insurance

The provisions in Schedule 2 shall apply.

3.9 Assignment and Subletting

3.9.1 During the course of the four (4) years *di fermo* period as specified in Schedule 1, the Lessee shall not transfer, assign or sublet this Lease or the Premises or any part thereof, or licence, part with or share possession or occupation of the whole or any part of the Premises, such acts being absolutely prohibited. Furthermore, the Lessee shall not grant to third parties any rights over the Premises without the prior written consent of the Lessor.

3.9.2. If, at any time after the *di fermo* period, the Lessee notifies the Lessor with its intention to sub-let or assign the Lease, the Lessor shall have the option to take possession of the Premises by paying the Lessee the Depreciated Lessee's work.

Provided that, should the Lessor fail to exercise this option within seven (7) working days of receipt of such notification, then the Lessor shall have the right to assign or sub-let the Premises, in whole or in part, to a person of good-repute and financially sound.



Provided further that the said transfer will only take effect after the lapse of fifteen (15) working days from the notification of the identity of the proposed assignee/sub-lessee in order to allow the Lessor to carry out its due diligence checks. In the event that the proposed assignee/sub-lessee is not of good-repute and/or financially sound, the Lessor shall have the right to object to the assignment/sub-lease, and the Lessee shall not proceed with the proposed assignment/sub-lease.

3.9.3. If the Lessee proceeds to assign or sub-let the Premises subject to the provisions of clause 3.9.2, the Lessor shall not object to the Lessee charging and receiving a premium from the proposed assignee/sub-lessee.

Provided that the premium and the mark-up on the rent, if any, for the remaining period of the Lease shall not exceed the cost of the Lessees Works.

3.9.4. The Lessor is hereby giving its irrevocable consent to the Lessee to demand compensation from the proposed assignee/sub-lessee, without the Lessor sharing in the same.

3.9.5 The right to assign/sub-let the Lease subject to the provisions of Clause 3.9.2 *et seq.* may only be exercised by the MTA, and in the event that the Lessee assigns/sub-lets the Lease as aforesaid, the assignee/sub-lessee shall not have the right granted to the MTA to assign/sub-let the Lease as aforesaid.

3.9.6 The Lessor can, after informing the Lessee in writing, assign or transfer its interest in this Lease to any Party as the Lessor deems fit.

3.10 Taxes

3.10.1 The Lessee shall pay and indemnify the Lessor against all existing and any future government rates, taxes, charges, assessments, impositions and outgoings relating to the Premises and/or the Building and/or the Common Areas in the same manner and proportion as may be determined by law. Should any law introducing or concerning such rates, taxes, charges, assessments, impositions and outgoings fail to determine the manner and/or proportion in which payment is to be effected, the Lessor reserves the right to apportion the same between the lessees in the Building accordingly.

3.10.2 The Lessee shall pay to the Lessor any Value Added Tax and/or any other tax or charge of a similar nature as shall be properly chargeable in respect of all monies (including Rent and Service Charge) undertaken to be paid by the Lessees under this Lease all of which monies are for the avoidance of doubt expressed exclusive of Value Added Tax or such other tax as aforesaid.

3.10.3 The Lessee shall ensure that throughout the Term (and any subsequent renewed terms, as may be applicable) it shall be registered, and shall remain so registered, in terms of Article 10 of Chapter 406 of the Laws of Malta (Value Added Tax Act).

3.11 Notice of Damage

The Lessee shall forthwith give notice to the Lessor of any damage that may occur to the Premises or to the Common Areas and of any accident to or defects in the water pipes, electrical wiring or fittings, fixtures or other facility provided by the Lessor.

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3.12 Damage to Building

The Lessee shall pay within thirty (30) days of written demand the proper costs of repairing (including, without limitation, the removal of anything causing defacement) any part of the Building which is damaged by the Lessee or by any officer, employee, agent or independent contractor of the Lessee.

3.13 Return of Employees

The Lessee shall send to the Lessor not later than the 5th October of each year or any alternative day that the Lessor may stipulate, a return showing the number of persons working in the Premises on that day in full-time or part-time employment, or on contracts of service, and stating the total number of hours worked by those persons who are employed part-time or on contracts of service.

3.14 Yielding up at the end of the Term

At the end or sooner determination of the Term hereby created, subject to the provisions of Clause 3.9.1., the Lessee shall:

- (a) surrender to the Lessor all keys giving access to all parts of the Premises irrespective of whether or not the same have been supplied by the Lessor;
- (b) quietly yield up the Premises and the Lessor's fittings and fixtures and leaving the same in good and substantial condition and repair in accordance with the Lessees' obligations under this Lease, and in the event of any of the Lessor's fixtures and fittings comprised within the Premises being broken or missing, to replace the same with items of equal or greater value, quality and functionality, and to carry out any works required by the Lessor in terms of Clause 3.6, and that all without payment of any compensation by the Lessor;
- (c) remove any signs, names, advertisements or notices erected upon or affixed to, within or outside the Premises or the exterior walls of the Building and to make good any damage or disfigurement caused by reason of such erection, affixing and/or removal thereof. If the Lessee shall be in breach of this Clause, the Lessor may reinstate the Premises in accordance with the provisions contained herein at the Lessee's cost and expense, and in the event that the Premises has been sub-let or the Lease assigned in accordance with the provisions of Clause 3.9 hereof, such cost and expense thereby incurred may be deducted from the Security Deposit. In the event that the Security Deposit is insufficient to pay for the same, the deficient amount shall be paid by the Sub-Lessee or the Assignee within seven (7) days of demand from the Lessor, and in this connection, a certificate from the Lessor as to the amount of cost and expense incurred shall be conclusive and binding on the Sub-Lessee or the Assignee. The rights of the Lessor contained herein shall be without prejudice to any other rights or remedies which the Lessor may be entitled to. Provided always that nothing herein contained shall mean that it is obligatory on the Lessor to reinstate the Premises as aforesaid.

3.15 Indemnity

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The Lessee shall indemnify and keep indemnified and harmless the Lessor from and against all actions, claims, demands, losses, damages, costs (including all legal costs incurred by the Lessor) and expenses for which the Lessor shall or may be or become liable arising directly or indirectly from:

- (a) the occupation and use of the Premises and the Common Areas;
- (b) the state of repair and condition of the Premises (except to the extent caused by any default of the Lessor);
- (c) any act, neglect or default of the Lessee or anyone deriving title through the Lessee or anyone at the Premises or Common Areas with the express or implied authority of either of them;
- (d) any breach of any of the terms and conditions of this Lease to be observed and performed by the Lessee;
- (e) any breach of any terms or conditions contained or referred to in any document to be read in conjunction with this Lease, as far as it related to the Premises and is still subsisting and capable of taking effect;
- (f) non-observance of the requirements of statutes regulations, by-laws, orders in force and requirements of any competent authority relating to the Lessee's occupation of the Premises.

4. LESSOR'S OBLIGATIONS

4.1. Peaceful Enjoyment

The Lessor warrants that the Lessee may, on paying the Rent and observing and performing the obligations herein contained, and on the Lessee's part to be observed and performed, and subject to the rights reserved to the Lessor and others in terms of this Lease, peacefully enjoy the Premises during the Term.

4.2 Utilities

4.2.1. Subject to Clause 3.5, the Lessor shall provide the supply of electricity up to the electrical room on the respective floor in which the Premises are situated, water and sewage up to the floor on which the Premises are located, and telephone and telecommunications up to the ground floor of the Building.

4.2.2. In no event shall the Lessor be liable for damages or otherwise for any interruption, reduction, disruption, curtailment or failure in the supply, quality or character of electricity, water, or other utility or service if either the quality or character thereof is changed or is no longer available or suitable for the Lessee's requirements, nor shall any interruption, reduction, disruption, curtailment, failure or change in quantity, quality, or character constitute or be deemed to constitute constructive eviction of the Lessee or excuse or relieve the Lessee from any of its obligations to pay any rent due hereunder.

4.3. Parking Area

The parking space situated in the Common Areas shall remain free of charge for the Lessee's employees and visitors for the duration of the *di ferma* period, based on a first-come first-served basis.

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Provided that, the Lessor shall grant the option to the Lessee to reserve parking spaces at the price of four hundred and twenty Euro (€420 + VAT thereon) per parking space, per annum up to a maximum of twenty (20) parking spaces, throughout the course of the Agreement, subject to availability.

4.4 Management of Building

4.4.1 Following the Handover Date the Lessor shall:

- (i) maintain and keep in good and tenable condition and repair (fair wear and tear excepted) the Common Areas, and provide such lighting to such parts of the Common Areas as the Lessor reasonably thinks fit.
- (ii) employ and pay contractors, agents and professional advisers to discharge the Lessor's obligations to undertake any work or to provide any services or amenities declaring that the Lessor may add to, withhold or change the nature in which it undertakes any work or provides any services or amenities, if it considers that it would be in the interests of good estate management to do so.
- (iii) carry out, provide, manage and operate for the benefit of the Lessee and the other occupants of the Building where appropriate the services specified in Schedule 2.

4.4.2 The Lessor shall not be liable for any interruption in or failure to provide any service referred to in this Clause:

- (i) whilst carrying out an inspection, or any maintenance, repairs or other work; or
- (ii) that is caused by a mechanical breakdown or any other reason beyond the Lessor's control;

if the Lessor uses all reasonable endeavours to restore that service or to provide an alternative service as soon as it is possible to do so.

4.5 Lessor's Insurance Obligations

The provisions in Schedule 2 shall apply.

5. MEASUREMENT

5.1 The method of measurement used by the Lessor to ascertain the Floor Area of the Premises is to measure from the centre of internal walls or partitions separating the Premises from other lettable units to the interior face of all exterior walls and walls facing the corridors.

5.2 The Lessor and the Lessee shall each procure that the Lessor's representative and a surveyor appointed by the Lessee, respectively, shall perform their respective duties as set out in this Clause 5 as follows:-

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- 5.2.1 The Lessor shall procure that the Lessor's representative shall give the Lessee not less than five (5) working days' notice of the intention of the Lessor's representative to attend at the Premises during the Fitting-Out Period to measure the Floor Area of the Premises.
- 5.2.2 On the date set out in the notice given under Clause 5.2.1, the Lessor's representative and a surveyor appointed for this purpose by the Lessee will attend at the Premises and will jointly measure the Floor Area of the Premises.
- 5.2.3 The Lessor's representative and the Lessee's surveyor shall use their best endeavours to agree on the Floor Area of the Premises. Should there be no agreement within seven (7) working days after such measurement shall have taken place, the measurement of the Floor Area of the Premises by the Lessor's representative shall be conclusive and binding on the Parties.
- 5.2.4 Until the Floor Area is determined in accordance with this Clause, the Floor Area shall be deemed to be the Floor Area stated in Schedule 1.
- 5.3 The cost of the Lessee's surveyor shall be borne by the Lessee.

6. LESSEE'S WORKS

- 6.1. For the purposes of this Clause, "Tenancy Fit-Out Guide" means the fitting-out guide prepared by the Lessor and issued to the Lessee prior to the Handover Date as such guide may be amended or varied from time to time.
- 6.2. The Lessee shall, at its sole expense, submit the Lessee's Plans to the Lessor in accordance with the scope, quantity and detail, described within and required by the Tenancy Fit-Out Guide. The Lessee's Plans must reflect the standards as more thoroughly described in the Tenancy Fit-Out Guide.
- 6.3. In the event that the Requisite Consents and the Lessor's approval to the Lessee's Plans have not been satisfied by the Lessee prior to the Handover Date, the Fitting-Out Period shall commence from the Handover Date regardless, and the Rent will always be due for the period from the Rent Commencement Date.
- 6.4. The Lessee shall commence the execution of the Lessee's Works on the Handover Date provided that the Lessee has obtained the Lessor's approval of the Lessee's Plans, and all Requisite Consents in relation to the Lessee's Works.
- 6.5. The Lessee shall procure that the Lessee's Works shall be carried out in accordance with the Tenancy Fit-Out Guide and;
- i. in a good and workmanlike manner using all reasonable skill and care, and under qualified supervision;
 - ii. using suitable good quality new materials and (where specified) as set out in the Lessee's Plans;



- iii. in accordance with all Requisite Consents, with all legislation which shall affect the execution and completion of the Lessee's Works and with the terms of this Lease;
- iv. ensuring that all Common Areas are kept clean, tidy and clear of obstruction at all times; and
- v. shall pursue the works diligently to completion by not later than the expiry of the Fitting-Out Period.

6.6 Subject to reasonable notice being given by the Lessor, the Lessee shall permit the Lessor, its employees or agents to enter into, inspect and view the Premises to ascertain if the Lessee's Works are or have been carried out in accordance with the provisions of this Clause. If any breach thereof shall be found upon inspection, the Lessee shall, upon notice by the Lessor forthwith, take all necessary steps to rectify such breach immediately.

6.7 The Lessee shall make good, to the satisfaction of the Lessor, all damage to the Premises and the Building resulting from the execution of the Lessee's Works, and shall remove all waste material and debris relating to the Lessee's Works from the Building in accordance with the Lessor's instructions.

6.8 The Lessee shall keep the Lessor fully indemnified against any breach, non-observance or non-performance of any Requisite Consents in relation to the Lessee's Works and any claim, demand or proceedings arising out of or incidental to the execution of the Lessee's Works.

6.9 The Lessee shall procure that the Lessee's Works are carried out in such a way as not to interfere with or obstruct the Lessor's works to the Development and the Building, if any.

6.10 Any delay in meeting the requirements of this Clause 6 or in carrying out or completing the Lessee's Works within the Fitting-Out Period or in remedying any breach relating to the Lessee's Works shall not be a ground for postponing the commencement of the Rent and Service Charge and other moneys payable under this Lease, or relieve in any way the Lessee from the performance and observance of the obligations, terms and conditions of the Lease, and this without prejudice to the Lessor's rights under Clause 8 (Defaults & Remedies).

7. LEASE TO CONTINUE IN FORCE

7.1 If during the Term, any part of the Building shall be destroyed or damaged by an Insured Risk so as to render the Premises substantially unfit for the use or occupation of the Lessee, or so as to deprive the Lessee of substantial use of the Premises, the following Clause 7.2 shall apply.

7.2 (i) This Lease shall remain in full force and effect; and



- (ii) The Rent and Service Charge, or a fair and just proportion thereof according to the nature and extent of the damage sustained, shall be suspended and the Lessor shall receive the applicable insurance monies, until the Premises shall again be rendered fit for occupation and use; and
- (iii) As soon as reasonably practicable thereafter, subject to receiving from the Lessee all irrecoverable insurance monies which it is due to pay together with the Lessee's share of any insurance shortfall pursuant to any insurance excess provision, the Lessor shall apply all monies received under the policies of insurance effected by the Lessor under this Lease in reinstating the Premises and/or the Common Areas or such part of the Premises and/or the Common Areas as shall have been so destroyed or damaged, so as to provide accommodation approximately equivalent to that which existed prior to such destruction or damage;
- (iv) For the purposes of this Clause 7.2, "Premises" excludes the finishes to the Premises made by the Lessee's Works and, for the avoidance of doubt, the Lessor's obligation to reinstate under this Clause does not include reinstatement of such finishes to the Premises.
- (v) In the event that there is damage to the finishes to the Premises, the Lessee shall reinstate the finishes, and render the Premises again fit for occupation as required by Clause 2.3 of Schedule 2 and in accordance with Clause 6 of the Lease.

Provided that:

- (i) In any of the events stated in Clause 1.5.2 of Schedule 2, the Lessor may in its absolute discretion, instead of repairing the same, may, within ninety (90) days after the occurrence of the event, give notice in writing to the Lessee of its decision not to repair, replace or reinstate, and thereupon this Lease shall terminate and the Lessee shall (if still in occupation) vacate the Premises without compensation from the Lessor.
- (ii) in the event that the Lessor has not reinstated the Premises and the Common Areas to a standard approximately equivalent to that which existed prior to the date of destruction or damage within one (1) year of the date of such destruction or damage, then either Party shall be entitled to rescind this Lease by giving not less than one (1) month's notice to the other Party and that without penalty due to or by either Party save in respect of antecedent breach.
- (iii) If the relative policy of insurance shall have been vitiated or payment of any of the policy monies refused in whole or in part by reason of any act, omission or default of the Lessee, the Lease shall terminate without prejudice to the Lessor's rights at law to seek damages from the Lessee.

8. DEFAULT AND REMEDIES

8.1 Default

The occurrence of any one or more of the following events shall constitute a breach of this Lease by the Lessee:



- (a) the Premises becomes vacant or deserted for a period of thirty (30) days or more, and the Lessee is not traceable or leaves the country without notifying the Lessor and the Lessor is satisfied in the circumstances that the Premises has been abandoned;
- (b) the failure by the Lessee to make any payment that is due in terms of this Lease, if such failure continues for a period of thirty (30) days after the day on which the sums are due for payment after notice in writing from Lessor to Lessee;
- (c) the failure by Lessee to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Lessee, if such failure continues for a period of thirty (30) days after notice in writing (even if served on curators) from Lessor to Lessee; and
- (d) the Lessee or any guarantor (if any) of the Lessee becomes insolvent.

8.2. Definition of the expression 'insolvent'.

The expression "insolvent" in this Clause 8.1 means:

- i. In relation to a company or other corporation which is the Lessee or a guarantor, where the company becomes unable to pay its debts within the meaning of Article 214(5) of the Companies Act, (Cap. 386 of the Laws of Malta) or any statutory modification or re-enactment thereof or a Court order or other judicial process is levied or enforced upon or sued out against any part of the property of the company and is not paid out, withdrawn or discharged within ninety (90) days, the company stops payment of its debts or ceases or threatens to cease to carry on its business, it enters into liquidation either voluntary (except for the purpose of amalgamation or reconstruction), or as a winding up by the Court, the making of a proposal to the company and its creditors for a composition in satisfaction of its debts or a scheme of arrangement of its affairs, the filing of an application to any court for company recovery procedure under Article 329 B of the Companies Act, (Cap. 386 of the Laws of Malta), and the appointment of a provisional administrator receiver or administrative receiver; and
- ii. In relation to an individual, the presentation of a declaration of bankruptcy, the making of a proposal to his creditors for a composition in satisfaction of his debts or a scheme of an arrangement of his affairs, the application to any court for a declaration of bankruptcy or for an interim order, and the appointment of a curator, receiver or interim receiver, or insolvency or apparent insolvency.

8.3. Remedies

It is an express resolute condition that in the event of any such default or breach by Lessee, the Lessor, at any time thereafter, may dissolve this Lease forthwith by written notice without any declaration by a court or process of law to that effect, and without limiting the Lessor in the exercise of any right or remedy which the Lessor may have at law by reason of such event including, but not limited to, the recovery from Lessee of all damages suffered by Lessor by reason of Lessee's default, to remove the Lessee from possession of the Premises, and repossess and enjoy the same as if this Lease had not been granted, and to exercise all rights and claims competent to the Lessor in terms of this Lease.



8.4 Failure to Vacate

If the Lessee continues to occupy the Premises without the consent of the Lessor beyond the expiration or termination of the Term howsoever terminated or fails to deliver vacant possession thereof to the Lessor after the expiration or termination of the Term without any express agreement between the Lessor and Lessee, the Lessee shall pay to the Lessor for every day of such occupation a penalty equivalent to double the then current daily rate of Rent as pre-liquidated damages for mere delay, which penalty shall not be subject to abatement or mitigation, and which shall not prevent the Lessor from demanding further damages should the Lessor suffer damages in excess of the penalty.

8.5 Lessor's Right to Dispose of Property

Without prejudice to the Lessor's rights under the preceding Clause 8.3, if upon expiration or termination of the Term howsoever terminated, there remains in or on the Premises any property, fixtures, fittings or other goods whatsoever of the Lessee without the consent of the Lessor, and the Lessee shall fails to remove the same within seven (7) working days after notification to that effect, then the Lessor, as the agent of the Lessee, may but shall not be obliged to sell such property, apply the proceeds of such sale after deducting the costs and expense of removal, storage and sale reasonably incurred by the Lessor towards discharging any sum due from the Lessee to the Lessor under the provisions of this Lease and shall hold the balance thereof (if any) to the order of the Lessee unless six (6) months have elapsed since the date of any sale and the Lessor has, in spite of reasonable endeavours, been unable to locate the Lessee, in which case the Lessor may keep any proceeds of sale for itself.

8.6 Indemnity by Lessee

The Lessee shall indemnify and keep indemnified the Lessor against any liability incurred by it to any third party whose property shall have been sold by the Lessor in the *bona fide* mistaken belief (which shall be presumed unless the contrary be proved) that such property belonged to the Lessee and was liable to be dealt with as such pursuant to this Clause.

9. DISCLAIMER OF LIABILITY

9.1. The Lessor will not be liable to the Lessee for any injury, damage or expense or financial or consequential loss whether to persons, property or goods:

- (i) arising from any failure or inability of or delay by the Lessor in fulfilling any of its obligations under this Lease or any interruption in any of the services herein agreed to be provided by the Lessor by reason of necessary repair or maintenance of any installation or apparatus or damage thereto or destruction thereof by fire, water, act of god, or any other cause beyond the control of the Lessor or by reason of mechanical or other defect or breakdown or by reason of a strike of workmen or others or a shortage of fuel, material, water or labour;



- (ii) arising directly or indirectly by or through any defect, decay, inadequacy, want of repair or decoration or otherwise in the Premises for which the Lessee is responsible under the Lease; or
- (iii) in or arising from the choking, bursting, overflow, leakage, stoppage or failure of any gas, water or soil pipes, ducts and cisterns or of the drains, sewers, gutters, or conductors or the failure, fusing or breakdown of any electric wires or appliances or other service media in the Premises; or
- (iv) for any injury, damage or expense or financial or consequential loss whether to persons, property or goods arising directly or indirectly through any act or omission of other lessees or occupants in the Building or adjoining or neighbouring properties or through the condition of the Premises; or
- (v) any damage, injury or loss arising from or in connection with the use of the car parks pertaining to the Building

10. LESSOR'S RIGHT IN RELATION TO THE BUILDING

10.1 The Lessor shall have the right at all times without obtaining the prior consent from the Lessee:

- (a) to alter, reconstruct or modify in any way whatsoever or change the use of any part or parts of the Building (including all fixtures, fittings, equipment, machinery and apparatus therein and thereto), so long as proper means of access to and egress from the Premises are afforded and essential services are maintained at all times. Nothing contained in this Lease shall confer on the Lessee any right to enforce any covenant or agreement relating to other part or parts of the Building or the Development whether or not demised by the Lessor to others, or limit or affect the right of the Lessor in respect of any such other premises to deal with the same and impose and vary such terms and conditions in respect thereof as the Lessor may think fit.
- (b) to extend the Building and/or erect new buildings or extend or alter existing buildings on or over any part of the Building (and for the avoidance of doubt the Common Areas and the Building as defined and mentioned in the Lease will as and from each occasion on which such extension, erection or alteration is completed be deemed to refer to the Common Areas and the Building (as appropriate) as so extended, erected or altered);

Provided that in exercise of the foregoing rights:-

- (i) no capital costs of any such extension, erection or alteration of buildings or the infrastructure shall be borne by the Lessee;
- (ii) the Lessee's occupation and use of the Premises will not permanently be materially adversely affected by such extension, erection or alteration.

11. GENERAL



11.1 Moneys due and owing and interest

Without prejudice to any other right, remedy or power available to the Lessor, the Lessee shall be obliged, in the event of any default, to pay to the Lessor, on demand, interest at the Specified Rate on all sums due to the Lessor under this Lease from the due date for payment thereof until the date of actual receipt of payment in full by the Lessor, such interest to be calculated on a daily basis on the balance then outstanding.

11.2 Consents

Where any consent is required to be obtained by the Lessee in accordance with the provisions of this Lease, the Lessor may grant its consent, subject to terms and conditions as may be reasonably required by the Lessor to protect its interests.

11.3 Whole Agreement

The covenants, provisions and terms of this Lease cover and comprise the whole Agreement between the Parties hereto, and the Parties hereto expressly agree and declare that no further or other covenants, agreements, provisions or terms, whether in respect of the Premises or otherwise, shall be deemed to be implied herein or to arise between the Parties hereto by reason of any promise, representation, warranty or undertaking given or made by either Party hereto to the other on or prior to the execution hereof.

11.4 Variations to Lease

It is agreed by the Parties that any variations to the Lease at the time of execution of the same shall be referred to specifically in Schedule 1 to the Lease, and in the event of any discrepancy between the body of this Lease and Schedule 1, the provisions of Schedule 1 will apply.

11.5 Waiver of Breach

No consent or waiver, express or implied by the Lessor to or of any breach of any covenant, condition or duty of the Lessee shall be construed as a consent or waiver to or of any breach of the same or any other covenant, condition or duty, and shall not prejudice in any way the rights, powers and remedies of the Lessor herein contained. Any acceptance by the Lessor of Rent or Service Charge reserved by this Lease or any other sum payable under this Lease shall not be deemed to operate as a waiver by the Lessor of any right to proceed against the Lessee in respect of a breach by the Lessee of any of the Lessee's obligations hereunder.

11.6 Further Development



The Lessee is aware that there shall be further building and development on and in the Development, and agrees that the Lessor and its directors, officers, employees, agents, consultants, contractors and sub-contractors will not be liable for any nuisance which may ensue as a result of the carrying out of building and development works as stated above including, without limitation, any nuisance which may be caused as a result of noise, vibrations and dust.

11.7 Severance

If any term or provision in this Lease shall be held to be illegal or unenforceable, in whole or in part, under any enactment or rule of law, such term or provision or part shall, to that extent, be deemed not to form part of this Lease but the validity and enforceability of the remainder of this Lease shall not be affected.

11.8 Arbitration

Any question or difference which may arise concerning the construction meaning or effect of this Lease or concerning the rights, duties, obligations and liabilities of the Parties hereunder or any other matter arising out of or in connection with this Lease shall be referred to and settled by arbitration. The venue of such arbitration shall be Malta. The number of arbitrators shall be one (1). The language of the arbitration shall be English. The right of appeal on a point of law is not excluded. Any reference under this Clause shall be deemed to be a reference to arbitration within the meaning of Part IV of the Arbitration Act (Chapter 387 of the Laws of Malta).

11.9 Notices

All notices which require to be given in terms of this Lease will be in writing and will be deemed to be sufficiently given if delivered by hand or if sent by recorded delivery post addressed; if a company, at its Registered Office in Malta or at the address set out in Schedule 1, or if an individual, at the address set out in Schedule 1, or in either case to such other address as that Party may have notified to the other in writing. Any such notice shall be deemed to have been served:

- (i) if delivered by hand, upon written acknowledgement of delivery made by or on behalf of the Party to whom the notice was addressed, and
- (ii) if sent by recorded delivery post, on the second business day after the same was posted (excluding weekends and public and statutory holidays);

and in proving service, it shall be sufficient to prove that the envelope containing the notice was duly addressed to the Lessor or the Lessee, as the case may be, in accordance with this Clause and posted to the place to which it was so addressed.

11.10 Governing Law and Language

This Lease shall be governed and construed in accordance in all respects with Maltese Law.

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SCHEDULE 1

LEASE INFORMATION

Parties:

LESSOR:
SmartCity (Malta) Limited

LESSEE:
Malta Tourism Authority

ADDRESS:
Ricasoli, Kalkara SCM 1001

ADDRESS:
Auberge d'Italie,
229, Merchants' Street, Valletta

PREMISES

No.	Item	Particulars
1	Building No.	SCM01
2	Floor No.	Third Floor
3	Unit No.	301, 302, 303, 304, 305 & 306
4	Unit Size	1,423m ²
5	Permitted Use	Administration Offices
6	Business Name	Malta Tourism Authority

TIMES

No.	Item	Particulars
7	Term	Ten (10) years, commencing on the Rent Commencement Date, provided that the first four (4) years shall be <i>di fermo</i> while the remaining six (6) years shall be <i>di rispetto</i> . During the course of the <i>di rispetto</i> period, the Lessee shall have the right to terminate this lease at any time without the need to provide any reason for such termination, subject to giving the Lessor six (6) months' notice of such termination in advance.
8	Handover Date	The date of signing of this Agreement
9	Fitting Out Period	Sixteen (16) weeks from Handover Date
10	Rent Commencement Date	Sixteen (16) weeks from Handover Date

FINANCIAL

No.	Item	Particulars					
11	Rent	Year	Rate/Sq.m./ Per Annum	Escalation Rate	Total excluding VAT	VAT (18%)	Total including VAT
		1 2017	€125.00		€177,875.00	€32,018.00	€209,893.00
		2 2018	€127.50	2%	€181,433.00	€32,658.00	€214,090.00
		3 2019	€130.05	2%	€185,061.00	€33,311.00	€218,372.00
		4 2020	€132.65	2%	€188,762.00	€33,977.00	€222,740.00
		5	€170.00		€241,910.00	€43,544.00	€285,454.00
		6	€175.95	3.50%	€250,377.00	€45,068.00	€295,445.00
		7	€182.11	3.50%	€259,140.00	€46,645.00	€305,785.00
		8	€188.48	3.50%	€268,210.00	€48,278.00	€316,488.00
		9	€195.08	3.50%	€277,597.00	€49,968.00	€327,565.00
10	€201.91	3.50%	€287,313.00	€51,716.00	€339,030.00		
		Rent payable quarterly in advance commencing on the Rent Commencement Date and every three months thereafter.					
		First Quarterly rental charge amounts to €44,468.75 (excluding VAT)					
		Current VAT rate is 18% (subject to change as per applicable law)					
		MTA VAT Number: 12822423					
12	Security Deposit	Payable only in the event of Sub-Letting or Assignment at the rate equivalent to 25% of the Annual Rent at the time that the Premises have been sub-let or the Lease assigned in accordance with the provisions of Clause 3.9 hereof.					
13	Service Charge	Service charge payable quarterly in advance commencing on the Hand Over Date and every three (3) months thereafter.					
		First Quarterly service charge amounts to €10,672.50 (excluding VAT) + €1921.05 = €12,593.5					
		Service charge during the period <i>di fermo</i> shall be fixed at thirty Euro (€30) per square metre, payable quarterly.					
		Following the <i>di fermo</i> period and every two (2) years thereafter, the Service Charge is revisable by the Lessor upon good reason and justification, and imposed on all the lessees within the building SCM01. The Lessor shall upon request provide the Lessee with a breakdown of costs to support the reason and the justification of the Service Charge revised as aforesaid.					
14	Lessee's Public	One million (€1,000,000) Euro per incident					

€30pm² pa

€7.50pm²
per quarter
= €0.083
per day

€12,593.5
↓
€50,344pa

	Liability Insurance minimum	
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VARIATIONS TO LEASE (IF ANY)

15	Payment Method	All payment of rents, charges and other remittances is to be effected by bank direct debit according to bank details that will be supplied by the Lessor.



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SCHEDULE 2

LESSOR'S AND LESSEE'S INSURANCE

Definitions

- "Building"** in this Schedule has the meaning ascribed to it in the Lease, excluding the Lessee's Works;
- "Lessee's Property"** the Lessee's fixtures and fittings and all other property and effects brought by the Lessee into the Premises.

1. Lessor's Insurances

1.1 Until Handover Stage

The Lessor shall, from the date of commencement of its works to construct the Building until the Handover Stage, insure or cause to be insured in the name of the Lessor and the building contractor (and such other persons as the Lessor may determine) such works and the Building with a reputable insurer, against all risks usually covered by a "Contractor's All Risks" policy in an amount equal to the full cost of reinstating such works and all unfixed goods and materials relating to the works as appropriate in the event of their damage or destruction, together with the costs of debris removal, demolition, site clearance and architects', surveyors' and other professional fees.

1.2 Throughout the Term

Subject to Clause 1.6 the Lessor shall effect and maintain throughout the Term:

1.2.1 a comprehensive insurance policy:

- (a) for the full insurable and replacement value of the Building and the Lessor's plant, equipment, facilities and property in the Building; and
- (b) for the costs of demolition, site clearance, removal of debris, professional fees and other costs of planning and other necessary approvals and for reinstating or replacing the Building, and the services and facilities to the Building; and
- (c) against loss or damage caused by the Insured Risks.

1.2.2 an adequate public liability insurance policy; and

1.2.3 insurance for loss of Rent and Service Charge payable by the Lessee for twelve (12) months, taking into account potential increases in the Rent and Service Charge. 1.3 Insurer

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The Lessor shall effect the insurance under this Clause 1 with an insurer which is respectable, reputable and financially sound.

1.4 Premium

The Lessor shall pay punctually the insurance premium to effect and maintain insurance throughout the Term of this lease.

1.5 Replacement of Property

1.5.1 In the event of loss or damage to the Lessor's plant, equipment, facilities and property in the Building, or to the Building which is covered by the insurance under Clause 1.2.1, the Lessor shall promptly replace, repair or reinstate the damaged or destroyed Lessor's property or the Building utilising the insurance proceeds.

1.5.2 The Lessor is not required to repair, replace or reinstate the Lessor's property or the Building when any of the following conditions apply:-

- (a) the Building has been so seriously damaged and is required to be substantially rebuilt or replaced; or
- (b) the Lessor is unable:
 - (i) to obtain planning or building consent to a reinstatement of a Building of substantially similar size and lettable space;
 - (ii) to obtain consents without the imposition of conditions which would render compliance by the Lessor unreasonable or not financially viable as a property investment; or
 - (iii) to reinstate the Building due to circumstances beyond the Lessor's control or any act of *Force Majeure*; or
- (c) the Lessor's mortgagee(s) or financier(s) (if any) do not consent to (or prohibit) such repair, replacement or reinstatement of the Lessor's property.

1.6 Lessor's discretion

1.6.1 For the better management of the Building, and taking into account any other relevant market factors (including availability and reasonable pricing), the Lessor has the sole discretion, from time to time, to vary the insurance referred to in Clauses 1.2.1, 1.2.2 and 1.2.3.

1.6.2 If the Lessor varies the insurance referred to in Clauses 1.2.2 and 1.2.3, then the Lessor shall promptly notify the Lessee of such variation.



1.6.3 The Lessor shall provide copies of any insurance policy or policies to the Lessee immediately upon request at its own cost, but shall not be required to provide any such copies more than once in any one (1) year unless the insurance policy or policies are varied by the Lessor in accordance with Clause 1.6.1 above.

2. Lessee's insurances

2.1 The Lessee shall effect and maintain at its own cost (and shall ensure that its contractors maintain, where they are to perform any work or service at or in respect of the Premises) from the date of commencement of fit-out of the Premises and thereafter throughout the Term of this lease the following insurances:

(a) a public liability insurance policy:

(i) in the amount to cover in respect of any one accident or occurrence not less than the amount set out in Schedule 1 or such higher amount as the Lessor may reasonably prescribe from time to time;

(ii) relating to the Lessee's liability for death, personal injuries and property damage arising from the Lessee's occupancy and use of the Premises whilst entering, leaving, using and being in the Premises, in circumstances in which the Lessee may incur liability for the injury, loss or damage and where the Lessor is not liable under its own public liability insurance in relation to the Building;

(b) insurance for the full replacement value, through breakage damage or destruction from any cause:

(i) of all plate and other glass in windows, doors, shop front, display cases and other fixed glass in the Premises;

(ii) of any doors, windows or other frames containing the glass within or forming part of the Premises, and

(iii) of the Lessee's finishes to the Premises and the Lessee's Property;

(c) contractors' all risk policies for the full value of any Lessee's Works or other works, at the Premises; and

(d) insurances which are required by any applicable laws (including, as applicable, insurance under relevant workers' compensation laws for an employer's full liability under that law).


2.2 Insurer and conditions

2.2.1 The Lessee's insurances shall be effected with one or more insurance companies which are:

(a) respectable, reputable and financially sound; and

(b) which are with insurers registered to underwrite such risks in Malta.

2.2.2 The Lessee's insurances relating to public liability, and plate glass:



(a) shall be in the joint names of the Lessor and the Lessee (where permitted by applicable laws and when available in the market place); and

(b) if requested by any mortgagee or other financier of the Building, shall include the interest of any such mortgagee or other financier.

2.3 Miscellaneous

2.3.1 The Lessee shall deposit with the Lessor copies of certificates of its insurance policies as soon as the Lessee receives them and ensure that its contractors deposit with the Lessor copies of certificates of insurance taken out by the contractors as soon as the contractors receive them.

2.3.2 The Lessee shall immediately rectify anything which might prejudice any insurance and reinstate the insurance if it lapses.

2.3.3 The Lessee shall notify the Lessor immediately when:

(a) an event occurs which gives rise or might give rise to a claim under, or which could prejudice, a policy of insurance; or

(b) any policy of insurance is cancelled, restricted or modified.

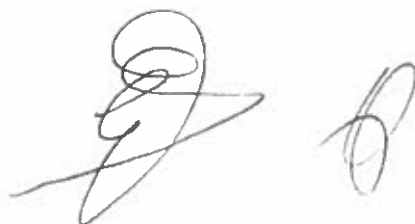
2.4 Replacement of property

Without prejudice to the Lessee's other obligations under the Lease:

2.4.1 In the event of loss or damage to the Lessee's finishes to the Premises and/ or to the Lessee's Property which is covered by insurance effected by the Lessee will promptly replace, repair or reinstate the damaged or destroyed finishes or property, utilising the proceeds from the insurance.

2.4.2 The Lessee shall carry out any replacement, repair or reinstatement not covered by the proceeds from the insurance effected by the Lessee, unless such replacement, repair or reinstatement is covered by the Lessor's insurance policies of insurance referred to in Clause 1.2.1 above or the Building is so seriously damaged or destroyed and is not repaired or reinstated by the Lessor.

2.4.3 In the events under Clause 2.4.2, the proceeds from any insurance effected by the Lessee in respect of damage or loss to the Lessor's property shall be remitted to the Lessor as compensation for its loss.

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APPENDIX 1

BUILDING & DEVELOPMENT PLAN



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APPENDIX 2

PREMISES PLAN

