



**Property Valuation**

Ref: C00585.01\_20(B)\_2022

**Marsa Exchange  
Spencer Hill  
Marsa  
Malta**

**17<sup>th</sup> May 2022**



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17<sup>th</sup> May 2022

Our Ref: C00585.01\_20(B)\_2022

**Valuation:** Marsa Exchange, Spencer Hill, Marsa, Malta.

In arriving at the present valuation, I have had regard for the matters described in the Valuation Report attached hereto, following inspection by myself or my appointed delegate.

The property is freehold and vacant, so that, should the property be sold, any purchaser would acquire free and unencumbered possession thereof.

On the basis of the characteristics and conditions described in the Valuation Report, as well as current market trends, I estimate the value of the freehold interest of the property in its current state to be *circa €6,400,000 (six million and four hundred thousand Euro)*.

  
.....  
**David Felice**  
o.b.o. AP Valletta Ltd.

Encl: Valuation Report



17<sup>th</sup> May 2022

Our Ref: C00585.01\_20(B)\_2022

## Valuation Report

- 1. Client** Malta Properties Company plc.
- 2. Object of Valuation** Marsa Exchange, Spencer Hill, Marsa, Malta.
- 3. Proprietor** MSH Property Company Limited.
- 4. Compliance with Valuation Standards**

The valuation has been prepared in accordance with the *Kamra tal-Periti* Valuation Standards for Accredited Valuers (2012), which are largely based on the TEGOVA Valuation Standards (2009). Any reference hereafter to the “Valuation Standards” is to be inferred as a reference to the afore-mentioned Standards published by the *Kamra tal-Periti*. Such standards are considered to be an adequate replacement for the standards and guidelines required to be adopted by the MFSA namely the valuation standards of the Royal Institute of Chartered Surveyors (RICS).
- 5. Capacity of Valuer**

The undersigned has taken on this assignment as an External Valuer as defined in the Valuation Standards.
- 6. Special Conditions**

This report is confidential to the Client named above for the specific purpose described below. It may be disclosed to other professional advisors assisting the Client in respect of that purpose, but the Client shall not disclose the report to any other person. Neither the whole nor any part of this report, or reference to it, may be included in any published documents, circular or statement without the prior written consent of the undersigned.

The undersigned is responsible only to the Client and any other person making use of this valuation shall do so solely at his or her risk.

The title of ownership has not been investigated and such investigation was not within the scope of this valuation, nor does it fall within the competence of the undersigned. The considerations regarding title are as reported to the undersigned by the Client, and any comments regarding title are being made in order to make the Client aware of



any potential issues that could affect the value or the marketability of the property. The undersigned accepts no liability in this regard.

The property value stated in the Valuation Certificate refers to the immovable things – as defined in articles 308 through 311 of Chapter 16 of the Laws of Malta – of the object of the valuation, with the exclusion of telecommunications equipment and installations within or attached to the property, even if they are so fixed thereto as to render them immovable according to law.

## 7. Basis of Valuation

This report leads to an estimation of the "Market Value" of the property, as defined in the European Council Directive 2006/48/EC, that is, *"the estimated amount for which the property should exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion."*

Without prejudice to the foregoing, the price stated in this valuation is deemed to be the best price at which the sale of an interest in the property might reasonably be expected to have been completed unconditionally for cash consideration on the date of valuation, subject to the following premises:

- a. a willing seller;
- b. prior to the date of valuation there had been a reasonable period for the proper marketing of the interest, for the negotiation and agreement of the price and the terms of sale, and for the completion of the sale. In this particular case, and due to the high value of the property being considered, this reasonable period could entail a number of years, due to the restricted market for this type of property;
- c. the state of the market, level of property values and other relevant circumstances were, on the date of exchange of contracts, the same as the date of valuation;
- d. the absence of any additional bid by a purchaser with a special interest in the acquisition of the interest;
- e. a good freehold title can be shown, and the property is not subject to any unusual or onerous restrictions, encumbrances or outgoing;



- f. the property is unaffected by any Statutory Notice and neither the property nor its use, actual or intended, gives rise to a contravention of any Statutory Requirements;
- g. the property is free from latent defects and no deleterious materials have been used in its construction;
- h. only a visual inspection of the property was carried out to establish the condition of repair and, unless otherwise specifically stated herein, and in that event only to the extent so specified, no parts of the property which were covered, unexposed or otherwise inaccessible to visual inspection have been inspected, and no tests have been made as to whether or not such parts are free of defects, so that the valuation assumes that a structural survey would reveal no major defects involving substantial expenditure.

<b>8. Date of Inspection</b>	The property was inspected on the 1 <sup>st</sup> December 2021 in the presence of a representative of the Client.
<b>9. Inspected by</b>	Matthew Vella Critien, for and on behalf of AP Valletta Ltd., as appointed delegate of the undersigned.
<b>10. Purpose of Valuation</b>	This valuation has been prepared in response to a request by the Client to assess the market value of the property for the purpose of a bond issue.
<b>11. Description</b>	
<i>Property Type:</i>	The property consists of an extensive three storey office building, with equipment rooms and surrounding grounds and outbuildings.
<i>Construction Type:</i>	For the most part the office block consists of masonry load-bearing walls supporting in-situ reinforced concrete slabs. In some areas with large spans rolled steel joists were utilised. Several areas in the main building have false ceilings, which precluded inspection of the ceiling structures.
<b>12. Tenure</b>	The property is freehold, as indicated in the copy of the title documents provided by the Client (refer to Annex 6).
<b>13. Occupation</b>	At the time of inspection, the property was vacant.



<b>14. Age</b>	Judging by the state of the property and the methods and style of construction, the office block is over 60 years old.
<b>15. Location</b>	<p><i>Aspect:</i> The property lies in a predominantly industrial and commercial area with views of the Grand Harbour and the Three Cities.</p> <p><i>Surroundings:</i> The surrounding properties are generally of a commercial and industrial type, most of which are set within warehouses, with offices being the predominant commercial use in the area. The area is surrounded also by substantial open space, which during the day is utilised as car parking. At night the area is quite desolate.</p> <p><i>Amenities:</i> Apart from the close proximity of public transport, and a couple of catering establishments, no day-to-day amenities are available within the immediate vicinity of the property, which however lies a short walk away from the town of Hamrun. The area offers a number of green areas which are currently being upgraded with works consisting of new footpaths and additional green landscaping. <i>Triq Spencer</i> has recently been connected with St. Joseph High Street in Hamrun by means of a pedestrian and cycle friendly footbridge which bypasses the arterial road previously forming a barrier between Marsa and Hamrun. This has improved the access to day to day amenities in the area.</p>
<b>16. Common Areas</b>	The property does not share any facilities with third parties. The party walls are assumed co-owned in equal parts with the owners of the adjacent properties.
<b>17. Local Authority</b>	Marsa Local Council.
<b>18. Accommodation</b>	A land survey of the property under report was not carried out and such survey was not within the scope of this valuation. The areas indicated below were measured using the Code of Measuring Practice in the Valuation Standards. The areas indicated below are indicative only and were calculated from the plans enclosed at Annex 4.

Floor	Space use	Area (m <sup>2</sup> )
Ground Floor	<b>Net Internal Area, NIA</b>	<b>≈ 1,465</b>
	Rooms 105-131	≈ 914
	Corridors	≈ 472
	First Aid Room, etc.	≈ 11
	Security Equipment Room	≈ 39
	Reception	≈ 31
	Stairwells & lift	≈ 71
	Internal yard	≈ 103
	Walls	≈ 265
	<b>Gross External Area, GEA</b>	<b>≈ 1,904</b>
First Floor	<b>Net Internal Area, NIA</b>	<b>≈ 1,514</b>
	Room AXE	≈ 290
	Rooms 201-221	≈ 1,105
	Corridor	≈ 119
	Stairwells & lift	≈ 72
	Walls	≈ 222
	<b>Gross External Area, GEA</b>	<b>≈ 1,808</b>
Second Floor	<b>Net Internal Area, NIA</b>	<b>≈ 715</b>
	Rooms 301-325	≈ 597
	Corridor	≈ 118
	Stairwell & lift	≈ 20
	Walls	≈ 125
<b>Gross External Area, GEA</b>		<b>≈ 860</b>
<b>TOTAL Net Internal Area, NIA</b>		<b>≈ 3,694</b>
<b>TOTAL Gross External Area, GEA</b>		<b>≈ 4,572</b>

## 19. The Site

### Boundaries:

Site boundaries of the property are clearly defined by party walls all round, with two parts being defined by frontages on public roads, and part being defined by a wall separating the property under review from an adjacent property owned by the Client.

### Physical Characteristics:

The site is situated on inclined ground with no known unusual characteristics. A ground investigation was not carried out, and no details were provided by the Client as to any such investigation carried out. This valuation therefore assumes that any technical investigations would not reveal any ground conditions that would have a significant impact on the value of the property, including but not limited to fissures, the presence of clay, and ground contamination.

The property enjoys frontage on two roads as follows: approximately 38m on *Triq Spencer* and 53m on *Triq il-*



*Hatab.* The total area of the site in question is approximately 2,474.20m<sup>2</sup>.

*Easements:* As indicated by the Client, the property is subject to the following burdens and rights: the property includes an Enemalta substation on the site. No signs of any other easements or burdens were observed. The Client has no knowledge of the existence of any other easement.

*Hypothecs – Privileges:* As informed by the Client the property is not subject to any general hypothecs registered on the properties of the Proprietor and there are no special hypothecs and / or special privileges burdening the property under review.

## **20. Roads**

The roads upon which the site has frontage are made up and surfaced with tar macadam and are generally in a good state of repair. Adjacent roads are also made up and surfaced.

## **21. Planning Considerations**

The property falls under the requirements of the Grand Harbour Local Plan (GHLP) published by the Malta Environment and Planning Authority (MEPA), which has now been succeeded by the Planning Authority (established in 2016).

Policy May 12 of the GHLP, designates the site of the property under valuation as a zone for the “Retention of Existing or More Environmentally Friendly Uses”. The indicated zone in the Policy Map also includes existing oil bunkering facilities located a short distance away from the site in question, which may explain the desire of the policy to encourage relocation of these said facilities, rather than specific reference to the office function of the site. For the purposes of this valuation, the current use of the site is considered to be acceptable from a planning policy point of view.

Policy Map 13 of the same local plan sets the height limitation to 3 storeys per frontage, as further defined by the Development Control Design Policy, Guidance and Standards 2015 (DC15). Annex 2: Interpretation of Height Limitations of DC15 defines the maximum allowable height to be 16.3m

It is interesting to note that the site is surrounded by areas of open space which are regulated by policy GM12 of the said local plan. This policy states that: *Development of these areas for any purpose which is in conflict with their present use, that is for the enjoyment by the general public for outdoor recreation on a non-commercial basis, will not be permitted.*



The Marsa Transport Strategy defines *Triq il-Moll tal-Hatab* and *It-Telgħa ta' Spencer* as local access roads, whilst *Triq Nazzjonali* is an arterial road.

The following applications for planning permission were traced on the Planning Authority website:

- **PA/04238/97** - *Extension to second floor offices* (Application withdrawn)
- **PA/02724/01** - *To install a 1.2m satellite dish* (Approved, 2001)
- **PA/03747/08** - *Outline development application for alterations and extensions to existing office building (including excavation, internal demolition, retaining façade and reconstruction of internal floors)* (Application withdrawn at the request of the applicant)
- **PA/04862/16** - *Demolition of existing 3 storey telephone exchange and office block (Class 4A), and the construction of a new business centre (Class 4A), including 3 storeys of offices (Class 4A, a receded level and semi-basement business centre facilities (Class 4B) over 4 levels of basement parking* (Application being processed)
- **PC/00129/18** - *Proposed realignment of Facade overlooking it-Telgħa Ta' Spencer* (Refused, Decision overturned by the Environment and Planning Review Tribunal in October 2020. Appeal Reference Number PAB/00417/19 being processed)

The approved documents related to PC/00129/18 are enclosed at Annex 5.

It is to be noted that during the processing of PC/00129/18, the Planning Authority's Executive Board raised concerns about the possible demolition of the building in view of its historical elements and architectural quality, although this application did not propose the demolition of the building. It is also noted that the ongoing application PA/04862/16 considers the retention of the façade of the building following direction by the Superintendence of Cultural Heritage and the Planning Authority. It is noted that this valuation is based on the retention and refurbishment of the existing building.

It is to be noted that there does not appear to be any active enforcement action on the property.



**22. Statutory considerations** There do not appear to be any infringements of current sanitary regulations.

**23. Building Services** This is not a condition report. A visual inspection has been made of the readily accessible services. No tests have been made.

Water Services	Description and Notes
1st class water supply	Government mains
1st class storage	Not available
2nd class water supply	Not available
Rainwater storage	Available
Fire-fighting system	Not available
Soil water treatment	Not available
Soil water disposal	Main sewer
Electrical/ELV services	Description and Notes
Main power supply	3-phase off national grid
Essential power supply	Not recorded
Alternative power supply	Stand-by generator set
Intruder detection	Not available
Intruder alarm system	Not available
Fire detection system	Not available
Energy saving system	Not recorded
Other services	Description and Notes
Lifts	Available
Air-conditioning system	Not available
Central heating	Not available
Under-floor heating	Not available
Booster pumps	Not available
TV services	Not available
Telephone service	Available (fixed and wi-fi)

**24. Components, Finishes and Condition of Repair**

This is not a condition report. No surveys or inspections were made of unexposed or inaccessible parts of the structure. However, the following were noted by visual inspection:

The structure of the building seems to be in an overall good condition. Cracks were however observed on the concrete ceilings at numerous locations on second floor level. These cracks are shown in photos enclosed in Annex 2.



The property is presently in an unfinished state. Stripping works have been carried out allowing for the property to be renovated with planned works consisting of plastering and painting of walls, installation of soffit ceilings with built-in light and air conditioning systems and tiled flooring throughout.

External apertures are in glazed anodised aluminium. Some of the spaces have high ceilings.

It is assumed that the planned works will, upon completion, be of good quality workmanship.

#### **25. Environmental Considerations**

The property has exposed facades on all sides thus it is subject to varying degrees of solar gain and heat loss throughout the day. No energy saving measures were observed on the date of inspection.

#### **26. Valuation methodology**

The property under review is being valued in its existing state at the date of valuation and is based on the current building volume within the site including its airspace which may have potential for vertical extension.

The market value of commercial property is calculated on the basis of the income approach. In this valuation the Discounted Cash Flow calculation has been applied. This method is based on a yield during a period under review of 10 years. The yield is realised by making an investment on the date of valuation in order to subsequently receive cash flows during the period under review. The discount rate for subject property is equal to 5.80% which is estimated on the basis of the yield on long-term government bonds (risk-free return), increased by a risk premium that depends on the degree of risk of the property sector, the investment risk of the immovable property itself and the rate of inflation.

The cash flows consist of projected rental income less loss of rental income, rental tax, rental costs for vacancy, overdue maintenance, any renovation costs and a final value at the end of the period under review. The operating costs are deducted from the annual income. During the period under review concerned, account is taken of periodic price increases such as the indexation of the rent and cost increases. The expected market rent is likewise subject to inflation. The final value is determined on the basis of the cash flow and an expected exit yield in year 11.

Given that the Client has recently undertaken internal stripping works and in order to prepare the property for a





full and extensive refurbishment, present valuation assumes a refurbishment expense of €465 / sqm GEA which is inclusive of a contingency, VAT and professional fees. The refurbishment amounts to a total figure of approximately €2,125,980 and is assumed to take place by 2023. Upon completion of said refurbishment it is assumed that the property will reach an occupancy rate of say 90% and is expected to be leased at approximately €140 / sqm NIA.

The value of the airspace has been established by using the residual value method. The value is based on the market value of the property upon completion taking into account planning regulations, future development possibilities, environmental factors, economic outlook by comparison with similar properties (comparative method) and a market rent-capitalisation method. The residual value is calculated by reducing this market value upon completion by the aggregate building costs (all-in construction costs), including associated costs, interest rate losses, and profit and risk premium.

Upon completion of the above-mentioned refurbishment, which is set to be completed by the end of 2023, and on the assumption that the property is leased at an occupancy rate of 90%, the value of the property in current market conditions and on the basis of these special assumptions is estimated to be that of approximately €9,000,000. Given that the date of completion is estimated to occur in approximately 2 years from date of valuation it is strongly suggested to re-value the property closer to date of completion in order to establish a more up to date estimate of the market value of said property upon completion.

## **27. Impact of COVID-19**

The outbreak of the Novel Coronavirus (COVID-19) was declared by the World Health Organisation as a “Global Pandemic” on 11 March 2020, and has impacted global financial markets. By virtue of Legal Notice 115 of 2020, and in accordance with Article 14 of the Public Health Act, the Superintendent of Public Health declared that, with effect from the 7 March 2020, a public health emergency exists in Malta in terms of COVID-19. Travel restrictions have been implemented by many countries, including Malta, and many market operators were made to shut down or restrict their operations in line with the relevant legal instruments.

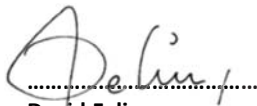
Market activity has been impacted in many sectors. In view of the situation, Malta is currently experiencing an



uncertain and unpredictable real estate market. This has led to valuation uncertainty which is not measurable, because the only inputs and metrics available for the valuation are likely to relate to the market before the event occurred and the impact of the event on prices will not be known until the market has stabilised.

This valuation is therefore reported on the basis of 'valuation uncertainty' as defined in the European Valuation Standards 2016, and in line with the *Kamra tal-Periti* Valuation Standards COVID-19 Guidance Note (May 2020). While the estimated value is considered to be the best and most appropriate estimate based on the available information, it is the opinion of the undersigned that less certainty – and a higher degree of caution – should be attached to this valuation than would normally be the case.

Given the unknown future impact that COVID-19 might have on the real estate market, it is recommended that the Client keeps the valuation of this property under frequent review.



.....  
**David Felice**  
**o.b.o. AP Valletta Ltd.**

**Annexes:**

1. Site plan, 1:2500
2. Photographs
3. Extracts from Grand Harbour Local Plan
4. Floor plans presented by the Client
5. Planning application PC/00129/18
6. Title deed





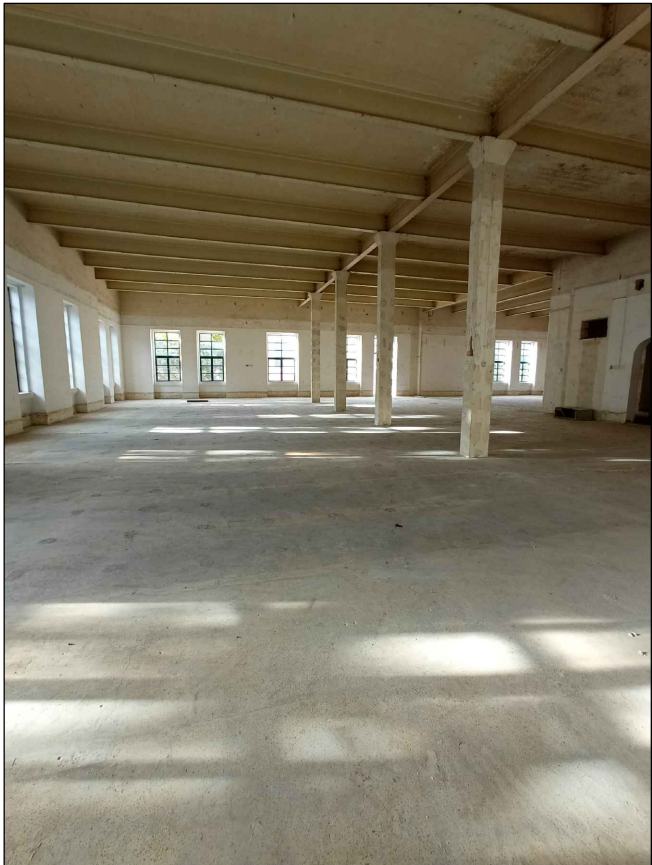






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address	Marsa Exchange, Spencer Hill, Marsa, Malta.									
photo sheet no.	01						date	02.05.2022		
ref no.	C	0	0	5	8	5	.	0	1	_ 2 0 B _ 2 0 2 2

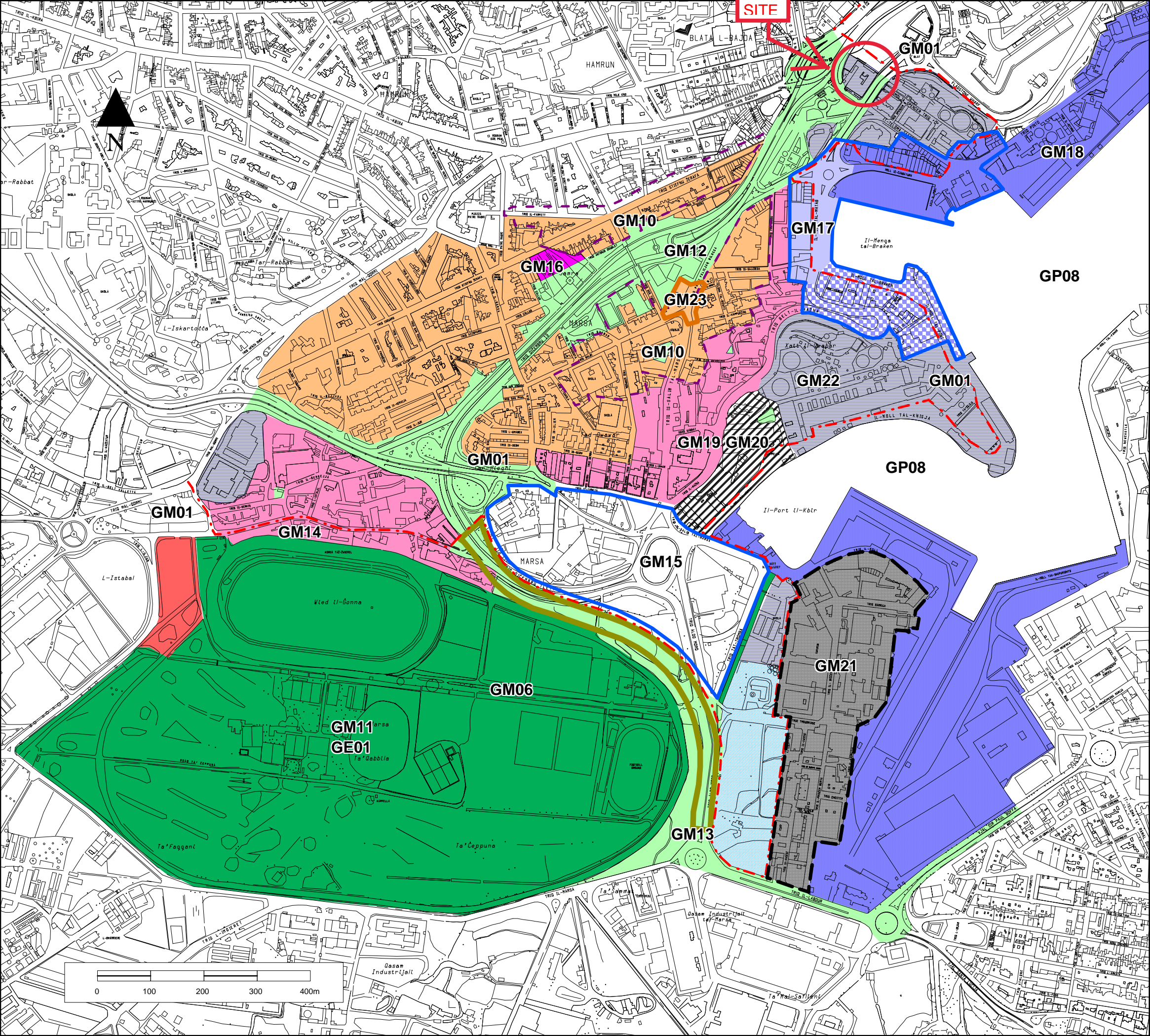




project	MALTA PROPERTIES COMPANY PLC - PROPERTY VALUATIONS									
address	Marsa Exchange, Spencer Hill, Marsa, Malta.									
photo sheet no.	02						date	02.05.2022		
ref no.	C	0	0	5	8	5	.	0	1	_ 2 0 B _ 2 0 2 2







# GRAND HARBOUR LOCAL PLAN



AWTORITA TA' L-IPPJANAR  
PLANNING AUTHORITY

## Key

- Urban Development Boundary
- Urban Conservation Area
- Opportunity Area
- Tertiary Town Centre
- Industrial Zone Boundary
- Light Industry
- Zone of Mixed Use  
Excluding Use Classes 12 to 16  
(Use Classes Order, 1994 as amended)
- Public Facilities
- Retention of Existing or more  
Environmentally Friendly Uses
- Port Related Uses
- Light Port Related Uses  
Excluding Use Classes 12 to 16  
(Use Classes Order, 1994 as amended)
- Residential Zone
- Transport Infrastructure Upgrading
- Site for Home for the Elderly
- Areas of Open Space  
(to retain open space character)
- Site of Scientific Importance
- Offices and Showrooms  
(All existing parking provisions to be catered for)
- General industry with neighbour  
compatibility

## Marsa Inset Map

Scale : 1:7000  
Date : April 2002  
INDICATIVE ONLY  
Not to be used for direct interpretation.

Figure :  
12

Base Maps - 1988 Survey Sheets  
Copyright Mapping Unit, Planning Authority





# GRAND HARBOUR LOCAL PLAN



## AWTORITA TA' L-IPPJANAR PLANNING AUTHORITY

### Key

- 2 Storeys
- 3 Storeys / Frontage
- 4 Storeys
- 5 Storey Frontage
- 6 Storey Frontage
- Planning Gain Considerations (Refer to Policy GM02)
- Planning Gain Considerations (Refer to Policy GM10)

Note : Indicated height limitations are subject to General Policy GS01

### Marsa

## Building Height Limitations

Scale : **1:6000**

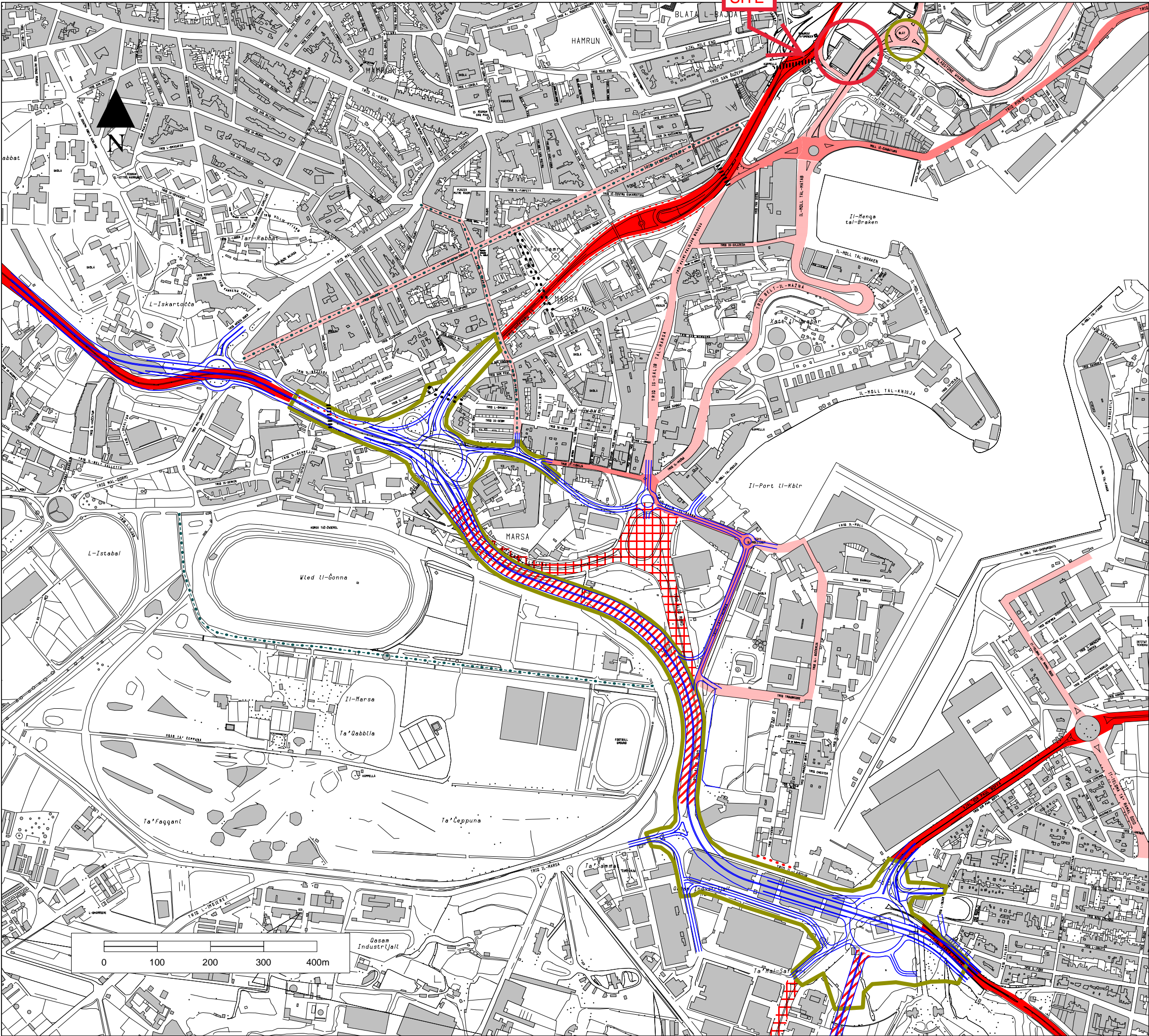
Date : **April 2002**

INDICATIVE ONLY  
Not to be used for direct interpretation.

Base Maps - 1988 Survey Sheets  
Copyright Mapping Unit, Planning Authority

Figure : **13**





GRAND HARBOUR LOCAL PLAN



AWTORITA TA' L-IPPJANAR  
PLANNING AUTHORITY

Key

- Arterial Road
- Transport Infrastructure / Junction Upgrading
- Traffic Calming
- Pedestrian Bridge
- Traffic / Pedestrian Barrier
- Segregated Pedestrian Crossing
- Arterial Road
- Distributor Road
- Local Access Road
- Arterial Road Realignment
- Existing Arterial Roads to be Downgraded
- Projected Road Network

Marsa  
Transport Strategy

Scale : 1:7000  
Date : April 2002  
INDICATIVE ONLY  
Not to be used for direct interpretation.

Base Maps - 1988 Survey Sheets  
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Figure :  
14



# Legend (Internal Layout)

- Height from ground to ceiling
- Height from ground to suspended ceiling
- Height from ground to iron beam
- Height from ground to concrete beam
- Height from ground to wooden beam
- Height from ground to beam
- Room has raised floor
- Height from ground to raised floor=0.28m
- Height from ground to door lintel
- Height from ground to window sill
- Height from window sill to window lintel
- Height from ground to arch's keystone

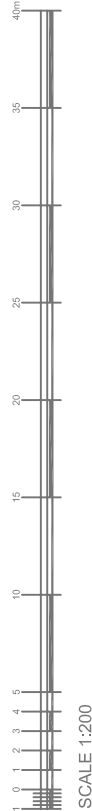
- Wall covered with wood
- Wall covered with tiles
- Partitions (Aluminium & Gypsum)
- Equipment

- Room no. 129
- Room no. 130
- Room no. 129  
Toilet/Windows



**RANDOLPH AMILLERI**  
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LAND ENGINEERING SURVEYORS  
"Sky Apartments" BLK C Flat 13/16, 177-179 Marina SeaFront, Playa,  
☎ 21250658-21250659-21237914-9949 3409-9943 5543

Project		GO, MARSA	
		SURVEY OF PROPERTY – GROUND FLOOR	
Client		GO plc	
Surveyed by	GZ/AC/PK/TJ	Job No.	1710-6
			1/200
Plotted by	JBC/NA	DWG Filename	1710MAR6.dwg
		Date	07-06-2008



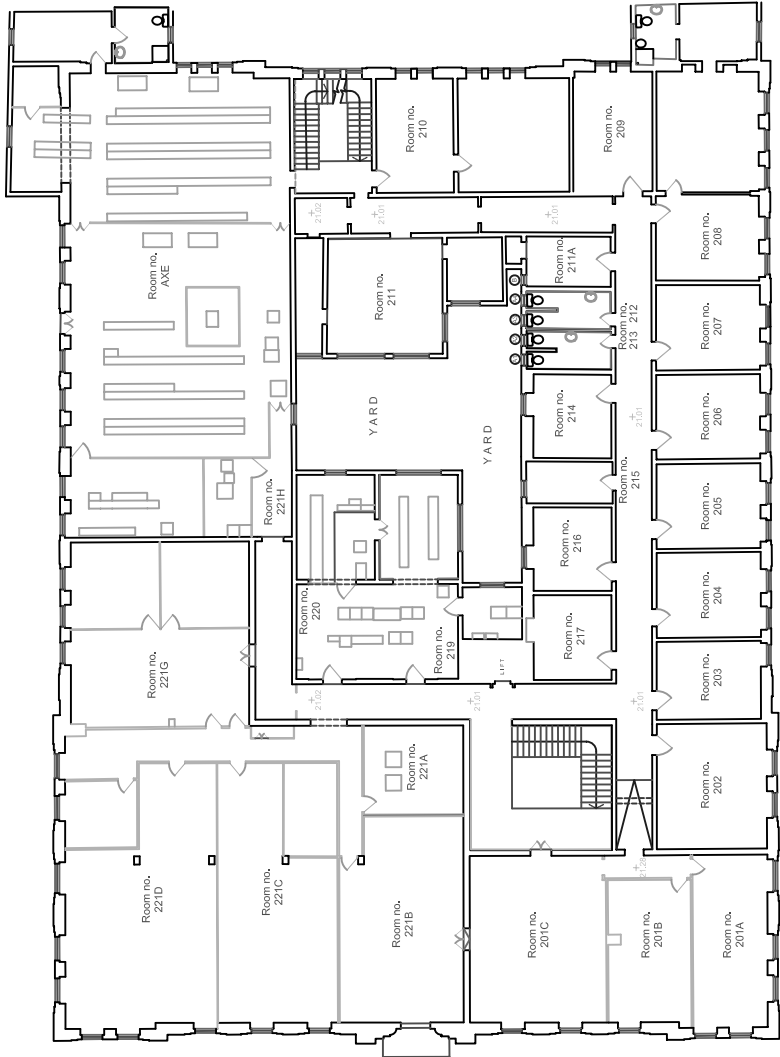


Legend (Internal Layout)

- Height from ground to ceiling
- Height from ground to suspended ceiling
- Height from ground to iron beam
- Height from ground to concrete beam
- Height from ground to wooden beam
- Height from ground to beam
- Room has raised floor
- Height from ground to raised floor=0.28m
- Height from ground to door lintel
- Height from ground to window sill
- Height from window sill to window lintel
- Height from ground to arch's keystone

- Wall covered with wood
- Wall covered with tiles
- Partitions (Aluminium & Gypsum)
- Equipment

- Room no. 210
- Room no. 211
- Room no. 212
- Room no. 213
- Room no. 214



**RANDOLPH AMILLERI**  
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"Sky Apartments" BLK C Flat 13/16, 177-179 Marina SeaFront, Pieta.  
☎ 21250658-21250659-21237914-9949 3409-9943 5543

Project				GO, MARSA	
SURVEY OF PROPERTY – FIRST FLOOR					
Client				GO plc	
Surveyed by		Job No.		Scale	
GZ/AC/PK/TU		1710-7		1/200	
Plotted by		DWG Filename		Date	
JBC/NA		1710MAR7.dwg		07-06-2008	



# Legend (Internal Layout)

- ④ Toilet Windows
- ⑤ Toilet Windows
- ⑥ Toilet Windows
- ⑦ Toilet Windows
- ⑧ Room no. 313 Windows

Height from ground to ceiling

Height from ground to suspended ceiling

Height from ground to iron beam

Height from ground to concrete beam

Height from ground to wooden beam

Height from ground to beam

Height from ground to door lintol

Height from ground to window sill

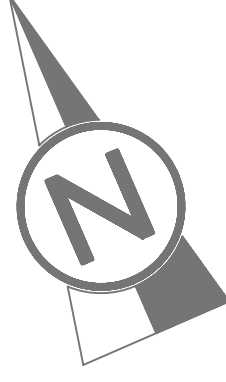
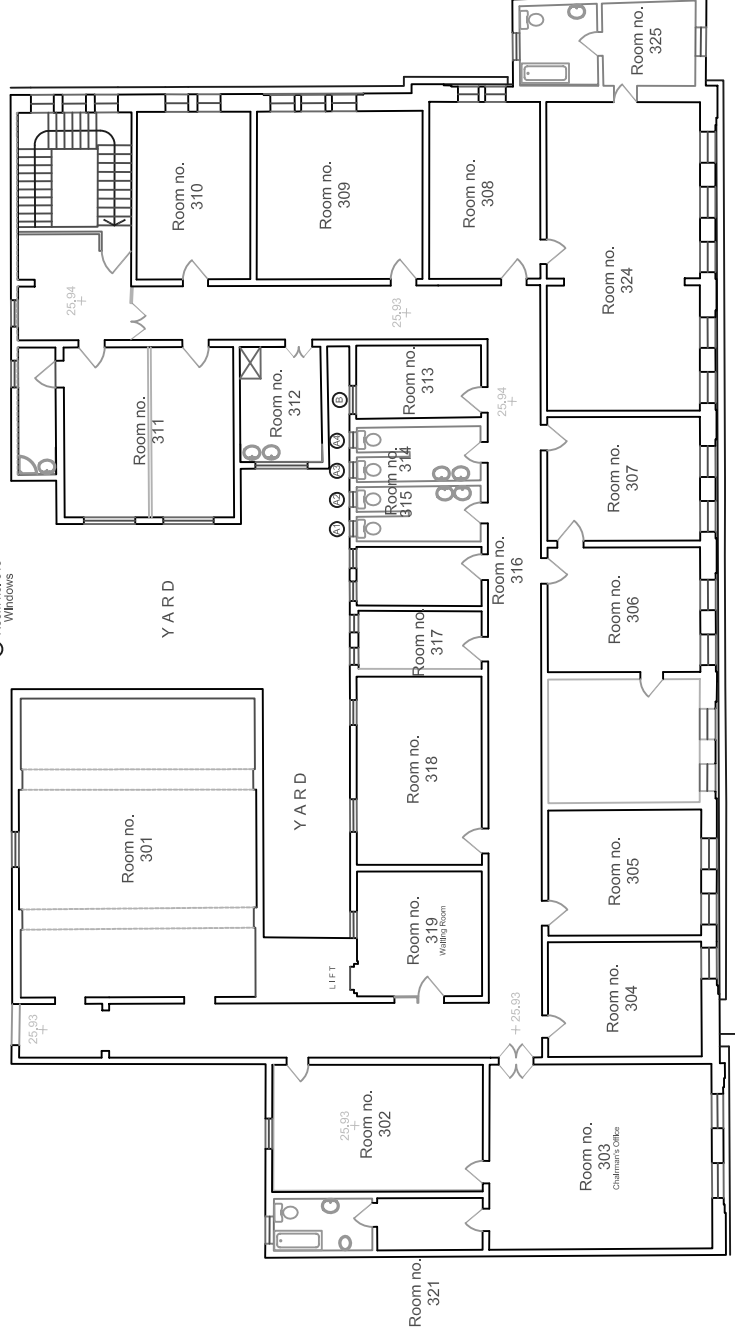
Height from window sill to window lintol

Height from ground to arch's keystone

— Wall covered with wood

— Wall covered with tiles

— Partitions



**RANDOLPH AMILLERI**  
SURVEYS LIMITED

LAND & ENGINEERING SURVEYORS

"Sky Apartments" BLK C Flat 13/16, 177-179 Marina SeaFront, Pieta.  
☎ 21250658-21250659-21237914-9949 3409-9943 5543

Project

GO, MARSA

SURVEY OF PROPERTY – SECOND FLOOR

Client

GO plc

Surveyed by  
GZ/AC/PK/TJ

Job No. 1710-5

Scale 1/200

Plotted by  
JRC/NA

DWG Filename  
1710MAR5.dwg

Date 04-06-2008

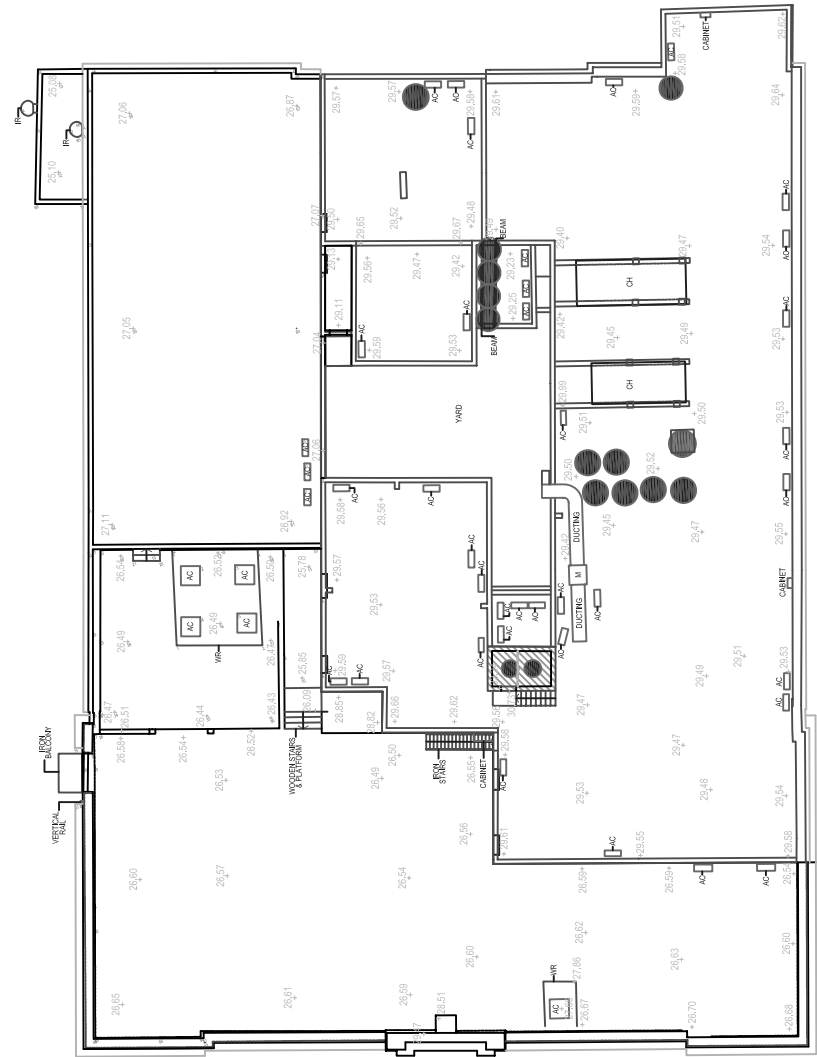
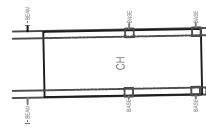


SCALE 1:200



# LEGEND

- IL IRON LADDER
- AC AIR CONDITION
- WR WOODEN RAIL
- VR VERTICAL RAIL
- M MOTOR
- CH CHILLER
- SP SMALL POLES
- COLD WATER TANK
- HOT WATER TANK
- MOULDING
- STRUCTURAL LINE
- FOOTING
- FENCE
- FRANKA WALL WITH CONCRETE TOP
- DASHED LINES INDICATE FRANKA WALL



SCALE 1:200



"Sky Apartments" BLK C Flat 13/16, 177-179 Marina SeaFront, Pieta.  
☎ 21250658-21250659-9949 3409-9943 5543

Project		GO, MARSA	
Client		SURVEY OF PROPERTY - ROOF PLAN	
Surveyed by		GO plc	
Job No.		1710-4	
Scale		1/200	
Plotted by		DWC Pinnares	
Date		27-05-2008	





Membri:

Joseph Borg B. Plan M. ICAM (UNIVE).  
Avukat Dott. Abigail Bugeja (MA Law) LL.D.  
Perit Robert Sarsero B.E. & A. (Hons.) A. & C.E.

Appell 417/19 JB.  
PC 0129/18.

MSH Property Co. Ltd.  
kontra  
l-Awtorita' tal-Ippjanar

Illum, 22 ta' Ottubru, 2020.

It-Tribunal,

Ra r-rikors tal-appell kontra r-rifjut tal-applikazzjoni għall-izvilupp bin-numru PC 0129/18, għar-rigward il-proposta "Proposed realignment of Facade overlooking it-Telgha Ta' Spencer", fil-fond li jinsab fi GO Spencer Hill Business Centre, Spencer Hill, Marsa;

Ra r-ragunijiet ta' rifjut li huma s-segweni:

1. The proposed realignment of the facade will remove the front garden and thus have a negative visual impact on the streetscape.
2. The proposal will prejudice the potential protection that the building may have.

Ra l-aggravji tal-appell li huma s-segweni:

"The Appellant respectfully submits the following:

First Reason for Refusal

The first reason for refusal states that:

"The proposed realignment of the facade will remove the front garden and thus have a negative visual impact on the streetscape."

It is submitted that the proposal does not seek to "remove the front garden", but to realign a small part of the existing alignment.

The Planning Authority's GeoServer does not indicate any area allocated as a "front garden" — in fact the current Alignment runs along the outer edge of the existing unbuilt space in front of the building, which is therefore, already considered to fall within the developable footprint of the site. Figure 1a and 1b show the extents of the current alignment taken from the online portal.

1.4 The PC application did not propose an amendment of the current alignment along the main facade of the building but sought to square off the curved corners at one end of the site, and the diagonal alignment.

1.5 The area between the existing two building corners, which is actually a private street. The proposed Alignment as submitted under PC /0192/18 is indicated in figures 2a and 2b below, also enclosed.. Note that the proposed Alignment is within the Property Boundary as per Ownership Documentation.

1.6 The following is an extract from the PCA report which recommended approval of the application:

#### "2.7.2 Visual Impact:

The change in the alignment will not have an adverse visual impact on the present characteristics. This proposal will not affect the surrounding streetscape since this is a fully detached building with no other building adjacent to it. "

#### Second Reason for Refusal

The second reason for refusal states that:

"The proposal will prejudice the potential protection that the building may have."

It is submitted that any assessment on the protection that the building may merit or otherwise should be undertaken through a separate process, and not through this PC application.

As stated earlier, the existing Alignment runs along the outer edge of the unbuilt space for practically the entire length of the existing facade on Spencer Hill — no changes are being proposed to this part of the Alignment.

In view of the above, and further submissions that the Appellant reserves the right to make at a later stage of the proceedings, the Appellant respectfully requests the Tribunal to revoke the decision of the Commission and approve the request for approval of the application PC/00129/18, and this under those terms and conditions that the Tribunal may deem appropriate.”;

Ra r-risposta tal-Awtorita' li taqra' hekk kif gej:

#### “4.4 Comments On Appellant's Arguments

this request for appeal, appellant is stating that this request for development is justified in view that the proposed development satisfies all the requisites of the relevant policies. However, after noting all of appellant's arguments as presented in this request for appeal the Authority disagrees with these justifications and states that the development as proposed breaches the relevant policies. The Authority has examined all of the appellant's and would highlight the following issues:

The Planning Authority notes that although the building is a stand alone building it follows the same alignment typology of the rest of the road towards the Marsa Sea Terminal. The Executive Council has also noted that this building forms an integral part of the characteristics of the area and the street. In addition, the contrary to appellant's claims the aim of the appellant is to remove the harmony that exists between the existing building, the surroundings and the rest of the road which follows the same alignment. The Local Plan policy applicable for the site aims for the retention of the existing uses. The Planning Authority notes that the proposal would have effectively gone against this policy given the higher percentage of built area versus the current open character of the site which offers an adequate transition to the opposite public open space. The Tribunal shall note that the line demarcating the zoning of the site on the mapserver as transposed from the Local Plan cannot be directly interpreted as being conducted by the appellant due to the fact that Local Plans are not intentioned to show front gardens unless these form part of a detailed map of the site. Consequently, the Planning Authority maintains the Executive Council rightly rejected the proposed realignment.

The Planning Authority notes that although the change in alignment does not necessarily offer protection to buildings in a direct manner, a Planning Control Application cannot offer the possibility to have a scenario where an approved alignment will negatively affect the whole streetscape and buildings that are to be appreciated for their architectural significance. The Planning Council therefore concluded that the proposed removal of the front garden area will not be beneficial for the community as it will remove the harmony between the three different blocks forming Spenser Hill.

#### 4.5 Conclusion

Conclusively, the Authority states that whilst taking note of appellant's submitted arguments in this request for appeal, the Authority notes that there are no sound planning justifications which could justify the proposed realignment. Hence, reference is made to the Executive Council's decision which dismissed this request for realignment since the Council has based the decision on the valid relevant planning arguments. The Planning Authority therefore reiterates that it acknowledges and confirms that the reasons for refusal can be justified on sound planning considerations which took into consideration all the relevant facts, planning

policies, legislation and submissions. The Authority reserves the right to forward further submissions during the appeals process as necessary.

## Request

For the above-mentioned reasons, the Planning Authority respectfully requests that the Environment & Planning Review Tribunal to confirm the decision as issued with the refusal notice and to refuse this appeal.”;

Ra l-*PC file* bin-numru 0129/18;

Ra l-atti kollha ta’ dan l-appell;

Sema’ t-trattazzjoni tal-partijiet.

Ikkunsidra:

Illi dan l-appell jikkoncerna talba sabiex issir modifika ta’ parti mill-allinjament ta’ sit li jinsab fit-Telgha Ta’ Spencer, fil-lokalita’ tal-Marsa.

Il-modifika proposta giet irrifjutat minn l-Awtorita’ tal-Ippjanar fuq il-bazi ta’ zewg (2) raguni jiet ta’ rifjut, ossia li:

1. It-tnehhija tal-*front garden* ser ikolla impatt viziv negattiv fuq il-pajsagġ tat-triq;
2. Il-proposta se tippregudika il-potenzjal ta’ bzonn ghal protezzjoni li jista’ jkollu l-bini;

Illi permezz tal-appell odjern, l-appellant jirribatti fuq ir-rifjut tal-Awtorita’ b’sitt (6) aggravji, fejn jindika illi:

1. Il-proposta ma’ titlob l-ebda tibdil jew tnehhija tal-*front garden*, izda sabiex issir modifika ta’ parti zghira mill-allinjament ezistenti;
2. Il-*Geoserver* tal-Awtorita’ tal-Ippjanar ma jindika l-ebda *‘front garden’*, fil-fatt l-allinjament ezistenti huwa mat-tul it-tarf tal-ispazzju vojt quddiem il-bini li wiehed jista’ jikkunsidra li jifforma parti mid-*developable footprint* tas-sit;
3. Il-proposta ma titlob l-ebda bdil fl-allinjament ezistenti mat-tul tal-faccata tal-bini, imma biss bidla fl-allinjament ta’ zewg kantunieri tas-sit, bl-interita’ tas-sit tikkonsisti fi propjeta’ privata;
4. Il-modifika giet rakkomandata b’mod positiv skont kif indikat fil-*case officer report*;
5. Konsiderazzjoni ta’ xi protezzjoni li l-bini jista’ jimmerita huwa suggett ghal process separat;
6. Kif gie ssottolinjat fir-raba’ aggravju, m’hemm ebda bdil fl-allinjament ezistenti mat-tul tal-faccata tal-bini;

Illi l-Awtorita’ baqghet ferma fl-oggezzjoni taghha, fejn gie sottolineat li ghalkemm is-sit jinkludi *stand alone building*, dan isegwi l-istess tipologija ta’ allinjament tal-bqija tat-triq lejn it-Terminal tal-Marsa. Jinghad li b’din it-talba ser tinbidel l-armonija li tezisti bejn il-bini ezistenti u l-inhawi, kif ukoll tigbed l-attenzjoni li l-linja tal-*mapserver* li tindika *z-zoning* tas-sit hija trasposta mill-Pjan Lokali u ma tistax tigi interpretata direttament ghaliex il-Pjanijiet Lokali m’humix intenzjonati li juru *front gardens* sakemm dawn ma jiffurmawx parti minn mappa dettaljata tas-sit.

Illi dan it-Tribunal ha konjizzjoni tal-inkartament tal-applikazzjoni odjerna u tas-sottomissjonijiet maghmula mill-Partijiet;

Ikkunsidra;

Illi fl-ewwel lok, dan it-Tribunal jaghmel referenza ghas-sottomissjonijiet li saru fil-mori ta’ dan l-appell, fejn l-appellant argumenta ulterjorment li filwaqt li qabel l-1967 kien hemm tlett binjiet matul it-Telgha ta’ Spencer, parti minn dawn gew affettwati bil-kostruzzjoni ta’ triq gdida li b’rizzultat t’hekk giet affettwat l-allinjament vizwali ta’ dawn il-binjiet, u li bit-talba fl-applikazzjoni odjerna m’huwix ser jigi affettwat l-allinjament mat-tul tat-Telgha ta’ Spencer.

F’dan ir-rigward u biex titneha kull ambigwita’, dan it-Tribunal jissottolinea lli l-binja odjerna ghandha faccata fuq zewg toroq li ghandhom isem simili, Telgha ta’ Spencer u Telghat Spencer.

Fir-rigward tal-aggravji mressqa mill-appellanti, dan it-Tribunal jinnota li l-ewwel erba` aggravji jittrattaw l-ewwel raguni tar-rifjut u ghaldaqstant dawn ser jigu trattati b`mod komplessiv. B`mod generali, l-appellant jargumenta li l-modifika proposta hija wahda zghira u dan sabiex jigu nkluzi z-zewg kantunieri mat-tul tat-Telghet Spencer, bl-allinjament ezistenti mat-tul tal-faccata tal-bini jibqa` kif inhu. It-Tribunal jinnota li ghalkemm l-Awtorita` qed targumenta li l-bdil proposta ser jaffettwa l-armonija li tezisti bejn il-bini odjern u l-bini ezistenti fl-inhawi, jirrizulta li l-allinjament ezistenti matul it-Telgha ta` Spencer m`huwiex wiehed kontinwu. Matual iz-zewg nahat tat-Telghet Spencer l-alinjament tal-bini ezistenti, inkluz bini ricenti, jvarvja hafna. Dan jrid jigi kkunsidrat fil-kuntest tal-binja odjerna li hija separata vizwalment u fizikament mill-bqija tat-Telghet Spencer bi Triq wiesgha u *service road* li jiffurmaw parti min Telgha ta` Spencer. Tenut kont ta` dan kollu it-Tribunal ma jara li ser ikun hemm ebda impatt viziv negattiv fuq il-pajsagg ta` din it-triq u ta` ambjent fil-qrib. Ghaldaqstant, it-Tribunal qed jilqa` l-ewwel, it-tielet u r-raba` aggravji.

Illi fir-rigward tat-tieni aggravju, fejn l-appellant jesprimi l-opinjoni li l-ispazju vojt bejn il-bini ezistenti u l-allinjament jista` jigi kkunsidrat li jiffirma parti mid-*developable footprint* tas-sit, it-Tribunal jerga` ghal darb`ohra jirrimarka li din it-talba hija ghall-modifika fl-allinjanament u mhux talba ghal zvilupp. Tali talba trid tigi kkunsidrata f`applikazzjoni ghal zvilupp tas-sit, u ghalhekk qed jastjeni milli jiehu konjizzjoni ulterjuri ta` dan l-aggravju.

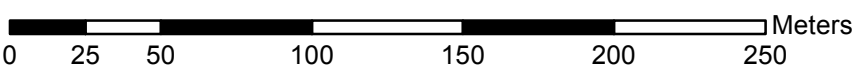
Fil-hames u s-sit aggravji li jittrattaw it-tieni raguni tar-rifjut l-appellant jargumenta li jekk ghandu jsir xi konsiderazzjoni ghall-protezzjoni tal-bini ezistenti dan ghandu jkun suggett ghal process separat, filwaqt li jigi ssottolineat li m`hemm ebda bdil fl-allinjament ezistenti mat-tul tal-faccata tal-bini. It-Tribunal jerga` ghal darb`ohra jirrimarka li l-bdil propost fl-allinjament izzomm l-istess linja tal-bqija tal-allinjanament mat-tul tas-sit fuq in-naha ta` Triq it-Telgha ta` Spencer. Barra minn hekk, f`dan l-istadju it-Tribunal m`huwiex f`pozizzjoni li jikkumenta fir-rigward tal-bzonn jew le ghal protezzjoni tal-bini ezistenti, u dan il-ghaliex it-talba li ghandu quddiemu hija ghal bdil ta` l-allinjament tas-sit u mhux talba ghal zvilupp jew ghal protezzjoni tal-binja. Din it-talba bla ebda mod m`hi ser tippregudika xi il-protezzjoni tal-bini jekk jinsab li dan huwa gustifikat. Ghal dawn ir-ragunijiet it-Tribunal jilqa` l-hames u s-sit aggravji.

Ghal dawn il-motivi, dan it-Tribunal qiegħed jaqta` u jiddeċiedi billi jhassar id-deċiżjoni ta` rifjut u jordna lis-Segretarju tal-Awtorita` tal-Ippjanar sabiex fiz-zmien tletin (30) gurnata mid-data ta` din id-deċiżjoni, johroġ il-modifika fl-allinjamant skont il-pjanti gia elenkati fil-*case officer report* a fol 39A fl-inkartament tal-applikazzjoni PC00129/18.

Joseph Borg

Abigail Bugeja

Robert Sarsero



**Date Printed: 05/09/2018**

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**ARCHITECTURE PROJECT**  
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fax: +356 2124 3997 info@ap.com.mt





This the twenty fifth day of  
November of the year two  
thousand and eleven.

No. 102.

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

Sale  
(Intra Group  
Transfer)

Of the first part:

Enrolled in the  
Public Registry  
on the:

David Kay, chief executive officer, son of George Kay and  
of Kathleen nee Lawlor, born in Oldham, United Kingdom  
and residing at Oldham, United Kingdom, holder of  
Maltese identity card number 0040003A, who appears on  
this deed in the name and on behalf of "GO p.l.c.",  
previously named "Maltacom p.l.c.", a limited liability  
company registered in Malta with registration number  
letter C two two three three four (C22334) and registered  
office at GO, Fra Diegu Street, Marsa (which company is  
hereinafter referred to as the "**Vendor**"), as duly  
authorised by virtue of a resolution of the Board of  
Directors of the company hereto annexed as a document  
marked with the letter "A".

\_\_\_\_\_

I. \_\_\_\_\_  
2011  
(Special Privilege  
-Payment of  
Price)

Of the second part:

Edmond Brincat, chief finance officer, son of the late  
Carmel Brincat and Grace nee Axiaq, born in Pieta' and  
residing at Attard, holder of Maltese identity card number  
450767M who appears on this deed in the name and on  
behalf of "MSH Property Company Limited" a limited  
liability company registered in Malta with registration  
number letter C five one four nine one (C51491) and  
registered office at GO, Fra Diegu Street, Marsa (which  
company is hereinafter referred to as the "**Purchaser**"), as  
duly authorised by virtue of a resolution of the Board of

Directors of the company hereto annexed as a document marked with the letter "B";

1. By virtue of this deed the Vendor sells and transfers to the Purchaser which accepts, purchases and acquires the complex known as the "Marsa Central Exchange", without official number in It-Telgha Ta' Spencer (also known as Spencer Hill) at Marsa (on official maps at times indicated as being in the limits of Floriana), consisting of a fully detached building with surrounding grounds and outbuildings situated therein all without official number, collectively bounded on the South West by It-Telgha Ta' Spencer, on the North West by Triq Nazzjonali, on the East and South East by a public road which is a prolongation of Il-Moll Tal-Hatab and on the North and North East by property belonging to the Government of Malta, with all its rights and appurtenances including its overlying airspace and its underlying terrain, as free and unencumbered; which complex is shown hatched in red transversal lines on the plan annexed to this deed as a document marked with the letter "C" (hereinafter referred to as the "**Property**"), for the price and under the other terms and conditions set out hereunder:

2.1. For the total price of five million eight hundred and fifty seven thousand euro (EUR5,857,000) (hereinafter referred to as the "**Price**"), which sum shall be paid by the Purchaser to the Vendor, which accepts, by not later than ten (10) years from the date of publication of this deed together with interest at the rate of five per cent (5%) per annum due with effect from today until date of effective payment in full and final settlement; provided that if the Purchaser sells or otherwise transfers the Property under any title prior to the above mentioned date, the Price or any outstanding part thereof and all interest due thereon shall become immediately due and payable by the Purchaser to the Vendor on the deed of sale or other transfer of the Property.

2.2 In warranty of the payment of the Price and any interest due thereon, the Vendor reserves in its favour the special privilege accorded to it by law on the Property.

3.1 The Property is being sold *tale quale*, in its present state and condition.

3.2 The Property is being sold as free and unencumbered and as free from any ground-rents, burdens, servitudes, hypothecs, privileges, charges, cautions, any rights, both real and personal, in favour of third parties, expropriation, requisition, enforcement orders and litigation.

4.1 The Vendor warrants the good title, peaceful possession and real enjoyment of the Property in accordance with law in favour of the Purchaser which accepts.

4.2 The Purchaser declares that since this sale is being made by one company to another company which form part of the same group and in order to avoid additional expenses, it has not requested from the Vendor the general hypothec on its property customarily granted by a Vendor to a Purchaser on a deed of sale of immovable property.

5. The Vendor also warrants and guarantees in favour of the Purchaser, which accepts:

i. that the Property is free from any hypothecs, privileges, charges or cautions and from debts, whether registered or otherwise, and that any architect fees, building permit fees, road and drainage contributions and contributions for the other services and utilities in the Property, and any fees and expenses due to contractors and suppliers for the construction and completion of the Property are paid and fully settled;

ii. that the Property is constructed and completed in accordance with law and in accordance with issued permits and plans approved by the competent authorities and in conformity with all laws and regulations applicable to buildings in general including sanitary matters;

iii. that there are no proceedings pending or threatened, known or which should be known to the Vendor, in connection with and/or relating to the Property or any one of them and that there are no circumstances, known or which should be known to the Vendor, which are likely to give rise to any litigation or arbitration.

6. Any pending bills and/or contributions relating to any services or utilities provided within the Property, including without limitation all water, electricity and telephone service bills including rentals thereof, up to today shall be duly paid and settled by the Vendor. The Vendor promises and undertakes to sign all such documents and perform all such acts as may be reasonably required by the Purchaser such that each of the said services and utilities may be registered in the name of the Purchaser, or any person nominated by the Purchaser.

7. All fees and expenses, including notarial fees, relative to this sale shall be borne by the Vendor.

### **Statutory Declarations**

(A) For the purposes of the Duty on Documents and Transfers Act, Chapter three hundred and sixty four (CAP.364) of the Laws of Malta:

i. I the undersigned Notary do hereby declare that:

(a) In virtue of section twenty four (24) of the Telemalta Corporation Act, Act sixteen of the year one thousand nine hundred and seventy five (XVI/1975), the

Property was transferred to and vested in Telemalta Corporation in absolute ownership without the need of any other formality.

(b) In virtue of the Telecommunications (Regulation) Act one thousand nine hundred and ninety seven (1997), Act thirty three of the year one thousand nine hundred and ninety seven (XXXIII/1997), the whole of the relevant business of Telemalta Corporation, including the Property, was transferred to and vested in Maltacom p.l.c., which company was designated as the designated company by the Prime Minister by Legal Notice number two hundred and thirty eight of the year one thousand nine hundred and ninety seven (L.N.238/1997) for the purposes of the aforesaid Act, which transfer was recorded in the Public Registry by note of enrolment number two hundred and fifty two of the year one thousand nine hundred and ninety eight (252/1998) in terms of the abovementioned Act without the need of any other formality.

(c) On the twentieth day of November of the year two thousand and seven (20/11/2007) Maltacom p.l.c. changed its name to GO p.l.c.

ii. As results from the Exemption Letter, annexed to this deed, as a document marked with the letter "D", issued by Ivan Portelli for the Commissioner of the Inland Revenue, bearing reference letters IR(S) number two thousand and eleven stroke one thousand seven hundred and eighty six (IR(S) 2011/1786), no duty is due by the Purchaser on this deed in terms of article 32(6) of the Duty on Documents and Transfers Act since this deed concerns the transfer of immovable property from one company to another company which are deemed to be the same group of companies within the terms of article forty two (42) of the Duty on Documents and other Transfers Act.

(B) For the purposes of the Income Tax Management Act, Chapter three hundred and seventy two (Cap.372) of

the Laws of Malta and the Income Tax Act, Chapter one hundred and twenty three (Cap.123) of the Laws of Malta:

i. The Vendor and the Purchaser 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 transfer 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, and declare that the Price represents the market value of the Property. The Vendor and the Purchaser make this declaration after I the undersigned notary warned them about the importance of the truthfulness of their declaration and of the consequence in the case of false or erroneous declarations.

ii. The Vendor and the Purchaser declare that this deed concerns the transfer of immovable property from one company to another company which qualifies for tax exemption under paragraph letter (f) of sub-article four (4) of Article five letter A (5A) of the Income Tax Act and that they are making this declaration after I the undersigned notary warned them about the importance of the truthfulness of their declaration and of the consequence in the case of false or erroneous declarations.

iii. On the basis of the declaration made by the parties I the undersigned Notary, declare that no tax is due by the Vendor on this sale.

iv. For the purposes of the Income Tax Act and in accordance with the provisions of sub-rule four (4) of Rule six (6) of the Capital Gains Rules a copy of the notice mentioned in roman number two of sub-article nine of article five (5(9)(ii)) of the Income Tax Act in the form prescribed in Schedule A attached to the Capital Gains Rules shall be attached to this deed by the undersigned

notary when the said notice is acknowledged and stamped by the Commissioner of Inland Revenue.

(C) For the purposes of the Immovable Property (Acquisition by Non-Residents) Act Chapter two hundred and forty six (CAP.246) of the Laws of Malta (the Act) the Purchaser has been given permission by the Director, Capital Transfer Duty, of the Office of the Inland Revenue to purchase the Property as results from the permit bearing letters AIP number two zero one one stroke sixty one (AIP2011/61) annexed to this deed as a document marked with the letter "E", as subject to the terms and conditions mentioned in the aforesaid permit, which terms and conditions the Purchaser declares to have read and is fully cognisant of.

(D) For the purposes of the Land Registry Act Chapter two hundred and ninety six (Cap. 296) of the Laws of Malta, I the undersigned Notary do hereby declare that the Property is registered in the name of the Vendor as Property Number one eight zero zero zero five two six (18000526).

This deed has been done, read and published by me the undersigned Notary after having explained the contents thereof to the appearers in accordance to law in Malta at number twenty nine (29), Vincenti Buildings, flat number ten (10), Strait Street, Valletta.

David Kay.  
Edmond Brincat.  
Not. Pierre Attard,  
Notary Public,  
Malta.

A true copy of the Original deed in my Records issued today the  
5<sup>th</sup> December 2011.  
Quod Attestor.

Not. Pierre Attard LL.D., Notary Public, Malta.  
15/10, Vincenti Buildings, Strait Street, Valletta VLT1432, Malta.  
Tel. 21224892/21232740 Fax. 21245922