

FRAMEWORK AGREEMENT

This Framework Agreement (hereinafter referred to as the "**Agreement**") executed at **Thiruvananthapuram** on this the 13th day of May **2007** by and amongst:

The Governor of Kerala, (hereinafter referred to as the "**GoK**", which expression shall unless repugnant to the meaning or context thereof, be deemed to mean and include its successors and nominees) acting through its Chief Secretary, Government of Kerala Mrs. Lizzie Jacob by virtue of GO(Ms)No 7/2007/ITD Dated 27/04/2007 of **THE FIRST PART**;

AND

Infoparks Kerala, a society registered under The Travancore-Cochin Literary, Scientific and Charitable Societies (Registration) Act, 1955, with the objective of establishing information technology parks in Kerala (hereinafter referred to as the "**Society**", which expression shall unless repugnant to the meaning or context thereof, be deemed to mean and include its successors and assignees) and acting through Mr.N Radhakrishnan Nair, Chief Executive Officer, consequent to full authority vested in him by its governing body for the purpose, of **THE SECOND PART**;

AND

TECOM INVESTMENT FZ-LLC ,a corporate entity constituted under **Laws of Emirates of Dubai with register bearing number five one zero zero zero(51000)** , as authorized by Dubai Technology & Media Free Zone Authority ,a corporate entity constituted under Law No 1 of 2000 of the Emirates of Dubai as amended by its Law No 9 of 2003 hereinafter referred to as "**TECOM**", which expression shall unless it is repugnant to the meaning or context thereof, be deemed to mean and include its successors and permitted assignees, acting through its Executive Chairman Mr Ahmad Abdulla Juma BinByat of **THE THIRD PART**;

AND

Smart City (Kochi) Infrastructure Private Limited, a company registered under the provisions of COSA (as defined hereinafter) with its registered office at Kusumagiri, Kakkanad P.O, Ernakulam District Kerala State- 682 030. (hereinafter referred to as "**SPV**", which expression shall unless it is repugnant to the meaning or the context thereof, be deemed to mean and include its successors and assignees) acting through its Director Mr. Deepak Padmanabhan by virtue of its board meeting No. 1/07 dated 30/04/2007 of **THE FOURTH PART**;

Each of the GoK, Society, TECOM, and the SPV are hereinafter referred to individually as a "**Party**" and collectively as "**Parties**" as the context requires.

WHEREAS:

1. The GoK had incorporated a society by the name and style of "**Infoparks Kerala**" which has established an information technology park in Kochi under the name and style of "**Infopark**";
2. The GoK is now keen to establish knowledge based information technology ("**IT**") township in Ernakulam District in order to promote employment and economic development of Kerala;
3. The TECOM is engaged in and has substantial experience in developing business, industrial and IT parks and also administering and operating the said parks;
4. The GoK and TECOM held negotiations to set up an information technology based town ship (defined hereinafter as "**Smart City**") in Ernakulam District, Kerala, under the name and style of "**Smart City**";

5. TECOM and its Permitted Affiliate have established Smart City (Kochi) Infrastructure Private Limited, for the purpose of setting up, owning and operating Smart City and in which GoK will join as a shareholder;
6. The Parties have entered into this Agreement to set out the entire framework of the terms of collaboration between themselves, and their respective rights, obligations and covenants.

NOW THEREFORE IN CONSIDERATION OF THE PREMISES AND THE MUTUAL COVENANTS MADE AND CONTAINED HEREIN, IT IS AGREED BY AND AMONG THE PARTIES HERETO AS FOLLOWS:

**ARTICLE 1:
DEFINITIONS AND INTERPRETATION**

1.1 DEFINITIONS

For the purposes of this Agreement, the following words or terms, when capitalized shall have the meanings assigned herein below. When not capitalized, the terms shall be attributed their ordinary meaning. Words or terms not defined but capitalized shall have the same meaning as defined in the Act or COSA.

"Act" shall mean the Special Economic Zones Act, 2005, including the rules which may be framed there under and as may be amended from time to time.

"Agreement" shall mean this framework agreement including the annexures attached hereto.

"Articles" shall mean the articles of association of SPV as may be amended from time to time.

"Board" shall mean the Board of Approval constituted under section 8 (1) of the Act.

"Board of Directors" or **"BoD"** shall mean the Board of Directors of SPV constituted in accordance with the provisions of COSA and this Agreement.

"Chairman" shall mean the individual nominated by GOK to be the chairman of the Board of Directors.

"Closing Date" shall mean the date following the Developer Status Attainment Date on which all of the following events have occurred:

- (a) Completion of Minimum Infrastructure;
- (b) Receipt of the SEZ Notification in favour of SPV;
- (c) Receipt of statutory approvals for construction;
- (d) Execution of the Lease Deed;
- (e) Completion of the acquisition and transfer of the Land in favour of SPV;
- (f) Transfer of 16% share in SPV in favour of GoK.

"Connectable" in relation to parcels of land shall mean such parcels of land which are either contiguous or separated only by the width of a water body or of a public road, where an appropriate link to connect the same can be created and for which permission of GoK, if required, will be granted.

"Continuing Promise" shall mean the steps and actions for which the involvement and the co-operation of GoK is necessary subsequent to the Closing Date as more specifically listed in Article 8.2 herein.

"COSA" shall mean the Companies Act, 1956, including the rules and directions framed there under and as amended from time to time.

"Definitive Documents" shall mean the Lease for the lease of the Land to SPV whereby the Land shall be granted on lease to SPV in accordance with the provisions of this Agreement.

"Development Plan" shall mean the development plan of Smart City with the intermediate milestones to be developed by SPV/TECOM and its clients covering the Land, more particularly describing the base plan built-up area for IT/ITES Space, commercial space, residential space and other spaces, as approved by the parties hereto and annexed to this as Annexure **"B"** and subject to modification by mutual agreement of the parties hereto involving an investment of approximately Rupees Seventeen Hundred Crores (Rs. 17,000,000,000) . The base plan as shown in Annexure **"B"** may change to an aggressive plan with 40% higher built-up area than the base plan.

"Developer Status Attainment Date" shall mean the date on which SPV receives the letter of approval from the Central Government granting to it the developer status under the provisions of section 3 (10) of the Act.

"Development Commissioner" shall have the meaning assigned to it under Section 2 (h) of the Act.

"**Director/(s)**" shall mean such individuals who are members of the Board of Directors of SPV from time to time.

"**Disputes**" shall have the meaning referred to in Article 12.2 herein.

"**Execution Date**" shall mean the date of execution of this Agreement.

"**Events of Force Majeure**" shall mean any circumstance or event beyond the control of a Party.

"**Future Land**" shall mean the contiguous land connectable with the Land admeasuring a total of one hundred and sixty seven (167) acres in the district of Ernakulam comprised in survey numbers as per Annexure "**A/2**" of Kakkanad Village, Ernakulam District more particularly earmarked in yellow on the map of the site contained in Annexure "**A/1**" attached to and forming a part of this Agreement, with the survey numbers marked therein presently being acquired under the provisions of the Land Acquisition Act, 1894.

"**Infrastructure**" shall mean the adequate facilities required at Site for the occupants of Smart City as may be agreed to from time to time by GoK and SPV hereto and including but not restricted to the following:

- (a) Access roads to Smart City;
- (b) Adequate power supply to the Site from a minimum of two sources, to the substation(s) to be established by the SPV;
- (c) Adequate water supply to the periphery of Smart City;
- (d) Sewerage and drainage connections as and when available to Smart City; and
- (e) Availability of police station, fire station, etc., within a reasonable distance from Smart City.

"**IT**" shall mean information technology;

"**Land**" shall mean the connectable land admeasuring a total of two hundred and forty six (246) acres including:

(a) Connectable land admeasuring a total of one hundred (100) acres in Puthencruz Village, District of Ernakulam comprised in survey numbers as per Annexure "**A/2**" more particularly earmarked in red on the map of the site contained in Annexure "**A/1**" attached to and forming a part of this Agreement with survey numbers marked therein.

(b) Connectable land admeasuring a total of one hundred and thirty six

(136) acres in the district of Ernakulam comprised in survey numbers as per Annexure "A/2" of Kakkanad Village, Ernakulam District more particularly earmarked in blue on the map of the site contained in Annexure "A/1" attached to and forming a part of this Agreement, with the survey numbers marked therein presently being acquired under the provisions of the Land Acquisition Act, 1894 and;

(c) Connectable land admeasuring a total of ten (10) acres in the Kakkanad Village, Ernakulam District belonging to KINFRA

"**Law**" or "**Laws**" includes all applicable statutes, enactments, Acts of legislature or parliament, ordinances, rules, bye-laws, regulations, notifications, guidelines, policies, directions, directives and orders of any Government, statutory authority, tribunal, board, court or recognised stock exchange in India.

"**Lease Deed**" shall have the meaning referred to in Article 5.1 herein.

"**Memorandum**" shall mean the memorandum of association of SPV as may be amended from time to time.

"**Minimum Infrastructure**" shall mean that part of the Infrastructure, which is necessary for the commencement of development of Smart City, which will mean the following:

- a Presently available road access through PWD road with access from both sides for construction traffic on a 24 hours 7 days basis.
- b 10 MW power from the existing sub-station of Kinfra Export Promotion Industrial Park.
- c 1 MLD water supply from Kinfra Export Promotion Industrial Park.

"**Permitted Affiliate/(s)**" In relation to TECOM shall mean duly registered body corporates which are wholly owned by TECOM and shall continue to be so until the obligations assumed by TECOM/Permitted Affiliates in terms of this Agreement are fully complied with and in relation to GoK shall mean duly registered body corporates which are owned by GoK and shall continue to be so.

"**Project**" means the construction and development of the infrastructure, buildings and structures on the site, as envisaged in the Development Plan.

"Project Commencement Date" shall mean the date falling seven (7) days following the Closing Date.

"SEZ Notification" shall have the meaning ascribed to it in Clause 4.3 (d) of this Agreement.

"Site" means the Connectable land comprising the land on which Smart City is to be developed.

"Smart City" shall mean the Project to be developed on the Site as knowledge based IT township and as envisaged in this Agreement.

"Special Economic Zone" or **"SEZ/(s)"** shall mean the special economic zone status accorded to Smart City by notification under the proviso to sub-section (4) of section 3 and sub-section (1) of section 4 of the Act.

"Strategic Partner" shall mean any person who is recommended by TECOM, and approved by GOK who may purchase up to 40% of the paid-up equity shares of SPV held by TECOM directly or through its Permitted Affiliates. Such approval by GoK is necessary only prior to TECOM complying with the target described in Article 9.4 or 10 years from Closing Date, which ever is earlier, but not after.

"Transfer Date" shall mean date on which Land is leased to SPV and if transfer is in two installments, it shall mean the date of transfer of second installment of Land.

"Unit/(s)" shall have the meaning assigned to it under Section 2 (zc) of the Act.

1.2 INTERPRETATION

In this Agreement, (unless repugnant or contrary to the context hereof):

- (a) Reference to the singular includes a reference to the plural and vice versa, and reference to any gender includes a reference to all other genders.
- (b) Reference to any person includes any legal or natural person, partnership, firm, trust, company, government or local authority, department or other body (whether corporate or unincorporated).
- (c) Reference to an individual shall include his legal representative, successor, legal heir, executor and administrator.
- (d) Reference to statutory provisions shall be construed as meaning

and including references also to any amendment or re-enactment (whether before or after the date of this Agreement) for the time being in force and to all statutory instruments or orders made pursuant to statutory provisions.

- (e) Reference to any article, clause or annexure shall be deemed to be a reference to an article, clause or annexure of or to this Agreement.
- (f) Reference to days shall mean business days and shall not include days, which are either national holidays or bank holidays in the state of Kerala.

1.3 **ENTIRE AGREEMENT**

This Agreement contains the entire agreement and understanding among the Parties to this Agreement with respect to the subject matter hereof and shall supersede and replace any other agreement or understanding, whether oral or in writing with respect to the subject matter hereof, including without restriction the memorandum of understanding dated September 9, 2005 between the GoK and TECOM.

1.4 **COUNTERPARTS**

This Agreement may be executed simultaneously in the English language, in any number of counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument.

1.5 **HEADINGS**

The section, article and clause headings contained in this Agreement are for the convenience of the Parties and shall not affect the meaning or interpretation of any of the terms of this Agreement.

1.6 **TIME FRAMES**

All time periods specified in this Agreement may be extended or otherwise amended with the mutual consent of the relevant Parties to this Agreement, but only if communicated in writing.

**ARTICLE 2:
OVERVIEW OF THE AGREEMENT**

- 2.1 Smart City shall be owned, developed and operated by SPV, subject to the provisions of this Agreement.
- 2.2 The Chief Minister of the state of Kerala shall be the chief patron of Smart City. It is expected that this will promote Smart City and attract investments by entrepreneurs in Smart City.
- 2.3 The Parties to this Agreement shall act in utmost good faith with a view to ensuring the success of Smart City through the economic development and greater good of the state of Kerala. To ensure this objective, the Parties shall work together and give due importance to each other's views.
- 2.4 The Parties shall do all things necessary and take all steps diligently to discharge their respective responsibilities and do all other acts and things necessary for the speedy implementation of the Project and the commissioning of Smart City in a timely manner.
- 2.5 On SPV complying with the statutory requirements and GoK acquiring 16% share in SPV, GoK shall take all necessary steps, to make recommendations to the Government of India in the manner prescribed by that Government from time to time to assist SPV to receive the necessary approvals and notifications under the Act for establishing SEZ/(s).
- 2.6 Within ten (10) days of the Developer Status Attainment Date or within 60 days of the Execution Date which ever is later, the Land will be transferred to SPV in accordance with the provisions of Article 5 herein below at a one time lease premium of Rupees One Hundred and four Crores (Rs. 104, 00, 00,000), which consideration shall be the full and final amount payable for the Land irrespective of the compensation which may ultimately become payable by GoK for the acquisition of such Land. The consideration for the Land shall be payable by SPV to GoK at the time when the leasehold title and interests in the Land are transferred to and acquired by and in favor of SPV. GoK shall have an option to transfer Land in two installments and SPV shall pay proportionate consideration at the time of each transfer provided that the land transferred in each installment is contiguous and land transferred in the second installment is connectable to the land transferred in the first installment and the period between two installments shall not exceed six (6) months. It is further agreed by and between the Parties that in the event that the Land measures more than the proposed area of two hundred and forty six (246)

acres, the consideration payable under this Clause of this Agreement shall be proportionately increased in relation to the proportionate increase in the area.

- 2.7 Within fifteen (15) days from the Execution Date, GOK shall commence the process of developing the Minimum Infrastructure in consultation with SPV.
- 2.8 GoK warrants that the Land shall be connectable with a minimum connecting corridor of width not less than what is required for a four-lane road, if required.
- 2.9 If TECOM/SPV takes a stand before the concerned Sub-Registrar that any document executed in the course of implementation of this Agreement is exempt from the provisions of the applicable Stamp Act and the Sub- Registrar does not agree with the same, the time provided for registering the document shall stand extended by the time taken for the disposal of any application filed in this behalf before the Collector. However, after executing and registering the document in accordance with the decision of the Collector, if TECOM/SPV is still aggrieved by the same, the payment of the stamp duty may be under protest and without prejudice to its rights to claim refund of the same in further proceedings.
- 2.10 SPV shall be responsible for the development and construction of the Project from the Project Commencement Date.

ARTICLE 3: PROVISIONS PERTAINING TO SPV

3.1 BOARD OF DIRECTORS

- 3.1.1 The Board of Directors shall at any time comprise of a maximum of ten (10) Directors unless otherwise provided in its Articles.
- 3.1.2 GoK shall be entitled to nominate two Directors on the BoD as long as the GoK hold not less than 9% of the share capital of the SPV. Nominees of GoK in the BoD shall be an officer not below the rank of Special Secretary to Government or a Minister. TECOM and its Permitted Affiliate may, at their discretion nominate the remaining Directors on the BoD up to the maximum number provided as per Clause 3.1.1 above. As soon as GOK share becomes 26% of the share capital of SPV, GOK shall nominate three Directors to the BoD
- 3.1.3 The Directors shall hold office until death, resignation or removal in accordance with Clause 3.1.5 herein below.

- 3.1.4 The Chairman shall be nominated by GoK from among Directors nominated by GoK. The Chairman shall not however have any casting vote. Each Director, including the Chairman shall be entitled to one vote in favor or against a particular resolution put up before the BoD for its consideration. In the absence of the Chairman, BoD members present may elect one among them as the Chairman of a meeting.
- 3.1.5 The shareholder who nominated any individual as a Director shall also have the right to remove him at any time without prior notice to the other shareholder and nominate another individual as Director in substitution of the one removed.
- 3.1.6 The Memorandum and Articles shall be amended to be in conformity with the provisions of this Agreement.

3.2 **MANAGEMENT OF SPV**

- 3.2.1 Subject to the provisions of COSA, SPV shall be managed by the BoD. However, the Directors shall:
- (a) Appoint either a Managing Director and/or a Chief Executive Officer with such powers, authority and remuneration as it deems fit in accordance with the provisions of COSA; and
 - (b) From amongst themselves such committees as may be necessary from time to time for the effective management of SPV, including the "Infrastructure Advisory Committee" and the "Administration Committee". Provided however that the committees shall be constituted in such a manner that each such committee shall have one Director who has been nominated by GoK.
- 3.2.2 All decisions of the BoD shall be taken by formal resolutions passed at meetings of the BoD by a simple majority of Directors present and voting in accordance with the provisions of Clause 3.2.4.
- 3.2.3 The BoD shall meet at least once in every three (3) months.
- 3.2.4 The quorum for a properly constituted meeting of the BoD shall be five (5) Directors present and voting, of which at least three (3) shall be nominees of TECOM and at least one shall be a nominee of GoK. In the event of a quorum not present for a meeting within half an hour from the time appointed for the meeting, the meeting shall stand adjourned to the same time and place on the following day and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, any three(3) Directors shall

constitute a quorum. Provided however that at any meeting at which the requisite quorum is present, any other Director may participate by conference call or videoconference to the extent it is not forbidden under COSA. Notwithstanding anything contained in this Article 3.2, the BoD may pass circular resolutions as per the relevant provisions of COSA.

3.3 SHAREHOLDING

3.3.1 The initial authorised share capital of SPV shall be Rupees Six Hundred and Eighty Crores (Rs. 680,00,00,000) and the initial paid-up share capital of SPV shall be Rupees One Hundred and Twenty Crores (Rs.120,00,00,000) comprised of ordinary equity shares of the nominal value of Rupees Ten (Rs. 10) each. The shares shall be subscribed to by the Parties in the following ratio:

- (a) GoK: 16% to be subscribed out of the transfer consideration of the Land.
- (b) TECOM through its Permitted Affiliate: 84%.

3.3.2 Nothing contained in this Agreement or the Articles shall prevent the Parties from transferring after an initial lock-in period of Five (5) years or after the fulfillment of the target in respect of clause 9.4, whichever is later, the whole or part of its shareholding at any time subject to the provisions of Article 3.3.6 herein below or otherwise to any other party at such value as they may deem fit. In such an event GoK, if TECOM is transferor, and TECOM, if GoK is the transferor, shall be entitled to the right of first refusal at the offered price and then the sale to a third party shall not be at a price less than the offered price.

3.3.3 The BoD will make capital calls for funding the cost of the Project as may be necessary from time to time. The Parties hereby agree that the shareholders of SPV, namely GoK or its Permitted Affiliates and TECOM or its Permitted Affiliates shall contribute equity capital in response to such capital calls, in a manner such that their percentage shareholding *inter se* mentioned in Clause 3.3.1 above is maintained. GoK through its Permitted Affiliates and TECOM through its Permitted Affiliate shall be required to subscribe to or contribute the necessary funds as may be necessary pursuant to this Clause 3.3.3 within one hundred twenty (120) days of such calls being made.

3.3.4 Notwithstanding anything contained in clause 3.3.2 above, in the event that any Party is unable to contribute the funds necessary to subscribe to the equity shares pursuant to Clause 3.3.3, ("**Defaulting Party**"), the Shareholding of the Defaulting Party shall stand diluted beyond the

percentages referred to in clause 3.3.1 above. Further, the shares that were offered to the Defaulting Party may be offered to a third party investor at the same value at which they were offered to the Defaulting Party.

- 3.3.5 The Parties hereto agree that SPV shall neither issue nor allot nor agree to allot any shares to any third party in any manner save as provided in this Article 3. TECOM agrees that GoK shall have the option to call on TECOM and its Permitted Affiliates for the transfer of additional paid-up share capital in the SPV ("**Call Shares**") upon completion of five years in order to raise the share holding of the GoK in the SPV to 26% of the total paid up share capital. The price at which such Call Shares shall be transferred from TECOM and/or its Permitted Affiliates to the GoK shall be as determined by an independent valuer appointed on mutual consent.
- 3.3.6 Notwithstanding anything contained in this Agreement, the Parties hereto agree that TECOM or its Permitted Affiliate shall be entitled to sell 40% of its shares in the SPV to a Strategic Partner/(s). Prior to TECOM complying with the target described in clause 9.4 or 10 years from the Closing Date, whichever is earlier, but not after, it is further agreed between the Parties that the transfer of shares in SPV in accordance with this clause 3.3.6 has to be approved by GoK, which approval shall not be unreasonably withheld and in the event of GoK not responding within 30 (thirty) days from the date of application of TECOM or its Permitted Affiliate or SPV, as the case may be, the request will be deemed to have been approved by GoK.

3.4 **DEBT FUNDING FOR THE PROJECT**

It is hereby agreed between the Parties that SPV can raise the cost for funding the Project in the form of debt on such terms as may be approved by the BoD. TECOM shall assist SPV in arranging such funding on the best commercial terms as reasonably possible.

ARTICLE 4: SPECIAL ECONOMIC ZONE NOTIFICATION

- 4.1 SPV had submitted an application for the attainment of Developer status under the provisions of the Act to the Government of India for the Project and has obtained an in-principle approval bearing number F.2/74/2006-EPZ dated May 16, 2006. GoK undertakes to make best efforts to ensure the attainment of the final approval under the provisions of the Act to set up the Project as an SEZ.

- 4.2 In the event that SPV is required to apply for a fresh approval under the Act for the attainment of Developer status, SPV shall finalize the proposal/(s) for the setting up of the SEZ/(s) and forward the same to GoK within 10 (ten) days from the date of such intimation from the Government of India for preferring a fresh application. The GoK shall in compliance with clause 2.5, forward the proposal/(s) to the Government of India, Ministry of Commerce along with their recommendations. The GoK hereby agrees to fulfill its commitments as per the policy/rules framed by the Government of India from time to time.
- 4.3 While it is the responsibility of SPV to obtain the necessary approvals, orders and notifications in this behalf, GoK will render all assistance to SPV and make best efforts to enable SPV in obtaining such approvals, orders and notifications and in particular the following:
- a The approval to the proposal under section 3 (7) of the Act, by the Board;
 - b Following the receipt of the said approval of the Board, that the Board communicates it to the Central Government in accordance with the provisions of section 3 (9) of the Act;
 - c Following the communication of the approval of the Board, the Central Government issues to SPV a letter of approval in accordance with the provisions of section 3 (10) of the Act; and
 - d The Central Government notifies the Site and Smart City as a Special Economic Zone in accordance with the provisions of section 4 (1) of the Act (the "**SEZ Notification**").

ARTICLE 5: LAND

- 5.1 Subject to Article 2.9, within ten (10) days of the Developer Status Attainment Date or within sixty (60) days of the Execution Date, whichever ever is later, the GoK, either themselves or through any other person so appointed by GoK in this regard, shall lease the Land to SPV through the execution and registration of a lease deed ("**Lease Deed**") for a term of ninety- nine (99) years for the purpose of developing the same under the Development Plan. On expiry the lease period can be extended to further periods on terms and conditions to be mutually agreed upon.
- 5.2 The lease of the Land shall be upon the payment of a one (1) time lease premium and for a term of ninety nine (99) years and the Lease Deed shall *inter alia* provide for the following terms:
- a The lease of the Land shall be upon the payment of a one (1)-time

lease premium mentioned in clause 2.6 and for Future Land it shall be at acquisition price and on terms and conditions prescribed by GoK.

- b The rent for the lease land shall be Rupee One (Re 1) per acre per annum, payable annually in advance;
 - c SPV shall not require any permission or other approval from GoK for the purpose of mortgaging its lease hold rights in respect of the Land as security or for creating any lien or charge on the leasehold rights of the Land; and
 - d SPV shall not require any permission or approval from GoK for sub-leasing the Land and/or the building constructed thereon (whole or any part thereof) to any third party for the purpose of development in accordance with the Development Plan and for carrying on business operations within the Land.
- 5.3 The Land shall be used for the purpose of the development of Smart City and SPV shall be free to build and construct structures on such Land for the purpose of development of Smart City provided the same is in accordance with the Development Plan.
- 5.4 Upon completion of master plan that determines different plots among other things, SPV will identify plots to be converted to freehold and such plots will be converted to free hold by GoK forthwith without any further consideration or charges. Cumulative area of the plots converted to freehold will not exceed 12% of the total land area at any point of time.
- 5.5 SPV and any of the IT companies operating from Smart City shall be entitled to any privileges, subsidies or concessions as may be applicable or are extended to such companies under the IT policy of the Government from time to time.

ARTICLE 6: INFRASTRUCTURE DEVELOPMENT

- 6.1 GoK shall commence work on the Minimum Infrastructure within fifteen (15) days of the Execution Date and shall complete the Minimum Infrastructure as soon as possible thereafter.
- 6.2 On completion of the Minimum Infrastructure GoK shall continue the development of the Infrastructure commensurate with the requirement of the Development Plan in such a manner that the required amount of electrical power and water are made available at the periphery of Smart City when the facilities built by SPV are ready to draw on the said utilities. GoK shall also complete acquisition of the land for the

new four (4) -lane roads connecting to the airport-seaport road and complete the road construction within a time frame of two years.

- 6.3 It is hereby agreed between the Parties that the entire Infrastructure, which is to be developed within the area notified as the SEZ/(s) by the Central Government, shall be the specific responsibility of SPV. It shall not be the responsibility of GoK to develop any Infrastructure within Smart City.
- 6.4 Notwithstanding the provisions of Article 6.1, any delays in completion of the Minimum Infrastructure to the satisfaction of the BoD may be condoned if in the opinion of BoD the delay was caused due to certain unforeseen or extraordinary circumstances and was not attributable to failure on the part of GoK to take necessary steps. Subject to what is stated earlier failure of GoK to achieve the completion of the Minimum Infrastructure within a maximum of six (6) months from the Execution Date shall constitute a GoK Closing Default and TECOM and its Permitted Affiliate shall be entitled to remedies as per the provisions of Article 7.1 herein below.
- 6.5 Without prejudice to the provisions of Article 6.1 to 6.3 hereinabove, the GoK shall also:
- a Assist SPV in completion of the fencing of the Site;
 - b Assist in obtaining a permanent source of water supply including but not limited to the right to extract ground water from the Site. In the event that ground water or water supplied by GoK is insufficient for the Site, GoK will grant permission or cause the relevant department of GoK to grant permission for laying pipes across roads, rivers or panchayat/ public land for the purposes of obtaining water connectivity for the Project;
 - c Ensure in obtaining relevant approvals and permissions necessary for the construction of linkages between different parcels of land to make them interlinked;
 - d Assist in obtaining relevant permission to construct and operate a power generation system;
 - e Assist in obtaining fast-track approval for all licenses, permits and registrations as may be necessary to establish the requisite hospitality facilities of international standards within Smart City as per the Development Plan;
 - f GoK will ensure supply of adequate power to Smart City without

disruption.

- g Extend support for any representation by SPV to the Kerala State Electricity Regulatory Commission for the rationalization of the power tariff applicable to all Units within the precincts of Smart City without incurring any financial liability on the part of the GoK;
- h Assist and facilitate regular bus services and metro services from Cochin and surrounding areas to Smart City; and
- i Construct, develop and maintain adequate link roads to the airport – seaport road as per national highway standards.

ARTICLE 7: DEFAULT

7.1 DEFAULTS OF GoK

7.1.1 Subject to any Event of Force Majeure, it is agreed and understood that the following defaults on the part of GoK, which would prevent the occurrence of the Closing Date ("**GoK Closing Default**"), are serious defaults which would inherently jeopardize the Project and prevent the development of Smart City:

- (a) Failure to fulfill its commitments specified in Article 4 of this Agreement; or
- (b) Failure to complete the Minimum Infrastructure within Six (6) months of the Execution Date;
- (c) Failure to assist and co-operate in matters crucial to the implementation of Smart City as mentioned in Clause 8.1 of this Agreement.

7.1.2 GoK acknowledges that the acquisition of the Land is critical to the ultimate success of the Project and Smart City. Subject to Events of Force Majeure, failure of GoK to complete the process of acquisition and transfer of the Land to SPV in accordance with the provisions of Article 10.1 (iv) herein below ("**GoK Land Default**") within the period specified therein would jeopardize the Project and prevent the development of Smart City.

7.1.3 In the event of any of GoK Closing Default, or GoK Land Default, TECOM (and/ or its Permitted Affiliates) shall at its/their option have recourse to any one or more of the following remedies:

- a To abandon the Project and the development of Smart City in which case GoK shall acquire the entire shareholding of TECOM and its Permitted Affiliate in the SPV at a consideration which is the same amount as any sums paid to GoK in cash by SPV till the date of such acquisition; and/or
- b Notwithstanding anything contained in Clause 3.3.2 hereinabove, to buy out the entire shareholding of GoK at a price to be determined by an independent valuer, in which event GoK shall agree not to claim any right, title or lien over the assets of SPV. SPV may thereafter carry on such business as may be permissible under the policy and procedures of the Government of India; and/or
- c Recovery of all investments made, costs and expenses incurred from GoK as certified by an independent firm of chartered accountants jointly appointed by the Parties.

7.1.4 In the event of any GoK Closing Default or GoK Land Default, in addition to the remedies specified in Article 7.1.3 hereinabove, GoK accepts that SPV shall not be able to create the requisite space as mentioned in Article 9.4 herein below and shall therefore not be subject to any penal consequences for any shortfall.

7.2 **DEFAULTS OF TECOM**

7.2.1 Subject to any event of Force Majeure, in the event TECOM/SPV/their clients fails to construct built up space as per Annexure B, GoK shall issue notice within three months thereafter to SPV and TECOM in this behalf and if the default continues for a minimum period of six months from date of notice, GoK shall be entitled to take over the entire shares held in the SPV by TECOM and its Permitted Affiliate at a price to be determined by an independent valuer.

7.2.2 Subject to any event of Force Majeure, in the event TECOM (and, or its Affiliates) /SPV and its clients fails to create either 90000 jobs or 8.8 million Sq.ft built up space out of which at least 6.21 million Sq.ft will be specifically for IT/ITES/allied services within 10 years from the Closing Date, GoK shall issue notice to SPV and TECOM in this behalf and if the default continues for a minimum period of 6 months from the date of notice, GoK shall at its option have recourse to any one or more of the following remedies:

- (a) To abandon the Project and the development of Smart City in which case the TECOM shall acquire the entire shareholding of GoK in

the SPV at a consideration as fixed by an independent valuer; and/ or

(b) Notwithstanding anything contained in Clause 3.3.2 hereinabove, to terminate the lease and buy out the entire shareholding of the TECOM at a price to be determined by an independent valuer taking the value of Land as Rupees 91.52 Crores ((Rupees ninety one crore and fifty two lakh only) which is the advance lease premium paid by the SPV to the GoK for 88% of the land), in which event the TECOM shall agree not to claim any rights, title or liens over the assets of the SPV. The SPV may thereafter carry on such business as may be permissible under the policy and procedures of the Government of India; and/ or

(c) To recover all investments made, costs and expenses incurred from TECOM as certified by an independent firm of chartered accountants jointly appointed by the Parties.

ARTICLE 8: RESPONSIBILITIES AND COVENANTS OF GOK

8.1 GOVERNMENT INVOLVEMENT AND CO-OPERATION NECESSARY

- 8.1.1 This Agreement constitutes the intent of GoK for the purpose and for all purposes of the development, operating and maintenance of Smart City. In the event that any statute or regulation requires the specific approval or sanction of GoK for the purpose of development of Smart City the application made by SPV in this behalf shall be dealt with expeditiously by GoK.
- 8.1.2 The GoK warrants that Land will be used for the purpose of setting up knowledge based IT Township as envisaged by Smart City and will satisfy the purpose for which the Land was acquired.
- 8.1.3 If on the presentation of the proposal by GoK the Central Government specifies any conditions as to the Land whether pertaining to the area or otherwise, then GoK and SPV shall discuss the matter in good faith and GoK shall take all steps necessary to co-operate and enable the fulfillment of such conditions.
- 8.1.4 GoK shall issue all notifications and pass such orders or make such rules or regulations as may be necessary to ensure that Smart City shall be the recommending agency for release of all subsidies, and, or incentives to which the Units established by the entrepreneurs within Smart City are otherwise eligible or may be eligible from time to time.

8.1.5 Subject to provisions of Law, if any, GoK shall allow Smart City to widen water bodies for landscaping.

8.1.6 GoK recognizes the critical importance of the aspects set out in Article 8.1.1 to 8.1.5 hereinabove to the commencement of the implementation of Smart City.

8.2 **CONTINUING PROMISE**

8.2.1 GoK shall use its best effort to liaise with the Board on all matters in relation to Smart City from time to time concerning the Central Government, the Board or the Development Commissioner or other officers as may be appointed by the Central Government under section 11(1) of the Act or the Approval Committee constituted by the Central Government under section 13(1) of the Act, or any other authority, office, or regulatory body which may be formed or constituted for the regulation or governance of SEZ's in India.

8.2.2 If required GoK shall use its best efforts to see that all notifications, or such other requirements as may be prescribed under the relevant provisions of the Income Tax Act, 1961 be issued/complied with as the case may be, to enable SPV to claim the tax holiday and other benefits applicable to IT parks, infrastructure facilities and/or, SEZ's, as may be provided from time to time to be availed of to the fullest possible extent.

8.2.3 GoK shall endeavor to put in place a statutory mechanism under the Kerala Industrial Single Window Clearance Boards and Industrial Township Area Development Act, 1999 or such other statute as may be applicable so that all clearances under the Building Rules required to be obtained by SPV or the entrepreneurs investing in one or more Units in Smart City can be obtained as applicable to an "industrial area" for the purposes of statutory clearances and for the operation and administration of Smart City.

8.2.4 GoK shall declare the Smart City within the scope and meaning of a "Public utility" under the Industrial Disputes Act, 1947 and shall also exempt Smart City from the provisions of the Kerala Shops and Commercial Establishments Act, 1960.

8.2.5 GoK shall use its best efforts to obtain all other approvals or sanctions, whether by way of letter, notification, order, direction or otherwise, as may be necessary from time to time for the successful implementation of the Project, including but not restricted to the notification of the SEZ as an inland container depot, land station or land customs station as relevant under the provisions of section 7 of the Customs Act, 1962

and environment clearances from the pollution control board.

- 8.2.6 GoK shall make best efforts to facilitate the establishment of international business school within the precincts of Smart City.
- 8.2.7 The GoK shall make best efforts to establish a check-in counter for air passengers within the precincts of Smart City.
- 8.2.8 GoK shall upon request of BoD, make best efforts to complete acquisition expeditiously, transfer Future Land to SPV and at acquisition price, but on terms and conditions to be prescribed by GoK. This clause shall not apply to the land required for the corridor vide clause 10.1.v, even if it forms part of Future Land.
- 8.2.9 GoK shall make best efforts to establish an appropriate mechanism to promote Smart City through its marketing plan.
- 8.2.10 GoK shall make best efforts as a joint venture partner in SPV not to undertake activities that shall diminish the value of Smart City, such as (but not restricted to) encroachments, entry to polluting industries and any activity that will jeopardize the success of Smart City.
- 8.2.11 GoK recognizes the importance of the aspects set out in this Article 8.2 to the ultimate success of Smart City.
- 8.2.12 Any future liability arising out of land acquisition related to the Land and land for the link road to Airport-Seaport Road shall be borne by GoK and GoK will reimburse all costs involved incurred by SPV and TECOM in that regard.

ARTICLE 9: RESPONSIBILITIES AND COVENANTS OF TECOM

- 9.1 It is agreed and understood that Smart City shall be developed as knowledge based IT Township, as an SEZ /(s) and as provided in the Development Plan.
- 9.2 TECOM and its Permitted Affiliate shall develop the Project in a manner so that it enables the rapid economic development of the state of Kerala.
- 9.3 TECOM and its Permitted Affiliate shall ensure that it actively markets Smart City as a destination for investment and does all things necessary for the purpose. TECOM shall make best efforts to generate at least 90,000 jobs in 10 years from Closing Date. SPV shall

designate at least 70% of built up space as per Annexure B for IT/ITES and related facilities for such work area and employees. Designation of built up space beyond what is visualised in Annexure B for IT/ITES and allied services shall be as approved by the BoD with the concurrence of the GoK nominee in the BoD and agreed within the parameters of law.

- 9.4 TECOM and its Permitted Affiliate will, subject to Events of Force Majeure, commence construction of IT/ITES building/(s) in the Site within ninety (90) days of the Closing Date and shall complete construction by SPV and its clients, of the IT/ITES/Commercial building/(s) as per Development Plan
- 9.5 TECOM and SPV shall participate in and support and promote any annual IT events of Kerala Government to make Kerala into a global IT/ITES destination.

ARTICLE 10: REPRESENTATIONS AND WARRANTIES OF THE PARTIES

10.1 REPRESENTATIONS AND WARRANTIES OF GOK AND THE SOCIETY

The GoK and the Society hereby represent and warrant to and agree with TECOM and SPV as follows and acknowledge that TECOM and SPV are relying on the representations and warranties provided in this Agreement in connection with the lease of Land by SPV as well as the following:

- i. GoK and Society have the full power, capacity and authority to execute, deliver and perform this Agreement and shall take all necessary actions (corporate, statutory or otherwise) to transfer and register the Land in favor of SPV and to authorise that the execution of the transfer of the Land in favour of the SPV will result in the creation of a lawful and valid leasehold title to such properties in favour of SPV, free and clear of any and all liens, pledges, encumbrances, charges, agreements, interests or claims of any kind;
- ii. GoK as well as Society has not entered into any commercial agreement and arrangement with any other third party regarding the land;
- iii. Society does not have any mortgage, lien, charge, lease, easement, trust, option, right to acquire or any other claim and encumbrance over Land

- iv. GoK has already taken steps to acquire the Land and shall diligently continue the process of acquisition of the Land until it is completed and thereafter transfer the same to SPV within a period of one hundred and eighty (180) days from the Execution Date unless otherwise agreed by both the parties;
- v. GoK warrants that the Land will be made contiguous by acquiring such land to make it contiguous and SPV shall bear the acquisition cost paid by GoK.

10.2 REPRESENTATIONS AND WARRANTIES OF TECOM

TECOM hereby represents and warrants to and agrees with GoK and Society as follows and acknowledge that GoK and Society are relying on the representations and warranties provided in this Agreement in connection with their respective undertakings and obligations under this Agreement as well as the following:

- i. TECOM has the full power, capacity and authority to execute, deliver and perform this Agreement and shall take all the necessary actions (corporate, statutory or otherwise) to ensure the successful implementation of Smart City;
- ii. TECOM has not entered into any agreement or arrangement with any third party, which would prevent them from either the execution of this Agreement or the fulfillment of its obligations under this Agreement.

ARTICLE 11: INDEMNITY BY PARTIES

- 11.1 GoK and Society shall be jointly and severally liable to indemnify, defend and hold TECOM harmless for damages arising directly or indirectly, from or in connection with:
 - (a) Any breach of any warranty of GoK and Society contained in this Agreement; or
 - (b) Any breach of any covenant or agreement of GoK or Society contained in this Agreement;
- 11.2 TECOM and its Permitted Affiliates shall be jointly and severally liable to indemnify, defend and hold GoK and Society harmless for damages arising directly or indirectly from or in connection with:

- (a) Any breach of any warranty of TECOM contained in this Agreement; or
- (b) Any breach of any covenant or agreement of TECOM contained in this Agreement.

ARTICLE 12
GOVERNING LAW, DISPUTE RESOLUTION AND ARBITRATION

- 12.1 This Agreement shall be governed, construed, interpreted and enforced in accordance with the Laws of India.
- 12.2. If any question arises as to the interpretation of the provisions of this Agreement or as to matters not provided therein, ("**Disputes**") the Parties shall consult with each other at each instance and resolve such doubts in good faith.
- 12.3 If mutual resolution cannot be reached within fifteen (15) days after the commencement of such negotiations, the Parties shall have the option to refer the Disputes to an arbitral tribunal comprising of three (3) arbitrators. Each Party shall have the right to appoint one (1) arbitrator and the two (2) appointed arbitrators shall appoint the third arbitrator. For this purpose, GoK and Society shall be treated as one (1) party and TECOM/Permitted Affiliates and SPV shall be treated as the other party.
- 12.4 The arbitration proceedings shall be governed by the provisions of the Arbitration and Conciliation Act, 1996 or any subsequent enactment and amendment thereto. The venue for such arbitration shall be Kochi. The arbitration proceedings shall be conducted in English. Any award rendered pursuant to such arbitration shall be binding on the Parties.
- 12.5 If, on account of reasons of force majeure the performance of the obligations of any of the Parties is delayed for a period of up to six (6) months, the corresponding period for the performance of the obligation shall stand extended by a similar period. However, if the situation of such force majeure continues beyond six (6) months, the Parties shall attempt to arrive at a mutually acceptable resolution to determine the fair manner in which the provisions of the Agreement may be implemented.

ARTICLE 13: CONFIDENTIALITY

- 13.1 The Parties to this Agreement shall ensure that all persons forming part of or associated with each of the Parties shall observe all confidentiality obligations contained herein or otherwise and shall also keep confidential and secret the terms of this Agreement and any other deed or document, including the Definitive Documents, executed by and between the Parties including but not limited to the correspondences exchanged by and between the Parties ("**Confidential Information**") unless otherwise required to disclose the Confidential Information due to any requirement under Law.

ARTICLE 14 NOTICES

- 14.1 Any notice or other communication to be given by any Party to the other Party under, or in connection with the matters contemplated by this Agreement shall be in writing and shall be given by letter delivered by hand or sent by a reputed courier or registered, Speed A/D post or facsimile, and shall be deemed to have been received (unless the contrary is proved), in the case of:
- i Delivery by hand, when delivered and acknowledged;
 - ii A reputed courier or registered A/D post, on the seventh day following the day of posting.

ARTICLE 15 MISCELLANEOUS

- 15.1 **Waiver:** No failure or delay on the part of any of the Parties to this Agreement relating to the exercise of any right, privilege or remedy provided under this Agreement shall operate as a waiver of such right, power, privilege or remedy or as a waiver of any preceding or succeeding breach by the other Party to this Agreement, power, privilege or remedy nor shall any single or partial exercise of any right, power, privilege or remedy preclude any other or further exercise of any right power, privilege or remedy provided in this Agreement, all of which are several and cumulative, and are not exclusive of each other, or of any other rights or remedies otherwise available to a Party in Law or in equity.

15.2 **Severability:** Each of the provisions contained in this Agreement shall be severable, and the unenforceability of one shall not affect the enforceability of any others or of the remainder of this Agreement.

15.3 **No Partnership:** Nothing in this Agreement or in any document referred to in it shall constitute any of the Parties as partner of the other, nor shall the execution and implementation of this Agreement confer on any Party any power to bind or impose any obligations on the other Party or to pledge the credit of the other Party.

15.4 **Good Faith:** Each of the Parties hereto undertake with the other to act in the utmost good faith in interpreting and implementing this Agreement and agrees to do all things reasonably within its power which are necessary or desirable to give effect to the spirit and intent of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have set their hands to this Agreement on the day and year first above written.

The Governor of Kerala

TECOM Investments FZ-LLC

By:

By:

Mrs. Lizzie Jacob

Chief Secretary to the Government of Kerala
Secretariat, Thiruvananthapuram 695 001
Date: May13, 2007

Mr. Ahmad Abdulla Juma BinByat

Executive Chairman
TECOMInvestments FZ-LLC
Date: May 13, 2007

Infoparks Kerala

**Smart City (Kochi) Infrastructure
Private Ltd, Kochi**

By:

By:

Mr. N Radhakrishnan Nair

Chief Executive Officer,
Infoparks Kerala Kochi

Date: May 13 , 2007

Mr. Deepak Padmanabhan

Director,
Smart City (Kochi) Infrastructure
Private Ltd, Kochi

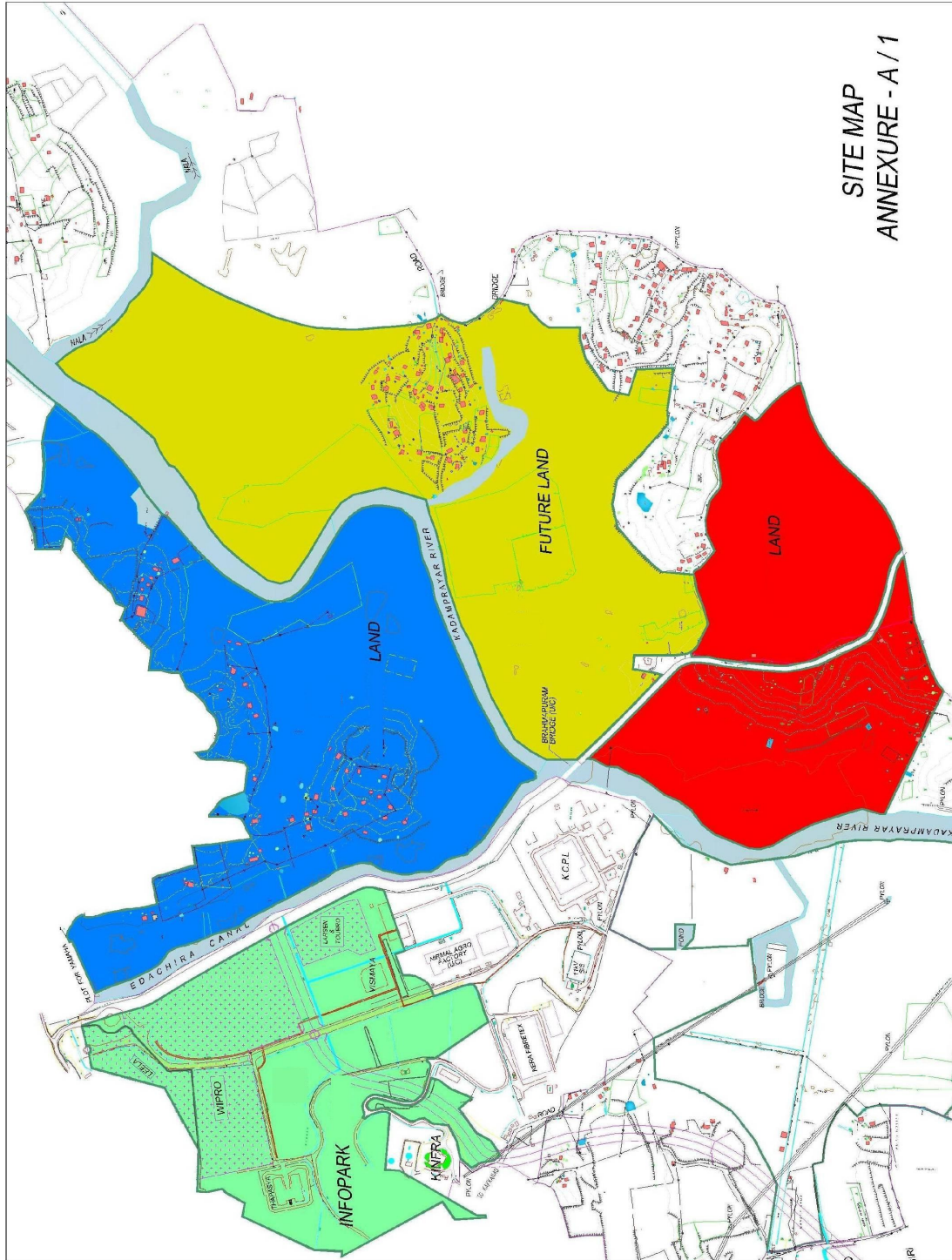
Date: May 13 , 2007

In the presence of:

1. Mr Fareed Abdulrahman, Executive Director, TECOM International

2. Mr K R Jyothishilal, IAS, Special Secretary (IT), Govt of Kerala

ANNEXURE - A/1 (Refer Definitions Article 1.1)

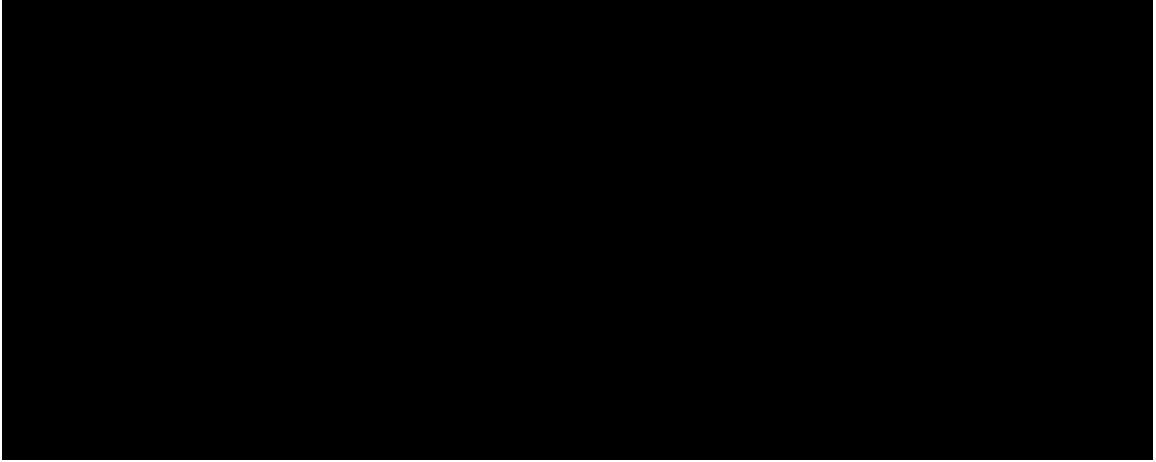


ANNEXURE - A/2(Refer Definitions Article 1.1)

| Description of | Survey Nos. |
|---|---|
| Approx.136 acres Block: 9 Village: Kakkanad Taluk: Kanayannur District: Ernakulam | 642,643,644,645,646,647,648,649,650,651,652,653,654, 655,656,704,705,706,707,708,709,710,711,712,640,641, 665,666,686,687,689 (Total 53.838 hectares) |
| 100 acres Block: 37 Village: Puthencruz Taluk: Kunnathunadu | 62,63,67,68,69,70,71,72,73,74,101,103,104,105, 106,107,108,109 (Total 40.47 hectares) |
| Approx. 10 acres Block: 9 Village: Kakkanad Taluk: Kanayannur | To be identified later |

| Description of | Survey Nos. |
|--|---|
| Approx: 167 acres Block: 36 Village: Kunnathunadu Taluk: Kunnathunadu | 365,368,369,370,371,372,373,374,375,376,377,378,379, 380,381,384 (Total 28.5338 hectares) |
| Block: 37 Village: Puthencruz Taluk: Kunnathunadu District: Ernakulam | 75,76,77,78,79,80,81,82,83,84,85,86,87,88,89,90,91,92,9 3,96,97,98,102,103,104,144,145,146 (Total 39.1437 hectares) |

ANNEXURE – B(Refer Definitions Article 1.1)



(Note: The construction of the Built-up area as mentioned in table above that has to commence in a year will be completed within three years of year of commencement of construction.)