

MINUTE OF AGREEMENT
under Section 69 of the Local Government
(Scotland) Act 1973

between

THE CITY OF EDINBURGH COUNCIL

and

DERAMORE (S) LIMITED

2009

Subjects: 121-123 Princes Street, Edinburgh

GILL LINDSAY
COUNCIL SOLICITOR
THE CITY OF EDINBURGH COUNCIL
CITY CHAMBERS, HIGH STREET
EDINBURGH

MINUTE OF AGREEMENT

among

THE CITY OF EDINBURGH COUNCIL, the Local Authority for the said City in terms of the Local Government etc. (Scotland) Act 1994, and having their principal office at City Chambers, High Street, Edinburgh (who and whose successors as the Planning Authority are hereinafter referred to as "the Council")

and

DERAMORE (S) LIMITED, a Company registered in Scotland under the Companies Acts (Company Number SC309536) and having its Registered Office at 15 Atholl Crescent, Edinburgh, EH3 8HA (hereinafter referred to as "the Developer")

CONSIDERING (One) that the Council are the Planning Authority for the City of Edinburgh in terms of Section 1 of the Town and Country Planning (Scotland) Act 1997 (hereinafter referred to as "the 1997 Act");

(Two) that the Council are entitled in terms of Section 69 of the Local Government (Scotland) Act 1973 to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of their functions;

(Three) that the Developer has applied to the Council for planning permission under the 1997 Act for retail and hotel development, including alterations to 123 Princes Street, substantial demolition of 121-122 Princes Street, and demolition of 129 and 131-133 Rose Street Lane South, Edinburgh, in terms of Application Number 08/03230/FUL (hereinafter referred to as "the Development") and the Council have resolved to grant said permission subject *inter alia* to an Agreement being entered into in the terms aftermentioned;

NOW THEREFORE the parties hereto have agreed and do hereby agree as follows:-

- (FIRST) The Developer shall make a contribution of THIRTY THOUSAND POUNDS (£30,000) STERLING inclusive of Value Added Tax, if any, ("the contribution"), to the Council towards public realm improvements on Princes Street.
- (SECOND) The aforementioned contribution shall be payable in full prior to planning permission being granted for the Development.
- (THIRD) In the event of (One) planning permission for the Development granted pursuant to this Agreement being revoked or in any way falling; or (Two) the contribution not being utilised by the Council within five years of the commencement of the Development then the contribution shall be refunded to the Developer following written request from the Developer.
- (FOURTH) Any dispute of any kind which may arise between the parties hereto and their successors regarding this Agreement shall be referred to the decision of an Arbiter to be mutually agreed by the parties and failing agreement appointed by the Sheriff of the Lothian and Borders at Edinburgh on the application of any party and the decision of such Arbiter, including any award of expenses, shall be final and binding on the parties and failing such award the cost of any such arbitration shall be borne equally by the parties.

(FIFTH) The Developer shall meet the Council's reasonable legal expenses and outlays properly incurred in connection with the negotiation, drafting, preparation and

completion of this Agreement: IN WITNESS WHEREOF these presents consisting of this and the two preceding pages are subscribed as follows:- they are subscribed for and on behalf of the said Deramore (S) Limited by Darren Martin Lonergan, Director and Ciaran Patrick Faloona, Company Secretary, together at Belfast on the Eighth day of May in the year two Thousand and nine; and they are subscribed for and on behalf of The City of Edinburgh Council by Alan George Squair, a duly authorised Proper Officer, at Edinburgh on the Twenty second day of May in the year two Thousand and nine, before this witness, Lorna Elaine Higgins, Solicitor of City Chambers, High Street, Edinburgh.