

MINUTE OF AGREEMENT

between

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

and

MOUNTGRANGE (CALTON GATE) LIMITED, a company incorporated under the Companies Acts (Company no. 05084936) and having their Registered Office at 13 Albemarle Street, Mayfair, London W1S 4HJ (who are hereinafter referred to as "the Developers")

CONSIDERING (One) that the Council is 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 is 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 its functions;

(Three) that the Developers have applied to the Council for Conservation Area Consent (hereinafter referred to as "CAC") for demolition of the entire building comprising the (former) New Street Bus Garage, New Street, Edinburgh (the solum of which is hereinafter referred to as "the Site") in terms of Application Number 05/01777/CON (hereinafter referred to as "the Development");

(Four) The redevelopment of the Site cannot be planned, approved and undertaken until such time as investigatory work in relation to contamination, archaeology and geology of the Site is carried out and either (i) any remedial work which can be carried out independently of the redevelopment of the Site is completed or (ii) where such remedial work cannot be carried out independently of the redevelopment of the Site, a mitigation strategy in that respect is approved by the Council (hereinafter referred to as "the Investigatory Works") which Investigatory Works can only be properly executed on completion of the Development;

(Five) The Site lies within the Old Town Conservation Area and World Heritage Site and in order to mitigate any adverse impact on the Old Town Conservation Area and World Heritage Site which the Development may have, an interim public art design scheme (hereinafter referred to as "the Scheme") may be provided on the Site;

(Six) The Council has resolved to grant CAC 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) Prior to CAC being granted for the Development, the Developers shall pay to the Council a contribution in the sum of ONE HUNDRED THOUSAND POUNDS (£100,000.00) STERLING (hereinafter referred to as "the Contribution"), which may be applied towards the implementation of the Scheme upon the Site on the terms aftermentioned. In the event that CAC is not granted and the Developers' application therefor is withdrawn, the Contribution shall be repaid by the Council within 10 working days of demand.

(SECOND) The Council shall on receipt of the Contribution pay the Contribution into a joint account held by the Council and the Developers, which Contribution shall be invested so as to earn the best rate of interest that can reasonably be obtained.

(THIRD) In the event that on the expiry of three months from the date of completion of the Investigatory Works and the Development, both the following circumstances prevail, namely:-

- i. a contract has not been placed for the redevelopment of the Site in accordance with a valid planning permission; and
- ii. the details of the Scheme and site boundary treatments have not been granted any necessary planning permission or otherwise been approved by the Council and a contract has not been let for the implementation of the same;

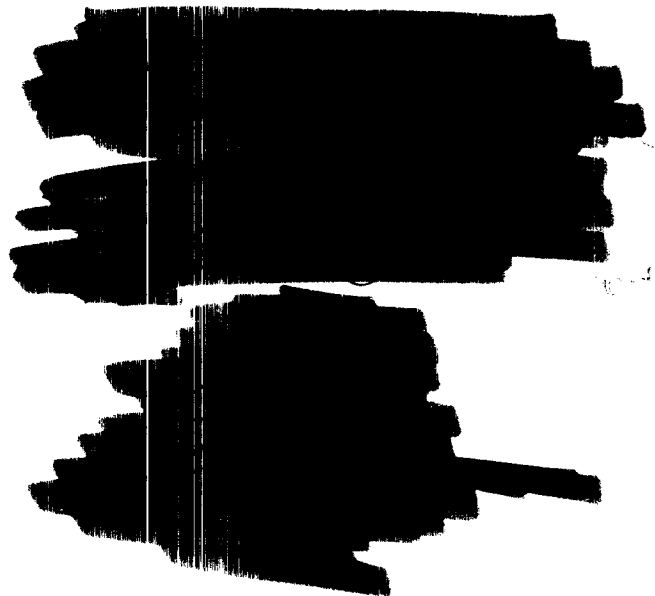
the Council shall be entitled, on giving 21 days notice of its intention to do so, to utilise the Contribution for the implementation of the Scheme and site boundary treatments; provided that the Council will act reasonably in agreeing any extension to such three month period in circumstances where there has been a delay in the Council's determination of the planning application or any other matter requiring its consent pursuant to this Agreement..

(FOURTH) If the Council is entitled to utilise the Contribution pursuant to Clause (THIRD) then the Developers shall make available to the Council all plans, drawings, specifications and other materials which they have commissioned for the Scheme and boundary treatments and shall confirm that the Council may utilise the same should they so wish without further consents of the authors of the same being required.

- (FIFTH) The Developers shall procure that the Development and the Investigatory Works are carried out in a proper and efficient manner and without undue delay to the satisfaction of the Council (acting reasonably).
- (SIXTH) When either (i) a contract has been placed by the Developers for implementation of the Scheme and site boundary treatments, or (ii) a contract has been placed for redevelopment of the site, then the Contribution (so far as unused by the Council pursuant to Clause (THIRD)) shall be repaid to the Developers together with any interest accrued thereon within 10 working days of the Developers intimating such contract(s) to the Council.
- (SEVENTH) 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 Arbitrator to be mutually agreed by the parties and failing agreement appointed by the Sheriff Principal of Lothian and Borders at Edinburgh on the application of any party and the decision of such Arbitrator, 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.

(EIGHTH) The Developers shall meet the Council's reasonable legal expenses and outlays properly incurred in the negotiation, drafting, preparation and completion of this

Agreement: IN WITNESS WHEREOF these presents typewritten on this and the four preceding pages are executed as follows – They are subscribed on behalf of the said Mountgrange (Calton Gate) Limited by Manish Chande, a Director of the said Mountgrange (Calton Gate) Limited, at Edinburgh on the Sixteenth day of February Two thousand and six and witnessed by Cameron Stott of Lismore House, 127 George Street, Edinburgh EH2 4JN; And they are subscribed on behalf of the said The City of Edinburgh Council by Craig Brodie Adamson one of the Proper Officers of the said The City of Edinburgh Council at Edinburgh on the Twenty first day of February Two thousand and six and witnessed by Jean Stobie McClure, Solicitor of City Chambers, High Street, Edinburgh EH1 1YJ.

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Appendix 2B
Sheet 4

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

between

THE CITY OF EDINBURGH COUNCIL

and

MOUNTGRANGE (CALTON GATE)
LIMITED

2006

Subjects: New Street Bus Garage, New
Street, Edinburgh

GILL LINDSAY, LLB (HONS)
COUNCIL SOLICITOR
THE CITY OF EDINBURGH COUNCIL
CITY CHAMBERS, HIGH STREET
EDINBURGH