

Dated

4th APRIL

2017

LIVERPOOL CITY COUNCIL

- and -

DERWENT HOLDINGS LIMITED

DEED OF VARIATION

pursuant to section 106 and section 106A of the Town and Country Planning Act 1990
relating to land at Edge Lane, Liverpool

SHOOSMITHS

HQ Building
Old Granada Studios
2 Atherton Street
Manchester
M3 3GS

Ref: SG/M-00579291

THIS DEED is made on

4th APRIL

2017

BETWEEN:

- (1) **LIVERPOOL CITY COUNCIL** of Municipal Buildings, Dale Street, Liverpool L2 2DH ("**the Council**"); and
- (2) **DERWENT HOLDINGS LIMITED** a company incorporated in Bermuda (under company registration number 30838) whose registered office is at Century House, 16 Par-La-Ville Road, PO Box HM1806, Hamilton, Bermuda whose address for service in the UK is care of Derwent Estates Limited (CRN: 03410326) at its registered office from time to time ("**the Developer**").

BACKGROUND

- (A) For the purposes of the 1990 Act, the Council is the local planning authority for the area within which the Site is located and is entitled to enforce the obligations contained in this Deed.
- (B) The Developer is the freehold owner of those parts of the Site registered with Title Absolute under Title Numbers MS251384, MS289012, MS229984, MS192488 and MS473747 at HM Land Registry.
- (C) The Developer applied for consent for the development of the Site for the erection of 31 retail units (A1) and 7 restaurant units (A3), the retention of 4 retail units and the remodelling of the former MFI unit to provide 4 non-food retail units, with associated landscaping, parking, access and highway works (referred to hereinafter as the "**Development**") AND on 6 March 2015 the Council granted planning permission reference 13F/2313 (referred to hereinafter as the "**Planning Permission**").
- (D) On 5 March 2015 the Council (1) the Developer (2) and Celtic Finance Limited (3) entered into the Principal Deed under which certain planning obligations were given to the Council in respect of the Development.
- (E) On 15 July 2016 the Council (1) and the Developer (2) entered into the Deed of Release and Variation and on 21 July 2016 the Council granted the First Section 73 Planning Permission.
- (F) On 21 July 2016 the Developer submitted the Second Section 73 Planning Application to the Council.
- (G) The Council is prepared to grant the Second Section 73 Planning Permission subject to the Developer entering into this Deed to give planning obligations to the Council in respect of the carrying out of the development permitted by the Second Section 73 Planning Permission (referred to hereinafter as the "**Section 73**").

Development”) without which the Council would not grant the Second Section 73 Planning Permission.

- (H) The Parties by entering into this Deed do so to create planning obligations in respect of the Site in favour of the Council pursuant to section 106 of the 1990 Act and to be bound by and observe and perform the covenants, agreements, conditions and stipulations hereinafter contained in the terms of this Deed.
- (I) SAVE AS provided under this Deed, the Parties confirm and intend that the terms of the Principal Deed (as varied by the Deed of Release and Variation) shall remain in full force and effect.

OPERATIVE PROVISIONS

1. INTERPRETATION

- 1.1 Words and phrases used in this Deed which are defined in the Principal Deed (as varied by the Deed of Release and Variation) shall have the meanings ascribed to them in the Principal Deed (as varied by the Deed of Release and Variation).
- 1.2 In addition the following words and phrases used in this Deed shall have the following meanings:

“Deed of Release and Variation” the deed of agreement made pursuant to section 106 and section 106A of the 1990 Act dated 15 July 2016 and entered into between the Council (1) and the Developer (2) in connection with the First Section 73 Planning Permission;

“First Section 73 Planning Permission” the planning permission granted by the Council pursuant to section 73 of the 1990 Act on 21 July 2016 to vary the approved conditions of the Planning Permission;

“Party” a party to this Deed and **“Parties”** shall be construed accordingly;

“Principal Deed” the deed of agreement made pursuant to section 106 of the 1990 Act dated 5 March 2015 and entered into by the Council (1) the Developer (2) and Celtic Finance Limited (3) in connection with the Planning Permission, a copy of which is annexed at Appendix 1 to the

Deed of Release and Variation;

“Second Section 73 Planning Application” an application under section 73 of the 1990 Act to vary the approved conditions of the Planning Permission and for the carrying out of the Section 73 Development, made by the Developer to the Council, and allocated the reference 16F/2027;

“Second Section 73 Planning Permission” the planning permission that may be granted in pursuance of the Second Section 73 Planning Application, a draft of which is annexed hereto as an Appendix; and

“Section 73 Development” the development of the Site pursuant to the Second Section 73 Planning Permission.

1.3 In this Deed:

1.3.1 the clause headings do not affect its interpretation;

1.3.2 references to any statute or statutory provision include references to:

1.3.2.1 all Acts of Parliament and all other legislation having legal effect in the United Kingdom as directly or indirectly amended, consolidated, extended, replaced or re-enacted by any subsequent legislation; and

1.3.2.2 any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision;

1.3.3 references to the Site include any part of it;

1.3.4 references to any Party in this Deed include the successors in title of that Party. In addition, references to the Council include any successor local planning authority exercising planning powers under the 1990 Act;

1.3.5 “including” means “including, without limitation”;

1.3.6 any covenant by any Party not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing; and

1.3.7 if any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of this Deed is to be unaffected.

- 1.4 The Parties to this Deed do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a Party to it.

2. **EFFECT OF THIS DEED**

- 2.1 This Deed is made pursuant to section 106 and section 106A of the 1990 Act. To the extent that they fall within the terms of section 106 of the 1990 Act, the obligations contained in this Deed are planning obligations for the purposes of section 106 of the 1990 Act and are enforceable by the Council.
- 2.2 To the extent that any of the obligations contained in this Deed are not planning obligations within the meaning of the 1990 Act, they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972, section 1 of the Localism Act 2011 and all other enabling powers.
- 2.3 Nothing in this Deed restricts or is intended to restrict the proper exercise at any time by the Council of any of its statutory powers, functions or discretions in relation to the Site or otherwise.
- 2.4 This Deed will be registered as a local land charge by the Council.
- 2.5 This Deed shall have immediate effect.

3. **AGREED CHANGES TO THE PRINCIPAL DEED**

- 3.1 Subject to the grant of the Second Section 73 Planning Permission, the Parties agree that clause 1.1 of the Principal Deed (as varied by the Deed of Release and Variation) shall be varied as follows:

- 3.1.1 the definition of “**Development**” shall be deleted in its entirety and replaced with the following:

“**Development** means the development of the Site for the erection of 31 retail units (A1) and 7 restaurant units (A3), the retention of 4 retail units and the remodelling of the former MFI unit to provide four non-food retail units, with associated landscaping, parking, access and highway works and/or the said development of the Site as varied by a Qualifying Permission”

- 3.1.2 the definition of “**Planning Permission**” shall be deleted in its entirety and replaced with the following:

“**Planning Permission** means planning permission for the Development, including planning permission reference 13F/2313, the draft of which is attached hereto, and/or any Qualifying Permission”

3.1.3 the definition of **"New Built Retail Units"** shall be deleted in its entirety and replaced with the following:

"New Built Retail Units means the new build retail units which are to be constructed on the Site as part of the Development"

3.1.4 the insertion of the following new definitions:

"First Section 73 Planning Permission means planning permission reference 13F/3053 granted by the Council on 21 July 2016 to vary condition 2 of planning permission reference 13F/2313 so as to allow changes to the size, number and layout of the proposed retail and restaurant units on land to the west of Montrose Way

Qualifying Permission means the First Section 73 Planning Permission and/or the Second Section 73 Planning Permission and/or any subsequent non-material amendment(s) (applied for pursuant to section 96A of the 1990 Act) or other amendment(s) (whether minor material or otherwise) (applied for pursuant to section 73 of the 1990 Act) to planning permission reference 13F/2313 and/or the First Section 73 Planning Permission and/or the Second Section 73 Planning Permission

Second Section 73 Planning Permission means the planning permission to be granted pursuant to an application submitted to the Council on 21 July 2016 and allocated reference 16F/2027 to vary condition 2 of planning permission reference 13F/2313 so as to allow changes to the size, number and layout of the proposed retail and restaurant units and to reconfigure the proposed internal road and parking layout on land to the west of Montrose Way"

3.2 The Parties acknowledge and confirm that, as a result of the variations contained in **clause 3.1**, the provisions and obligations in the Principal Deed (as varied by the Deed of Release and Variation) shall, subject to the grant of the Second Section 73 Planning Permission, become as fully and effectively binding and enforceable on the implementation of the Second Section 73 Planning Permission as on the implementation of the Planning Permission (and/or the First Section 73 Planning Permission) PROVIDED ALWAYS that nothing in the Principal Deed (as varied by the Deed of Release and Variation) or this Deed shall require the Developer to perform the same obligation more than once.

4. **CONFIRMATION OF THE PRINCIPAL DEED**

4.1 The Parties confirm that save as varied in the manner referred to in this Deed, the planning obligations contained in the Principal Deed (as varied by the Deed of Release and Variation) shall continue in full force and effect and shall apply to the

Planning Permission, the First Section 73 Planning Permission and the Second Section 73 Planning Permission.

- 4.2 It is hereby agreed by the Parties that to the extent that the planning obligations have been discharged under the Principal Deed (as varied by the Deed of Release and Variation) those obligations shall also be considered to be discharged in relation to this Deed.

5. **THE SECOND SECTION 73 PLANNING PERMISSION**

The Council agrees with the Developer that it will issue the Second Section 73 Planning Permission on the date of this Deed.

6. **COSTS OF THIS DEED**

Upon completion of this Deed the Developer shall pay to the Council its reasonable and proper legal costs incurred in connection with the preparation, negotiation and completion of this Deed.

7. **DETERMINATION OF DISPUTES**

- 7.1 Subject to **clause 7.7**, if any dispute arises relating to or arising out of the terms of this Deed, either Party may give to the other written notice requiring the dispute to be determined under this **clause 7**. The notice is to propose an appropriate Specialist and specify the nature and substance of the dispute and the relief sought in relation to the dispute.
- 7.2 For the purposes of this **clause 7** a "**Specialist**" is a person qualified to act as an expert in relation to the dispute having not less than 10 (ten) years' professional experience in relation to developments in the nature of the Section 73 Development and property in the same locality as the Site.
- 7.3 Any dispute over the type of Specialist appropriate to resolve the dispute may be referred at the request of either Party to the President or next most senior available officer of the Law Society who will have the power, with the right to take such further advice as he may require, to determine the appropriate type of Specialist and to arrange his nomination under **clause 7.4**.
- 7.4 Any dispute over the identity of the Specialist is to be referred at the request of either Party to the President or other most senior available officer of the organisation generally recognised as being responsible for the relevant type of Specialist who will have the power, with the right to take such further advice as he may require, to determine and nominate the appropriate Specialist or to arrange his nomination. If no such organisation exists, or the Parties cannot agree the identity of the

organisation, then the Specialist is to be nominated by the President or next most senior available officer of the Law Society.

7.5 The Specialist is to act as an independent expert and:

- 7.5.1 each Party may make written representations within 10 (ten) working days of his appointment and will copy the written representations to the other Party;
- 7.5.2 each Party is to have a further 10 (ten) working days to make written comments on the other's representations and will copy the written comments to the other Party;
- 7.5.3 the Specialist is to be at liberty to call for such written evidence from the Parties and to seek such legal or other expert assistance as he or she may reasonably require;
- 7.5.4 the Specialist is not to take oral representations from the Parties without giving both Parties the opportunity to be present and to give evidence and to cross-examine each other;
- 7.5.5 the Specialist is to have regard to all representations and evidence before him when making his decision, which is to be in writing, and is to give reasons for his decision; and
- 7.5.6 the Specialist is to use all reasonable endeavours to publish his decision within thirty working days of his appointment.

7.6 Responsibility for the costs of referring a dispute to a Specialist under this **clause 7**, including costs connected with the appointment of the Specialist and the Specialist's own costs, but not the legal and other professional costs of any Party in relation to a dispute, will be decided by the Specialist.

7.7 This **clause 7** does not apply to disputes in relation to matters of law or the construction or interpretation of this Deed which will be subject to the jurisdiction of the courts.

8. **JURISDICTION**

This Deed is to be governed by and interpreted in accordance with the law of England and Wales.

9. **EXECUTION**

The Parties have executed this Deed as a deed and it is delivered on the date set out above.

APPENDIX

Draft Second Section 73 Planning Permission

Conditions

1	<p>The development hereby permitted shall be commenced before 05 March 2018.</p> <p>REASON: To comply with Section 91 (as amended) of the Town and Country Planning Act 1990.</p>
2	<p>The development hereby approved shall be carried out in accordance with the following drawings and documents unless otherwise agreed in writing by the local planning authority: For the avoidance of doubt, drawings submitted under application 13F/2313 shall still apply to all areas falling outside the red line area as defined by drawing no: M8565_AEW_XX-XX-DR_A-1009 P3</p> <p>(i) Drawing Numbers M8565_AEW_XX-XX-DR-A- 1008 P3; 1009 P3</p> <p>M8565_AEW_B1-00-DR-A-0501 P5; B1-01M-DR-A-0502 P5; B1-RF-DR-A-0503 P4; B1-XX-DR-A-0504 P5; B1-XX-DR-A-0505 P5;</p> <p>M8565_AEW_B2-00-DR-A-0501 P7; B2-01M-DR-A-0502 P6; B2-RF-DR-A-0503 P6; B2-XX-DR-A-0504 P6; B2-XX-DR-A-0505 P6;</p> <p>M8565_AEW_B6-00-DR-A-0604 P7; B6-01-DR-A-0610 P1; B6-RF-DR-A-0605 P4; B6-ZZ-DR-A-0606 P5; B6-ZZ-DR-A-0607 P7; B6-00-DR-A-0608 P2; B6-00-DR-A-0609 P2;</p> <p>Landscape Drawing M2739.11</p> <p>(ii) Supporting Documents Planning and Regeneration Statement MA/DCL/001-1/R001m v1 Planning Statement Addendum MA/DG/001-15A/R001 m v1 Additionality and Regeneration Report MA/DCL/001-0/R001m v1 Design and Access Statement MA/DCL/001-1/R004m v1 Retail Assessment Addendum MA/DCL/001-1/R002m v1 Open Space Statement MA/DCL/001-1/R003m Statement of Community Involvement MA/DCL/001-1/R005m Sustainability and Energy Statement 10037/Retail Park/v2 Transport Assessment Sanderson Technical Note 9678/KS/001/04 December 2016 Framework Travel Plan Noise Assessment SHF.1075.001.R002.A Air Quality Assessment September 2013 Desktop Study Flood Risk Assessment Utilities Statement Rev 0 Landscape Management Plan & Schedules Feb 2017</p> <p>REASON: To ensure that the development is carried out in accordance</p>

	with the approved plans and within the parameters of the grant of planning permission.
3	<p>Prior to their implementation, details of the following works (for the development as a whole or in relation to a pre-defined and agreed phase) shall be submitted to and approved in writing by the local planning authority. The new retail units shall not be occupied until such details have been agreed and implemented in full (as applicable to that phase of development) to the satisfaction of the Local Planning Authority.</p> <ul style="list-style-type: none"> (i) location, design and orientation of CCTV systems (ii) design locations and materials used for all street furniture, litter bins, and seating (iii) location and design of cycle stands and cycle lockers (iv) submission of a signage strategy to provide design guidance, dimensional guidelines and luminance guidelines for all shop signage (v) external plant and equipment and their means of sound attenuation (vi) provision of childrens play equipment (vii) provision of raised kassel kerbs to suit dial-a-ride buses and taxis (viii) a lighting strategy which details design and operating hours of functional and decorative lighting to public areas and the Edge Lane corridor. (ix) all new boundary treatment, fences and gates <p>REASON: These details are not included in the application and the Council wishes to ensure that they are satisfactory.</p>
4	<p>Prior to commencement of development (for the development as a whole or in relation to a pre-defined and agreed phase) other than works of demolition, samples or specifications of all materials to be used in the external construction of this phase shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details to the satisfaction of the local planning authority before the phase of development is occupied/brought into use.</p> <p>REASON: To ensure a satisfactory external appearance.</p>
5	<p>Prior to commencement of development, including any works of demolition, a detailed construction method statement shall be submitted to and approved in writing by the local planning authority. The statement shall include:</p> <ul style="list-style-type: none"> (i) commencement and completion dates (ii) hours of operation for construction work (iii) measures to control noise and dust (iv) details of site compounds, storage of plant and materials (v) temporary highway works or closures (vi) access for construction traffic (vii) parking of vehicles of site operatives and visitors (viii) wheel washing facilities (ix) a scheme for recycling/disposing of waste resulting from demolition and construction works.

	<p>The scheme shall be implemented in accordance with the approved statement and completed to the satisfaction of the local planning authority before the development is occupied/brought into use.</p> <p>REASON: It is in the interests of the amenity of the surrounding occupiers.</p>
6	<p>Prior to commencement of development (for the development as a whole or in relation to a pre-defined and agreed phase) other than works of demolition, full details of the number, size, species, root treatment or container type and location of trees and shrubs to be planted and the treatment of all ground surfaces not built upon shall be submitted to and approved in writing by the local planning authority. The plan must be to a recognised scale and the symbols used and plant schedule provided must comply with BS EN ISO 11091:1999 Construction Drawings Landscape drawing practice.</p> <p>REASON: These details have not been submitted with the application and the Council wishes to ensure they are satisfactory in the interests of visual amenity.</p>
7	<p>(i) The approved landscaping scheme shall be completed either (a) not later than the first planting season following completion of the particular phase of development or (b) during the appropriate planting season progressively as the development proceeds, in accordance with a programme to be agreed in writing with the local planning authority.</p> <p>(ii) Any trees or shrubs which die, become diseased, damaged or are removed within 3 years of planting shall be replaced with trees and shrubs of similar sizes and species or as may otherwise be agreed with the local planning authority in the first available planting season thereafter, all works to be carried out to BS 4428: 1989 (Code of Practice for General Landscape Operation).</p> <p>REASON: It is in the interests of visual amenity.</p>
8	<p>Before development commences on Rathbone Park, a tree condition survey shall be submitted and agreed with the Local Planning Authority in order to establish whether any of the trees bordering Edge Lane can be retained in the planned future landscaped areas and following any road widening. Any trees that are to be retained shall be adequately protected during construction works, in accordance with a tree protection scheme to be agreed in writing and put in place prior to commencement of any ground works in this area.</p> <p>REASON: The Council wishes to retain any mature trees where possible in the interests of visual amenity.</p>
9	<p>The retail premises hereby approved shall not be open for business outside the hours of 0700 to 2100 Monday to Saturday and 0800 and 1700 on Sundays and Bank Holidays. Notwithstanding the above, the retail units located within the red line area identified on drawing M8565_AEW_DR_A-1009 P3 (Western Quarter) shall not be open for</p>

	<p>business outside the hours of 0700 to 2200 Monday to Saturday and 0800 and 1700 on Sundays and Bank Holidays.</p> <p>REASON: To ensure that nearby occupiers are not adversely affected by the development.</p>
10	<p>The restaurant premises shall not be open for business outside the hours of 0700 and midnight.</p> <p>REASON: To ensure that nearby occupiers are not adversely affected by the development.</p>
11	<p>The development shall be carried out in accordance with the recommendation of the Strategic Noise Assessment by Enzygo Ltd (SHF.1075.001.R.001.A) submitted in support of the application. In particular, a scheme of acoustic barriers (close boarded fencing or solid wall) shall be implemented in accordance with Plan 4 of the Strategic Noise Assessment report. (i.e. acoustic fencing erected where a solid wall or fence of sufficient height does not exist) and the acoustic barriers shall remain in place for the lifetime of the development.</p> <p>REASON: To safeguard the amenity of adjacent occupiers.</p>
12	<p>The rating level of the noise emitted from any plant shall not exceed the existing background noise level. The noise level shall be determined at the nearest noise sensitive premises. The measurements and assessments shall be made according to BS4142 1997. Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas.</p> <p>REASON: To safeguard the amenity of adjacent occupiers.</p>
13	<p>Prior to commencement of development (for the development as a whole or in relation to a pre-defined and agreed phase) other than works of demolition, details of a fume extraction system to be installed to all areas where hot food is to be prepared shall be submitted to and approved in writing by the local planning authority. The fume extraction system shall be installed in accordance with the approved details and completed to the satisfaction of the local planning authority before the phase of development is occupied/brought into use. Extract ducts shall be acoustically insulated and acoustically isolated from associated fans and the building structure. The discharge point should be at least 1 metre above roof eaves or in another such position so as to minimise the likelihood of nuisance to neighbouring premises, and for the avoidance of doubt, any fume extraction system shall not be operated outside the hours of 06.00 to 23.00 hours, unless otherwise agreed in writing by the local planning authority.</p> <p>REASON: To safeguard the amenity of adjacent occupiers.</p>
14	<p>Prior to the installation of any external lighting (for the development as a whole or in relation to a pre-defined and agreed phase), a lux contour diagram shall be submitted to and approved in writing by the local planning authority. The submitted diagram shall demonstrate that all floodlighting fittings shall be orientated so that measurements taken at any nearby habitable roomed windows do not exceed 6 lux, and, in the</p>

	<p>event of this luminance figure being exceeded, the fittings shall be re-orientated to the satisfaction of the local planning authority. The approved scheme of external lighting shall be implemented in accordance with the approved details and completed to the satisfaction of the local planning authority before the phase of development is occupied/brought into use.</p> <p>REASON: To safeguard the amenity of adjacent occupiers.</p>
15	<p>No part or phase of the development hereby permitted other than works of demolition shall commence until;</p> <p>(a) An investigation and assessment methodology, including analysis suite and risk assessment methodologies has been completed and submitted to and approved by the LPA in writing, prior to any site investigations.</p> <p>(b) A site investigation and assessment has been carried out by competent persons to determine the status of contamination including chemical, radiochemical, flammable or toxic gas, asbestos, biological and physical hazards at the site and submitted to the LPA. The investigations and assessments shall be in accordance with current Government and Environment Agency recommendations and guidance and shall identify the nature and extent of any contaminants present, whether or not they originate on the site, their potential for migration and risks associated with them. The assessment shall consider the potential risks to:</p> <ul style="list-style-type: none"> (i) human health, (ii) controlled waters, (iii) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, (iv) adjoining land, (v) ecological systems, and (vi) archaeological sites and ancient monuments. <p>(c) A detailed remediation scheme (if required), has been submitted to and agreed in writing with the LPA. This scheme shall include an appraisal of remedial options, implementation timetable, works schedule, site management objectives, monitoring proposals and remediation validation methodology. The scheme once completed must ensure that the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use.</p> <p>REASON: To ensure that risks from land contamination to future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.</p>
16	<p>After development of each phase commences and prior to occupation of that phase;</p> <p>(a) Following completion of the measures identified in the approved</p>

	<p>remediation scheme and prior to occupation of any part of the development, a verification report which shall confirm the adequacy of remediation must be prepared and submitted to and approved in writing by the LPA before this condition will be discharged.</p> <p>(b) If any potentially contaminated (unusual/suspect) material or flammable/toxic gas not previously identified is discovered, this must be reported in writing to the LPA and a further assessment and a revised remediation scheme will be required by the LPA. If no contamination is found then this should be detailed in the remediation verification report.</p> <p>REASON: To ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.</p>
17	<p>Prior to commencement of development (for the development as a whole or in relation to a pre-defined and agreed phase), a survey shall be undertaken to identify any invasive species present. In the event that any invasive species are found a method statement detailing how they will be dealt with shall be submitted to and approved in writing by the local planning authority. Any mitigation measures required shall be implemented in accordance with the approved details and completed to the satisfaction of the local planning authority before the phase of development is occupied/brought into use.</p> <p>REASON: In the interests of ecological stability.</p>
18	<p>Prior to commencement of development (for the development as a whole or in relation to a pre-defined and agreed phase) other than works of demolition, a scheme for the disposal of foul and surface waters shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details and completed to the satisfaction of the local planning authority before the phase of development is occupied/brought into use.</p> <p>REASON: To ensure a satisfactory means of drainage in accordance with Policy EP12 of the Liverpool Unitary Development Plan.</p>
19	<p>The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and addendum report, 7427/TW/001/01, 12 September 2013 & January 2014) and the following mitigation measures detailed within the FRA:</p> <p>(i) Limiting the maximum discharge rate from the proposed development to 30% less than current rate (estimated to be 2170 /litres/second)</p> <p>(ii) Ensure that finished construction ground (surface) levels channel exceedence flood flows away from buildings and occupants.</p>

	<p>(iii) Inclusion of permeable surfacing and green areas in finalised layout design to assist in drainage of development site.</p> <p>The mitigation measures (for the development as a whole or in relation to a pre-defined and agreed phase) shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.</p> <p>REASON: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To reduce the risk of flooding to the proposed development and future occupants. To ensure that the mitigation measures outlined above are successfully carried through to detail design, we would also request that the following conditions are attached to any permission granted.</p>
20	<p>The development shall not be commenced (for the development as a whole or in relation to a pre-defined and agreed phase), other than works of demolition until such time as a surface water drainage scheme has been submitted to, and approved in writing by, the local planning authority.</p> <p>The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.</p> <p>REASON: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To reduce the risk of flooding to the proposed development and future users.</p>
21	<p>The development hereby permitted shall not be commenced (for the development as a whole or in relation to a pre-defined and agreed phase) other than works of demolition, until such time as a scheme to create adequate exceedence flood flow paths and routing across the site has been submitted to, and approved in writing by, the local planning authority.</p> <p>The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.</p> <p>REASON: To reduce the risk of flooding to the proposed development and future users.</p>
22	No loading or unloading, servicing, collections or deliveries shall be

	<p>carried out on the site outside the hours of 0700 and 2100 Monday to Saturday and 0800 and 1700 on Sundays and Bank Holidays. Notwithstanding the above, no loading or unloading, servicing, collections or deliveries shall be carried out for the retail units located within the red line area identified on drawing M8565_AEW_DR_A-1009 P3 (Western Quarter) outside the hours of 0500 to 2345 on any day.</p> <p>REASON: To safeguard the amenity of nearby occupiers.</p>
23	<p>Any waste generated to be discarded as refuse or recycled shall be kept within the curtilage of the premises and shall only be placed outside the premises on such days as trade refuse collection will occur.</p> <p>REASON: To safeguard amenity and maintain the quality of the street environment.</p>
24	<p>Prior to their implementation, a scheme which details the following off-site highway works required to accommodate the development (for the development as a whole or in relation to a pre-defined and agreed phase) shall be submitted to and approved in writing by the local planning authority. The off-site highway works shall be implemented in accordance with an agreed programme which is indexed to the completion of floorspace within the development or agreed phases, and completed to the satisfaction of the local planning authority before the corresponding floorspace or phase within the development is occupied:</p> <p>(a) Stopping up the following sections of highway (as may be necessary):</p> <ul style="list-style-type: none"> (i) Binns Road at Edge Lane (proposed cul-de-sac) (ii) Binns Road between Rathbone Road and Montrose Way (iii) Binns Road at new 'link road' junction and junction with Dryden Road (iv) Dryden Road at new 'link road' junction and roundabout (v) Milton Road due to new road alignment (vi) Tapley Place (vii) Montrose Way and Roundabout within site boundary (viii) PROW running north to south adjacent to Rathbone Park <p>(b) The design/redesign of the following junctions including provision of pedestrian facilities where required:</p> <ul style="list-style-type: none"> (i) Edge Lane / Milton Road (ii) Edge Lane / Montrose Way (iii) Edge Lane / Rathbone Road (iv) Edge Lane / Mill Lane (v) Rathbone Road / Binns Road <p>(c) The relocation or upgrade of bus stops serving the development;</p> <p>(d) The provision of a dedicated cycleway along the new link road joining Binns Road with Milton Road and Edge Lane;</p> <p>(e) An assessment of street lighting and drainage serving the site and any upgrading where necessary;</p> <p>(f) A review and any necessary amendments to Traffic Regulation Orders;</p>

	<p>Off site highway works shall be implemented under the provisions of a Section 278 Agreement with the City Council and at nil cost to the City Council as highway authority.</p> <p>REASON: To ensure the scale of development can be adequately accommodated on the surrounding highway network.</p>
25	<p>No part of the development hereby approved shall be occupied until details showing the forward visibility splays and junction visibility splays for the new access roads have been submitted to, and approved in writing by, the Council as Local Planning Authority. The approved splays shall subsequently be cleared of all obstructions to visibility to footway/verge level and so maintained free of any visual obstruction thereafter.</p> <p>Reason: To provide drivers of vehicles using the access and other users of the public highway with adequate inter-visibility commensurate with the traffic flows and road conditions in the interests of road safety.</p>
26	<p>No part of the development hereby approved shall be occupied until details showing the pedestrian and vehicular access linkage between the "western quarter" and the wider site have been submitted to and approved in writing by the Council as Local Planning Authority. The development shall be constructed in accordance with the approved details unless otherwise agreed in writing by the Council as Local Planning Authority.</p> <p>Reason: To ensure a satisfactory development of the site and a satisfactory standard of highway design and construction in the interests of highway safety and the amenity and convenience of highway users.</p>
27	<p>Prior to the occupation of any part of the development, a Framework Travel Plan (for the development as a whole or in relation to a pre-defined and agreed phase) shall be submitted to and approved in writing by the local planning authority. Following approval of the Framework Travel Plan and within 6 months of the occupation of the development (for the development as a whole or in relation to a pre-defined and agreed phase), a Full Travel Plan shall be submitted and approved in writing by the local planning authority. The applicants, its successors in title, and their respective agents shall use reasonable endeavours to seek the support and agreement of individual operators to achieve the objectives and targets in the plan. The plan shall be reviewed at 2 yearly intervals between the local planning authority and the applicants unless otherwise agreed in writing.</p> <p>REASON: To promote alternative forms of safe transport other than the private car in the interests of sustainability.</p>
28	<p>The development shall not commence (for the development as a whole or in relation to a pre-defined and agreed phase), other than works of</p>

	<p>demolition, until such time as an Access/Egress Strategy has been submitted to and approved in writing by the local planning authority which sets out design and operational principles for ensuring the needs of those with mobility or sensory impairments are appropriately considered and addressed. Thereafter the subsequent operation of the development shall be consistent with the details of the approved Access/Egress Strategy. The Strategy shall provide full details (for the development as a whole or in relation to a pre-defined and agreed phase) relating to accessible parking, drop off areas, pedestrian approaches including safe crossings, directional signage, street furniture, lighting, public facilities, access to public transport and entrances to buildings within the site. The report should include a detailed fire evacuation strategy adopted to ensure safe evacuation of disabled people from individual units.</p> <p>REASON: To ensure that appropriate provision is made for disabled people and the development is accessible to all potential visitors with special access requirements.</p>
29	<p>The Changing Places facility and public toilets shall be available for use between the hours of 0700 and 2200.</p> <p>REASON: To ensure these customer facilities are available in the interests of accessibility and amenity.</p>
30	<p>The total gross internal floorspace devoted to Class A1 and Class A3 uses, including, for the avoidance of doubt, any mezzanine floorspace, shall not exceed 53,340 sqm.</p> <p>REASON: This is in accordance with the extent of floorspace that the City Council has assessed and considers acceptable so as to not have a detrimental impact on the city centre and nearby centres.</p>
31	<p>The total gross internal floorspace devoted to Class A1 uses, including, for the avoidance of doubt, any mezzanine floorspace, shall not exceed 50,692 sqm.</p> <p>REASON: This is in accordance with the extent of floorspace that the City Council has assessed and considers acceptable so as to not have a detrimental impact on the city centre and nearby centres.</p>
32	<p>The total gross internal floorspace devoted to Class A3 uses, including, for the avoidance of doubt, any mezzanine floorspace, shall not exceed 2,648 sqm.</p> <p>REASON: This is in accordance with the extent of floorspace that the City Council has assessed and considers acceptable so as to not have a detrimental impact on the city centre and nearby centres.</p>
33	<p>The total net retail floorspace devoted to Class A1 uses, including, for the avoidance of doubt, any mezzanine floorspace, shall not exceed 35,312 sqm.</p>

	REASON: This is in accordance with the extent of floorspace that the City Council has assessed and considers acceptable so as to not have a detrimental impact on the city centre and nearby centres.
34	<p>The total net retail floorspace used primarily for food retailing shall not exceed 5017 sqm including, for the avoidance of doubt, any mezzanine floorspace. For the further avoidance of doubt, the net retailing areas for convenience products within stores used primarily for food retailing shall not be more than 3657 sqm.</p> <p>REASON: This is in accordance with the extent of convenience floorspace that the City Council has assessed and considers acceptable so as to not have a detrimental impact on the city centre and nearby centres.</p>
35	<p>The total net retail floorspace used and available for general comparison goods retailing (other than ancillary to the principle retail use of the premises) shall be no more than 18954 sqm including, for the avoidance of doubt, any mezzanine floorspace. Of this, at least 6856 sqm of the net floorspace hereby approved is for the following goods (other than ancillary to the principle retail use of the premises) unless otherwise agreed in writing with the Local Planning Authority prior to implementation:</p> <p>watches, clocks and jewellery; books and stationery; health and beauty products; unrecorded and pre-recorded media; recreation goods, sports clothing and footwear; and fashion accessories (including handbags, briefcases and luggage). For the purposes of this condition, it will "ancillary" where the area occupied by a type of goods or service does not exceed 15% of net retail floorspace for any given unit.</p> <p>REASON: This is in accordance with the extent of comparison floorspace that the City Council has assessed and considers acceptable so as to not have a detrimental impact on the city centre and nearby centres.</p>
36	<p>The total net retail floorspace used and available for bulky goods retailing shall be at least 11341 sqm including, for the avoidance of doubt, any mezzanine floorspace. The bulky goods retailing hereby approved is for the following goods unless otherwise agreed in writing with the Local Planning Authority prior to implementation:</p> <p>Furniture; homeware items; wallcoverings and floor coverings; DIY products; electrical items; garden products; kitchen and bathroom showrooms; luggage; and soft furnishings.</p> <p>REASON: This is in accordance with the extent of convenience retail floorspace that the City Council has assessed and considers acceptable so as to not have a detrimental impact on the city centre and nearby centres.</p>
37	<p>Prior to the occupation of any of the approved Class A1 and Class A3 units, a plan shall be submitted to and approved by the Local Planning Authority identifying the principal use of that unit and other occupied units where they shall be either for food retailing, Class A3 or floorspace used or available for the retailing of bulky goods as set out at Condition 35 above. Any subsequent variation to this approved plan must be agreed</p>

	<p>in writing with the Local Planning Authority prior to implementation.</p> <p>REASON: These details are not included in the application and the Council wishes to ensure that the conditions relating to retail floorspace are capable of being monitored.</p>
38	<p>Notwithstanding the provisions of Article 2A of the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006 (or any Order replacing or superseding that Order), no additional mezzanine floors shall be installed at any time unless otherwise agreed with the local planning authority.</p> <p>REASON: To prevent intensification of floorspace, which has not been accounted for in the submitted Retail Assessment and to safeguard the retail vitality and viability of other shopping centres.</p>
39	<p>No more than 12 of the Class A1 retail units shall have an individual gross internal area of less than 400 sq.m.</p> <p>REASON: To ensure that the retail floorspace within the development is distributed amongst larger retail units in order safeguard the retail vitality and viability of other shopping centres.</p>

Informatives

1.	<p>During the site works the contractor shall pay full regard to the best practicable means available in respect of the control of noise and dust from the site. In addition, no operations which are audible at the site boundary shall be carried out:</p> <p>(i) outside the hours of 0800 to 1800 weekdays</p> <p>(ii) outside the hours of 0800 to 1300 Saturdays, and</p> <p>(iii) at any time on Sundays or Bank Holidays.</p>
2.	<p>The Environment Agency</p> <p>The Environment Agency strongly recommends that chemical testing of soils for site investigation, verification of remediation and long-term site monitoring should be undertaken by laboratories with accreditation to the Environment Agency's Monitoring Certification Scheme (MCERTS) performance standard for soils. Liverpool City Council also recommend the adoption of these standards when the above mentioned activities are undertaken in accordance with planning requirements or as part of a voluntary remediation scheme. Further information on the standard is available on the Environment Agency's website at www.environment-agency.gov.uk/mcerts.</p> <p>Liverpool City Council</p> <p>Liverpool City Council guidance relating to the re-development of potentially-contaminated land is available at http://www.liverpool.gov.uk/Business/Environmental-health/contaminated-land/. This sets out general advice for Developers, the responsibilities of all involved parties, and detailed technical requirements for</p>

	<p>Environmental Consultants preparing information for regulatory submission. The Developer & Consultants' Guide, in particular, should be followed during the preparation and reporting of investigations so as to ensure of their adequacy, and allow swift, informed decisions to be made on the suitability of a proposed development and any remediation schemes put forward. We stress that failure of an appointed Environmental Consultant to submit adequate information is likely to result in requests for further information, may delay the commencement of a development, or prevent the discharge of associated Planning Conditions.</p>
3.	<p>Liverpool City Council is the street name and numbering authority and has the responsibility of allocating postal addresses to new properties and existing properties converted to residential. All street name and numbering must be managed and agreed appropriately in accordance with LCC standards and policy. Please contact Miss Zita Carroll on 0151 233 5240 to progress these works.</p>
4.	<p>There are areas of adopted highways that necessitate a Stopping-Up of the highway and the highway status removed. All closures required shall be at nil cost to LCC.</p> <p>In the first instance the applicant is requested to contact Mr Michael Cassidy on 0151 233 5230 to progress these works.</p>
5.	<p>For those new highways to be adopted and maintained at public expense, the developer shall be required to enter into an agreement with Liverpool City Council pursuant to section 38 of the Highways Act 1980; all works and associated legal agreements shall be at the developer's cost and at nil cost to the City Council.</p>
6.	<p>The applicant is advised that all necessary off-site highway works shall be carried out by means of a Section 278 Highways Agreement and all highway materials removed shall be reclaimed by the City Council. In this respect, the applicant should contact the Council's Highway Management Section on telephone number 0151 233 5241.</p>
7.	<p>NB. This permission has been granted subject to the applicants entering into a legal agreement under Section 106 of the Town and Country Planning Act 1990. Details of the agreement are available on request.</p>
8.	<p>Reasons for Approval - Positive Planning</p> <p>The decision to grant permission and impose any conditions has been taken having regard to the relevant policies and proposals in the Liverpool Unitary Development Plan 2002. The Local Planning Authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with a planning applications and have implemented the requirement in NPPF para 187.</p>

Policies

THE COMMON SEAL of the LIVERPOOL)

CITY COUNCIL was)

hereunto affixed in the presence of:



Authorised Signatory



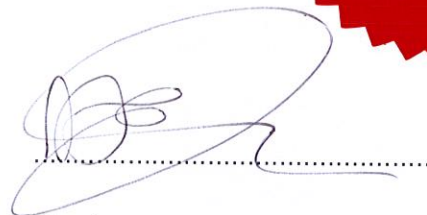
Executed and Delivered as a Deed)

by **DERWENT HOLDINGS LIMITED**)

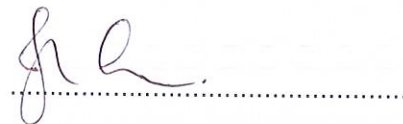
affixing its Common Seal in the)

presence of two duly authorised)

officers:)



Director



Director/Secretary