

DATED 10th December 2014

DOMINO INVESTMENT GROUP INC

to

THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BARNET

UNILATERAL UNDERTAKING

made under Section 106 of the Town and Country Planning Act 1990
relating to the development of the land at 2A The Grove London NW11 9SH in the
London Borough of Barnet

HB Public Law
Legal Practice for Barnet and Harrow Councils
PO Box 2
Civic Centre
Harrow, Middlesex
HA1 2UH
DX 30450 HARROW 3
Ref: DL/EBAC-PH001-015387

THIS UNILATERAL UNDERTAKING is given on the
2014

10th day of December

BY:

- (1) **DOMINO INVESTMENT GROUP INC** (incorporated in the British Virgin Islands under Company Registration Number 301967) whose registered office address is Yamraj Building Market Square Road Town Tortola British Virgin Islands and whose principal address in England and Wales is at 30 Brookside Road London NW11 9NE ("**the Owner**")

TO:

- (2) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BARNET** of North London Business Park, Oakleigh Road South, London N11 1NP ("**the Council**")

RECITALS:-

- (A) The Council is the local planning authority for the purposes of the 1990 Act for the area within which the Land is situated and by whom the obligations in this Unilateral Undertaking are enforceable
- (B) The Owner is the registered freehold proprietor with title absolute of the Land registered at HM Land Registry under title number MX157811
- (C) On 1 September 2014, the Owner made the Application to the Council for the Planning Permission to carry out the Development
- (D) The Council resolved by an officer delegated decision dated 13.11.2014 to grant the Planning Permission for the Development subject to conditions and completion of this Unilateral Undertaking
- (E) The Council considers it expedient in the interests of the proper planning of its area and having regard to the development plan and to all other material

considerations that provision should be made for regulating or facilitating the Development in the manner set out in this Unilateral Undertaking.

- (F) The Owner is satisfied that the planning obligations secured by this Unilateral Undertaking are necessary to make the Development acceptable in planning terms, are directly related to the Development and are fairly and reasonably related in scale and kind to the Development.

NOW THIS UNILATERAL UNDERTAKING WITNESSES as follows:-

1 INTERPRETATION

- 1.1 For the purposes of this Unilateral Undertaking the following words and expressions shall unless the context otherwise requires have the following meanings:-

“the 1990 Act” means the Town and Country Planning Act 1990 (as amended)

“Application” means the application for planning permission to carry out the Development at the Land validated by the Council on 3 September 2014 and given the reference F/04761/14

“Commencement of Development” means commencement of the Development by the undertaking of a material operation as defined by section 56(4) of the 1990 Act
PROVIDED ALWAYS THAT:

(a) ground investigations and/or site survey works;

(b) diversion decommissioning and/or laying of services and service media for the supply or carriage of electricity gas water sewerage telecommunications or other utilities media

or services;

(c) construction of temporary boundary fencing or hoardings;

(d) temporary diversion of highways;

(e) archaeological investigation;

(f) noise attenuation works;

(g) remediation works;

(h) evacuation works to adjust ground levels on site; and

(i) temporary display of advertisements

shall not be taken to be a material operation for the purposes of this Unilateral Undertaking

“Development”

means the demolition of existing building and erection of 2 storey building to create 7 no. self contained flats including basement level, rooms in roof space, refuse/recycling facilities, 3no. off street parking spaces and hard/soft landscaping as described in the Application

“Expert”

means an independent and suitable person holding appropriate professional qualifications appointed in accordance with the provisions of clause 5 to determine a

dispute

“Highways Contribution ” means the sum of £2000 (TWO THOUSAND POUNDS Index-Linked being a contribution towards the costs of changes to an existing traffic order in the vicinity of the Development and/or creation of a new traffic order in relation to the Development to prevent residents of the Development from obtaining parking permits

“Index” means the “All Items” Retail Prices Index published by the Office for National Statistics (or any successor ministry department or organisation) or if such index is at the relevant time no longer published such other comparable index or basis for indexation as the Parties may agree

“Index-Linked” means increased in accordance with following formula:

$A=B \times C/D$ where:

(a) A is the sum actually payable on the Specified Date;

(b) B is the original sum mentioned in this Unilateral Undertaking;

(c) C is the Index for the month 2 months before the Specified Date;

(d) D is the Index for the month 2 months before the date of this Unilateral Undertaking; and

(e) C/D is equal to or greater than 1

“Interest”

means interest at four percent (4%) above the base lending rate of the Co-operative Bank Plc or such other bank as the Council uses from time to time

“the Land”

means the land at 2A The Grove London NW11 9SH within which the Development is to take place and against which the obligations in this Unilateral Undertaking may be enforced which is registered at HM Land Registry under title number MX157811 and shown for the purpose of identification only edged red on the Plan

‘Plan’

means the plan attached to this Unilateral Undertaking at Schedule 1

“Planning Permission”

means the planning permission for the Development to be granted by the Council pursuant to the Application

“Working Day”

means any day excluding Saturdays, Sundays and any bank holidays in England and **“Working Days”** shall be construed accordingly

1.2 In this Unilateral Undertaking:-

- 1.2.1 Reference to any statutory provision or enactment shall include reference to any statutory re-enactment thereof and any statutory instrument regulation or order made under it which is for the time being in force
- 1.2.2 The headings in this Unilateral Undertaking are for convenience only and shall not be deemed to be part of, or taken into consideration in the interpretation of this Unilateral Undertaking.
- 1.2.3 Reference to any clause sub-clause paragraph or schedule are references to clauses sub-clauses paragraphs or schedules in this Unilateral Undertaking
- 1.2.4 Unless the context otherwise requires words importing the singular meaning shall include the plural and vice versa
- 1.2.5 Words of the masculine gender include the feminine and neuter genders and words denoting actual persons include bodies corporate companies corporations and firms and all such words shall be construed as interchangeable in that manner.
- 1.2.6 Words denoting an obligation on a party to do any act matter or thing include an obligation to procure that it be done and words placing a party under a restriction include an obligation not to allow cause permit or suffer any infringement of the restriction
- 1.2.7 Covenants made in this Unilateral Undertaking if made by more than one person are made jointly and severally unless otherwise expressly stated
- 1.2.8 Reference to any party to this Unilateral Undertaking shall include the successors in title to that party
- 1.2.9 Reference to the Council shall mean the London Borough of Barnet acting in its statutory capacity as local planning authority (and any successor to its respective statutory functions)

2 STATUTORY AUTHORITY AND ENFORCEABILITY

- 2.1 This Unilateral Undertaking is entered into under section 106 of the 1990 Act for the purposes of creating planning obligations in respect of the Land and all the restrictions covenants and undertakings in this Unilateral Undertaking are planning obligations for the purposes of Section 106 of the 1990 Act and are enforceable by the Council not only against the Owner but also against any successors in title to the respective interests of the Owner (unless otherwise stated in this Unilateral Undertaking).
- 2.2 This Unilateral Undertaking is executed by the Owner as a Deed.

3 THE OWNER'S COVENANTS AND OBLIGATIONS

- 3.1 The Owner covenants with the Council to perform the obligations specified in Schedule 2.
- 3.2 The Owner covenants to pay on or before completion of this Unilateral Undertaking the Council's reasonable legal costs incurred in connection with the negotiation, preparation and execution of this Unilateral Undertaking

4 DETERMINATION OF THE PLANNING PERMISSION

- 4.1 Without prejudice to any of the obligations which come into force on or before the date of this Unilateral Undertaking it is agreed and declared that this Unilateral Undertaking shall cease to have any further effect in the event that:-
- 4.1.1 the Planning Permission shall lapse without having been implemented; or
- 4.1.2 the Planning Permission shall be revoked; or
- 4.1.3 if the Planning Permission is quashed on judicial review without being thereafter re-granted by the Council
- 4.2 This Unilateral Undertaking is intended to regulate and restrict the carrying out of the Development and shall not prohibit or restrict the carrying out of any other development which may be authorised by any planning permission issued subsequent to the grant of the Planning Permission

5 DISPUTE PROVISIONS

- 5.1 In the event of any dispute or difference arising between the parties in respect of any matter contained in this Unilateral Undertaking, such dispute or difference shall be referred to an Expert to be agreed by the parties, or in the absence of agreement, to be appointed, at the request of any of the parties, by or on behalf of the president for the time being of the professional body chiefly responsible for dealing with such matters as may be in dispute and the decision of such an Expert shall be final and binding on the parties
- 5.2 The Expert shall be appointed subject to an express requirement that the Expert shall reach a decision and communicate it to the parties within the minimum practicable timescale allowing for the nature and complexity of the dispute and in any event not more than twenty-eight (28) Working Days from the date the Expert receives the written submissions of the parties pursuant to clause 5.3.
- 5.3 The Expert shall be required to give notice to each party inviting each party to submit within ten (10) Working Days of the Expert's appointment, written submissions and supporting material and shall afford each party a further five (5) Working Days to make counter-submissions to the written submissions of any other party.
- 5.4 The Expert's costs shall be payable by the parties to the dispute in such proportion as he shall determine and failing such determination shall be borne by the Parties in equal shares.
- 5.5 The provisions of this clause 6 shall not fetter the Council's power to enforce this Unilateral Undertaking by way of an application for declaratory relief or injunction.

6 POWERS OF THE COUNCIL

Nothing in this Unilateral Undertaking shall fetter or restrict or prejudice or affect the rights discretions powers duties and obligations of the Council in the exercise of its statutory functions under any enactment (whether public or

private) statutory instrument regulation byelaws order or power for the time being in force

7 WAIVER

No waiver (whether express or implied by the Council of any breach or default by the Owner in performing or observing any of the covenants terms conditions undertakings obligations or restrictions contained in this Unilateral Undertaking shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said covenants terms conditions undertakings obligations or restrictions or from acting up on any subsequent breach or default in respect thereof by the Owner

8 CHANGE OF OWNERSHIP

The Owner warrants that no person other than the Owner has any legal or equitable interest in the Land.

9 THIRD PARTY RIGHTS

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Unilateral Undertaking and as such a person who is not named in this Unilateral Undertaking shall not have a right to enforce any of its terms PROVIDED ALWAYS THAT nothing in this Unilateral Undertaking shall prevent any successors in title to any of the parties from being able to benefit or to enforce the provisions of this Unilateral Undertaking (and in the case of the Council the successor to its respective statutory functions).

10 REGISTRATION OF THIS UNILATERAL UNDERTAKING

This Unilateral Undertaking shall be registered as a local land charge in the Register of Local Land Charges maintained by the Council.

11 JURISDICTION

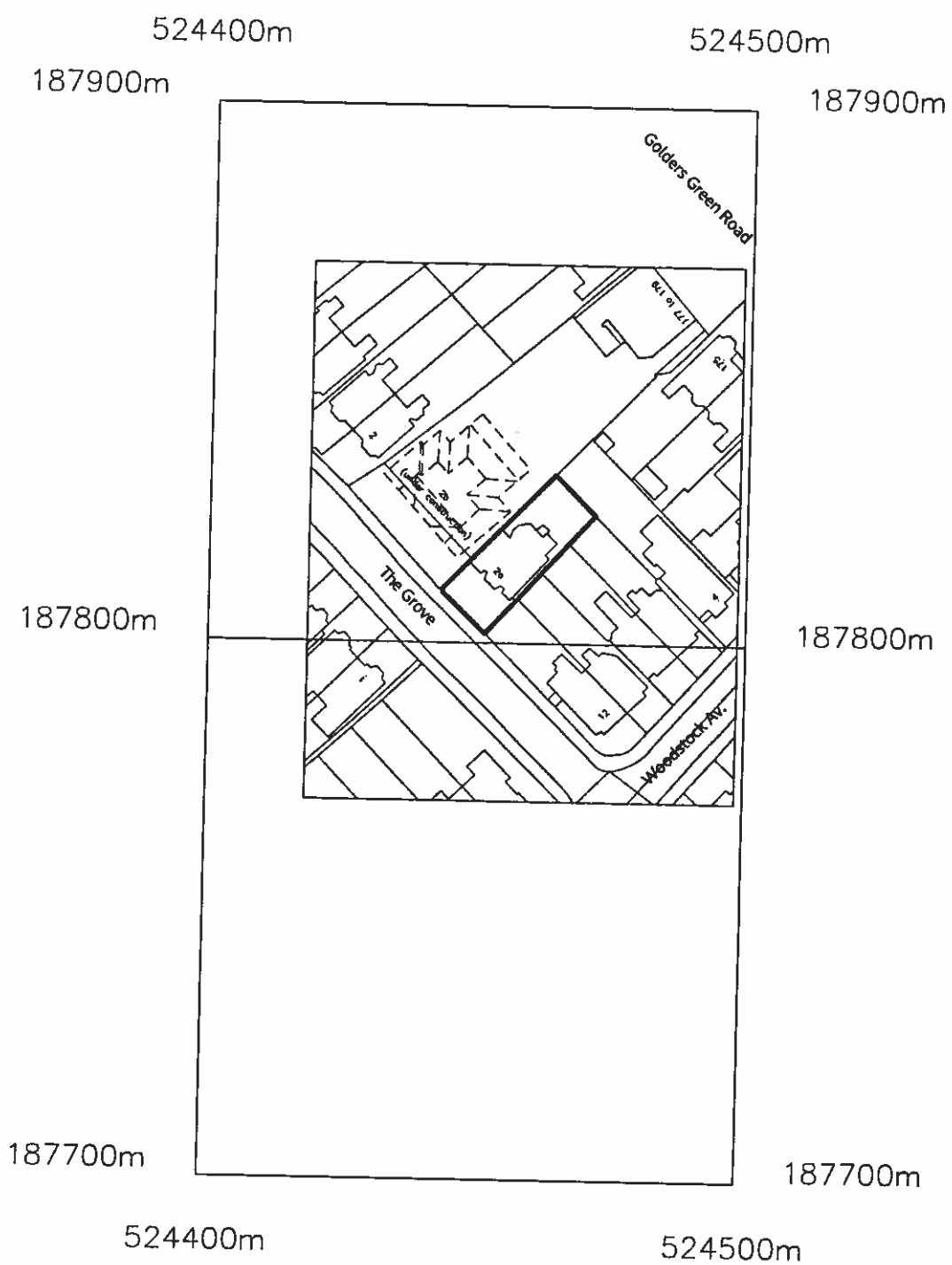
This Unilateral Undertaking is governed by and interpreted in accordance with the law of England and Wales.

IN WITNESS of which this Unilateral Undertaking has been duly executed as a deed and delivered on the day and year first above written.



SCHEDULE 1

Plan



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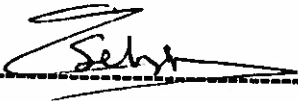
SCHEDULE 2

1. CONTRIBUTION

2.1 The Owner shall pay to the Council the Highways Contribution upon completion of this Deed

**Signed as a deed on behalf of)
DOMINO INVESTMENT GROUP INC)
a company incorporated in the)
British Virgin Islands)**

By)


-----)

) Authorised Signatory

-----)

) Authorised Signatory

**Being persons who in accordance with)
the laws of that territory are acting)
under the authority of the company)**

