

DATED

22 October

2012

(1) DORRINGTON HATTON LIMITED

and

(2) THE PRUDENTIAL ASSURANCE COMPANY LIMITED

and

(3) M&G REAL ESTATE FINANCE 1 CO S.A.R.L

and

(4) THE MAYOR AND BURGESSES OF
THE LONDON BOROUGH OF CAMDEN

A G R E E M E N T

relating to land known as

36-38 Diamond House, Hatton Garden, London EC1N 8EB
pursuant to Section 106 of the Town and Country Planning
Act 1990 (as amended)

Andrew Maughan
Head of Legal Services
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 5826

Fax: 020 7974 1920

THIS AGREEMENT is made the 22nd day of October 2012

B E T W E E N:

- i. **DORRINGTON HATTON LIMITED** (company registration number 5748631) whose registered office is at Dorrington Properties PLC, 14 Hans Road, London SW3 1RT and of 16 Hans Road, London SW3 1RT and care of Tarlo Lyons, Watchmaker Court 33 St Johns Lane, London EC1M 4ND (hereinafter called "the Owner") of the first part
- ii. **THE PRUDENTIAL ASSURANCE COMPANY LIMITED** (company registration number 00015454) and **M & G REAL ESTATE FINANCE 1 CO. S.A.R.L.** (incorporated in Duchy of Luxembourg) of each care of Laurence Pountney Hill, London EC4R 0HH (hereinafter called "the Mortgagee") of the second part
- iii. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the third part

1. WHEREAS

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number 105447 subject to a charge to the Mortgagee. The Owner is the freehold Owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.2 A Planning Application for the development of the Property was submitted to the Council and validated on 9 May 2012 and the Council resolved to grant permission conditionally under reference number 2012/2327/P subject to conclusion of this legal Agreement.
- 1.3 The Council is the local planning authority for the purposes of the Act for the area in which the Property is situated and considers it expedient in the interests of the proper planning of its area that the development of the Property should be restricted or regulated in accordance with this Agreement.

1.4 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.

1.5 The Mortgagee as mortgagee under a legal charge registered under Title Number 105447 and dated 3 June 2008 (hereinafter called "the Legal Charge") is willing to enter into this Agreement to give its consent to the same.

2. **DEFINITIONS**

In this Agreement the following expressions (arranged in alphabetical order) shall unless the context otherwise requires have the following meanings:-

- | | | |
|-----|-------------------------------------|--|
| 2.1 | "the Act" | the Town and Country Planning Act 1990 (as amended) |
| 2.2 | "the Agreement" | this Planning Obligation made pursuant to Section 106 of the Act |
| 2.3 | "the Development" | Change of use of lower ground floor from office use (Class B1) to Pilates studio (Class D2) as shown on drawing numbers Location Plan; 902.200; 902.201 |
| 2.4 | "the Implementation Date" | the date of implementation of the Development by the carrying out of a material operation as defined in Section 56 of the Act and references to "Implementation" and "Implement" shall be construed accordingly |
| 2.5 | "the Jewellery Sector Contribution" | the sum of £61,752.00 (sixty one thousand seven hundred and fifty two pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt to support initiatives to improve business and competitiveness within the Hatton Garden |

jewellery and allied industries as identified in the Jewellery Sector Investment Plan October 2005

- 2.6 "Occupation Date" the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.7 "the Parties" mean the Council Owner and the Mortgagee
- 2.8 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 9 May 2012 for which a resolution to grant permission has been passed conditionally under reference number 2012/2327/P subject to conclusion of this Agreement
- 2.9 "Planning Obligations Monitoring Officer" a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to S106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1 hereof
- 2.10 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.11 "the Property" the land known as 36-38 Diamond House, Hatton Garden, London EC1N 8EB the same as shown shaded grey on the plan annexed hereto

3. **NOW THIS DEED WITNESSETH** as follows:-

- 3.1 This Agreement is made in pursuance of Section 106 of the Act, and is a planning obligation for the purposes of Section 106 as aforesaid, and shall be enforceable by the Council against the Owner as provided herein and against any person deriving title to any part of the Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.
- 3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies corporations and other artificial persons.
- 3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.
- 3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6, 7 and 8 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Agreement shall become binding upon the Owner upon the Implementation Date.
- 3.6 The Council hereby agrees to grant the Planning Permission on the date hereof.
- 3.7 The Parties save where the context states otherwise shall include their successors in title.

4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

4.1 **JEWELLERY SECTOR CONTRIBUTION**

- 4.1.1 The Owner hereby covenants with the Council on or prior to the Implementation Date to pay to the Council the Jewellery Sector Contribution in full.
- 4.1.2 The Owner hereby covenants with the Council not to Implement or to permit Implementation until such time as the Council has received the Jewellery Sector Contribution in full.

5. **NOTICE TO THE COUNCIL/OTHER MATTERS**

- 5.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Development has taken or is about to take place.
- 5.2 Within seven days following completion of the Development the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting planning reference 2012/2327/P the date upon which the Development is ready for Occupation.
- 5.3 The Owner shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council to have access to any part of the Property or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.
- 5.4 The Owner agrees declares and covenants with the Council that it shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall indemnify the Council for any expenses

or liability arising to the Council in respect of breach by the Owner of any obligations contained herein save to the extent that any act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.

- 5.5 If satisfied as to the compliance of the Owner in respect of any obligation in this Agreement the Council shall (if requested to do so in writing and subject to payment of a fee of £1,000.00 in respect of each such obligation) provide through its Head of Legal Services a formal written certification of compliance, partial compliance or ongoing compliance (as and if appropriate) with the provisions of any such obligation.
- 5.6 Payment of the financial contribution pursuant to Clause 4.1 of this Agreement shall be made by the Owner to the Council sending the full amount in the form of a Banker's Draft to the Planning Obligations Monitoring Officer referring to the names dates and Parties to this Agreement and citing the specific clause of this Agreement to which such Contribution relates quoting the Income Code ZN470ZL065 or by Electronic Transfer directly to the Co-Operative Bank plc of 1 Islington High Street London N1 9TR quoting Sort Code 08-90-33 and London Borough of Camden General Account No. 61030019 and to inform the Planning Obligations Monitoring Officer of such payment quoting the above details as if the payment had been made by Banker's Draft.
- 5.7 All consideration given in accordance with the terms of this Agreement shall be exclusive of any value added tax properly payable in respect thereof and all parties other than the Council shall pay and indemnify the Council against any such value added tax properly payable on any sums paid to the Council under this Agreement upon presentation of an appropriate value added tax invoice addressed to the Owner.
- 5.8 Any sums referred to in this Agreement as payable or to be applied by any party other than the Council under this Agreement shall be paid or applied TOGETHER WITH if such payment or application is made more than three months from the date of this Agreement a further sum ("A") being equal to the original sum payable ("B") multiplied by a figure being a fraction of which the All Items of Retail Prices ("the AIIRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AIIRP figure published before the date such payment

or application is made ("Y") less the last published AllRP figure at the date hereof ("X") is the numerator so that

$$A = \frac{B \times (Y-X)}{X}$$

- 5.9 All costs and expenses payable to the Council under this Agreement shall bear interest at the rate of 4% above the Base Rate of the National Westminster Bank plc from time to time being charged from the date such payment is due until payment is made.

6. **IT IS HEREBY AGREED AND DECLARED** by the Parties hereto that:-

- 6.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the planning reference number 2012/2327/P and in the case of any notice or approval or agreement from the Council this shall be signed by a representative of the Council's Environment Department.
- 6.2 This Agreement shall be registered as a Local Land Charge.
- 6.3 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Agreement on or prior to the date of completion of the Agreement.
- 6.4 The Owner hereby covenants with the Council that it will within 28 days from the date hereof apply to the Chief Land Registrar of the Land Registry to register this Agreement in the Charges Register of the title to the Property and will furnish the Council forthwith on written demand with official copies of such title to show the entry of this Agreement in the Charges Register of the title to the Property.

- 6.5 Nothing contained or implied in this Agreement shall prejudice or affect the Council's powers to enforce any specific obligation term or condition nor shall anything contained or implied herein prejudice or affect any provisions, rights, powers, duties and obligations of the Council in the exercise of its functions as Local Planning Authority for the purposes of the Act or as a local authority generally and its rights, powers, duties and obligations under all public and private statutes, bye laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.
- 6.6 Neither the Owner or the Mortgagee nor their successors in title nor any person deriving title from them shall be bound by the obligations in this Agreement in respect of any period during which it no longer has an interest in the Property but without prejudice to liability for any breach committed prior to the time it disposed of its interest.
- 6.7 For the avoidance of doubt the provisions of this Agreement (other than those contained in this sub-clause) shall not have any effect until this Agreement has been dated.
- 6.8 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the commencement of development or is modified (other than by agreement with or at the request of the Owner) this Agreement shall forthwith determine and cease to have effect.

7. MORTGAGEE EXEMPTION

- 7.1 The Mortgagee hereby consents to the completion of this Agreement and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 6.4 hereof and for the avoidance of doubt agrees to be bound by the said obligations only in the event that it becomes a mortgagee in possession of the Property.

8. **RIGHTS OF THIRD PARTIES**

8.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Owner and the Mortgagee have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY)
DORRINGTON HATTON LIMITED)
acting by a Director and its Secretary)
or by two Directors)

.....
Director

.....
Director/Secretary

For and on behalf of
Hanover Management
Services Limited
Secretaries to the Company

EXECUTED as a Deed)
By THE PRUDENTIAL ASSURANCE)
COMPANY LIMITED)
By)
in the presence of:-)

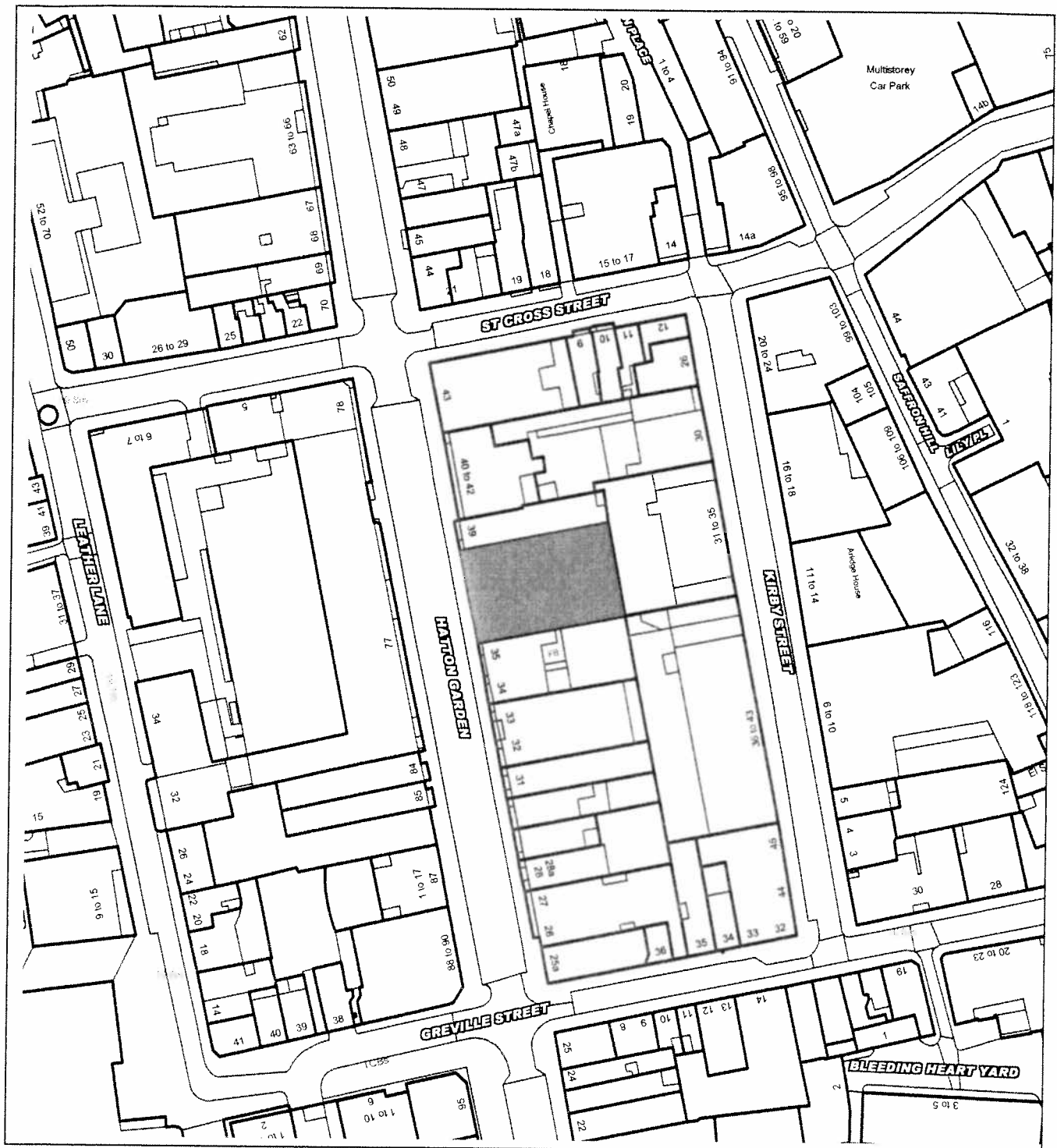
EXECUTED as a Deed)
By M&G REAL ESTATE FINANCE)
1 CO S.A.R.L.)
By)
in the presence of:-)

THE COMMON SEAL OF THE MAYOR)
AND BURGESSES OF THE LONDON)
BOROUGH OF CAMDEN was hereunto)
Affixed by Order:-)

.....
Authorised Signatory



36-38 Diamond House, Hatton Garden,
London EC1N 8EB 2012/2327/P



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Development Management**
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planning@camden.gov.uk
www.camden.gov.uk/planning

Application Ref: **2012/2327/P**

23 August 2012

Dear Sir/Madam

DRAFT
FOR INFORMATION ONLY - THIS IS NOT A FORMAL DECISION
Town and Country Planning Act 1990 (as amended)

DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT

Address:
**36 - 38 Diamond House
Hatton Garden
London
EC1N 8EB**

DECISION
Proposal:
Change of use of lower ground floor from office use (Class B1) to Pilates studio (Class D2).
Drawing Nos: Location Plan; 902.200; 902.201.

The Council has considered your application and decided to grant permission subject to the conditions and informatives (if applicable) listed below **AND** subject to the successful conclusion of a Section 106 Legal Agreement.

The matter has been referred to the Council's Legal Department and you will be contacted shortly. If you wish to discuss the matter please contact **Aidan Brookes** in the Legal Department on **020 7 974 1947**.

Once the Legal Agreement has been concluded, the formal decision letter will be sent to you.

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 Notwithstanding the provisions of Class D2 of the Schedule of the Town and Country Planning (Use Classes) Order, 1987, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, the premises shall not be used as a place of worship unless agreed in writing by the Local Planning Authority.

Reason: To ensure that the future occupation of the building does not adversely affect the immediate area by reason of noise and disturbance in accordance with policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans [Location Plan; 902. 200; 902.201.]

Reason: For the avoidance of doubt and in the interest of proper planning.

- 4 The use hereby permitted shall not be carried out outside the following times: 06:00 - 21:00 Mondays to Friday; 08:00 - 18:00 Saturdays; and 09:00 - 18:00 Sundays. It shall not be carried out at any time on Bank Holidays.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 2363).
- 2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council->

contacts/environment/contact-the-environmental-health-team.en or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.

3 Reasons for granting permission.

The proposed development is in general accordance with the London Borough of Camden Local Development Framework Core Strategy, with particular regard to policies CS1 (Distribution of growth); CS3 (Other highly accessible areas); CS5 (Managing the impact of growth and development); CS8 (Providing a successful and inclusive Camden Economy); CS9 (Achieving a successful Central London); CS10 (Supporting community facilities and services); CS11 (Promoting sustainable and efficient travel); CS14 (Promoting high quality places and conserving our heritage); CS19 (Delivering and monitoring the Core Strategy) and the London Borough of Camden Local Development Framework Development Policies, with particular regard to policies DP13 (Employment premises and sites); DP15 (Community and leisure uses); DP17 (Walking, cycling and public transport); DP18 (Parking standards and the availability of car parking); DP19 (Managing the impact of parking); DP25 (Conserving Camden's heritage); DP26 (Managing the impact of development on occupiers and neighbours).

- 4 Furthermore, It is acknowledged that the proposed change of use would result in the loss of Class B1 floorspace at basement floor level. However the applicant has satisfactorily demonstrated that the basement is not suitable for continued business use, partly as a result of marketing and the availability of alternative floorspace elsewhere in the immediate area. The proposal would bring into active use this part of the building with potential to serve the local community in a highly accessible location. It is acknowledged that jewellery sector workshop space is not secured as part of a mix of uses at this part of the building, but this is considered to be impractical owing to the small scale nature of the proposals. Parts of the upper floors of the building are in active jewellery sector use and a financial contribution in lieu of direct provision is considered to be appropriate. This will fund initiatives associated with the jewellery sector in Hatton Garden and be secured via S106 Legal Agreement.

Yours faithfully

Culture and Environment Directorate

DATED

22 October

2012

(1) DORRINGTON HATTON LIMITED

and

(2) THE PRUDENTIAL ASSURANCE COMPANY LIMITED

and

(3) M&G REAL ESTATE FINANCE 1 CO S.A.R.L

and

(4) THE MAYOR AND BURGESSES OF
THE LONDON BOROUGH OF CAMDEN

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relating to land known as

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pursuant to Section 106 of the Town and Country Planning
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