

DATED

3 June

2010

**COMMUNITY HOUSING ASSOCIATION LIMITED**

-and-

**THE MAYOR AND THE BURGESSES OF  
THE LONDON BOROUGH OF CAMDEN**

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**DEED OF VARIATION**

**Relating to the Agreement dated 1 November 2007  
Between the Mayor and the Burgesses of the  
London Borough of Camden  
And Novas Scarman Group Limited  
under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as  
Arlington House, 220 Arlington Road, London, NW1 7HE**

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

Tel: 020 7974 5647  
Fax: 020 7974 2962

THIS AGREEMENT is made on the 3 day of June 2010

**BETWEEN**

1. **COMMUNITY HOUSING ASSOCIATION LIMITED** (Industrial and Provident Society Number 20453R) of 100 Chalk Farm Road, London NW1 8EH (hereinafter called "the Owner") of the first part; and
2. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the second part

**WHEREAS:**

- 1.1 The Council and Novas Scarman Group Limited entered into an Agreement dated 1 November 2007 pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) ("the Original Agreement").
- 1.2 Novas Scarman Group Limited transferred the Property to the Owner and the Owner is now the registered freeholder proprietor of the Property registered at the Land Registry under Title Number NGL472013.
- 1.3 The Council is the local planning authority for the purposes of the Act.
- 1.4 The Owner is interested in the Property for the purposes of Section 106(9) of the Act.
- 1.5 The Owner has requested an amendment to the Original Agreement
- 1.6 This Agreement is made by virtue of the Town and Country Planning Act 1990 Section 106 (as amended) and is a planning obligation for the purposes of that section.
- 1.7 Without prejudice to the terms of the other covenants contained in the Original Agreement the parties hereto have agreed to vary the terms of the Original Agreement as hereinafter provided.

## 2. INTERPRETATION

- 2.1 All words and phrases defined in the Original Agreement shall have the same meaning in this Agreement save where the context otherwise dictates and for the avoidance of any doubt the Original Agreement shall remain in full force and effect save as varied by this Agreement.
- 2.2 All reference in this Agreement to clauses in the Original Agreement are to clauses within the Original Agreement.
- 2.3 In this Agreement the following expression shall unless the context otherwise states have the following meaning now allocated to it.
- a. "Original Agreement" the Section 106 agreement under the Town and Country Planning Act 1990 (as amended) dated 1 November 2007 made between the Council and the Novas Scarman Group Limited and varied by a deed dated 6 June 2009.
- b. "Agreement" this Deed of Variation
- 2.4 Where in this Agreement reference is made to a clause schedule or recital such reference (unless the context otherwise requires) is a reference to a clause schedule or recital of this Agreement.
- 2.5 Headings are for ease of reference only and are not intended to be construed as part of this Agreement and shall not be construed as part of this Agreement and shall not effect the construction of this Agreement.
- 2.6 Unless the context otherwise requires references to the singular shall include the plural and vice versa.
- 2.7 References in this Agreement to the Owner shall include their successors in title.

### **3. VARIATION TO THE EXISTING AGREEMENT**

3.1 The following definitions contained in the Original Agreement shall be varied as follows:

"Development"	means the Development as defined in the Original Agreement as varied by planning permission 2010/1344/P permitting variation of conditions 11 (hours of operations) and 13 (extent of social enterprise uses) of planning permission dated 1 <sup>st</sup> November 2007 (ref. 2007/3283/P - change of use from 400 room hostel to a mixed use of 95 units of supported accommodation and 35 low cost rented units on 1st-5th floors in association with social enterprise uses on ground floor and basement levels) as shown on drawing numbers 2847_SK054 rev B and SK055 rev B
"the Planning Permission"	the planning permission under reference number 2007/3283/P as varied by planning permission 2010/1344/P to be issued by the Council substantially in the form of the draft annexed hereto
"Social Enterprise Element"	an area of up to 940 sqm within the Development located on the ground floor and basement of the Property to be used for the purposes set out in the Social Enterprise Element Management Plan; the same being shown hatched on plan 2847_SK054 rev B and SK055 rev B
"Social Enterprise Element Management Plan"	a plan setting out those uses to be included in the Social Enterprise Element and the package of measures to be adopted by the Owner and approved by the Council from time to time in the management of the Social Enterprise Element to ensure (but not limited

to) that:

- (i) the Social Enterprise Element is run as a social enterprise for the benefit of residents of the Hostel Accommodation and individuals on the Council's Pathway Scheme;
- (ii) the Social Enterprise Element provides a positive setting for the residents of the Hostel Accommodation to regain their independence and move on into the general community
- (iii) that a target percentage of those engaged in trades, businesses training and other activities (to be agreed with the Council in writing) comprising the Social Enterprise Element are residents of the Hostel Accommodation

PROVIDED ALWAYS IT IS AGREED THAT the Social Enterprise Element Management Plan including those elements of the said Plan referred to in sub-paragraph (i) (ii) and (iii) of this definition may be amended or varied as appropriate from time to time subject to Council's approval in writing. The form of such amendment/variation to be at the discretion of the Council..

- 3.2 The definition of "Low Cost Housing"; "Low Cost Housing Nominees"; "Low Cost Housing Rental Levels" and "Low Cost Housing Units" contained in the Existing Agreement shall be deleted and replaced with the following:

"Sub Market Rent"

shall mean a rent that is 80% (or less) of the market rent in the area

“Sub Market Rent Nominees”	persons in housing need who are living and/or working in the London Borough of Camden whose income is on or close to the National minimum wage as published by HM Revenue & Customs nominated by the Council (or other eligible persons as specified in the annexed Nominations Agreement) as being eligible for Sub Market Rent Housing
“Sub Market Rent Units”	the 35 units of Sub Market Rent housing comprised within the Development the same as shown hatched blue on Plan 6 and Plan 7 (annexed to the Original Agreement) to be let at Sub Market Rent and to include 30 units let to Sub Market Rent Housing Nominees on six month assured shorthold tenancies

3.3 The following clause shall be amended to read as follows:

**“4.3 Social Enterprise Element**

- 4.3.1 On or prior to the Occupation Date of the Social Enterprise Element to submit to the Council for approval the Social Enterprise Element Management Plan
- 4.3.2 Not to Occupy or permit Occupation of any part of the Social Enterprise Element until such time as the Council has approved the Social Enterprise Element Management Plan as demonstrated by written notice to that effect.
- 4.3.3 Thereafter the Owner shall not Occupy or permit Occupation of any part of the Development at any time when the Development is not being operated in strict accordance with the Social Enterprise Element Management Plan as approved by the Council and shall not Occupy or permit Occupation of the Development otherwise than in strict accordance with the requirements of the Social Enterprise Element Management Plan (unless otherwise agreed with the Council)
- 4.3.4 To ensure that no part of the Social Enterprise Element shall be sold licensed or otherwise disposed of in any form as a separate unit of use or occupation

save where such sale licence or other disposal is for the use or uses specified in the Social Enterprise Element Management Plan

- 3.4 Clauses 4.1 to 4.15 of the Existing Agreement shall be deleted and replaced with the following:

“4.1 Sub Market Rent Units

4.1.1 To ensure that the Sub Market Rent Units are constructed, used, occupied and retained in perpetuity for no purpose other than the provision of housing for occupation by Sub Market Rent Nominees in accordance with the requirement of the Nominations Agreement annexed to this Deed (as may be varied from time to time by agreement in writing between the Council and the Owner) and at a Sub-Market Rent.

4.1.2 Not to occupy or permit occupation of the 30 Sub Market Rent Units which are subject to Council Nomination under the Nominations Agreement by any persons other than Sub Market Rent Nominees as nominated by the Council **PROVIDED THAT** in the event that the Council has not nominated a Sub Market Rent Nominee for occupation of a Sub Market Rent Units within 7 days of such Sub Market Rent Unit becoming available for occupation the Owner shall be at liberty to nominate a Sub Market Rent Nominee eligible for occupation of the Sub Market Rent Units **PROVIDED ALWAYS** that the Owner shall provide to the Council upon written request details of the person nominated by the Owner to occupy the Sub Market Rent Units”

**4. PAYMENT OF THE COUNCIL'S LEGAL COSTS**

- 4.1 The Owner agrees to pay the Council its reasonable legal costs incurred in preparing this Agreement

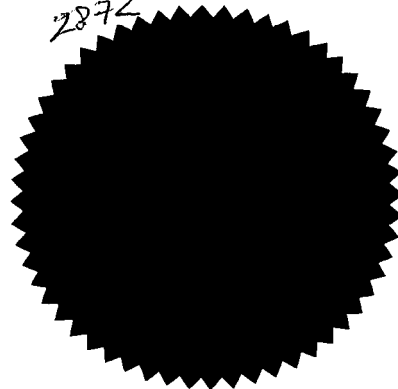
**5. REGISTRATION AS LOCAL LAND CHARGE**

- 5.1 This Agreement shall be registered as a Local Land Charge

IN WITNESS whereof the Council and the Owner have caused their respective Common  
Seals to be affixed the day and year first above written.

2872

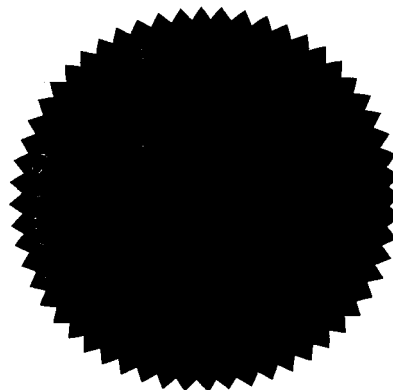
EXECUTED AS A DEED by affixing the )  
common seal of )  
COMMUNITY HOUSING )  
ASSOCIATION LIMITED )  
in the in the presence of:- )



Director

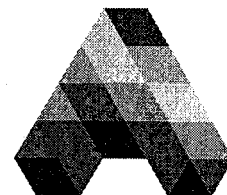
Director/Secretary

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



Duly Authorised Officer





**Arlington**

## **Arlington NOMINATIONS AGREEMENT**

There are 35 units in total occupying the 4<sup>th</sup> and 5<sup>th</sup> floors at Arlington. All 35 units will have sub market rents.

The 30 units on the 4<sup>th</sup> floor will have nomination rights from LB Camden. Up to 6 of these units situated on the 4<sup>th</sup> floor may be used for people on training courses with a view to enter into employment. The 5 units on the 5<sup>th</sup> floor will have nomination rights from One Housing Group.

5 additional units will be made available for housing needs. These will be situated in 207-209 Arlington Depot (scheme opposite Arlington). These units will be available from 2011 and may be used for people in low income employment or in training.

The rents including communal service charges for 2009/10 will be £119.12 per unit. The rent charges will increase by RPI + 0.5% on the 1<sup>st</sup> April every year. There will be no increase in 2010/11. Service charges will increase/decrease depending on utility costs.

OHG will inform LBC as soon as the required 4 weeks notice has been given by an outgoing tenant. Thereafter LB Camden will have a maximum of 1 week from the unit becoming void to provide an acceptable referral.

After this date, LB Camden can cover the total rent liability for the unit for up to 1 month while they seek another referral or OHG will provide a referral from within the Camden area.

Assured short-hold tenancies will be issued and reviewed every 6 months. Tenancies reviews will take into account behaviour and employment status. The maximum stay will be 2-years.

Tenants will not be able to use the communal space designated to supported residents, but may make use of other space and activities within the scheme. Tenants will not have access to the meal service, but may be able to make arrangement with the catering service to pay for a meal that can be re-heated later in the evening.

Maintenance and general repairs are included in the rent charge and will be carried out by OHG.

Referrals must:

- Be 18 years old or over.
- Have no support needs.
- Be in full time employment for at least 3 months and not be in a probation period.(except for those on training courses)
- Provide proof of income. (except for those on training courses)
- Pay rent 1 week in advance. (except for those on training courses)
- Provide employment reference. (except for those on training courses)
- Provide a character reference.

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**Delivering a fresh approach to providing impact, enterprise and value for homeless people and business, by bringing together commercial opportunity and training in a first class living and contemporary environment right in the heart of Camden.**



London Planning Team  
1A Kingsley House  
Wimpole Street  
London  
W1G 0RE

Application Ref: **2010/1344/P**

01 June 2010

Dear Sir/Madam

**DRAFT**

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

**DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT**

Address:  
**Arlington House**  
**220 Arlington Road**  
**London**  
**NW1 7HE**

**DECISION**

Proposal:

Variation of conditions 11 (hours of operations) and 13 (extent of social enterprise uses) of planning permission dated 01/11/2007 (Ref. 2007/3283/P - Change of use from 400 room hostel to a mixed use (Class sui-generis) comprising: 95 units of supported accommodation and 35 low cost rented units on 1st-5th floors together with market stalls, art gallery, coffee shop and restaurant on the ground floor and basement to be run as a social enterprise in conjunction with the supported residential accommodation). Variation is to allow for greater flexibility of uses within the social enterprise element and is accompanied by a Social Enterprise Management Plan and Section 106 deed of variation.

Drawing Nos: Original application drawings: Location Plan 099; Site Plan 100; 101 Rev A; 102 Rev A; 103 Rev A; 104 Rev A; 105 Rev A; 106 Rev A; 107 Rev A; 108; 109; 110 Rev A; 111; 112; 113; 114; 115; 116; 117; 118; 119; 120; 121; PL01; PL02; 203 Rev B; 204 Rev B; 205 Rev B; 206 Rev B; 207 Rev B; 360 Rev A; 361 Rev A; 362 Rev A; 364 Rev A; 366 Rev A; 368 Rev A; 371 Rev A; 602 Rev A; 603 Rev A.

Amended ground floor and lower ground floor plans: 2847\_SK054 rev B; SK055 rev B.

Supporting documents (INFORMATION ONLY): Covering letter from CBRE dated 10 March 2010; Arlington Management Plan; Arlington Social Enterprise Management Plan Implementation Strategy.

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 No plant (including fume extraction equipment in connection with the restaurant and cafe/bookshop) shall be installed on any of the external parts of the building (including within the roof-top plant rooms) until full details of the plant and accompanying report of sound attenuation has been submitted to and approved by the local planning authority. The uses associated with this plant shall at no time be in operation unless in full compliance with the details as have been approved.

Reason: To ensure that the intended plant and any necessary noise attenuation is capable of complying with the Council's standard noise criteria as stated in condition 3 in accordance with the requirements of policies SD6, SD7B, SD8 and Appendix 1 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 3 Noise levels at a point 1 metre external to sensitive facades shall be at least 5dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment are in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 10dB(A) below the LA90, expressed in dB(A).

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies SD6, SD7B, SD8 and Appendix 1 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 4 The details in respect of green or brown roofs in the areas indicated on the fifth floor layout plan shall be implemented as approved under application reference 2008/2135/P (granted on 11/09/08) or such other scheme as shall have been submitted to and approved by the local planning authority before the relevant works commence. The buildings shall not be occupied until the approved details have been implemented.

Reason: In order to ensure the development has undertaken reasonable measures to take account of biodiversity and the water environment in accordance with policies N5 and SD9B of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 5 The details in respect of parking for 40 cycles shall be implemented as approved under application reference 2008/2135/P (granted on 11/09/08) or such other scheme as shall have been submitted to and approved by the local planning authority before the relevant works commence. The approved facilities shall thereafter be provided in their entirety prior to the first occupation of any part of the development, and thereafter permanently maintained and retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy T3 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 6 Details of the location, design and method of waste storage and removal (including recycled materials) shall be implemented as approved under application reference 2008/0756/P (granted on 18/04/08) or such other scheme as shall have been submitted to and approved by the local planning authority before the relevant works commence. The approved facilities shall thereafter be provided prior to the first occupation of any part of the development and permanently maintained and retained thereafter.

Reason: To ensure the proper and sustainable storage and disposal/reuse of waste in accordance with policies SD6 and SD12 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 7 Details of hard and soft landscaping and means of enclosure of all un-built, open areas shall be implemented as approved under application reference 2008/0756/P (granted on 18/04/08) or such other scheme as shall have been submitted to and approved by the local planning authority before the relevant works commence. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To enable the Council to ensure a reasonable standard of visual amenity and security in the scheme in accordance with the requirements of policy B1 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 8 All hard and soft landscaping works shall be carried out to a reasonable standard in accordance with the approved landscape details prior to the occupation for the permitted use of the development. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the Council gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a satisfactory standard of visual amenity in the scheme in accordance with the requirements of policies B1 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 9 The 15 wheelchair units shall be provided in full accordance with the details shown on the approved floorplans prior to any occupation of the development for the permitted uses.

Reason: To ensure satisfactory provision is made for wheelchair users in accordance with Policy H7 of the Camden Replacement Unitary Development Plan 2006.

- 10 The 2 parking spaces shown on the approved Service Delivery Access Plan, shall not be provided other than to full wheelchair standard and shall not be used for any purposes other than for short term visits, loading and for parking by registered disabled persons.

Reason: To ensure satisfactory provision is made to meet the needs of people with disabilities in accordance with Policy T7 of the Camden Replacement Unitary Development Plan 2006.

- 11 The social enterprise uses in the area shown on the ground floor and lower ground floor layout plans (drawing nos. 2847\_SK054 rev B and SK055 rev B) shall not be carried out outside the following times 0800hrs - 0000hrs.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies SD6, R1, R2 and R3 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 12 No music shall be played on the premises in such a way as to be audible within any adjoining premises.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies SD6, R1B, R2 and R3 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 13 The social enterprise uses shall not operate other than strictly within the confines of the areas shown for these purposes on drawing numbers 2847\_SK054 rev B and SK055 rev B.

Reason: In order to ensure that the primary use of the premises continues as a hostel and to safeguard the amenities of the adjoining premises and the area generally in accordance with policies H9B, SD6, R1B, R2 and R3 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 14 The parts of the premises as shown on drawing numbers 2847\_SK054 rev B and SK055 rev B as social enterprise shall not be occupied for any purpose when the primary hostel use is vacant.

Reason: In order to ensure that the social enterprise uses do not operate independently of the primary hostel use and thereby to protect permanent hostel related accommodation and the amenities of the area in accordance with policies H9B and SD6 of the London Borough of Camden Replacement Unitary Development Plan 2006.

Informative(s):

- 1 Reasons for granting permission.

The proposed variation of conditions 11 and 13, together with the inclusion of the additional condition (14) would not materially deviate from the reasons stated for the approval of the parent permission (ref 2007/3283/P) granted on 01/11/2007, being that the development is in general accordance with the policy requirements of the London Borough of Camden Replacement Unitary Development Plan 2006, with particular regard to policies SD1 - Quality of life, SD2 - Planning obligations, SD6 - Amenity for occupiers and neighbours, SD7B - Noise/vibration pollution, SD8 - Disturbance from demolition, SD9 - Resources and energy, H1 - New Housing, H2 - Affordable housing, H7 - Lifetime homes and wheelchair housing, H8 - Mix of units, H9 - Hostels, B1 - General Design Principles, N4 - Providing public open space, N5 - Biodiversity, T1 - Sustainable transport, T3 - Pedestrians and cycling, T7 - Off street parking, T8 - Car free housing, T16 - Movement of Goods, E1 - Location of business uses, R1 - Location of new retail uses, R2 - General impact of retail and entertainment uses, R3 - Food and drink uses, R4 - Markets and C1 - New community uses. For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the officer report.

- 2 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).
- 3 Your attention is drawn to the need for compliance with the requirements of the Planning and Public Protection Division (Compliance and Enforcement Team), Camden Town Hall, Argyle Street, WC1H 8EQ, (tel: 020 7974 5613) particularly in

respect of arrangements for ventilation and the extraction of cooking fumes and smells.

- 4 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 Planning and Public Protection Division (Compliance and Enforcement Team), Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 5613 or by email [ppp@camden.gov.uk](mailto:ppp@camden.gov.uk) or on the website [www.camden.gov.uk/pollution](http://www.camden.gov.uk/pollution)) 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.
- 5 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Urban Design and Renewal, Camden Town Hall, Argyle Street, WC1H 8EQ.
- 6 The Social Enterprise Management Plan and Implementation Strategy listed as a supporting document under the schedule of Drawing Numbers above, is approved for the purposes of the Section 106 Legal Agreement only and may, from time to time, be amended with the prior written approval of the Local Planning Authority as the Legal Agreement provides.

Yours faithfully

**DECISION**

Culture and Environment Directorate





DATED

3 June .

2010

**COMMUNITY HOUSING ASSOCIATION LIMITED**

-and-

**THE MAYOR AND THE BURGESSES OF  
THE LONDON BOROUGH OF CAMDEN**

---

**DEED OF VARIATION**

**Relating to the Agreement dated 1 November 2007  
Between the Mayor and the Burgesses of the  
London Borough of Camden  
And Novas Scarman Group Limited  
under section 106 of the Town and  
Country Planning Act 1990 (as amended)  
Relating to development at premises known as  
Arlington House, 220 Arlington Road, London, NW1 7HE**

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Head of Legal Services  
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