

Dated 24th APRIL 2017

Winterthur Pension Scheme (the 'Scheme'): Appointment of Registered Administrator

Parties

1. **David Arthur John Van Dyke** of Flat 18, St. Georges Mansions, Causton Street, London, SW1P 4RZ and **Patrick Stevens** of 38 Roundwood Park, Harpenden, AL5 3AF (in this deed called the 'Trustees')
2. **Registered Scheme Administrator Limited** (company number 09508411) of Vancouver House 111 Hagley Road, Edgbaston, Birmingham, England, B16 8LB (in this deed called the 'The Administrator')

1. Introduction

The General Trustees are the present trustees of the Scheme (the 'Trustees').

- 1.1 All of the General Trustees are resident in the United Kingdom
- 1.2 The General Trustees wish to appoint a Scheme Administrator to be the Registered Administrator of the Scheme.
- 1.3 A Registered Administrator is an Administrator appointed in accordance with Section 270 of Finance Act 2004 to fulfil the Duties set out in this Deed.

2. Duties of the Scheme Administrator shall mean:

- 2.1 The Administrator shall from the Commencement Date use all reasonable endeavours to perform its duties in accordance with Good Industry Practice; the Trust Deed; the terms of this Deed; and all applicable laws, regulations and orders which apply to the Scheme, the Deed and the Administrator in its role as Scheme Administrator.
- 2.2 The Administrator shall register the Scheme in accordance with the Act and The Registered Pension Schemes and Overseas Pension Schemes (Electronic Communications of Returns and Information) Regulations 2006 - SI 2006/570.
- 2.3 The Registered Administrator in registering a scheme where it is satisfied to do so shall warrant that: the scheme meets the criteria to be a registered pension scheme and has been set up and will be maintained for the purpose of providing authorised pension and lump sum benefits falling within section 164(1)(a) or (b) Finance Act 2004. All the required information has been provided and is correct so that the application can be considered. The scheme is not set up in such a way as to facilitate unauthorised payments. The scheme administrator will discharge their functions properly and understands that there will be a penalty if they do not. The scheme administrator is a fit and proper person and that HMRC may refuse to register the scheme or de-register the scheme if HMRC believes the scheme administrator is not a fit and proper person, and the scheme administrator understands that they may be liable to a penalty and that the pension scheme may be de-registered if a false statement is made on the application or in respect of any of the information provided on the application
- 2.4 In its performance of its duties under Clause 2.1 of this Deed, the Scheme Administrator shall ensure compliance of the Scheme as set out in Chapter 7, Finance Act 2004 and The Registered Pension Schemes (Provision of Information) Regulations 2006 - SI 2006/567.

- 2.5 For the avoidance of doubt, the duties shall not include the provision of legal advice by the Administrator to the Trustee and the Administrator shall be under no obligation or duty to the Trustee to provide it with legal advice or act as legal adviser to the Trustee at any time.
- 2.6 In carrying out the duties the Administrator shall use such bank accounts as the Trustee may authorise from time to time or as the Administrator is authorised to use under the Trust Deed.

3. Mutual obligations of the parties

- 3.1 All instructions and reporting from either party to the other shall be made in writing which shall include email.
- 3.2 Each party shall inform the other party in writing of all legal agents entitled to give instructions on behalf of the relevant party.
- 3.3 The parties shall provide all reasonable co-operation with one and other with a view to ensuring the proper running of the Scheme.
- 3.4 The parties shall use all reasonable endeavours not to do or omit to do anything that would prejudice the status of the Scheme as a registered pension scheme within the meaning of the Act
- 3.5 Payments made by either party out of any Scheme bank account shall only be made in accordance with the Trust Deed, the terms and conditions of the relevant bank account, any relevant bank account mandate or authority, and the provisions of this Deed where relevant.

4 Charges

- 4.1 The Administrator will be entitled to charge for disbursement with the prior consent of the Trustees for the performance of its duties.
- 4.2 Pursuant to its powers under the Trust Deed, the Administrator shall be entitled at its absolute discretion to deduct the Charges directly from the Fund; and sell, convert or liquidate any part of the Fund for the payment of any Charges, subject to the provisions of the Trust Deed including the payment of disbursements and fees to a Scheme Practitioner.

5 Trustees obligations

- 5.1 The Trustees shall from the Commencement Date use all reasonable endeavours to carry out its duties as trustee of the Scheme in accordance with the Trust Deed; the terms of this Deed; and all applicable laws, regulations and orders which apply to the Trustee in its role as trustee of the Scheme and in relation to its obligations under this Deed.
- 5.2 The Trustee shall provide the Administrator promptly with all the information and evidence that the Administrator requires from time to time in order for the Administrator to comply with any legislative or regulatory requirements including but not limited to those relating to anti-money laundering or anti-terrorism. The Trustee authorises the Administrator to carry out any due diligence and/or verification exercises that it is required to carry out in accordance with these requirements.

6 Data Protection

- 6.1 The parties acknowledge that the relationship between them created by this Deed involves the processing of Personal Data and/or Sensitive Personal Data and that for the purposes of the provision of the Services in relation to the Data Protection Legislation the

Trustee shall be the "data controller" and the Administrator shall be the "data processor" within the meaning of the DPA.

- 6.2 The Trustee shall ensure that all data disclosed to the Administrator has been validly obtained and that the disclosure and transfer of such data is lawful.
- 6.3 The Trustee shall provide to the Administrator such Personal Data, Sensitive Personal Data and with such other information as the Administrator may reasonably require in order for the Administrator to fulfil its duties.
- 6.4 Both parties shall, at all times, comply with their respective obligations under the Data Protection Legislation in relation to the Scheme and this Deed. Neither party shall do, nor cause or permit to be done, anything which may result in a breach of the Data Protection Legislation by the other.
- 6.5 Without prejudice to the rest of this clause, the Administrator shall process Personal Data and Sensitive Personal Data in accordance with the Data Protection Legislation, the laws of the United Kingdom, and the provisions of the Seventh Principle of the DPA; and the Trustee's specific lawful written instructions as notified to the Administrator from time to time.

7 Representations and Warranties

- 7.1 Each party warrants and represents that, as at the date of this Deed:
 - 7.1.1 it has full capacity and authority to enter into and to perform this Deed;
 - 7.1.2 this Deed is executed by a duly authorised representative of that party;
 - 7.1.3 once duly executed, this Deed shall be legally binding on the parties.
- 7.2 The Administrator warrants and represents on an ongoing basis that its obligations under this Deed will be performed by appropriately experienced, qualified and competent personnel.
- 7.3 The Trustee warrants and represents on an ongoing basis that it shall notify the Administrator as soon as reasonably practicable if it should be disqualified by law from acting as a trustee of the Scheme or be prohibited or suspended from acting as trustee of the Scheme by an order of the Pensions Regulator.

8. Delegation

- 8.1 The Administrator may subject to notification of the other party delegate, sub-contract or outsource any of its obligations under this Deed to a competent third party or agent including but not limited to delegation of any obligations or duties which relate to tax or the Act which are regulated or enforced by HMRC or the Pensions Regulator; and delegation to a third party to act as "authorised practitioner", within the meaning of that term for the purposes of the Act and in accordance with HMRC requirements.

9. Reliance by the Administrator

- 9.1 The Administrator shall have absolute discretion as to whether it should rely on oral statements or instructions from the Trustee or any third party.
- 9.2 Any communication provided by the Administrator in writing is provided solely for the use of the Trustee. It is not intended to be relied upon by third parties and any third parties to whom any written communication by the Administrator is passed receive it "as is" and at their own risk.

10. Confidentiality

- 10.1 Neither the Trustee nor the Administrator shall disclose any Confidential Information in relation to the other to a third party without prior written consent, save for the following exceptions: disclosures made at the specific request of the other party; disclosure to a party's professional advisers provided that the professional adviser agrees to the same duties of confidentiality as apply under this Deed; disclosure to a Regulator or any government or other authority or any regulatory body; disclosure as a party to legal proceedings of a competent jurisdiction; and disclosure as required by law.

11 Liability

- 11.1 This clause 11 sets out the entire financial and legal liability of the parties to each other in respect of:

11.1.1 any breach of this Deed;

11.1.2 any representation, statement or negligent act or omission arising under or in connection with this Deed;

11.1.3 any act of maladministration relating to the Scheme;

11.1.4 any breach of trust or duty pursuant to this Deed; and

11.1.5 any other act or omission or breach of law by either party (except where such law states that liability cannot be restricted).

For the purposes of this clause 11, any reference to the Administrator, Trustee or "a party" includes the Administrator's or Trustee's or party's employees, officers, agents, consultants, scheme practitioner and subcontractors.

- 11.2 Nothing in this Deed shall exclude the liability of either party for fraud or death or personal injury or anything else that cannot by law be excluded.

- 11.3 Subject to clause 11.4 and 11.5 each party shall be liable to the other in relation to Loss that one party incurs or suffers as a result of:

11.3.1 a breach by the other party of their obligations under this Deed; and

11.3.2 a party's negligence, maladministration or breach of trust or duty in connection with this Deed.

- 11.4 Subject to clauses 5.1 and 11.2 and to the fullest extent permitted by law, the Administrator shall not have any legal liability to the Trustee for any Loss whatsoever or however incurred or suffered by the Trustee in respect of any of the following:

11.4.1 any inaccuracy or deficiency in any information, data or document provided to the Administrator by the Trustee or any third party; or provided by the Trustee to any third party; or provided to the Administrator by the Trustee or a third party on the Trustee's behalf, and that the Administrator then provides to any other third party on behalf of the Trustee;

11.4.2 any delay or failure in the performance of the Administrator's obligations under this Deed resulting from:

- (i) events beyond the Administrator's reasonable control (for example, an IT or software or systems failure that could not be avoided despite the Administrator's best endeavours); or

- (ii) the acts or omissions of third parties or the Trustee's acts or omissions, including but not limited to delays in providing information to the Administrator or carrying out the Administrator's or the Trustee's instructions;
 - 11.4.3 any other acts or omissions of any third party, including:
 - (i) any advice or opinion given to the Trustee by any third party;
 - (ii) the performance or non-performance by any third party of any legally binding Deed between the Trustee and that third party;
 - 11.4.4 any acts or omissions undertaken by the Administrator prior to the commencement of this Deed;
 - 11.4.5 any other acts or omissions by the Trustee or by any Regulator that result in the Trustee being legally disqualified from being able to act as a trustee of the Scheme or as a director or officer the Scheme's sponsoring employer;
 - 11.4.6 any change or clarification in the law that happens after the date on which this Deed takes effect (whether or not it has retrospective effect) and that impacts or affects the definition or regulation or status or tax treatment or advantages or disadvantages or validity of, or the law applicable to, the Scheme;
 - 11.4.7 any failure by the Administrator to provide the Trustee with legal advice or tell the Trustee about a change in the law; and / or
 - 11.4.8 any report given by the Administrator in good faith to a Regulator.
- 11.5 To the extent that either party has any legal liability to the other party (whether under this Deed or under overriding law) and to the extent that such liability can be limited by law, each party's liability to the other whether in contract, tort (including negligence or breach of statutory duty) misrepresentation, restitution or otherwise shall in all circumstances be limited to the amount of £25,000.
- 11.6 Subject to clause 11.5 the Trustee shall indemnify the Administrator against any Loss incurred or suffered by the Administrator arising from any act or omission for which the Trustee is liable to the Administrator in accordance with this Deed.
- 11.7 Subject to clause 11.5 the Administrator shall indemnify the Trustee against any Loss incurred or suffered by the Trustee arising from any act or omission for which the Administrator is liable to the Trustee in accordance with this Deed.

12 Termination

- 12.1 Each party may terminate this Deed without cause by giving the other party at least 3 months' notice in writing.
- 12.2 Any party may terminate this Deed by giving the other party 1 months' notice in writing at any time throughout the duration of this Deed in the following circumstances:
- 12.2.1 where that other party has committed a material breach of its obligations under this Deed which is not capable of remedy; or
 - 12.2.2 where that other party has committed a material breach of its obligations under this Deed and where such breach is capable of remedy but that other party has failed to remedy such breach within 1 month of receiving notice specifying the breach and requiring its remedy; or
 - 12.2.3 where in relation to that other party any action, application or proceeding is made with regard to it for:

- (i) a voluntary arrangement or composition or reconstruction of its debts;
- (ii) the presentation of an administration petition;
- (iii) its winding-up or dissolution;
- (iv) the appointment of a liquidator, trustee, receiver, administrative receiver or similar officer; or
- (v) any similar action, application or proceeding in any jurisdiction to which that other party is subject except where a resolution by the other party or court order that the other party be wound up is for the purpose of a bona fide reconstruction or amalgamation.

12.3 Where the Administrator wishes to terminate this Deed under clause 12.1, it shall subject to the Deed of a majority of trustees use reasonable endeavours to find a replacement Scheme Administrator to be appointed prior to the expiry of the notice to terminate this Deed. All costs reasonably incurred by the Administrator to comply with this clause 12.3 shall be treated as a disbursement, if a replacement Scheme Administrator is not appointed prior to the expiry of the notice to terminate this Deed, then notwithstanding clause 12.1 and 12.2, this Deed shall continue in full force and effect and the period of notice under clause 12.1 shall be deemed to be extended until the earliest of the date when a replacement Scheme Administrator is validly appointed; or the date when the Scheme is wound up, in accordance with the provisions of the Trust Deed.

12.4 Where the Administrator terminates this Deed under clause 11.1 because:

- 12.4.1** the Administrator reasonably believes or suspects the Trustee to be engaged in criminal or fraudulent activity in relation to the Scheme; or
- 12.4.2** in the Administrator's reasonable opinion, the Trustee is acting unreasonably or obstructively in respect of the appointment of any replacement Scheme Administrator or is preventing the Administrator from complying with its obligations and duties under this Deed or is deliberately failing to comply with its own obligations under this Deed; or
- 12.4.3** there are Fees or Charges that are due and payable and have been outstanding for 12 months or more but which the Administrator has been unable to recover from the Fund or the Trustee, then the Deed shall be terminated on the expiry of the 3 months' notice to terminate given under clause 12.1.

12.5 Nothing under this Deed shall affect the ability of the Administrator or the Trustee to trigger the winding-up of the Scheme in accordance with the Trust Deed.

13 Consequences of Termination

13.1 Any termination of this Deed shall be without prejudice to any rights or remedies a party may be entitled to under this Deed or at law and shall not affect any accrued rights or liabilities of any party nor the coming into or continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.

13.2 Where notice to terminate is given the Administrator shall as soon as reasonably practicable:

- 13.2.1** return all Confidential Information of the Trustee to the Trustee in an

acceptable form; and

13.2.2 return all other documents, papers, data or other property of the Trustee relating to the Scheme which is in the Administrator's possession or under its control.

- 13.3 Where notice to terminate is given the Administrator shall provide for the period of the termination notice (including any period of deemed notice under this clause 13.3) such termination assistance as may be reasonably requested by the Trustee to allow the Services to continue without interruption or adverse effect and to facilitate the orderly transfer of the Services to a Successor Administrator ("**Termination Assistance**"). Termination Assistance shall be provided by the Administrator to the Trustee on a disbursement basis agreed in advance.
- 13.4 Notwithstanding any other provision of this clause 13 the Administrator shall be entitled to make such reasonable charge for effecting the transfer of any Scheme assets or concluding any other paperwork that may be necessary to enable the Trustee or any replacement administration service provider to provide services equivalent to the Services or otherwise operate the Scheme.
- 13.5 The Administrator shall use reasonable endeavours to comply with applicable parts of the Pensions Administration Standards Association Code of Conduct on Administration Provider Transfers, but where there is a conflict between the terms of this Deed and the Code, the terms of this Deed shall prevail and failure by the Administrator to comply with the Code shall not be regarded as a material breach of this Deed. The Administrator shall as early as reasonably possible notify the Trustees of any Breach.

14 General

- 14.1 No term of this Deed shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this Deed and no term of this Deed can be varied by the application of the Contract (Rights of Third Parties) Act 1999.
- 14.2 This Deed is governed and construed in accordance with English Law and the parties submit to the exclusive jurisdiction of the English Courts.
- 14.3 No term or provision of this Deed shall be deemed waived and no breach excused unless the waiver or consent is in writing and signed by the party who has waived the term or provision.
- 14.4 No variation will be made to the Services or this Deed without the prior written consent of all the parties.
- 14.5 No party to this Deed may assign its obligations under this Deed without the other parties' prior written consent (such consent not to be unreasonably withheld or delayed), save that the Administrator may assign this Deed without the other parties' consent to any other group company.
- 14.6 If any provision of this Deed is held to be illegal, invalid or unenforceable in whole or in part, this Deed shall continue to be valid as to its other provisions and the remainder of the affected provision.
- 14.7 No party to this Deed may make any public statement, nor any announcement or disclosure about this Deed without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed).
- 14.8 This Deed and the documents referred to herein constitute the whole and only Deed between the parties relating to the rights and obligations of the parties between themselves with respect to the subject matter hereof and supersede and extinguish any prior drafts, Deeds, undertakings, representations, warranties and arrangements of any

nature whatsoever, whether or not in writing, relating thereto, save that nothing in this clause 14.8 shall limit or exclude any party's liability for fraud or misrepresentation.

15. Operative Provisions

15.1 In accordance with Section 270 of the Act, the Trustees appoint the Administrator to be the administrator of the scheme for the discharge of duties relating to the Scheme which are imposed on the administrator under the Act and the Administrator accepts the appointment.

16. Effective Date

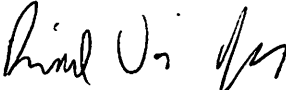
16.1 The provisions of this appointment have effect on and from the date of this deed.

SIGNED as a deed, and delivered when dated, by
Registered Scheme Administrator Limited
acting by

Director Signature:
 Name :

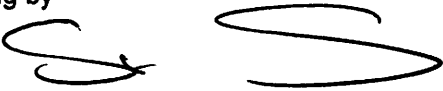
Witness Signature :
 Name :
 Address :

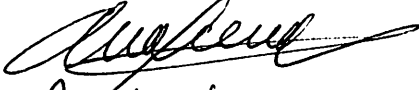
SIGNED as a deed, and delivered when dated,
By **David Arthur John Van Dyke** acting by

Witness Signature : 
 Name : DAVID VAN DYKE
 Address : 18 ST LEONARDS MANOR
 CAUTION ST LONDON
 SW1P 4RZ


ANGELA HERNANDEZ
28 WIMBORNE ROAD
SW6 4ED

SIGNED as a deed, and delivered when dated,
By **Patrick Stevens** acting by

Witness Signature : 
 Name : PATRICK STEVENS
 Address : 38 ROUNDWOOD PARK
 HARPENDEN AL5 3AF


ANGELA HERNANDEZ
28 WIMBORNE ROAD
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