

**London & Colonial (Trustee Services) Limited**

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**DEED OF AMENDMENT**

**THE LONDON & COLONIAL EU QROPS**

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**DATED: 4<sup>TH</sup>.....February 2019**

**THIS DEED OF AMENDMENT** is made the 4<sup>th</sup> February 2019

By **London & Colonial (Trustee Services) Limited** a company registered in Gibraltar under company number 102550 whose registered office is situate at Montagu Pavilion, 8 – 10 Queensway, Gibraltar (“LCTS”).

**WHEREAS:-**

- (A) This deed is supplemental to a Definitive Trust Deed (the “Deed”) to which Rules were appended (the “Rules”) dated 9<sup>th</sup> March 2010 which established the London & Colonial EU QROPS (the “Scheme”).
- (B) A deed of Amendment was executed on 26<sup>th</sup> January 2017.
- (C) A deed of Retirement and Appointment of Provider was executed on 4<sup>th</sup> July 2017. The powers of the Provider are vested in LCTS.
- (D) LCTS is the current trustee of the Scheme.
- (E) By Clause 20 of the Definitive Deed:
  - 20.1 “At the direction of the Provider the Trustees shall by instrument in writing under their hands alter or modify or add to all or any of the provisions of this Deed whether having retrospective effect or not provided that
    - 20.1.1 the rights and interests of all person entitled or contingently entitled to benefits under the Scheme or the legal personal representatives of such persons are not prejudiced in so far as they concern benefits secured under the Scheme prior to the date of such alteration modification or addition and that
    - 20.1.2 all amendments to the Rules shall be subject to the appropriate provision of the Rules (currently Rule 5) and that
    - 20.1.3 all other parts of this Deed may be altered amended or added to as the provider shall decide and in no case shall the Members consent or the consent of any of them be required
  - 20.2 Except as provided by Clause 19.1, a deed shall be necessary only to effect changes to the clauses of the Deed and not in respect of any changes made to the Rules.”
- (F) By Rule 5 of the Rules:
  - 5.1 No amendment shall be made to these Rules without the prior approval of the CIT.
  - 5.2 No alterations shall be made to a Members Arrangement if those alterations would prejudice the approval of the Scheme under the Act

- 5.3 Subject to Rules 5.1 and 5.2 the Provider may amend at any time any of the Rules, or, with the agreement of the Member, the terms of the members Arrangement
- 5.4 The agreement of the Member to an amendment to his Arrangement shall not be required in respect of any change in terms which is made in accordance with a condition in the Arrangement made with the Member
- (G) LCTS in its capacity as Provider and in exercise of the powers in Clause 20 and Rule 5 wishes to make certain amendments to Rules 9 and 10 of the Rules with effect from 27<sup>th</sup> March 2014.
- (H) LCTS in its capacity as Trustee wishes to confirm that, in accordance with Clause 20.1.1 the effect of the amendments in this deed shall not prejudice or effect any pension or annuity payable under the Scheme at the date of this deed or alter the purpose of the Scheme.
- (I) LCTS in its capacity as Trustee has evidenced its agreement to the amendments by the execution of this deed and the Gibraltar Commissioner of Income Tax has consented in writing to the amendments set out in this deed by email dated 31<sup>st</sup> January 2019 which is attached at Schedule 1 to this deed.

## **OPERATIVE PROVISIONS**

1. In exercise of the powers in Clause 20 of the Definitive Deed and Rule 5 of the Rules, LCTS in its capacity as Provider and Trustee, hereby amends the Rules with effect on and from 27<sup>th</sup> March 2014
- a) by the replacement of Rule 9.1 with the following
- “9.1 Income benefits
- At the Members Pension Date, the Member may elect in writing for his Members Fund, in whole or in part to be applied to provide
- i) a lifetime annuity, or alternatively
- ii) a yearly drawdown income
- in accordance with this Rule 9 and if required
- iii) the lump sum specified in Rule 10”
- b) by the replacement of Rule 9.9 with the following
- “9.9
- Deliberately left blank”
- c) by the replacement of Rule 9.10 with the following
- “9.10

Deliberately left blank”

d) by the replacement of Rule 9.11 with the following

“9.11 Yearly Drawdown Income

Subject to Rule 9.12, the Trustee shall determine the amount of yearly drawdown pension and the date on which it is payable subject to the following provisions

(i) The maximum drawdown pension shall be an amount which is sustainable to provide a lifetime income as determined by the Trustee using such actuarial advice or other guidance, as it in its absolute discretion considers appropriate, taking into account amongst other things the value and nature of the assets.

(ii) The amount of the maximum drawdown pension shall be recalculated in respect of each member aged under 75, at least once in every three year period following the Pension Date and yearly following the member attaining age 75 (the “Recalculation Date”).

(iii) The maximum amount of pension that can be drawn down from the Members Fund will be subject to the Her Majesty’s Revenue & Customs income drawdown limits in force (if any) at the Recalculation Date.”

(e) by the replacement of Rule 9.12 with the following

“9.12

No payment shall be made if that payment contravenes the Act, any Guidance notes issued by the CIT, or any other legislation in force at the time of payment which is applicable to such payments or would jeopardise the Qualifying Recognised Overseas Pension Scheme status of the Scheme with Her Majesty’s Revenue & Customs.”

(f) by the replacement of Rule 10.1 with the following

“10.1 Lump sum to Member

A Member who has elected to take income benefits under Rule 9.1 i) or ii) may in writing elect to receive a lump sum of up to 25% of the capital value of the Members Fund allocated to provide such benefits.

The Trustee may permit the payment of an amount greater than 25% where that payment would not contravene the Act, any Guidance notes issued by the CIT, or any other legislation in force at the time of payment which is applicable to such payments or would jeopardise the Qualifying Recognised Overseas Pension Scheme status of the Scheme with Her Majesty’s Revenue & Customs.

The lump sum shall be paid at the date on which the amount elected under Rule 9.1 i) or ii) is applied to provide an income benefit.”

2. If all or any part of this deed shall be illegal, invalid or unenforceable, then the remainder of that provision and all other provisions of this deed shall remain valid and enforceable.

**IN WITNESS** whereof these presents have been executed as a deed the day and year first before written.

**In its capacity as Provider:**

**THE COMMON SEAL of LONDON & COLONIAL (TRUSTEE SERVICES) LIMITED** was hereunto affixed in the presence of:-

Director



Director/Secretary



**In its capacity as Trustee:**

**THE COMMON SEAL of LONDON & COLONIAL (TRUSTEE SERVICES) LIMITED** was hereunto affixed in the presence of:-

Director



Director/Secretary



**Schedule 1**  
**Email from Commissioner of Income Tax**

A handwritten signature in dark ink, appearing to be 'A. J. ...', located in the middle-right section of the page.A second handwritten signature in dark ink, similar to the one above, located in the lower-right section of the page.

## Lynda Martin

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**From:** (TAX) Fernandez, Frances <frances.fernandez@gibraltar.gov.gi>  
**Sent:** 31 January 2019 14:29  
**To:** Lynda Martin  
**Subject:** RE: Draft Deeds of Amendment

Dear Lynda,

Thank you for your email.

In principle the draft deeds of amendment attached in your email of 17 January 2019 in respect of THE LONDON & COLONIAL EU QROPS & THE LONDON & COLONIAL EU SIPP (with correct signatories), are acceptable.

Formal approval will be extended on production of certified copies of the executed deeds.

Kind Regards,  
Frances

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**From:** Lynda Martin <lynda.martin@stmfidecs.gi>  
**Sent:** 31 January 2019 10:38  
**To:** (TAX) Fernandez, Frances <frances.fernandez@gibraltar.gov.gi>  
**Subject:** FW: Draft Deeds of Amendment

Dear Frances, any update on the draft deeds please?

Thanks  
Lynda

**Lynda Martin, APMI, Dip.IEB**  
Technical Services Manager

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**From:** Lynda Martin [<mailto:lynda.martin@stmfidecs.gi>]  
**Sent:** 17 January 2019 16:56  
**To:** '(TAX) Fernandez, Frances'  
**Subject:** RE: Draft Deeds of Amendment

Dear Frances, further to our telephone conversation earlier today please find attached the updated draft deeds of amendment (with correct signatories) for the

- THE LONDON & COLONIAL EU QROPS: I have updated the date and inserted a reference to the DoA of January 2017. The change under Rule 10.1 will override the Deed of Amendment dated 26<sup>th</sup> January 2017.
- THE LONDON & COLONIAL EU SIPP: I have updated the date, inserted a reference to the DoA of February 2017 and removed the change to Rule 10.1 - so that the DoA dated 2<sup>nd</sup> February 2017 continues to operate.

I would be grateful if you could confirm provisional approval.

Many thanks  
Lynda

*Lynda Martin, APMI, Dip.IEB*  
Technical Services Manager

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**From:** (TAX) Fernandez, Frances [<mailto:frances.fernandez@gibraltar.gov.gi>]  
**Sent:** 08 January 2019 15:47



**To:** Lynda Martin  
**Subject:** RE: Draft Deeds of Amendment

Dear Lynda,

I refer to our telephone conversation of today.

As agreed please find attached.

Regards,  
Frances

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**Frances Fernandez**  
**Higher Executive Officer**

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HM Government of Gibraltar  
St Jago's Stone Block  
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**Income Tax Office**

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**HM Government of Gibraltar**

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**From:** Lynda Martin <[lynda.martin@stmfidecs.gi](mailto:lynda.martin@stmfidecs.gi)>  
**Sent:** 21 December 2018 11:27  
**To:** (TAX) Fernandez, Frances <[frances.fernandez@gibraltar.gov.gi](mailto:frances.fernandez@gibraltar.gov.gi)>  
**Subject:** Draft Deeds of Amendment

Dear Frances, please find attached two draft deeds of amendment for the

- THE LONDON & COLONIAL EU QROPS
- THE LONDON & COLONIAL EU SIPP

I would be grateful if you could confirm provisional approval.

I would like to thank you and the team for all your support during the year, it is always a pleasure dealing with you ladies. I hope you have a fab Christmas and a prosperous and healthy New Year 😊

Kind regards  
Lynda

**Lynda Martin, APMI, Dip.IEB**  
Technical Services Manager

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