

Dated 15th September 2006

**DEFINITIVE TRUST DEED AND
RULES**

relating to the Radiocontact Ltd SSAS

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The provisions set out below were substituted for the provisions previously constituting the Scheme's governing trust deed and rules with effect from the date set out in the schedule by virtue of a deed of amendment.

It is agreed

1 Definitions and Interpretation

1.1 Words and expressions used in this Definitive Deed shall have the following meanings:

1993 Act means the Pension Schemes Act 1993

1995 Act means the Pensions Act 1995

Accumulated Credit means, in relation to any Member, Deferred Pensioner or, if applicable, Pensioner subject to the following provisions of this definition (Person) that part of the Fund which is determined by the Trustees subject to the following provisions of this definition as relating to the relevant Person at that time, having regard to:

- (a) the contributions paid into the Scheme on behalf of the Person by the Employers and (if relevant) by the Person;
- (b) any transfer amounts paid into the Scheme on behalf of the Person;
- (c) the income and capital position of the Fund (after allowing for expenses and other deductions); and
- (d) any other matters which the Trustees consider appropriate.

Nothing in this definition shall confer on any person any right to any specific assets of the Fund which may be allotted to him on a notional basis for the sole purpose of determining the value of his Accumulated Credit from time to time. The Trustees may, in determining the Accumulated Credit in respect of a Person, have regard to the advice of an Actuary, but nothing in this definition shall oblige the Trustees to take the advice of an Actuary when determining any Accumulated Credit.

The Trustees shall in exercising their powers to determine the Accumulated Credit in respect of a Person exercise them in such manner that they are satisfied that their determination will not result in an Unauthorised Payment, or in an Unauthorised Payment being treated as having been made. Without prejudice to the generality of the foregoing, the Trustees shall exercise their powers in a manner which they are satisfied will not give rise to an Unauthorised Payment, or to an Unauthorised Payment being treated as having been made, pursuant to:

- (a) section 172 of the FA 2004 (Assignment);
- (b) section 172A of the FA 2004 (Surrender);
- (c) section 172B of the FA 2004 (increase in rights of connected person on death);
- (d) section 172C of the FA 2004 (alteration of unallocated employer contributions); or
- (e) section 174 of the FA 2004 (Value Shifting)

Actuary means a Fellow of the Institute or Faculty of Actuaries or a firm of such fellows or a corporate body having a director or employee who is such a Fellow

A-day means 6 April 2006

Administrator means:

- (a) in respect of the period before A-day, any person appointed to meet the requirements of the Revenue under the terms of section 612(1) of the Taxes Act; and
- (b) in respect of the period from and including A-day means the scheme administrator within the meaning of section 270 of the FA 2004

Adviser means an Actuary, Auditor, fund manager, legal adviser, investment or pensions consultant, administrator, broker, medical consultant, Custodian or any other professional adviser

Alternatively Secured Pension Fund in respect of an Arrangement has the same meaning as in paragraph 11 of Schedule 28 of the FA 2004

Announcement means the announcement or letter from or on behalf of a participating Employer to a Member setting out details of Membership of and the benefits provided by the Scheme

Annuity Protection Lump Sum Death Benefit has the same meaning as in paragraph 16 of Schedule 29 of the FA 2004

Approval and **Approved** means approval of the Scheme by the Revenue and treatment as an exempt approved scheme under Chapter 1 Part XIV of the Taxes Act

Arrangement means an arrangement within the meaning of section 152 of the FA 2004

Associated Employer means any person whose participation in the Scheme is or would be acceptable to the Revenue and would not prejudice Registration

Auditor means a Member of The Institute of Chartered Accountants in England and Wales or The Institute of Chartered Accountants in Scotland or the Association of Certified and Corporate Accountants or a firm whose partners are members of one or more of the said bodies

AVCs means:

- (a) in relation to contributions paid before A-day, additional voluntary contributions paid by a Member or former Member together with any transfer value paid to the Trustees in respect of him, which is certified by the transferring scheme to represent AVC's; and
- (b) in relation to contributions paid after A-day, any contributions paid by a Member pursuant to Rule 4

AVC Account means the total value of a Member's or former Member's AVCs together with any investment yield or bonuses earned on them but after the deduction of any charges made by the AVC provider

Beneficiary means a person entitled or prospectively entitled to a benefit under the Scheme

Cessation Date means the date referred to in the first part of clause 26.2 at which all of the Members employed by the relevant Employer at the relevant date become Deferred Pensioners

Charity Lump Sum Death Benefit has the same meaning as in paragraph 18 of Schedule 29 of the FA 2004

Child means in relation to any person a child under age eighteen or over that age and currently in receipt of full-time education or vocational training. This expression includes:

- (a) a step-child
- (b) a legally adopted child

- (c) a child to whom the person in question stood in loco parentis immediately prior to his death
- (d) a child conceived but not yet born
- (e) an illegitimate child.

Commencement Date means the date on which the Scheme commenced.

Custodian means a person who has the custody of cash, securities and/or any other document of title relating to the Fund

Death Benefit Beneficiary means:

- (a) a Member or Beneficiary's Spouse or dependant ("dependant" for the purposes of this definition meaning any person, who at the time of the Member's or Beneficiary's death was in the Trustees' opinion dependent or financially interdependent on him);
- (b) his Children;
- (c) his brothers or sisters (whether of the whole or half blood);
- (d) his other ascendants or descendants;
- (e) his personal representatives;
- (f) any person named in any written expression of wish form made by the Member or Beneficiary; or
- (h) anyone who is themselves a beneficiary under the Member or Beneficiary's will.

Deferred Pensioner means:

- (a) a former Member who remains entitled to deferred retirement benefits; and
- (b) who is not yet a Pensioner

(or a person who is designated as such by the Trustees as a result of their receiving a transfer payment into the Scheme in respect of him under Rule 17

Definitive Deed means this Definitive Deed and includes the Rules and schedules attached to it, as amended from time to time

Dependant has the same meaning as in paragraph 15 of Schedule 28 of the FA 2004 and shall include a person who was married to the member when the member first became entitled to a pension under the Scheme

Dependants' Alternatively Secured Pension has the same meaning as in paragraph 19 of Schedule 28 of the FA 2004

Dependants' Annuity has the same meaning as in paragraph 17 of Schedule 28 of the FA 2004

Dependants' Income Withdrawal has the same meaning as in paragraph 21 of Schedule 28 of the FA 2004

Dependants' Scheme Pension has the same meaning as in paragraph 16 of Schedule 28 of the FA 2004

Dependants' Short –term Annuity has the same meaning as in paragraph 20 of Schedule 28 of the FA 2004

Dependants' Unsecured Pension has the same meaning as in paragraph 18 of Schedule 28 of the FA 2004

Dependants' Unsecured Pension Fund has the same meaning as in paragraph 22 of Schedule 28 of the FA 2004

Disclosure Requirements means the disclosure requirements under the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 / 1655 and (where the context requires) the Occupational Pension Schemes (Winding Up Notices and Reports etc) Regulations 2002/459

Effective Date means the date of the deed by which this Definitive Deed was adopted

Eligible Employee means an employee of an Employer invited to join the Scheme in accordance with Rule 1.1

Employer-Related Investment has the meaning given in section 40 of the 1995 Act

Employers means collectively the Principal Employer and any Associated Employers participating in the Scheme from time to time pursuant to clause 24. Where the Principal Employer is the only Employer participating in the Scheme then Employers should be read as singular. In relation to a Member or former Member, "Employer" means the Employer by whom he is or was last employed

FA 2004 means the Finance Act 2004

Fiscal Year means any year ending upon 5 April

Fund means the monies, assets, property and investments held for by or on behalf of the Trustees on the trusts of and for the purposes of the Scheme and which from time to time constitute the fund of the Scheme. It includes (but is not limited to) contributions from Employers and Members, assets accepted or acquired by the Trustees for the Scheme and any resulting investment gains, returns or interest. This expression includes where appropriate any part of the Fund

Ill-health Condition in the context of determining whether the Ill-health Condition is met has the same meaning as in paragraph 1 of Schedule 28 of the FA 2004

Income Withdrawal has the same meaning as in paragraph 7 of Schedule 28 of the FA 2004

Independent Trustee means Rowanmoor Trustees Limited or any person substituted for it under clause 5 being in all cases a person who is not connected with the Principal Employer, an Associated Employer participating in the Scheme nor any person who has joined the Scheme as a Member in respect of whom there is an Accumulated Credit under the Scheme. For the purposes of this definition, "connected" has the same meaning as in regulation 2 of The Retirement Benefits Schemes (Restriction on Discretion to Approve) (Small Self-administered Schemes) Regulations 1991

Insurer means an insurance company, EC company or friendly society as described in section 659B of the Taxes Act

Lifetime Allowance Excess Lump Sum means a lifetime allowance excess lump sum within the meaning of paragraph 11 of Schedule 29 of the FA 2004

Lifetime Annuity has the same meaning as in paragraph 3 of Schedule 28 of the FA 2004

Lump Sum Death Benefit and **Lump Sum Death Benefit Rule** have the same meaning as in section 168 of the FA 2004

Lump Sum Rule has the same meaning as in section 166 of the FA 2004

Member means save as otherwise provided a person who has joined the Scheme in accordance with Rule 1 (or any equivalent provision in force prior to Rule 1) but who has not

ceased to be a Member under Rule 2 (or any equivalent provision in force prior to Rule 2) nor started to receive a pension derived from the Scheme nor become a Deferred Pensioner or Pensioner or otherwise ceased to participate in the Scheme. Where used in clause 27 and in Rules 6-13 inclusive, Rule 15 and Rule 18, "Member" includes any person who has joined the Scheme as a Member in respect of whom there is an Accumulated Credit under the Scheme

Membership means participation in the Scheme as a Member

Member Trustees means the trustees of the Scheme other than the Independent Trustee

Normal Minimum Pension Age means:

- (a) before 6 April 2010, 50, and
- (b) on and after that date, 55

save that if paragraph 21 of Schedule 36 of the FA 2004 would operate to modify the meaning of the term "normal minimum pension age" for the purposes of Part 4 of the FA 2004 (except for section 218(6) and paragraph 19 of Schedule 36) in relation to a Member (which for this purpose shall have the same meaning as in Rule 7) the meaning of Normal Minimum Pension Age for the purposes of these Rules shall also be so modified in relation to that Member

Pension means a pension payable in respect of the Scheme. Unless the context otherwise requires, it includes a scheme pension, lifetime annuity, unsecured pension or alternatively secured pension (as those terms are defined in Part 1 of Schedule 28 of the FA 2004)

Pension Commencement Lump Sum means a pension commencement lump sum within the meaning of paragraph 1 of Schedule 29 of the FA 2004

Pension Conditions in the context of any matter being required to comply with the Pension Conditions means:

- (a) that the action will not prejudice the Scheme's Registration;
- (b) that the Trustees are satisfied that the action will not result in the Scheme making or being treated as making an Unauthorised Payment; and
- (c) that the action is consistent with compliance with the Pension Rules

Pension Death Benefit has the same meaning as in section 167 of the FA 2004

Pension Death Benefit Rules means the pension death benefit rules set out in section 167 of the FA 2004

Pension Rules means the pension rules set out in section 165 of the FA 2004

Pensionable Salary means in relation to a Member his total annual emoluments paid in any period of 12 months as appropriate

Pensionable Service means service for the Principal Employer or an Associated Employer in respect of which benefits (other than benefits payable solely on death before retirement) accrue under the Scheme

Pensioner means a former Member in respect of whom all or part of an Accumulated Credit has been used to secure him a Pension in accordance with the Definitive Deed

person means an individual, employer, firm or organisation

Personal Pension Scheme means a personal pension scheme approved under Chapter IV Part XIV of the Taxes Act

Preservation Requirements means the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 as amended by the Occupational Pension Schemes (Preservation of Benefit) Amendment Regulations 1993, and the provisions of Chapters I, II and IV of the 1993 Act relating to the rights of a former Member on termination of his Membership

Principal Employer means the person named as the principal employer (however such term is expressed) in the document by which the Scheme was established or such other person as may have been substituted as principal employer pursuant to the provisions governing the Scheme at the relevant time. For the avoidance of doubt, the Principal Employer may be a partnership, sole trader or company or any other body or organisation which can legally constitute an employer

Recognised Transfer has the same meaning as in section 169 of the FA 2004

Refund of Excess Contributions Lump Sum means a refund of excess contributions lump sum within the meaning of paragraph 6 of Schedule 29 of the FA 2004

Registration means the status of being a registered pension scheme in accordance with section 150(2) of FA 2004 and **Registered Pension Scheme** has a corresponding meaning

Relevant Benefits has the meaning given in section 612 of the Taxes Act

Relevant Date means the date of retirement, leaving Pensionable Service or death as the case may be

Relevant Uncrystallised Funds has the same meaning as in paragraph 15 of Schedule 29 of the FA 2004

Revenue means HM Revenue & Customs

Rules means the rules of the Scheme attached to and forming part of this Definitive Deed as amended from time to time

Scheme means the pension scheme referred to in the deed by which this Definitive Deed was adopted.

Scheme Pension has the same meaning as in paragraph 2 of Schedule 28 of the FA 2004

Serious Ill-health Lump Sum means a serious ill-health lump sum within the meaning of paragraph 4 of Schedule 29 of the FA 2004

Short Service Refund Lump Sum means a short service refund lump sum within the meaning of paragraph 5 of Schedule 29 of the FA 2004

Short-term Annuity has the same meaning as in paragraph 6 of Schedule 28 of the FA 2004

Spouse means the wife or husband of the relevant individual. In the case of polygamous marriages it means such wife or husband as the Trustees shall decide. Where the context requires wife or husband shall mean widow or widower

Taxes Act means the Income and Corporation Taxes Act 1988 and any statutory amendment modification or re-enactment thereof

Transfer Lump Sum Death Benefit has the same meaning as in paragraph 19 of Schedule 29 of the FA 2004

Trivial Commutation Lump Sum Death Benefit has the same meaning as in paragraph 20 of Schedule 29 of the FA 2004

Trust Corporation means a trust corporation as defined in the Trustee Act 1925

Trustees means the Member Trustees and the Independent Trustee collectively for the time being appointed

Unauthorised Payment means an unauthorised payment within the meaning of section 160(5) of the FA 2004

Unsecured Pension Fund in respect of an Arrangement has the same meaning as in paragraph 8 of Schedule 28 of the FA 2004

Unsecured Pension Fund Lump Sum Death Benefit has the same meaning as in paragraph 17 of Schedule 29 of the FA 2004

Winding-up Lump Sum means a winding-up lump sum within the meaning of paragraph 10 of Schedule 29 of the FA 2004

Winding-up Lump Sum Death Benefit means a winding-up lump sum death benefit within the meaning of paragraph 21 of Schedule 29 of the FA 2004

- 1.2 Unless the context requires otherwise any reference to a clause is a clause of the Definitive Deed.
- 1.3 The headings to this Definitive Deed have been inserted for ease of reference only. They are not to affect its construction or interpretation.
- 1.4 Words in the singular include the plural and vice versa. Words in the masculine gender include the feminine and vice versa unless the context otherwise requires.
- 1.5 Any reference to a statute, statutory instrument or other legislative provision includes any amendment or re-enactment of it (including any provisions which, whilst not technically an amendment or re-enactment, cover substantially the same subject matter) for the time being in force and any regulations made under it. This includes sections of the Taxes Act which have been re-enacted or amended by the Income Tax (Earnings and Pensions) Act 2003. Any reference to a particular section or part of a statute or statutory instrument will be read to include reference to any other relevant section or part of the statute or statutory instrument.
- 1.6 Each of the Employers and the Trustees in making any decision or in giving or withholding their agreement or consent or in exercising or not exercising any power in relation to the Scheme shall comply with:
 - (a) any requirements of the Revenue to maintain Registration of the Scheme;
 - (b) the Preservation Requirements (and in doing so the Trustees may make any decision necessary to ensure that the Scheme complies with the Preservation Requirements and any such decision shall be deemed to be incorporated into the provisions of the Scheme, provided that the Trustees may vary or revoke any such decision).
- 1.7 Except where the Definitive Deed provides otherwise, the Trustees in making any decision or in giving or withholding their agreement or consent or in exercising or not exercising any power or discretion under the Scheme shall do so (to the extent permissible by law) at their absolute and unfettered discretion and the Trustees shall not be obliged to give any person any reason or justification for the same.
- 1.8 Where the Scheme makes references to months, it shall be counted in complete calendar months and each calendar month shall be counted as 1/12th of a year. Where the Scheme makes reference to a week it shall mean any period of 7 consecutive days.
- 1.9 Subject to section 67 of the 1995 Act, in the event of any conflict between the Definitive Deed and any explanatory Scheme literature or Scheme announcements the Definitive Deed shall prevail and be overriding.
- 1.10 Except where expressly provided otherwise, the Trustees shall have full power to determine conclusively any questions or matters of doubt concerning the Scheme or the construction of the governing provisions of the Scheme and any such determination will be binding on all

interested parties. For the avoidance of doubt any question concerning termination or winding up of the Scheme shall be determined by the Independent Trustee and the Member Trustees.

- 1.11 The Trustees shall exercise their powers in a manner which they are satisfied will not give rise to an Unauthorised Payment, or to an Unauthorised Payment being treated as having been made.

2 Establishment of Scheme

- 2.1 The Principal Employer has established the Scheme with effect from the Commencement Date. The purpose of the Scheme is to provide:

- (a) in respect of the period prior to A-day, Relevant Benefits; and
- (b) in respect of the period from and including A-day, benefits consistent with the Scheme's Registration.

In respect of the period from and including A-day the Scheme shall be operated as a registered pension scheme within the meaning of section 150(2) of the FA 2004 for as long as the Revenue allows.

- 2.2 This Definitive Deed shall subject to the provisions of the deed of amendment by which it was introduced, constitute the governing provisions of the Scheme.
- 2.3 The Trustees shall hold the Fund on irrevocable trusts in accordance with the Definitive Deed.

3 Scheme Administrator

- 3.1 With effect from the Effective Date Rowanmoor Group plc will be the sole Administrator, and any Member Trustees or other persons who were Administrators immediately prior to the Effective Date shall, insofar as the law permits, cease to be Administrators with effect from the Effective Date. To the extent that, notwithstanding the foregoing provisions, such Member Trustees or other persons are treated as becoming the Administrator by reason of Schedule 36, paragraph 4 of the FA 2004, the Trustees and the Principal Employer shall take such steps as may be required to procure that such Member Trustees or other persons cease to be the Administrator as soon as reasonably practicable and the requirement under clause 3.2 to give 30 days' written notice shall not apply.
- 3.2 The person appointed as the Administrator may at any time resign by giving 30 days' written notice to this effect to the Principal Employer (or, if the Principal Employer has ceased to exist, to the Trustees). The Administrator may also, if applicable, resign in accordance with clause 5.3. Where the resignation of a person who is the Administrator would result in the Scheme having no Administrator, the Member Trustees shall act as the Administrator until such time (if any) as a replacement Administrator is appointed pursuant to clause 3.3.
- 3.3 The Principal Employer may at any time remove the current Administrator by giving 30 days' written notice to him to this effect. The Member Trustees (or, where applicable, such of them as have not resigned as Administrator) shall then act as the Administrator unless and until a new person is appointed by the Principal Employer as a replacement Administrator. If the Principal Employer exercises its power under this clause 3.3 to remove the current Administrator, the Administrator shall forthwith inform the Independent Trustee, which may then elect to resign as a trustee of the Scheme with effect from the date on which the Administrator ceases to be the Administrator pursuant to this clause, in which case the requirement under clause 5.4 for the Independent Trustee to give 30 days' written notice shall not apply. If the Independent Trustee intends to resign as a trustee pursuant to this clause 3.3, it shall give written notice of such fact to the Principal Employer or, if the Principal Employer has ceased to exist or its powers have vested in the Trustees by operation of the Scheme's provisions, to the Member Trustees.
- 3.4 The appointment of the Administrator shall subject to clause 3.6 be on such terms and conditions (including as to remuneration) as may be agreed between the Principal Employer

and the Administrator from time to time in writing. The fees charged by the Administrator shall be an expense of the Scheme for the purposes of clause 15.

- 3.5 Where by virtue of clause 3.1 or clause 3.3 the Trustees (or, where applicable, such of them as have not resigned or been removed) are required to act as Administrator they shall take such action as may be necessary in order to become the Administrator including (without prejudice to the generality of the foregoing) making the "required declaration" in accordance with section 270 of the FA 2004.
- 3.6 To the extent that any terms and conditions agreed pursuant to clause 3.4 involve payments being made by the Fund, the following provisions shall apply:
- (a) no payment shall be made to or in respect of a member (as that term is used in section 164 of the FA 2004) unless the Trustees are satisfied that the whole of such payment will be a scheme administration member payment within the meaning of section 171 of the FA 2004 or will otherwise be an authorised member payment pursuant to section 164 of the FA 2004; and
 - (b) no payment shall be made to or in respect of a sponsoring employer (as that term is used in section 175 of the FA 2004) unless the Trustees are satisfied that the whole of such payment will be a scheme administration employer payment within the meaning of section 180 of the FA 2004 or will otherwise be an authorised employer payment within the meaning of section 175 of the FA 2004.
- 3.7 Where a person has resigned as Administrator in accordance with clause 3.1 or been removed as Administrator in accordance with clause 3.3 but continues to have a liability pursuant to section 271(4) of the FA 2004, he shall, subject to clause 3.6, be entitled to recover out of the Fund the amount for which he is liable by virtue of section 271(4) of the FA 2004 together with any fees, costs and expenses which he incurs in connection with the Scheme (including without prejudice to the generality of this clause 3.7 any actuarial, legal or other professional fees, costs and expenses) by reason of his continuing liability under section 271(4) of the FA 2004.

4 Constitution of the Fund

- 4.1 The Scheme shall be constituted by contributions made by the Employers and any contributions payable by the Members in accordance with the Rules and by any other assets held by the Scheme pursuant to the Definitive Deed and Rules and by income arising on and capital accretions to the same.
- 4.2 Each Employer shall, in respect of their employees who are Members, arrange for the collection from those Members of any contributions they are required to pay in accordance with the Definitive Deed. These shall be paid to the Trustees (or as the Trustees shall direct), together with any contributions which the Employers are required to pay under the Definitive Deed, in accordance with the 1995 Act. All contributions so paid shall form part of the Fund.

5 Appointment and removal of Trustees

- 5.1 The minimum number of Trustees is two except where a Trust Corporation or a corporate trustee is willing to act as the Scheme's sole Trustee.
- 5.2 If the number of Trustees falls below the minimum required, the Principal Employer shall within 30 days of this happening appoint such additional Trustees as are necessary to meet the minimum required under this clause (subject always to the requirement for the Scheme to have an Independent Trustee). If the Principal Employer does not do this within thirty days of the number of Trustees falling below the minimum required, the remaining Trustee (if any) may by deed appoint additional Trustees. Pending such appointment the Independent Trustee may continue to operate the Scheme as if the requirement for the minimum number of Trustees was met.
- 5.3 The Principal Employer may by deed appoint new or additional Trustees or remove any Trustee. If the Principal Employer has ceased to exist, the power to appoint and remove Trustees contained in this clause 5.3 may be exercised by the Trustees. The Principal

Employer (or, where applicable, the Trustees) shall exercise its powers under this clause 5.3 in such manner as to ensure that the Scheme has an Independent Trustee. If the Principal Employer exercises its power under this clause 5.3 to remove the Independent Trustee, the Independent Trustee shall forthwith inform the Administrator, which may then elect to resign as Administrator of the Scheme with effect from the date on which the Independent Trustee ceases to be the Independent Trustee of the Scheme, in which case the requirement under clause 3.1 for the Administrator to give 30 days' written notice shall not apply. If the Administrator elects to resign as Administrator pursuant to this clause 5.3, it shall forthwith give written notice of such fact to the Principal Employer or, if the Principal Employer has ceased to exist or its powers have vested in the Trustees by operation of the Scheme's provisions, to the Member Trustees.

- 5.4 A Trustee may retire at any time by giving 30 days' written notice to the other Trustees and, where the Principal Employer is still in existence, to the Principal Employer. The Trustee shall then on expiry of the notice period cease to hold office and shall be discharged from the trusts of the Scheme even if this would result in the number of remaining Trustees being less than the minimum stated in clause 5.1 or in there being no Independent Trustee.
- 5.5 An Independent Trustee may resign in accordance with clause 3.3.
- 5.6 A retiring Trustee shall execute such documents and take such further action as may reasonably be required by the Principal Employer and the other Trustees to implement his retirement or removal and to vest the Fund in the continuing Trustees with effect from the date he ceases to be a Trustee. Should he fail to do so the remaining Trustees may execute such documents and act on his behalf as his attorney. Each of the Trustees irrevocably authorises and appoints their co-Trustees as such for this purpose.
- 5.7 Where a Trustee retires or is removed from acting as a Trustee, he shall be discharged from the trusts of the Scheme.
- 5.8 On the Independent Trustee or Administrator resigning or being removed from office, the Member Trustees shall take all reasonable steps to procure that the Independent Trustee or Administrator as appropriate ceases to be the registered owner or holder of any part of the Fund as soon as reasonably practicable.

6 Appointment and removal of Advisers

- 6.1 The Trustees shall appoint Advisers in accordance with section 47 of the 1995 Act to carry out any functions prescribed by that section 47. The Trustees may also instruct Advisers from time to time to carry out such further work in connection with the Scheme as they think appropriate.
- 6.2 Subject to section 47 of the 1995 Act and clause 6.4 any appointment made pursuant to this clause 6 shall be on such terms and conditions (including as to remuneration) as the Trustees think appropriate. The fees charged by Advisors shall be an expense of the Scheme for the purposes of clause 15.
- 6.3 The power to remove, replace or vary the terms of appointment of any Adviser shall be vested in the Trustees.
- 6.4 To the extent that any terms and conditions agreed pursuant to clause 6.2 involve payments being made by the Fund, the following provisions shall apply:
 - (a) no payment shall be made to or in respect of a member (as that term is used in section 164 of the FA 2004) unless the Trustees are satisfied that the whole of such payment will be a scheme administration member payment within the meaning of section 171 of the FA 2004 or will otherwise be an authorised member payment pursuant to section 164 of the FA 2004; and
 - (b) no payment shall be made to or in respect of a sponsoring employer (as that term is used in section 175 of the FA 2004) unless the Trustees are satisfied that the whole of such payment will be a scheme administration employer payment within the

meaning of section 180 of the FA 2004 or will otherwise be an authorised employer payment within the meaning of section 175 of the FA 2004.

7 General powers of the Trustees

7.1 Without prejudice to the rest of the Definitive Deed and subject to clause 7.2 the Trustees shall have the following general powers (not being inconsistent with the Definitive Deed or maintaining Scheme Registration or contrary to law):

- (a) all such powers and discretions as they may from time to time require for the running of the Scheme;
- (b) to take any action or make any arrangement relating to the Scheme;
- (c) to authorise any one or more Trustees to sign any document on their behalf;
- (d) to enter into agreements and give undertakings, indemnities or guarantees which are binding on them which they decide are necessary and proper for the purposes of the Scheme; and
- (e) to compromise or settle any matter, claim or proceedings.

7.2 Nothing in clause 7.1 shall authorise the Trustees to make an Unauthorised Payment or take any action which will result in an Unauthorised Payment being treated as having been made.

8 Trustee meetings

8.1 Subject to section 32 of the 1995 Act, the Trustees shall determine the frequency of their meetings. Reasonable notice shall be given to the relevant Trustees of any forthcoming meeting having due regard to the urgency of any business to be discussed.

8.2 Unless the Trustees agree otherwise:

- (a) notice should be given of the date, the time and place of the meeting and an agenda or summary of the matters to be discussed;
- (b) the meetings should be held at a time and venue reasonably convenient to all the relevant Trustees; and
- (c) if the notice is given in writing it should be sent to the last known address of each relevant Trustee no later than 10 days before the meeting; and if the notice is given by telephone it should be given in accordance with clause 8.1 and direct to the relevant Trustees concerned and not any other person.

8.3 The quorum for a meeting of the Trustees shall be the Independent Trustee and a majority of the Member Trustees. The quorum for a meeting of a committee of Trustees shall be all of the committee of the Trustees. Any decisions taken at an inquorate meeting shall not be valid decisions of the Trustees. A meeting of the Trustees may be held by video or telephone conference (or a combination of the two) and any Trustee participating in a meeting via telephone or video conference link shall be deemed to be present at the meeting for the purposes of ascertaining whether the meeting is quorate.

8.4 Decisions at Trustee meetings (or sub-committee meetings) must be unanimous. If the Trustees cannot reach a unanimous decision on any matter (excluding decisions relating to the termination or winding up of the Scheme) the matter shall be referred to an expert unanimously appointed by the Trustees whose determination shall be binding on the Trustees. The costs of any such expert shall be an expense of the Scheme for the purposes of clause 15.

8.5 Any written resolution signed by all the Trustees shall be binding and effective as if it had been passed at a quorate Trustees meeting. The resolution may be made by a number of identical copies, whether or not of the same date, each signed by one or more Trustees provided that each Trustee has signed a copy.

- 8.6 Subject to this clause 8:
- (a) the meetings, procedures and decisions of a corporate Trustee shall also be regulated by its governing documents; and
 - (b) the Trustees may make such rules or adopt such procedures for the conduct of their business as they decide.
- 8.7 As soon as reasonably possible after a meeting, minutes of the matters discussed and decisions made are to be circulated to all the Trustees. The Trustees shall keep minutes and other records in accordance with section 49 of the 1995 Act.

9 Delegation

- 9.1 Subject to section 34 of the 1995 Act, clause 9.3 and clause 9.5 the Trustees may delegate and / or authorise the sub-delegation of all or any of their powers, duties, trusts or discretions (including this power to delegate) to any person, on such terms and conditions and for such periods and at such remuneration (if any) as they shall decide. Any such delegation and / or sub-delegation may be revoked by the Trustees at any time.
- 9.2 Such delegation and / or sub-delegation may be made to:
- (a) a committee of one or more Trustees;
 - (b) an Adviser;
 - (c) such other person (including an Employer) as the Trustees shall decide.
- 9.3 Any decision, power or discretion relating to the termination or winding up of the Scheme may only be exercised unanimously by all the Trustees.
- 9.4 Any remuneration for a Trustee or delegate under clause 9.1 above shall be an expense of the Scheme in accordance with clause 15.
- 9.5 To the extent that any terms and conditions agreed pursuant to clause 9.1 involve payments being made by the Fund, the following provisions shall apply:
- (a) no payment shall be made to or in respect of a member (as that term is used in section 164 of the FA 2004) unless the Trustees are satisfied that the whole of such payment will be a scheme administration member payment within the meaning of section 171 of the FA 2004 or will otherwise be an authorised member payment pursuant to section 164 of the FA 2004; and
 - (b) no payment shall be made to or in respect of a sponsoring employer (as that term is used in section 175 of the FA 2004) unless the Trustees are satisfied that the whole of such payment will be a scheme administration employer payment within the meaning of section 180 of the FA 2004 or will otherwise be an authorised employer payment within the meaning of section 175 of the FA 2004.

10 Employment of agents, staff and nominees

- 10.1 Subject to the following provisions of this clause 10 the Trustees may employ or appoint such agents, employees, nominees or other persons on such terms and conditions including as to remuneration and for such periods as they decide, to transact any business of the Scheme or administer the Scheme or for any other purpose consistent with the purposes of the Scheme. This may include the payment of pensions and other benefits and any such payment made in good faith by the agent shall operate as a discharge to the Trustees.
- 10.2 Agents may include any employees or officers of the Independent Trustee, Administrator or an Employer.

- 10.3 Any agent, employee or nominee (apart from a Trustee) may, if he is acting in good faith, comply with the directions of the Trustees without being obliged to ascertain that those directions comply with the Definitive Deed.
- 10.4 Any remuneration payable under clause 10.1 above shall be an expense of the Scheme in accordance with clause 15.
- 10.5 Any employment or appointment pursuant to clause 10.1 above shall be made subject to a written agreement between the Trustees and the relevant person setting out the terms and conditions of the employment or appointment unless the Trustees agree otherwise.
- 10.6 To the extent that any terms and conditions agreed pursuant to clause 10.1 involve payments being made by the Fund, the following provisions shall apply:
- (a) no payment shall be made to or in respect of a member (as that term is used in section 164 of the FA 2004) unless the Trustees are satisfied that the whole of such payment will be a scheme administration member payment within the meaning of section 171 of the FA 2004 or will otherwise be an authorised member payment pursuant to section 164 of the FA 2004; and
 - (b) no payment shall be made to or in respect of a sponsoring employer (as that term is used in section 175 of the FA 2004) unless the Trustees are satisfied that the whole of such payment will be a scheme administration employer payment within the meaning of section 180 of the FA 2004 or will otherwise be an authorised employer payment within the meaning of section 175 of the FA 2004.

11 Trustee remuneration

- 11.1 Any Trustee engaged in a profession or business (including any officer or employee of a corporate trustee) shall be entitled to be paid all properly incurred expenses, charges, remuneration and commissions for work carried out in connection with the Scheme by him or any firm or company including work which a Trustee not being in any profession or business could have done personally.
- 11.2 Without prejudice to the generality of clause 11.1, if the Independent Trustee, or any professional adviser with which it is connected, is consulted by the Member Trustees with regard to investment advice, the party providing such advice may charge a reasonable fee for such advice and may retain any reasonable commissions received as a result of any resulting investment made by the Trustees.
- 11.3 Any Trustee not engaged in a profession or business may be paid such expenses and remuneration as may be agreed unanimously by the Trustees.
- 11.4 All sums due pursuant to this clause shall be expenses of the Scheme for the purpose of clause 15, to be paid in priority to all other claims on the Fund.
- 11.5 To the extent that any payments pursuant to clause 11 are to be made by the Fund, the following provisions shall apply:
- (a) no payment shall be made to or in respect of a member (as that term is used in section 164 of the FA 2004) unless the Trustees are satisfied that the whole of such payment will be a scheme administration member payment within the meaning of section 171 of the FA 2004 or will otherwise be an authorised member payment pursuant to section 164 of the FA 2004; and
 - (b) no payment shall be made to or in respect of a sponsoring employer (as that term is used in section 175 of the FA 2004) unless the Trustees are satisfied that the whole of such payment will be a scheme administration employer payment within the meaning of section 180 of the FA 2004 or will otherwise be an authorised employer payment within the meaning of section 175 of the FA 2004.

12 Trustees benefiting from the Scheme

- 12.1 The decision of, or the exercise of a power or discretion by, the Trustees shall not be invalidated or questioned on the ground that any of the Trustees or directors of a corporate Trustee had an interest in the result of the decision or the exercise of the power or discretion.
- 12.2 Subject to the consent of the Principal Employer and of the Trustees and to clause 12.5, a Trustee who is or becomes a partner, director, officer or employee of any company, business or partnership in which the Trustees hold shares or any other interest or which, or any part of which, forms part of the Fund, may retain for himself any resulting fees or remuneration notwithstanding that his retention of, or appointment to, that office or employment may be directly or indirectly due to the exercise or non-exercise of any votes by the Trustees.
- 12.3 Subject to clause 12.5 any Trustee, employee, director or other officer of the Trustees, any member of any committee appointed by the directors of the Trustees, any employee of an Employer who is engaged in administering or managing the Scheme on behalf of the Trustees, any person engaged to do any act in connection with the Scheme and any person to whom any of the powers, discretions or duties of the Trustees have been delegated may:
- (a) exercise his powers and discretions and discharge his duties even if he is also a Member or Beneficiary and no such exercise or discharge shall be invalid on the ground that he has a direct or other personal interest (of any nature) in the subject matter;
 - (b) retain for himself any benefit to which he is entitled by virtue of his Membership or being a Beneficiary;
 - (c) deal with, or concur in dealing with, or enter into any transaction connected with the Fund or any asset in which he has an interest, as if he had no connection with the Scheme and is not liable to account for any profit or other benefit;
 - (d) act as a partner, director, officer or employee of any company, business or partnership in which the Trustees hold shares or any other interest or which, or any part of which, forms part of the Fund and retain any remuneration received in that capacity even though the Fund (or his connection with it) may have assisted him in earning it.
- 12.4 Subject to section 34 of the 1995 Act and to clause 12.5 and without prejudice to the rest of this clause 12, any person to whom any of the Trustees' investment powers under the Definitive Deed have been delegated may be authorised to retain any benefit received through acting as a delegate (and such authorisation may also apply to any associate of the delegate).
- 12.5 Nothing in this clause 12 shall authorise any action which would result in the Scheme making an Unauthorised Payment or being treated as making an Unauthorised Payment, whether by virtue of section 174 of the FA 2005 (value shifting) or otherwise.

13 Exclusion of liability

- 13.1 To the extent permitted by law and subject to clause 14 and sections 33 and 34 of the 1995 Act no Trustee shall incur any liability for:
- (a) the exercise or failure to exercise any power or discretion;
 - (b) acting as a Trustee of the Scheme;
 - (c) the acts and omissions either of co-Trustees, agents, employees, delegates or Advisers or any other person; or
 - (d) any other act or omission.
- 13.2 Subject to clause 14 the Employers (on a joint and several basis) shall indemnify each and all of the Trustees against any costs, claims, demands, expenses, proceedings and liabilities

which they may incur through acting as a Trustee of the Scheme except in cases of fraud by any Trustee (where the Trustee who committed fraud and any Trustee who knowingly ignored the fraud shall not be so indemnified). Subject to section 31 of the 1995 Act, should the Employers fail to indemnify them (whether in full or in part) the Trustees shall be entitled to be indemnified from the Fund.

- 13.3 For the avoidance of doubt (but without prejudice to the generality of the foregoing) the indemnities in clause 13.2 shall apply in relation to any action taken (or omitted to be taken) by any Trustee concerning:

- (a) the value at any time of a person's Accumulated Credit;
- (b) the nominal allocation of Fund assets pursuant to clause 16.3;
- (c) any payment to an Employer pursuant to clause 34; and
- (d) the provisions of clause 5.8.

Should the Independent Trustee fail to be fully indemnified to any extent in accordance with this clause, the Member Trustees shall instead indemnify the Independent Trustee in the same terms as apply under this clause.

- 13.4 The Trustees shall be entitled to rely upon any advice or recommendations given by any Adviser and will incur no personal liability in doing so.

- 13.5 The Trustees shall not be accountable for any payment they may make:

- (a) to a minor direct, or to his parent or guardian or other person with whom he is living;
- (b) to any person who the Trustees believe to be a Spouse, even if it subsequently transpires the person is not a Spouse; and
- (c) to any institution or individual who the Trustees believe to be responsible for the care of a Beneficiary.

- 13.6 The Trustees shall not be obliged to bring, pursue or defend any legal proceedings in relation to the Scheme except if they so decide. However where any legal proceedings are brought, pursued or defended the costs and expenses of doing so shall be an expense of the Scheme for the purposes of clause 15.

- 13.7 Without prejudice to the rest of this clause 13, the Independent Trustee shall have no liability to any person for any loss or liability arising out of withdrawal of Approval or Registration from the Scheme, whether caused directly or indirectly by any investment transaction or any action not endorsed by the Independent Trustee.

- 13.8 The provisions of this clause apply without prejudice to any further protection afforded to the Trustees by statute, common law or otherwise but are subject to the limitations set out in clause 14.

14 Limitation and extent of protection

- 14.1 The provisions of clause 13 shall not protect a Trustee in relation to any breach of trust arising out of fraud.

- 14.2 If the inclusion of any words in clause 13 and/or this clause 14 would at law render ineffective any protection given to any Trustee (whether given by law or under this Definitive Deed) then the clause is to be construed otherwise to the minimum extent necessary so that the protection would not be rendered ineffective.

- 14.3 The provisions of clause 13 and this clause 14 shall also apply to:

- (a) all officers and employees of a corporate Trustee;

- (b) former trustees of the Scheme; and
 - (c) in respect of the period beginning with A-day, the Administrator of the Scheme (for which purpose the final paragraph of clause 13.3 shall apply to the Administrator as it applies to the Independent Trustee).
- 14.4 No indemnity under clause 13 shall apply in respect of any loss or liability that is covered by any insurance or policy of indemnity. Where the terms of any such insurance or policy of indemnity provide that cover will only be provided to the extent that an indemnity is not available from another source, no indemnity under clause 13 shall have effect in relation to any liability which would otherwise be fully covered by the insurance or policy of indemnity.
- 15 Scheme expenses**
- 15.1 The costs and expenses of running the Scheme shall be paid from the Fund unless the Principal Employer decides they shall be paid by the Employers (in such proportions as the Principal Employer shall decide).
- 15.2 Where any of the Employers defaults in paying any costs or expenses of running the Scheme, such costs and expenses shall (where possible) be paid from the Fund on such basis as the Trustees shall decide.
- 15.3 For the avoidance of doubt but without prejudice to the generality of the foregoing the costs and expenses shall include any incurred by the Trustees pursuant to the Definitive Deed or otherwise in performance of their duties or the exercise of their powers or discretions.
- 16 Control of the Fund**
- 16.1 The Fund shall be vested in the Trustees as joint tenants and held by them upon irrevocable trusts in accordance with the terms of the Definitive Deed.
- 16.2 All monies, assets, investments and property received by the Trustees for the purposes of the Scheme shall form part of the Fund. They may be retained in the Fund or sold if and when the Trustees decide, including for the purpose of arranging benefits or making transfers in respect of benefits.
- 16.3 Subject to clause 16.7, the Trustees may from time to time nominally allocate assets from the Fund for such purposes as they decide and may change any such allocation from time to time, provided Registration is not thereby prejudiced.
- 16.4 The Trustees may hold assets of the Fund either in the name of the Trustees or any of them or jointly with some other person or in the name of a nominee or Custodian or sub-custodian. However the Independent Trustee must always be the registered co-owner of any assets unless it expressly agrees otherwise.
- 16.5 Any Custodian so appointed may appoint sub-custodians and nominees without prior approval by the Trustees provided that the extent of the Custodian's liability for the acts and omissions of any such sub-custodians and nominees is disclosed in writing to the Trustees before the appointment of the Custodian.
- 16.6 At any time when the Trustees are a sole corporate trustee and not a Trust Corporation, the Trustee may appoint another person to hold any real property in the Fund jointly with it.
- 16.7 The Trustees shall exercise their powers under clause 16.3 in a manner which they are satisfied will not result in the Scheme making or being treated as having made an Unauthorised Payment. Without prejudice to the generality of the foregoing, the Trustees shall exercise their powers in a manner which they are satisfied will not give rise to an Unauthorised Payment or to an Unauthorised Payment being treated as having been made, pursuant to:
- (a) section 172 of the FA 2004 (Assignment);
 - (b) section 172A of the FA 2004 (Surrender);

- (c) section 172B of the FA 2004 (increase in rights of connected person on death);
- (d) section 172C of the FA 2004 (Allocation of unallocated employer contributions);
- (e) section 174 of the FA 2004 (Value shifting); or
- (f) section 181 of the FA 2004 (Value shifting).

17 Investment

17.1 Investments may be made within or outside the United Kingdom whether or not:

- (a) involving a liability on the Fund;
- (b) producing income;
- (c) authorised by law for the investment of trust monies; or
- (d) of a wasting or reversionary nature.

Subject to clause 18 the Trustees shall have the same full and unrestricted powers of investment as if they were absolutely and beneficially entitled to the Fund.

17.2 Without prejudice to clause 17.1 but subject to clause 18 the Trustees may invest the Fund in or upon the security of any:

- (a) contract or policy of any kind issued by a United Kingdom office or branch of an Insurer;
- (b) scheme of deposit administration;
- (c) unit trust, investment trust, managed fund, mutual fund or common investment fund;
- (d) deposit with a local authority, bank, building society, finance company or other financial institution;
- (e) stocks, shares, debentures and debenture stocks (whether by purchase, subscription, underwriting, sub-underwriting or otherwise);
- (f) gilts, government securities and other interest bearing investments whether at a fixed or variable rate;
- (g) traded options (as defined in section 144(8)(b) of the Taxation of Chargeable Gains Act 1992);
- (h) transactions and financial futures on the London International Financial Futures Exchange;
- (i) gold bullion or any other commodity;
- (j) interest in land or property (either in their own right or jointly with any other party);
- (k) currency, contract, guarantee, option, derivative or other agreement in connection with any of the above; and
- (l) personal chattels.

17.3 No investment of the Fund may be made unless:

- (a) each Member, Deferred Pensioner and Pensioner agrees in writing to the making of that investment;

- (b) Registration shall not be prejudiced; and
- (c) the 1995 Act shall not be contravened.

Subject to this and to clause 18 the Trustees may make investments in any of the Employers. For this purpose, investment includes any dealings in shares, securities, assets or land or the entering into of any loan, guarantee, indemnity or agreement.

- 17.4 Before any investment is made each of the [Members, Deferred Pensioners and Pensioners] shall agree in writing to the making of that investment unless the Trustees have delegated all or any of their powers of investment pursuant to clause 9.
- 17.5 The Trustees shall if so required by section 35 of the 1995 Act prepare and maintain a statement of principles governing the investment of the Fund. The statement shall comply with section 35 of the 1995 Act.
- 17.6 As regards any real property held as an investment of the Scheme the Trustees may enter into any lease, licence, option, development or other contract in relation to it.
- 17.7 Subject to clause 17.3 and clause 18 and any other requirements of the Revenue the Trustees may enter into any transaction involving the Fund with any Employer or the trustees of any other trust. Such transaction shall be valid irrespective of whether the directors of any such Employer or trustees of any such trust are one or more of the Trustees, provided that Registration is not prejudiced by this transaction. Where the Trustees enter into any transaction with the trustees of another trust the Trustees may hold or be entitled to such share of the mixed investments as they agree with the trustees of the other trust.
- 17.8 The Trustees may appropriate any insurance policy or contract in the Fund to pay benefits from the Scheme in accordance with the Definitive Deed except for a policy representing Members' or former Members' AVCs.
- 17.9 The Trustees may purchase annuity contracts or policies in their own names or the name of any Beneficiary. The Trustees may assign to any Beneficiary any annuity contract or policy for the purpose of paying benefits in accordance with the Definitive Deed, whereupon the Beneficiary shall cease to have any further rights under the Scheme in respect of the benefits to which the annuity contract or policy relates.
- 17.10 Subject to section 49(1) of the 1995 Act, the Trustees may open any one or more accounts with a bank, building society, finance company or other financial institution. They may make such arrangements as they see fit from time to time regarding the operation of any such account. These arrangements must provide that the Independent Trustee shall be a mandatory signatory to any such account at all times (unless the account only gives rise to a liability or the Independent Trustee has confirmed in writing that it does not require the Trustees to apply this requirement in a particular case).
- 17.11 The Trustees may subject to clause 18 lease any asset held as an investment of the Scheme.

18 Restrictions on investment

- 18.1 The Trustees shall exercise their powers under clause 17 in a manner which they are satisfied is not likely to result in the Scheme making or being treated as having made an Unauthorised Payment. Without prejudice to the generality of the foregoing, the Trustees will exercise their powers in a manner which they are satisfied is not likely to result in the Scheme making or being treated as having made an Unauthorised Payment pursuant to:
 - (a) section 171 of the FA 2004 (scheme administration member payments);
 - (b) section 173 of the FA 2004 (use of scheme assets to provide benefits to members and related persons);
 - (c) sections 174 and 181 of the FA 2004 (value shifting); or
 - (d) section 180 of the FA 2004 (scheme administration employer payments).