

# **INDEX TO THE ARTICLES**

## **PART 1**

### **INTERPRETATION AND LIMITATION OF LIABILITY**

1. Defined terms
- 1A. Teckal
2. Liability of members

## **PART 2**

### **DIRECTORS**

#### **DIRECTORS' POWERS AND RESPONSIBILITIES**

3. Directors' general authority
4. Shareholders' reserve power
5. Directors may delegate
6. Committees/Advisory Panels

#### **DECISION-MAKING BY DIRECTORS**

7. Directors to take decisions collectively
8. Unanimous decisions
9. Calling a Directors' meeting
10. Participation in Directors' meetings
11. Quorum for Directors' meetings
12. Chairing of Directors' meetings
13. Casting vote
14. Conflicts of interest
- 14A. Directors' power to authorise conflict situations
15. Records of decisions to be kept
16. Directors' discretion to make further rules

#### **APPOINTMENT OF DIRECTORS**

- 17A. Number of Directors
- 17B. Methods of appointing Directors
- 18A. Term of Office
- 18B. Termination of Director's appointment

19. Directors' remuneration
20. Directors' expenses

### **PART 3**

## **SHARES AND DISTRIBUTIONS**

### SHARES

- 21A. Shares
21. All shares to be fully paid up
22. Powers to issue different classes of share
23. Company not bound by less than absolute interests
24. Share certificates
25. Replacement share certificates
26. Share transfers
27. Transmission of shares
28. Exercise of transmitters' rights
29. Transmitters bound by prior notices

### DIVIDENDS AND OTHER DISTRIBUTIONS

30. Procedure for declaring dividends
31. Payment of dividends and other distributions
32. No interest on distributions
33. Unclaimed distributions
34. Non-cash distributions
35. Waiver of distributions

### CAPITALISATION OF PROFITS

36. Authority to capitalise and appropriation of capitalised sums

## **PART 4**

### **DECISION-MAKING BY SHAREHOLDERS**

### ORGANISATION OF GENERAL MEETINGS

- 37A. Single Shareholder Company
- 37B. Attendance and speaking at general meetings

38. Quorum for general meetings
39. Chairing general meetings
40. Attendance and speaking by Directors and non-shareholders
41. Adjournment

#### VOTING AT GENERAL MEETINGS

42. Voting: general
43. Errors and disputes
44. Poll votes
45. Content of proxy notices
46. Delivery of proxy notices
47. Amendments to resolutions

### **PART 5**

#### **ADMINISTRATIVE ARRANGEMENTS**

48. Means of communication to be used
49. Company seals
50. Right to inspect accounts and other records
51. Not used

#### DIRECTORS' INDEMNITY AND INSURANCE

52. Indemnity
53. Insurance

### **Schedule 1**

Reserved Matters (Article 4)

## PART 1

### INTERPRETATION AND LIMITATION OF LIABILITY

#### Defined terms

1. In the articles, unless the context requires otherwise—

“Advisory Panel” means a panel established under article 5;

“Articles” means these Articles of Association;

“Bankruptcy” includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;

“Business Plan” means the business plan established by the company;

“Chairperson” has the meaning given in article 12;

“Chairperson of the meeting” has the meaning given in article 39;

“Companies Acts” means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the company;

“Controlled Company” means a company within the meaning of Regulation 1(4) of the Local Authorities (Companies) Order 1995;

“Director” means a director of the company, and includes any person occupying the position of director, by whatever name called;

“Distribution Recipient” has the meaning given in article 31;

“Document” includes, unless otherwise specified, any document sent or supplied in electronic form;

“Electronic form” has the meaning given in section 1168 of the Companies Act 2006;

“Executive Director” means a Director who is engaged full time in the day to day running and administration of the company and shall for the avoidance of doubt include the managing director of the company from time to time;

“Fully Paid” in relation to a share, means that the nominal value and any premium to be paid to the company in respect of that share have been paid to the company;

“Hard Copy Form” has the meaning given in section 1168 of the Companies Act 2006;

“Holder” in relation to shares means the person whose name is entered in the register of members as the holder of the shares;

“Instrument” means a document in hard copy form;

“Material Financial Decision” means any decision or resolution of the Directors which in the opinion of the Executive Director holding the position of Service Director Finance and Commercialisation (SCC’s designated s151 Officer) has the potential to have a material adverse effect on the company’s and/or SCC’s financial affairs. In event of change in service title in relation to the Service Director Finance and Commercialisation, it is SCC’ s151 Officer that will assume this responsibility;

“Non-executive Director” means a Director who is not engaged full time in the day to day running and administration of the company;

“Ordinary Resolution” has the meaning given in section 282 of the Companies Act 2006;

“Paid” means paid or credited as paid;

“Participate”, in relation to a Directors’ meeting, has the meaning given in article 10;

“Proxy Notice” has the meaning given in article 45;

“Regulations” means the Public Contracts Regulations 2015; “SCC” means Southampton City Council of Civic Centre, Civic Centre Road, Southampton, SO14 7LY;

“Shareholder” means a person who is the holder of a share;

“Shareholder Representative” means such person or body nominated by the Holder or Holders of the Shares to exercise all rights of the Holder or Holders in relation to the company;

“Shares” means shares in the company;

“Special Resolution” has the meaning given in section 283 of the Companies Act 2006;

“Subsidiary” has the meaning given in section 1159 of the Companies Act 2006;

“Teckal” means the codified rule of EU procurement law as set out within Directive 2014/24/EU and Regulation 12 of the Regulations, deriving from the Teckal case (Teckal Srl v Comune de Viao and Azienda Gas-acqua Consorziale (AGAC) di Reggio Emilia (C-107/98) [1998] ECR I-8121) pursuant to which the requirements for open advertisement and tendering for public contracts in accordance with the Regulations does not apply;

“Transmittee” means a person entitled to a share by reason of the death or bankruptcy of a shareholder or otherwise by operation of law; and

“Writing” means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

Unless the context otherwise requires, other words or expressions contained in these articles bear the same meaning as in the Companies Act 2006 as in force on the date when these articles become binding on the company.

### **1A Teckal**

- (1) The objects of the company are to execute certain of SCC’s services in a manner which ensures that the company:
  - (a) is and remains controlled (both by way of membership of and strategic influence over the company) by SCC as a wholly owned company of SCC; and
  - (b) carries out the essential part of its activities for SCC and/or legal persons controlled by it (within the meaning of regulation 12 of the Regulations).

### **2. Liability of members**

- (1) The liability of the members is limited to the amount, if any, unpaid on the shares held by them.

## **PART 2**

### **DIRECTORS**

#### **DIRECTORS' POWERS AND RESPONSIBILITIES**

##### **3. Directors' general authority**

- (1) Subject to the articles, the Directors are responsible for the management of the company's business, for which purpose they may exercise all the powers of the company.
- (2) The Directors shall exercise the powers of the company observing at all times the relevant code of conduct in force at SCC from time to time. For the purpose of this article 3:
  - (a) any Executive Director who is a Member of SCC and any Non Executive Director will observe SCC's Members' Code of Conduct (Part 12 of SCC's Constitution); and
  - (b) Executive Directors that are SCC Officers will observe SCC's Officer Code of Conduct (Part 13 of SCC's Constitution).

as though any reference to Member or Officer as the case may be were a reference to a Director of the company and any references to SCC were a reference to the company.

- (3) The Directors shall exercise the powers of the company ensuring at all times that:
  - (a) for so long as the company is a Controlled Company, the company shall not engage in activities for party political purposes or publish, or arrange for the publication of, any material which, in whole or in part, appears to be designed to affect public support for a political party;
  - (b) for so long as the company is a Controlled Company, the company shall not give financial or other assistance to a person for the publication of material which the company is prohibited by article 3(3)(a) from publishing itself;
  - (c) for so long as the company is a Controlled Company, the company shall have mentioned on all documents the fact that it is a company controlled by SCC.

##### **4. Shareholders' reserve power**

- (1) The shareholders may, by special resolution, direct the Directors to take, or refrain from taking, specified action.
- (2) No such special resolution invalidates anything which the Directors have done before the passing of the resolution.

- (3) The Directors shall not engage in any of the Reserved Matters detailed in Schedule 1 without the prior written consent of the Shareholder Representative as specified therein.

## **5. Directors may delegate**

- (1) Subject to the articles, the Directors may delegate any of the powers which are conferred on them under the articles—
  - (a) to such person or committee;
  - (b) by such means (including by power of attorney);
  - (c) to such an extent;
  - (d) in relation to such matters or territories; and
  - (e) on such terms and conditions;

as they think fit.

- (2) If the Directors so specify, any such delegation may authorise further delegation of the Directors' powers by any person to whom they are delegated.
- (3) The Directors may revoke any delegation in whole or part, or alter its terms and conditions.

## **6. Committees/Advisory Panels**

- (1) Subject to the consent of the Shareholder Representative, the Directors may establish and delegate any of their powers to committees.
- (2) Committees to which the Directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by Directors.
- (3) The Directors may make rules of procedure for all or any committees, which prevail over rules derived from the articles if they are not consistent with them.
- (4) The Directors will establish an Advisory Panel to be known as the 'Staff Engagement Panel' and comprising of
  - (a) three employees of the company who act as local trade union representatives in the company, nominated by the trade unions recognised by SCC at that time to act as their collective representatives on the Staff Engagement Panel;
  - (b) two employees of the company, selected by the Directors, who are not Directors but are appointed to the company's management team;

to advise them on matters of an operational nature that may impact on the well-being and employment opportunities of the company's staff.

- (5) The Directors will establish an Advisory Panel to be known as the 'Tenant Engagement Panel' and comprising of
  - (a) [X] tenants and/or leaseholders of Southampton City Council who act as representatives in the company, nominated by [X] to act as their collective representatives on the Tenant Engagement Panel;



- (b) [X] employees of the company, selected by the Directors, who are not Directors but are appointed to the company's management team;

to advise them on matters of an operational nature that may impact on Housing Management and Housing Operations services.

- (6) The Directors may establish other Advisory Panels to advise them on any matter relating to the company's operations.
- (7) The Directors shall not delegate any powers under the provisions of article 5 to any Advisory Panel and for the avoidance of doubt the Directors shall not be bound to comply with any advice which they receive from any Advisory Panel.

## **DECISION-MAKING BY DIRECTORS**

### **7. Directors to take decisions collectively**

- (1) Subject to article 7(2), the general rule about decision-making by Directors is that any decision of the Directors must be either a majority decision at a meeting or a decision taken in accordance with article 8.
- (2) No Material Financial Decision will be taken or made by the Directors unless the Executive Director who holds the position of Service Director Finance and Commercialisation of SCC is present at the meeting and votes in favour of that decision or resolution.
- (3) Subject to the aforementioned provision and articles 13 and 14, each Director shall have one vote and for the avoidance of doubt, this applies to both Executive and Non-Executive Directors.

### **8. Unanimous decisions**

- (1) A decision of the Directors is taken in accordance with this article when all eligible Directors indicate to each other by any means that they share a common view on a matter.
- (2) Such a decision may take the form of a resolution in writing, copies of which have been signed by each eligible Director or to which each eligible Director has otherwise indicated agreement in writing.
- (3) References in this article to eligible Directors are to Directors who would have been entitled to vote on the matter had it been proposed as a resolution at a Directors' meeting.
- (4) A decision may not be taken in accordance with this article if the eligible Directors would not have formed a quorum at such a meeting.

## **9. Calling a Directors' meeting**

- (1) Any Director may call a Directors' meeting by giving notice of the meeting to the Directors or by authorising the company secretary (if any) to give such notice.
- (2) Notice of any Directors' meeting must indicate—
  - (a) its proposed date and time;
  - (b) where it is to take place; and
  - (c) if it is anticipated that Directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.
- (3) Notice of a Directors' meeting must be given to each Director, but need not be in writing.
- (4) Notice of a Directors' meeting need not be given to Directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the company not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

## **10. Participation in Directors' meetings**

- (1) Subject to the articles, Directors participate in a Directors' meeting, or part of a Directors' meeting, when—
  - (a) the meeting has been called and takes place in accordance with the articles, and
  - (b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- (2) In determining whether Directors are participating in a Directors' meeting, it is irrelevant where any Director is or how they communicate with each other.
- (3) If all the Directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

## **11. Quorum for Directors' meetings**

- (1) At a Directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- (2) The quorum for Directors' meetings shall be four (4).
- (3) If the total number of Directors for the time being is less than the quorum required, the Directors must not take any decision other than a decision—
  - (a) to appoint further Directors as nominated by the Shareholder Representative, or
  - (b) to call a general meeting so as to enable the shareholders to appoint further Directors.

## **12. Chairing of Directors' meetings**

- (1) The Directors shall appoint the Director nominated by the Shareholder Representative to chair their meetings.
- (2) The person so appointed for the time being is known as the Chairperson.
- (3) The Directors acting on instruction of the Shareholder Representative shall terminate the Chairperson's appointment at any time.
- (4) If the Chairperson is not participating in a Directors' meeting within ten minutes of the time at which it was to start, the participating Directors must appoint one of themselves to chair it.

## **13. Casting vote**

- (1) If the numbers of votes for and against a proposal are equal, the Chairperson or other Director chairing the meeting has a casting vote.
- (2) But this does not apply if, in accordance with the articles, the Chairperson or other Director is not to be counted as participating in the decision-making process for quorum or voting purposes.

## **14. Conflicts of interest**

- (1) Subject to article 14A if a proposed decision of the Directors is concerned with an actual or proposed transaction or arrangement with the company in which a Director is interested, that Director is not to be counted as participating in the decision-making process for quorum or voting purposes.
- (2) But if paragraph (3) applies, a Director who is interested in an actual or proposed transaction or arrangement with the company is to be counted as participating in the decision-making process for quorum and voting purposes.
- (3) This paragraph applies when—
  - (a) the company by ordinary resolution disapplies the provision of the articles which would otherwise prevent a Director from being counted as participating in the decision-making process;
  - (b) the Director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or
  - (c) the Director's conflict of interest arises from a permitted cause.
- (4) For the purposes of this article, the following are permitted causes—
  - (a) a guarantee given, or to be given, by or to a Director in respect of an obligation incurred by or on behalf of the company or any of its subsidiaries;
  - (b) subscription, or an agreement to subscribe, for shares or other securities of the company or any of its subsidiaries, or to underwrite, sub-underwrite, or guarantee subscription for any such shares or securities; and
  - (c) arrangements pursuant to which benefits are made available to employees and Directors or former employees and Directors of the

company or any of its subsidiaries which do not provide special benefits for Directors or former Directors.

- (5) For the purposes of this article, references to proposed decisions and decision-making processes include any Directors' meeting or part of a Directors' meeting.
- (6) Subject to paragraph (7), if a question arises at a meeting of Directors or of a committee of Directors as to the right of a Director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the Chairperson whose ruling in relation to any Director other than the Chairperson is to be final and conclusive.
- (7) If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the Chairperson, the question is to be decided by a decision of the Directors at that meeting, for which purpose the Chairperson is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

#### **14A. Directors' power to authorise conflict situations**

- (1) For the purposes of section 175 of the Companies Act 2006, the Directors shall have the power to authorise on such terms, (including as regards duration and revocation) and subject to such limits or conditions (if any) as they determine (a **Conflict Authorisation**), any matter proposed to them in accordance with these Articles which would, or might, if not so authorised, constitute or give rise to a situation in which a Director (an **Interested Director**) has, or can have, a direct or indirect interest which conflicts, or possibly may conflict, with the interests of the company (a **Conflict Situation**). Any Conflict Authorisation shall extend to any actual or possible conflict of interest which may reasonably be expected to arise out of the Conflict Situation so authorised.
- (2) Where Directors give a Conflict Authorisation:
  - (a) the terms of the Conflict Authorisation shall be recorded in writing (but the authorization shall be effective whether or not the terms are so recorded);
  - (b) the Directors may revoke or vary such authorisation at any time but this will not affect anything done by the Interested Director prior to such revocation or variation in accordance with the terms of such authorisation; and
  - (c) the Interested Director shall be obliged to act in accordance with any terms, limits or conditions to which such Conflict Authorisation is subject.
- (3) Any terms to which a Conflict Authorisation is made subject (**Conflict Authorisation Terms**) may include (without limitation to article 14A(1)) provision that:
  - (a) where the Interested Director obtains (other than in his capacity as a Director of the company or as its employee or agent or if the Directors so decide, in any other capacity that would otherwise oblige him to disclose it to the company) information that is confidential to a third party, he will not be obliged to disclose it to the company or to use it directly or indirectly for the benefit of the company or in performing his duties as a Director of the company in circumstances where to do so

would amount to a breach of a duty of confidence owed to that third party;

- (b) the Interested Director may (but shall be under no obligation to) absent himself from the discussion of, and or the making of decisions relating to, the relevant matter (whether at any meeting of the Directors or otherwise) and be excused from reviewing documents and information prepared by and for the Directors to the extent that they relate to that matter and;
- (c) the Interested Director be excluded from the receipt of documents and information, the participation in discussion and or the making of decisions (whether at Directors' meetings or otherwise) related to the relevant matter;

and anything done (or omitted to be done) by the Interested Director in accordance with any such provision (or otherwise in accordance with any Conflict Authorisation Terms given under article 14A(1)) will not constitute a breach of his duties under sections 172 to 174 of Companies Act 2006.

#### **15. Records of decisions to be kept**

- (1) The Directors must ensure that the company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the Directors.

#### **16. Directors' discretion to make further rules**

- (1) Subject to the articles, the Directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to Directors.

## **APPOINTMENT OF DIRECTORS**

#### **17A. Number of Directors**

- (1) Unless otherwise determined by Ordinary Resolution, the number of Directors shall not be subject to a maximum but shall not be less than six (6) comprising of a minimum of four (4) Executive Directors and a minimum of two (2) Non Executive Directors.
- (2) The four Executive Directors shall include:
  - (a) the Chief Operating Officer (or equivalent) of SCC, who will hold the office of Managing Director of the company;
  - (b) the Service Director Finance and Commercialisation of SCC, who will hold the office of Chief Financial Officer of the company;
  - (c) one elected SCC Council Member; and
  - (d) one employee of the company who is appointed to the company's senior management team.
- (3) The Non Executive Directors will not be officers or Elected Members of SCC.

(4) A Director may not appoint any other person to be an alternate Director.

**17B. Methods of appointing Directors**

- (1) Any person who is willing to act as a Director, and is permitted by law to do so, may be appointed to be a Director—
- (a) by ordinary resolution, or
  - (b) by a decision of the Directors, provided that such person is nominated by the Shareholder Representative.

**18A. Term of Office**

- (1) Subject to articles 18A(2) and article 18B:
- (a) The term of office for Executive Directors who are also officers of SCC shall continue for as long as the said individuals hold office in SCC as specified in article 17A(2);
  - (b) The Executive Director who is also an elected SCC Council Member shall be appointed for a term of one (1) year. The appointment shall be determined at SCC's Annual General Meeting and the same Member can be re-appointed to the role year after year;
  - (c) Subject to article 18A(1)(d) Non-Executive Directors shall be appointed for an initial fixed term of four (4) years. A Non-Executive may only serve a maximum of two terms; and
  - (d) The initial fixed term for one of the first two Non-Executive Directors appointed shall be two (2) years rather than four (4) years.
- (2) SCC may remove any Director that is appointed before the expiry of his term of office notwithstanding anything in these Articles or in any agreement between the company and such Director. Such removal shall be without prejudice to any claim such Director may have for damages for breach of any contract of services between him and the company.

**18B. Termination of Director's appointment**

- (1) A person ceases to be a Director as soon as—
- (a) that person ceases to be a Director by virtue of any provision of the Companies Act 2006 or is prohibited from being a Director by law;
  - (b) a bankruptcy order is made against that person;
  - (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
  - (d) a registered medical practitioner who is treating that person gives a written opinion to the company stating that that person has become physically or mentally incapable of acting as a Director and may remain so for more than three months;

- (e) notification is received by the company from the Director that the Director is resigning from office, and such resignation has taken effect in accordance with its terms.

#### **19. Directors' remuneration**

- (1) Directors may undertake any services for the company that are permitted by the Articles.
- (2) For so long as the company is a Controlled Company, the company shall not pay a Director who is also an officer of SCC or an elected SCC Council Member remuneration in respect of the carrying out of any duty on behalf of the company or otherwise acting in their capacity as a Director.
- (3) Subject to article 19(2), Non-Executive Directors shall be entitled to remuneration as determined from time to time by the Shareholder Representative.

#### **20. Directors' expenses**

- (1) The company may pay any reasonable expenses which the Directors properly incur in connection with their attendance at—
  - (a) meetings of Directors or committees of Directors,
  - (b) general meetings, or
  - (c) otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the company.
- (2) For so long as the company is a Controlled Company, the company shall not pay a Director who is also an officer of SCC or an elected SCC Council Member expenses in respect of the carrying out of any duty on behalf of the company in excess of the greatest amount which would for the time being be payable by SCC if the relevant duty were an approved duty for the purposes of section 174 of the Local Government Act 1972.

## **PART 3**

### **SHARES AND DISTRIBUTIONS**

#### **SHARES**

##### **21A. Shares**

- (1) No Shares shall or may be held by, or allotted, issued, granted, transferred or pledged to, nor may any right to subscribe for or to convert any security into any Shares be granted to, any person which would or could cause the company to lose its status as a Teckal compliant company such that the company could no longer contract directly with any of the Shareholders and/or legal persons controlled by them (within the meaning of regulation 12 of the Regulations) without first having to comply with the Regulations.

##### **21. All shares to be fully paid up**

- (1) No share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the company in consideration for its issue.
- (2) This does not apply to shares taken on the formation of the company by the subscribers to the company's memorandum.

##### **22. Powers to issue different classes of share**

- (1) Subject to the articles, but without prejudice to the rights attached to any existing share, the company may issue shares with such rights or restrictions as may be determined by ordinary resolution.
- (2) The company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the company or the holder, and the Directors may determine the terms, conditions and manner of redemption of any such shares.

##### **23. Company not bound by less than absolute interests**

- (1) Except as required by law, no person is to be recognised by the company as holding any share upon any trust, and except as otherwise required by law or the articles, the company is not in any way to be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

##### **24. Share certificates**

- (1) The company must issue each shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds.
- (2) Every certificate must specify—
  - (a) in respect of how many shares, of what class, it is issued;
  - (b) the nominal value of those shares;
  - (c) that the shares are fully paid; and



- (d) any distinguishing numbers assigned to them.
- (3) No certificate may be issued in respect of shares of more than one class.
- (4) If more than one person holds a share, only one certificate may be issued in respect of it.
- (5) Certificates must—
  - (a) have affixed to them the company's common seal, or
  - (b) be otherwise executed in accordance with the Companies Acts.

## **25. Replacement share certificates**

- (1) If a certificate issued in respect of a shareholder's shares is—
  - (a) damaged or defaced, or
  - (b) said to be lost, stolen or destroyed, that shareholder is entitled to be issued with a replacement certificate in respect of the same shares.
- (2) A shareholder exercising the right to be issued with such a replacement certificate—
  - (a) may at the same time exercise the right to be issued with a single certificate or separate certificates;
  - (b) must return the certificate which is to be replaced to the company if it is damaged or defaced; and
  - (c) must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the Directors decide.

## **26. Share transfers**

- (1) Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the Directors, which is executed by or on behalf of the transferor.
- (2) No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.
- (3) The company may retain any instrument of transfer which is registered.
- (4) The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.
- (5) The Directors may, subject to the consent of the Shareholder Representative, refuse to register the transfer of a share, and if they do so, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

## **27. Transmission of shares**

- (1) If title to a share passes to a transmittee, the company may only recognise the transmittee as having any title to that share.
- (2) A transmittee who produces such evidence of entitlement to shares as the Directors may properly require—

- (a) may, subject to the articles, choose either to become the holder of those shares or to have them transferred to another person, and
  - (b) subject to the articles, and pending any transfer of the shares to another person, has the same rights as the holder had.
- (3) But transmittees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those shares.

#### **28. Exercise of transmittees' rights**

- (1) Transmittees who wish to become the holders of shares to which they have become entitled must notify the company in writing of that wish.
- (2) If the transmitttee wishes to have a share transferred to another person, the transmitttee must execute an instrument of transfer in respect of it.
- (3) Any transfer made or executed under this article is to be treated as if it were made or executed by the person from whom the transmitttee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred.

#### **29. Transmittees bound by prior notices**

- (1) If a notice is given to a shareholder in respect of shares and a transmitttee is entitled to those shares, the transmitttee is bound by the notice if it was given to the shareholder before the transmitttee's name has been entered in the register of members.

### DIVIDENDS AND OTHER DISTRIBUTIONS

#### **30. Procedure for declaring dividends**

- (1) The company may by ordinary resolution declare dividends, and the Directors may decide to pay interim dividends.
- (2) A dividend must not be declared unless the Directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the Directors.
- (3) No dividend may be declared or paid unless it is in accordance with shareholders' respective rights.
- (4) Unless the shareholders' resolution to declare or Directors' decision to pay a dividend, or the terms on which shares are issued, specify otherwise, it must be paid by reference to each shareholder's holding of shares on the date of the resolution or decision to declare or pay it.
- (5) If the company's share capital is divided into different classes, no interim dividend may be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear.
- (6) The Directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.

- (7) If the Directors act in good faith, they do not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on shares with deferred or non-preferred rights.

### **31. Payment of dividends and other distributions**

- (1) Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by one or more of the following means—
- (a) transfer to a bank or building society account specified by the distribution recipient either in writing or as the Directors may otherwise decide;
  - (b) any other means of payment as the Directors agree with the distribution recipient either in writing or by such other means as the Directors decide.
- (2) In the articles, “the distribution recipient” means, in respect of a share in respect of which a dividend or other sum is payable—
- (a) the holder of the share; or
  - (b) if the share has two or more joint holders, whichever of them is named first in the register of members; or
  - (c) if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

### **32. No interest on distributions**

- (1) The company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by—
- (a) the terms on which the share was issued, or
  - (b) the provisions of another agreement between the holder of that share and the company.

### **33. Unclaimed distributions**

- (1) All dividends or other sums which are—
- (a) payable in respect of shares, and
  - (b) unclaimed after having been declared or become payable,
- may be invested or otherwise made use of by the Directors for the benefit of the company until claimed.
- (2) The payment of any such dividend or other sum into a separate account does not make the company a trustee in respect of it.
- (3) If—
- (a) twelve years have passed from the date on which a dividend or other sum became due for payment, and
  - (b) the distribution recipient has not claimed it,

the distribution recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the company.

#### **34. Non-cash distributions**

- (1) Subject to the terms of issue of the share in question, the company may, by ordinary resolution on the recommendation of the Directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any company).
- (2) For the purposes of paying a non-cash distribution, the Directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution—
  - (a) fixing the value of any assets;
  - (b) paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and
  - (c) vesting any assets in trustees.

#### **35. Waiver of distributions**

- (1) Distribution recipients may waive their entitlement to a dividend or other distribution payable in respect of a share by giving the company notice in writing to that effect, but if—
  - (a) the share has more than one holder, or
  - (b) more than one person is entitled to the share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise,

the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the share.

### CAPITALISATION OF PROFITS

#### **36. Authority to capitalise and appropriation of capitalised sums**

- (1) Subject to the articles, the Directors may, if they are so authorised by an ordinary resolution—
  - (a) decide to capitalise any profits of the company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the company's share premium account or capital redemption reserve; and
  - (b) appropriate any sum which they so decide to capitalise (a "capitalised sum") to the persons who would have been entitled to it if it were distributed by way of dividend (the "persons entitled") and in the same proportions.
- (2) Capitalised sums must be applied—

- (a) on behalf of the persons entitled, and
  - (b) in the same proportions as a dividend would have been distributed to them.
- (3) Any capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct.
- (4) A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the company which are then allotted credited as fully paid to the persons entitled or as they may direct.
- (5) Subject to the articles the Directors may—
  - (a) apply capitalised sums in accordance with paragraphs (3) and (4) partly in one way and partly in another;
  - (b) make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this article (including the issuing of fractional certificates or the making of cash payments); and
  - (c) authorise any person to enter into an agreement with the company on behalf of all the persons entitled which is binding on them in respect of the allotment of shares and debentures to them under this article.

## **PART 4**

### **DECISION-MAKING BY SHAREHOLDERS**

#### ORGANISATION OF GENERAL MEETINGS

##### **37A. Single Shareholder Company**

- (1) If at any time and for so long as, the company has a single shareholder, all provisions of these articles shall apply with such modifications as may be necessary in relation to a company with a single shareholder.

##### **37B. Attendance and speaking at general meetings**

- (1) A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.
- (2) A person is able to exercise the right to vote at a general meeting when—
  - (a) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and
  - (b) that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.

- (3) The Directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- (4) In determining attendance at a general meeting, it is immaterial whether any two or more members attending it are in the same place as each other.
- (5) Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

### **38. Quorum for general meetings**

- (1) No business other than the appointment of the Chairperson of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

### **39. Chairing general meetings**

- (1) If the Directors have appointed a Chairperson, the Chairperson shall chair general meetings if present and willing to do so.
- (2) If the Directors have not appointed a Chairperson, or if the Chairperson is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start—

(a) the Directors present, or

(b) (if no Directors are present), the meeting,

must appoint a Director or shareholder to chair the meeting, and the appointment of the Chairperson of the meeting must be the first business of the meeting.

- (3) The person chairing a meeting in accordance with this article is referred to as “the Chairperson of the meeting”.
- (4) The Chairperson of the meeting shall cause minutes to be kept of all general meetings of the company.
- (5) For as long the company is a Controlled Company, the company shall make the minutes of any general meeting of the company available for inspection by any member of the public requesting such opportunity to inspect for a period of four (4) years beginning with the date of the general meeting, but the company shall not be obliged to make copies of such minutes available nor shall it be obliged to provide such information where such provision would constitute a breach of any enactment or any obligation owed to any person.

### **40. Attendance and speaking by Directors and non-shareholders**

- (1) Directors may attend and speak at general meetings, whether or not they are shareholders.
- (2) The Chairperson of the meeting may permit other persons who are not—
  - (a) shareholders of the company, or
  - (b) otherwise entitled to exercise the rights of shareholders in relation to general meetings,

to attend and speak at a general meeting.

#### **41. Adjournment**

- (1) If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the Chairperson of the meeting must adjourn it.
- (2) The Chairperson of the meeting may adjourn a general meeting at which a quorum is present if—
  - (a) the meeting consents to an adjournment, or
  - (b) it appears to the Chairperson of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- (3) The Chairperson of the meeting must adjourn a general meeting if directed to do so by the meeting.
- (4) When adjourning a general meeting, the Chairperson of the meeting must—
  - (a) either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the Directors, and
  - (b) have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- (5) If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given)—
  - (a) to the same persons to whom notice of the company's general meetings is required to be given, and
  - (b) containing the same information which such notice is required to contain.
- (6) No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

### VOTING AT GENERAL MEETINGS

#### **42. Voting: general**

- (1) A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the articles.

#### **43. Errors and disputes**

- (1) No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.

- (2) Any such objection must be referred to the Chairperson of the meeting, whose decision is final.

#### **44. Poll votes**

- (1) A poll on a resolution may be demanded—
  - (a) in advance of the general meeting where it is to be put to the vote, or
  - (b) at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- (2) A poll may be demanded by—
  - (a) the Chairperson of the meeting;
  - (b) the Directors;
  - (c) two or more persons having the right to vote on the resolution; or
  - (d) a person or persons representing not less than one tenth of the total voting rights of all the shareholders having the right to vote on the resolution.
- (3) A demand for a poll may be withdrawn if—
  - (a) the poll has not yet been taken, and
  - (b) the Chairperson of the meeting consents to the withdrawal.
- (4) Polls must be taken immediately and in such manner as the Chairperson of the meeting directs.

#### **45. Content of proxy notices**

- (1) Proxies may only validly be appointed by a notice in writing (a “proxy notice”) which—
  - (a) states the name and address of the shareholder appointing the proxy;
  - (b) identifies the person appointed to be that shareholder’s proxy and the general meeting in relation to which that person is appointed;
  - (c) is signed by or on behalf of the shareholder appointing the proxy, or is authenticated in such manner as the Directors may determine; and
  - (d) is delivered to the company in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.
- (2) The company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- (3) Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- (4) Unless a proxy notice indicates otherwise, it must be treated as—



- (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and
- (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

#### **46. Delivery of proxy notices**

- (1) A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the company by or on behalf of that person.
- (2) An appointment under a proxy notice may be revoked by delivering to the company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- (3) A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- (4) If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

#### **47. Amendments to resolutions**

- (1) An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if—
  - (a) notice of the proposed amendment is given to the company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the Chairperson of the meeting may determine), and
  - (b) the proposed amendment does not, in the reasonable opinion of the Chairperson of the meeting, materially alter the scope of the resolution.
- (2) A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if—
  - (a) the Chairperson of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed, and
  - (b) the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- (3) If the Chairperson of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the Chairperson's error does not invalidate the vote on that resolution.

## **PART 5**

### **ADMINISTRATIVE ARRANGEMENTS**

#### **48. Means of communication to be used**

- (1) Subject to the articles, anything sent or supplied by or to the company under the articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the company.
- (2) Subject to the articles, any notice or document to be sent or supplied to a Director in connection with the taking of decisions by Directors may also be sent or supplied by the means by which that Director has asked to be sent or supplied with such notices or documents for the time being.
- (3) A Director may agree with the company that notices or documents sent to that Director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

#### **49. Company seals**

- (1) Any common seal may only be used by the authority of the Directors.
- (2) The Directors may decide by what means and in what form any common seal is to be used.
- (3) Unless otherwise decided by the Directors, if the company has a common seal and it is affixed to a document, the document must also be signed by at least one authorised person in the presence of a witness who attests the signature.
- (4) For the purposes of this article, an authorised person is—
  - (a) any Director of the company;
  - (b) the company secretary (if any); or
  - (c) any person authorised by the Directors for the purpose of signing documents to which the common seal is applied.

#### **50. Right to inspect accounts and other records**

- (1) SCC, through its authorised representative as nominated by the Shareholder Representative, shall have the right, on giving to the company reasonable advance notice, during normal business hours, to inspect the books and records of the company and to be supplied with such other information about the business and affairs of the company as it or they may reasonably require and shall have the right to take copies thereof.

## **51. Not Used**

### DIRECTORS' INDEMNITY AND INSURANCE

## **52. Indemnity**

- (1) Subject to paragraph (2), a relevant Director of the company or an associated company may be indemnified out of the company's assets against—
  - (a) any liability incurred by that Director in connection with any negligence, default, breach of duty or breach of trust in relation to the company or an associated company,
  - (b) any liability incurred by that Director in connection with the activities of the company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006),
  - (c) any other liability incurred by that Director as an officer of the company or an associated company.
- (2) This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.
- (3) In this article—
  - (a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and
  - (b) a "relevant Director" means any Director or former Director of the company or an associated company.

## **53. Insurance**

- (1) The Directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant Director in respect of any relevant loss.
- (2) In this article—
  - (a) a "relevant Director" means any Director or former Director of the company or an associated company,
  - (b) a "relevant loss" means any loss or liability which has been or may be incurred by a relevant Director in connection with that Director's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company, and
  - (c) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

# Schedule 1

## RESERVED MATTERS (Article 4)

The company shall only be permitted to give authorisation to the following activities with the prior consent of the Shareholder Representative.

### 1. Acquisition and Disposal of Assets

- (a) Acquire an asset in whole or part of any existing company or set up a new company or subsidiary;
- (b) Acquire or dispose of shares in any company;
- (c) Acquire or dispose of a fixed asset that:
  - (i) is not included in the business plan; or
  - (ii) the purchase or sale price of which exceeds £200,000;

### 2. Entering into Contracts

- (a) Enter into a contract for the supply of services, supplies or works that incurs revenue expenditure which is not required in the normal course of business and not included in the business plan.
- (b) Enter into contracts requiring capital expenditure which is not included in the business plan.
- (c) Enter into any concession arrangement which is not required in the normal course of business and not included in the business plan.
- (d) Enter into any formal joint venture or partnership or profit sharing agreement.
- (e) Tender for contracts for the supply of services, supplies or works by the company to a third party with a total annual contract value in excess of 10% of the annual company turnover.

### 3. Loans and Financing Arrangements

- (a) Create any fixed or floating charge or other encumbrance of the whole or part of the company, its property or assets;
- (b) Borrow any sum whatsoever on the company's behalf;
- (c) Make a loan or advance of any amount or give credit to any person other than
  - (i) normal commercial trade credit up to £200,000 per counterparty; and
  - (ii) subject to a maximum total credit across all counterparties of such sum as may be agreed by SCC from time to time.

4. Litigation and Arbitration
  - (a) Initiate, discontinue or settle any actual or threatened litigation or arbitration or compromise agreements other than
    - (i) recovery of commercial trade debts in the ordinary course of business; and/or
    - (ii) initiating litigation or arbitration where the Directors reasonably believe that the delay involved in acquiring prior consent of the Shareholder's Representative would be detrimental to the Company.
5. Altering or ceasing the business of the company or winding up the company.
6. Guarantees and Indemnities
  - (a) Give any company guarantee or indemnity
    - (i) in excess of £200,000 per counterparty; and
    - (ii) subject to a maximum total across all counterparties as agreed by SCC from time to time.
  - (b) Give any guarantee or indemnity where SCC is named as the parent, company or guarantor
7. Open or close any bank accounts
8. Shareholdings
  - (a) Alter the authorized share capital of the company;
  - (b) Issue or allot any Shares in the company;
  - (c) Make changes relating to the company's capital structure including increases to or reduction of capital and share buy backs.
9. Appointment and Remuneration of Directors and Senior Management
  - (a) Make changes to the company's senior management and board structure.
  - (b) Appoint a person to the office of Managing Director of the company.
  - (c) Agree a remuneration package for any Director entitled to such remuneration.
10. Terms of Employment for Employees
  - (a) Agree a remuneration package (including pension entitlements) and conditions of employment for any employee of the company on terms that are not consistent with the provisions of the Staffing Agreement (for this purpose Staffing Agreement means those terms and conditions of employment for company employees as agreed between SCC and the recognized trade unions from time to time)
11. Business Plan
  - (a) Vary the business plan

- (b) Introduce or vary any fees or charges in relation to any services or activities where the company is acting as collection agent for SCC, other than as agreed in the business plan.

12. Branding/Intellectual Property

- (a) Changing the branding of the company or the services it provides for SCC.
- (b) Grant any licence of intellectual property.

13. Corporate Matters

- (a) Appoint or remove the company's external auditor.
- (b) Change the company's accounting reference date, and/or accounting policies.
- (c) Approve the financial regulations of the company.
- (d) Change any business name of and/or used by the company.
- (e) Change the company's registered office.