

Northumberland, Tyne and Wear NHS Foundation Trust

Board of Directors Meeting

Meeting Date: **22 March 2017**

Title and Author of Paper: NTW Subsidiary Company (NTW Solutions) –

Articles of Association and Standing Financial Instructions

Malcolm Aiston – Director of Estates and Facilities

Executive Lead: James Duncan, Deputy Chief Executive and Director of Finance

Paper for Debate, Decision or Information: **Decision.**

Key Points to Note:

Articles of Association

- The Articles of Association for NTW Solutions Limited (attached) are essentially the constitution of the company comprising of the Model Articles for Private Companies Limited by Shares, as amended or excluded by regulations for NTW Solutions.
- The Articles are also based upon consideration by Trust directors of the powers to be reserved to the Trust and the powers to be delegated to the Company.
- The Articles have been considered by the NTW Solutions Board of Directors and now require to be approved and adopted by the Trust Board (as the company's sole shareholder) by special resolution.

The Special Resolution is attached for signature by a director of the Trust, on behalf of the Trust.

Standing Financial Instructions

- The Articles refer to the Standing Financial Instructions (SFIs) and therefore these are also attached to be adopted together with the Articles.

- The SFIs have also been considered by the NTW Solutions Board of Directors and now require to be approved by the Trust Board.

Scheme of Reservation and Delegation

- The provisions in the Articles and the SFIs have been re-formatted into a more useable Scheme of Reservation and Delegation. Where certain powers have been delegated to the Company, this includes financial control limits for budget holders within the company, reflecting existing financial control limits for budget holders in the Trust. The Scheme of Reservation and Delegation will be approved at operational level in the Trust.

Risks Highlighted to Board :

- Risks of non-compliance with these documents will be mitigated by financial systems; overview by the NTW Solutions Finance Director, NTW Solutions Company Secretary (to be appointed) and NTW Solutions Board; and NTW NHS Foundation Trust governance controls, including the NTW Group Audit Committee. Compliance can also be subject to internal audit.
- The Articles and SFIs can be amended, if required, by the Trust

Does this affect any Board Assurance Framework/Corporate Risks?

Please state Yes or No

If Yes please outline

Equal Opportunities, Legal and Other Implications:

The articles will be submitted to Companies House to replace the standard model articles that were adopted on incorporation of NTW Solutions Limited.

Outcome Required: Approval and Adoption of the Articles of Association and the SFIs for NTW Solutions Limited

Link to Policies and Strategies: Trust Corporate Governance Manual document

COMPANY NUMBER: 10458774

THE COMPANIES ACT 2006

COMPANY LIMITED BY SHARES

WRITTEN RESOLUTION

OF

NTW SOLUTIONS LIMITED

CIRCULATION DATE:

Pursuant to Chapter 2 of Part 13 of the Companies Act 2006 (as amended), we the undersigned sole eligible member of the Company entitled to receive notice of and to attend and vote at general meetings of the Company on the above circulation date hereby pass the following resolution as a written resolution and agree that if duly passed, it shall for all purposes be as valid and effective as if the same had been passed at a general meeting of the Company duly convened and held.

SPECIAL RESOLUTION

1. That the regulations contained in the printed document attached to this proposed written resolution be and the same are hereby approved and adopted as the articles of association of the Company in substitution for and to the exclusion of the existing articles of association of the Company.

Signature of the sole eligible member:

.....

For and on behalf of Northumberland Tyne & Wear NHS Foundation Trust

Date:

NOTE

A special resolution will be passed once members representing 75% of the total voting rights of eligible members signify their agreement to it. In each case, the requisite percentage must be achieved within the period of 28 days beginning on the circulation date specified above.

If you agree to the resolution, please indicate your agreement by signing and dating this document where indicated above and returning it to the Company by hand delivery, post, fax or email.

Bond Dickinson

www.bonddickinson.com

Dated 2017

Articles of Association

NTW Solutions Limited

THE COMPANIES ACT 2006
COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION
OF
NTW SOLUTIONS LIMITED

(adopted by a special resolution passed on 2017)

1. **INTERPRETATION**

1.1 In these Articles the following expressions have the following meanings:-

“Act”	the Companies Act 2006;
“appointor”	has the meaning given in Article Error! Reference source not found. ;
“Articles”	the company’s articles of association for the time being in force;
“business day”	any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in the City of London are generally open for business;
“Conflict”	has the meaning given in Article 5.2;
“eligible director”	a director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of the particular matter);
“Health Service”	the provision of services to individuals for or in connection with the prevention, diagnosis or treatment of illness, and the promotion and protection of public health;
“Model Articles”	the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these Articles;
“Non Shareholder Director”	a director who is not also a trustee of the Shareholder board of trustees;
“SFIs”	the standing financial instructions relating to the directors and their authorities agreed by the Chief Executive of the Shareholder as at the date of adoption of these articles, a copy of which is initialled by each of the directors for identification purposes and dated;
“Shareholder”	the sole member of the company; and
“Shareholder Director”	a director appointed by the Shareholder who is also a director of the Shareholder board of directors.

1.2 In these Articles:-

1.2.1 any gender includes any other gender;

1.2.2 the singular includes the plural and vice versa;

- 1.2.3 references to persons include bodies corporate, unincorporated associations, governments, states, partnerships and trusts (in each case, whether or not having separate legal personality);
- 1.2.4 words and expressions which have particular meanings in the Model Articles shall have the same meaning in these Articles unless otherwise provided and words and expressions which have particular meanings in the Act shall have the same meanings in these Articles;
- 1.2.5 a reference in these Articles to an “article” is a reference to the relevant article of these Articles unless expressly provided otherwise;
- 1.2.6 unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time;
- 1.2.7 the headings in these Articles are for convenience only and shall not affect the interpretation of these Articles; and
- 1.2.8 general words shall not be given a restrictive interpretation by reason of their being preceded or followed by words indicating a particular class of acts, matters or things.

2. **THE MODEL ARTICLES**

- 2.1 The regulations contained in the Model Articles are incorporated into these Articles and shall apply to the company, except in so far as they are modified or excluded by these Articles.
- 2.2 Regulations 5, 8(3), 11(2) and 11(3), 14(1), 14(2), 14(3), 14(4), 17(1b) and 17(2), 38, 44(2), and 50 of the Model Articles shall not apply to the company.
- 2.3 Regulations 7, 13, 17(1), 20, 25, 29, 44(3) and 45(1) of the Model Articles shall apply to the company with the modifications set out below.
- 2.4 In Model Article 30(4) the words “the terms on which such shares are issued” shall be deleted and replaced with the “rights attached to any shares”.
- 2.5 In Model Articles 32(a), the words “the terms on which the shares was issued” shall be deleted and replaced with “the” rights attached to the shares”.

3. **OBJECTS OF THE COMPANY**

- 3.1 The Company’s principal purpose is the provision of goods and services in relation to and for the purposes of the Health Service in England and the Company.
- 3.2 The Company may also carry on any activities other than those mentioned in article 3.1 for the purpose of making additional income available to it and its Shareholder in order to facilitate carrying on its principal purpose.
- 3.3 The Company will carry out its activities in accordance with the vision and values of its Shareholder.

4. **DECISION MAKING BY THE DIRECTORS**

- 4.1 Regulation 7 of the Model Articles shall be amended by:-
 - 4.1.1 the insertion of the words “for the time being” at the end of regulation 7(2)(a);
 - 4.1.2 the deletion of the wording in regulation 7(2)(b) “no provision of the articles requires it to have more than one director”; and

- 4.1.3 the insertion in regulation 7(2) of the words “(for so long as he remains the sole director)” after the words “and the director may”.
- 4.2 The quorum for directors’ meeting shall be three directors and of which one shall be a Shareholder Director and one Non Shareholder Director.
- 4.3 For the purposes of any meeting (or part of a meeting) held pursuant to Article 5.2 to authorise a director's conflict, if there is only one eligible director in office other than the conflicted director(s), the quorum for such meeting (or part of a meeting) shall be one eligible director.
- 4.4 No changes can be made to the SFIs without the written consent of the Chief Executive of the Shareholder or his nominated representative.
- 4.5 Each of the directors of the Company acknowledges and agrees that they must at all times adhere to the provisions in the SFIs.
- 4.6 The SFIs should be reviewed annually by the Chief Executive of the Shareholder or at least every three years and may be amended and updated following such review (**Amended SFIs**). Any Amended SFIs shall be circulated to the directors at a meeting of the directors following such review and acknowledged and signed as the applicable SFIs for the time being for the purposes of these Articles.

5. **DIRECTORS’ INTERESTS AND CONFLICTS**

5.1 **Transactions or arrangements with the Company**

Subject to sections 177(5), 177(6), 182(5) and 182(6) of the Act and provided he has declared the nature and extent of his interest in accordance with the requirements of the Act, a director may vote as a director or be entitled to participate in any unanimous decision of the directors in regard to any transaction or arrangement with the company in which he is interested or upon any matter arising therefrom and if he shall so vote or participate, his vote or participation shall be counted and he shall be reckoned in estimating any relevant quorum.

5.2 **Directors' conflicts of interest**

5.2.1 The directors may, for the purposes of and subject to the provisions of section 175 of the Act, authorise any matter or situation which would, if not authorised, involve a director infringing his duty under that section to avoid a situation in which he has or can have a direct or indirect interest that conflicts with or may possibly conflict with the interests of the company (a “Conflict”). The directors may give any such authorisation subject to such terms, limits and conditions as they shall consider appropriate in the circumstances.

5.2.2 Where the directors authorise a Conflict, the director whose Conflict has been so authorised will not infringe any duty he owes to the company under sections 171 to 177 of the Act if he acts in accordance with the terms, limits and conditions (if any) as the directors impose in respect of that authorisation.

5.3 **Benefits**

A director is not required, by reason of being a director, to account to the company for any remuneration, profit or other benefit which he or a person connected with him (as defined in section 252 of the Act) derives from any transaction or arrangement referred to in article 5.1 or which derives from or is in connection with a Conflict which has been authorised by the directors or by the company (subject in each case to any terms, limits or conditions attaching to that authorisation) and no such transaction, arrangement or other contract shall be liable to be avoided on such grounds and the receipt of any such remuneration, profit or benefit shall not constitute a breach of his duty under section 176 of the Act.

6. **RECORDS OF DECISIONS TO BE KEPT**

Where decisions of the directors are taken by electronic means, such decisions shall be recorded by the directors in permanent form, so that they may be read with the naked eye.

7. **APPOINTMENT AND REMOVAL OF DIRECTORS**

7.1 The Shareholder may at any time and from time to time by notice in writing signed on behalf of it (which shall be effective immediately upon its delivery to the registered office of the company) appoint any person to be a director of the company whether or not appointed pursuant to this Article 7.

7.2 Notwithstanding anything in these Articles or in any agreement between the company and such director, a director may be removed from office at any time by the Shareholder by notice in writing signed on behalf of the Shareholder which shall be effective immediately upon its delivery to the registered office of the company. Such removal shall be without prejudice to any claim such director may have for damages for breach of any agreement between the director and the company. For the purposes of this Article 7, the Chief Executive of the Shareholder or his nominated representative shall act on behalf of the Shareholder.

7.3 The Chief Executive of the Shareholder, or his nominated representative, will approve all proposed appointments of directors in writing prior to their appointment, otherwise any appointment made without this approval is not a valid appointment of a Director.

7.4 The Chief Executive of the Shareholder, or his nominated representative will approve the appointment of the Chairman of the Board.

7.5 All proposed remuneration of any directors of the Board must first be approved in writing by the Chief Executive of the Shareholder or by his nominated representative.

7.6 In any case where, as a result of death or bankruptcy, the company has no shareholders and no directors, the transmittee(s) of the last shareholder to have died or to have a bankruptcy order made against him (as the case may be) have the right, by notice in writing, to appoint a natural person (including a transmittee who is a natural person), who is willing to act and is permitted to do so, to be a director.

7.7 Model Article 18 shall be amended by the inclusion of the words “notification of the director’s removal is received by the Company from the Shareholder pursuant to Article 7.2.

7.8 The maximum number of directors of the Company shall be six.

8. **DIRECTORS’ EXPENSES**

Regulation 20 of the Model Articles shall be amended by the insertion of the words “(including alternate directors) and the secretary” before the words “properly incur”.

9. **SECRETARY**

The directors may appoint any person who is willing to act as the secretary for such term, at such remuneration and upon such conditions as they may think fit and from time to time remove such person and, if the directors so decide, appoint a replacement, in each case by a decision of the directors.

10. **SHARES AND PURCHASE OF OWN SHARES**

10.1 The directors of the Company are prohibited by these articles from exercising any power of the Company to allot shares or to grant rights to subscribe for or to convert any security into such shares under section 550 of the Companies Act 2006. The directors shall not exercise

any power of the Company to allot shares or other securities in, or to grant rights to subscribe for, or convert into, shares or other securities of, the Company without the prior written consent of the Shareholder.

10.2 Subject to the Act but without prejudice to any other provision of these Articles, the Company may purchase its own shares with cash up to any amount in a financial year not exceeding the lower of:

10.2.1 £15,000; and

10.2.2 the value of 5% of the Company's share capital.

11. **SHARE CERTIFICATES**

In regulation 25(2)(c) of the Model Articles, the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".

12. **TRANSMITTEES**

Regulation 29 of the Model Articles shall be amended by the insertion of the words ", or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under article 28(2)," after the words "the transmittee's name."

13. **POLL VOTES**

13.1 A poll may be demanded at any general meeting by any qualifying person (as defined in section 318 of the Act) present and entitled to vote at the meeting.

13.2 Regulation 44(3) of the Model Articles shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made" as a new paragraph at the end of that regulation.

14. **PROXIES**

Regulation 45(1) of the Model Articles shall be amended by the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid, unless the directors, in their discretion, accept the notice at any time before the meeting" as a new paragraph at the end of that regulation.

15. **QUORUM FOR GENERAL MEETINGS**

15.1 No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on.

15.2 Where the Company has only one shareholder for the time being, one qualifying person (as defined in section 318 of the Act) present at the meeting shall be a quorum

16. **COMMUNICATIONS**

16.1 Subject to these 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. A director may agree with the company that notices or documents sent to that director in a particular way are deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

16.2 Where a document or information is sent or supplied by the company by post, service or delivery shall be deemed to be effected at the expiration of 24 hours after the time when the

cover containing the same is posted (irrespective of the class or type of post used) and in proving such service or delivery it shall be sufficient to prove that such cover was properly addressed and posted.

- 16.3 Where a document or information is sent or supplied by the company by electronic means to an address specified for the purpose by the intended recipient, service or delivery shall be deemed to be effected on the same day on which it is sent or supplied and in proving such service it will be sufficient to prove that it was properly addressed.
- 16.4 Where a document or information is sent or supplied by the company by means of a website, service or delivery shall be deemed to be effected when:-
- 16.4.1 the material is first made available on the website; or
- 16.4.2 if later, when the recipient received (or is deemed to have received) notification of the fact that the material was available on the website.
- 16.5 Anything to be agreed or specified in relation to documents or information to be sent or supplied to joint holders, may be agreed or specified by that one of the joint holders whose name appears first in the register.
- 16.6 In proving that any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by the Act.

17. **INDEMNITY AND FUNDING OF DEFENCE COSTS**

- 17.1 Subject to the provisions of and so far as may be consistent with the Act, the company shall provide:-
- 17.1.1 for each relevant officer an indemnity out of the assets of the company to the extent that such indemnity is a "qualifying third party indemnity provision" within the meaning of section 234 of the Act;
- 17.2 In this article 17:-
- 17.2.1 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and
- 17.2.2 a "relevant officer" means any director or other officer or former director or other officer of the company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor).

18. **INSURANCE**

- 18.1 The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant officer in respect of any relevant loss.
- 18.2 In this article 18:-
- 18.2.1 a "relevant officer" means any director or other officer or former director or other officer of the company or an associated company including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act) , but excluding in each case any person engaged by the company (or associated

company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor);

- 18.2.2 a "relevant loss" means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer'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
- 18.2.3 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

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PART 1

INTERPRETATION AND LIMITATION OF LIABILITY

DEFINED TERMS

1 In the articles, unless the context requires otherwise —

“articles” means the company's 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;

“chairman” has the meaning given in article 12;

“chairman 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;

“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;

“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;

“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;

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

“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;

“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.

LIABILITY OF MEMBERS

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

DIRECTORS

DIRECTORS' POWERS AND RESPONSIBILITIES

DIRECTORS' GENERAL AUTHORITY

- 3 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.

SHAREHOLDERS' RESERVE POWER

- 4 (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.

DIRECTORS MAY DELEGATE

- 5 (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.

COMMITTEES

- 6 (1) 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.
- (2) 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.

DECISION-MAKING BY DIRECTORS

DIRECTORS TO TAKE DECISIONS COLLECTIVELY

- 7 (1) 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) If —

(a) the company only has one director, and

(b) no provision of the articles requires it to have more than one director,

the general rule does not apply, and the director may take decisions without regard to any of the provisions of the articles relating to directors' decision-making.

UNANIMOUS DECISIONS

- 8
- (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.

CALLING A DIRECTORS' MEETING

- 9
- (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.

PARTICIPATION IN DIRECTORS' MEETINGS

- 10 (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.

QUORUM FOR DIRECTORS' MEETINGS

- 11 (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 may be fixed from time to time by a decision of the directors, but it must never be less than two, and unless otherwise fixed it is two.
- (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, or
 - (b) to call a general meeting so as to enable the shareholders to appoint further directors.

CHAIRING OF DIRECTORS' MEETINGS

- 12 (1) The directors may appoint a director to chair their meetings.
- (2) The person so appointed for the time being is known as the chairman.
- (3) The directors may terminate the chairman's appointment at any time.
- (4) If the chairman 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.

CASTING VOTE

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

CONFLICTS OF INTEREST

- 14 (1) 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 chairman whose ruling in relation to any director other than the chairman 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 chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

RECORDS OF DECISIONS TO BE KEPT

- 15 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.

DIRECTORS' DISCRETION TO MAKE FURTHER RULES

- 16 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

METHODS OF APPOINTING DIRECTORS

- 17 (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.
- (2) In any case where, as a result of death, the company has no shareholders and no directors, the personal representatives of the last shareholder to have died have the right, by notice in writing, to appoint a person to be a director.

- (3) For the purposes of paragraph (2), where 2 or more shareholders die in circumstances rendering it uncertain who was the last to die, a younger shareholder is deemed to have survived an older shareholder.

TERMINATION OF DIRECTORS' APPOINTMENT

- 18 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) Paragraph omitted pursuant to The Mental Health (Discrimination) Act 2013.
 - (f) 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.

DIRECTORS' REMUNERATION

- 19 (1) Directors may undertake any services for the company that the directors decide.
- (2) Directors are entitled to such remuneration as the directors determine —
- (a) for their services to the company as directors, and
 - (b) for any other service which they undertake for the company.
- (3) Subject to the articles, a director's remuneration may—
- (a) take any form, and
 - (b) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director.
- (4) Unless the directors decide otherwise, directors' remuneration accrues from day to day.

- (5) Unless the directors decide otherwise, directors are not accountable to the company for any remuneration, which they receive as directors or other officers or employees of the company's subsidiaries or of any other body corporate in which the company is interested.

DIRECTORS' EXPENSES

- 20 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) separate meetings of the holders of any class of shares or of debentures of the company,
- or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the company.

PART 3

SHARES AND DISTRIBUTIONS

SHARES

ALL SHARES TO BE FULLY PAID UP

- 21 (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.

POWERS TO ISSUE DIFFERENT CLASSES OF SHARE

- 22 (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.

COMPANY NOT BOUND BY LESS THAN ABSOLUTE INTERESTS

- 23 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.

SHARE CERTIFICATES

- 24 (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.

REPLACEMENT SHARE CERTIFICATES

- 25 (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,
 - (c) 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.

SHARE TRANSFERS

- 26
- (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 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.

TRANSMISSION OF SHARES

- 27
- (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.

EXERCISE OF TRANSMITTEES' RIGHTS

- 28
- (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 transmittee wishes to have a share transferred to another person, the transmittee 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 transmittee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred.

TRANSMITTEES BOUND BY PRIOR NOTICES

- 29
- If a notice is given to a shareholder in respect of shares and a transmittee is entitled to those shares, the transmittee is bound by the notice if it was given to the shareholder before the transmittee's name has been entered in the register of members.

DIVIDENDS AND OTHER DISTRIBUTIONS

PROCEDURE FOR DECLARING DIVIDENDS

- 30
- (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.

PAYMENT OF DIVIDENDS AND OTHER DISTRIBUTIONS

- 31 (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) sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient either in writing or as the directors may otherwise decide;
 - (c) sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified either in writing or as the directors may otherwise decide; or
 - (d) 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.

NO INTEREST ON DISTRIBUTIONS

- 32 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.

UNCLAIMED DISTRIBUTIONS

- 33 (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.

NON-CASH DISTRIBUTIONS

- 34 (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.

WAIVER OF DISTRIBUTIONS

- 35 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,
 - (c) 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

AUTHORITY TO CAPITALISE AND APPROPRIATION OF CAPITALISED SUMS

- 36 (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

ATTENDANCE AND SPEAKING AT GENERAL MEETINGS

- 37 (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.

QUORUM FOR GENERAL MEETINGS

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

CHAIRING GENERAL MEETINGS

- 39 (1) If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so.
- (2) If the directors have not appointed a chairman, or if the chairman 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 chairman 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 chairman of the meeting”.

ATTENDANCE AND SPEAKING BY DIRECTORS AND NON-SHAREHOLDERS

- 40 (1) Directors may attend and speak at general meetings, whether or not they are shareholders.
- (2) The chairman 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.

ADJOURNMENT

- 41 (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 chairman of the meeting must adjourn it.

- (2) The chairman 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 chairman 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 chairman of the meeting must adjourn a general meeting if directed to do so by the meeting.
- (4) When adjourning a general meeting, the chairman 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

VOTING: GENERAL

- 42 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.

ERRORS AND DISPUTES

- 43 (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 chairman of the meeting, whose decision is final.

POLL VOTES

- 44 (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 chairman 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 chairman of the meeting consents to the withdrawal.
- (4) Polls must be taken immediately and in such manner as the chairman of the meeting directs.

CONTENT OF PROXY NOTICES

- 45 (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.

DELIVERY OF PROXY NOTICES

- 46
- (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.

AMENDMENTS TO RESOLUTIONS

- 47
- (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 chairman of the meeting may determine), and
 - (b) the proposed amendment does not, in the reasonable opinion of the chairman 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 chairman 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 chairman of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairman's error does not invalidate the vote on that resolution.

PART 5

ADMINISTRATIVE ARRANGEMENTS

MEANS OF COMMUNICATION TO BE USED

- 48 (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.

COMPANY SEALS

- 49 (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.

NO RIGHT TO INSPECT ACCOUNTS AND OTHER RECORDS

- 50 Except as provided by law or authorised by the directors or an ordinary resolution of the company, no person is entitled to inspect any of the company's accounting or other records or documents merely by virtue of being a shareholder.

PROVISION FOR EMPLOYEES ON CESSATION OF BUSINESS

- 51 The directors may decide to make provision for the benefit of persons employed or formerly employed by the company or any of its subsidiaries (other than a director or former director or shadow director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the company or that subsidiary.

DIRECTORS' INDEMNITY AND INSURANCE

INDEMNITY

- 52 (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.

INSURANCE

- 53 (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.



A limited company, part of the
Northumberland Tyne and Wear
NHS Foundation Trust Group

Standing Financial Instructions

March 2017

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1. Introduction

- 1.1. These Standing Financial Instructions (SFIs) should be read in conjunction with the articles of association for the Company which define the role, remit and function of the Board of Directors and the Scheme of Reservation and Delegation. These Standing Financial Instructions (SFIs) are issued for the regulation of the conduct of the Company, its Directors, officers and agents in relation to all financial matters.
- 1.2. Notwithstanding the specific clauses set out below the Board of Directors and employees of the Company are responsible for the security of the property of the Company, avoiding loss, achieving economy and effectiveness in the use of resources and complying with these standing financial instructions.
- 1.3. These Standing Financial Instructions identify the financial responsibilities which apply to everyone working for the Company and its constituent departments including seconded or sub contracted individuals. They do not provide detailed procedural advice and should be read in conjunction with the detailed departmental and financial procedure notes. All financial procedures must be approved by the Finance Director.
- 1.4. Should any difficulties arise regarding the interpretation or application of any of the Standing Financial Instructions then the advice of the Finance Director must be sought before acting. **The failure to comply with Standing Financial Instructions can in certain circumstances be regarded as a disciplinary matter that could result in dismissal.**
- 1.5. Officers of the Company should note that the SFI's and the Scheme of Reservation and Delegation, do not contain every legal obligation applicable to the Company. The Company and each officer of the Company must comply with all requirements of legislation (which shall mean any statute, subordinate or secondary legislation, any enforceable community right within the meaning of section 2(1) of the European Community Act 1972 and any applicable judgement of a relevant court of law which is a binding precedent in England), and all guidance and directions binding on the Company. Legislation, guidance and directions will impose requirements additional to SFI's and the Scheme of Reservation and Delegation. All such legislation and binding guidance and directions shall take precedence over standing orders, SFI's and the Scheme of Reservation and Delegation, which shall be interpreted accordingly.

2. Duties, Accountabilities, Responsibilities and Delegation

- 2.1. The Board of Directors has resolved that certain powers and decisions may only be exercised by the Board of Directors in formal session. These are set out in the Scheme of Reservation and Delegation. All other powers have been delegated to Directors and officers of the Company or to Committees established by the Company.
- 2.2. Those aside, all powers are invested in the Managing Director, who in turn will provide delegated powers to relevant officers. The Managing Director and Director of Finance will, as far as possible, delegate their detailed responsibilities but they remain accountable for financial control.
- 2.3. Within the Standing Financial Instructions it is acknowledged that the Managing Director is ultimately responsible to the Company and its Shareholders to ensure that the Company meets its obligation to perform its functions within the available financial resources.
- 2.4. The Director of Finance is responsible for all financial matters and is required to:
 - (i) Implement Company financial policies and for co-ordinating any corrective action necessary to further these policies;
 - (ii) Maintain an effective system of internal financial control ensuring that detailed financial procedure notes are in place which incorporate the principles of segregation of duties;
 - (iii) Ensure sufficient records are maintained to show and explain the Company's transactions, in order to disclose the financial position of the Company at any time;
 - (iv) Provide financial advice to the members of the Board of Directors and employees;
 - (v) Design, implement and supervise the systems of internal financial control;
 - (vi) Prepare and maintain accounts, certificates and estimates and produce records and reports the Company may require for the purposes of carrying out its statutory duties
- 2.5 The Company Secretary, if one is appointed, is responsible for ensuring efficient administration and effective corporate governance processes to ensure compliance with relevant legislation and regulations. If a Company Secretary is not appointed the Managing Director will identify an officer of the Company to undertake this role.

- 2.6 All Company Officers are severally and collectively responsible for:
- (i) The security and property of the Company;
 - (ii) Avoiding loss;
 - (iii) Exercising economy and efficiency in the use of resources;
 - (iv) Conforming with the requirements of Standing Financial Instructions and Financial Procedures;
- 2.7 Any contractor or employee of a contractor who is empowered by the Company to commit the Company to expenditure or who is authorised to obtain income shall be covered by these instructions. It is the responsibility of the Managing Director to ensure that such persons are made aware of this.

3. Committees and Scheme of Reservation and Delegation

- 3.1. In accordance with the Scheme of Reservation and Delegation, the Board of Directors will establish committees as appropriate to carry out Company business. Under the powers in the Scheme of Reservation and Delegation the Parent Board of Directors shall appoint a Remuneration Committee if it is considered necessary. The remuneration of the Company Directors will be approved by the Shareholder. Also as Group Accounting applies, the Shareholder reserves the powers for a Group Audit Committee. The Director of Finance or an appropriate Company representative will attend the Group Audit Committee. The Board of Directors will agree a proposal for an Internal Audit provision and will ensure that the Company reports to the Group Audit Committee and will ensure that third party assurance reports are made. An audit charter will govern the Company and included will be the right of the Head of Internal Audit to bypass reporting lines and report directly to the Group Audit Committee if he/she considers it necessary.
- 3.2. The Board of Directors shall agree terms of reference for any Company Committee establishing the role, remit and authority of the Committee, with such terms being taken to, and approved by, a properly convened meeting of the Board of Directors.
- 3.3. Revisions to the terms of reference for the sub committees can only be considered and approved by a further properly convened meeting of the Board of Directors.

4. Business Plan, Budgets and Estimates

- 4.1. The Director of Finance will prepare and submit to the Board of Directors an annual financial plan which will set out as a minimum
 - 4.1.1. A projected profit and loss account for the period profiled by month
 - 4.1.2. A projected balance sheet for each month of the plan
 - 4.1.3. A cash flow projection for each month
 - 4.1.4. A summary of the significant assumptions and estimates upon which the plan is based
 - 4.1.5. A narrative summary of the underlying work stream assumptions
 - 4.1.6. A summary of the demand for, sources of and application of capital throughout the lifetime of the plan
 - 4.1.7. An analysis of the critical risks to the plan and proposed mitigations of these risks
- 4.2. The annual plan will be presented alongside a medium term financial plan which will comprise an annual projected profit and loss account, balance sheet and cash flow statement covering a period of the Group financial strategy.
- 4.3. The annual financial plans, once approved by the Board of Directors, shall form the basis of the annual budgets for the Company.
- 4.4. The annual financial plan shall be prepared and presented to the Board of Directors in accordance with Group deadlines so that the Parent Board of Directors can properly form a view of the overall activities of the Group.
- 4.5. The Board of Directors shall provide any and all information required by the Board of the Parent to enable the Parent Board of Directors to reach a full understanding of the financial plans for the Company.
- 4.6. Notwithstanding the requirements of the Parent, the financial plans for the Company remain at all times the responsibility of the Company Board of Directors; this responsibility cannot be delegated by the Board of Directors, nor can accountability for the plan or underlying assumptions be assumed by the Parent or any committee of that undertaking.
- 4.7. The Director of Finance will prepare and present a report in sufficient detail and in a format agreed by the Board of Directors to allow the Board of Directors to monitor performance against the plan and budget.

- 4.8. Whilst the Director of Finance may rely upon an outsourced finance function for the preparation of the monitoring reports, responsibility for such reports remains with the Director of Finance who must take such steps as they judge fit to satisfy themselves as to the reliability of the report presented.
- 4.9. The Board of Directors may, at any time during the year, at their discretion vary the annual financial plan so long as such a variation is agreed upon at a properly convened meeting of the Board of Directors. In this event it is the responsibility of the Director of Finance to ensure that such variations, and the implications for the annual and medium term financial plans, are communicated to the budget holders and the Board of the Parent.
- 4.10. Whilst the responsibility for the delivery of the annual financial plan, the resulting budget and the medium term financial plan rests with the Board of Directors the Board of Directors may, at their discretion, delegate the day to day management of any or all of the budget to such persons within the Company as they judge fit and competent to perform such a task.
- 4.11. Such delegation as set out within the Scheme of Reservation and Delegation does not reduce or diminish the Board of Directors' accountability for the delivery of the annual plan, the budget or the medium term financial plan and, therefore, the Board of Directors must implement such training, monitoring and performance management processes as they judge necessary to satisfy themselves that the day to day management of the budget does not jeopardise delivery of the plans.
- 4.12. The Board of Directors shall, when agreeing the annual budget also agree a formal scheme of budgetary delegation.
- 4.13. All budget holders approved will be required to formally acknowledge and accept the annual budget as approved by the Board of Directors.
- 4.14. The Director of Finance will implement systems for budgetary control incorporating the reporting of, and investigation into financial, activity or workforce variances from budget. All Company officers whom the Board of Directors may empower to engage staff, to otherwise incur expenditure, or to collect income, shall comply with the requirements of those systems.
- 4.15. Any funds not required for their designated purpose shall revert to the immediate control of the Managing Director.
- 4.16. Expenditure for which no provision has been made in an approved budget and which is not subject to funding under the agreed contracts and

delegated powers of virement, shall only be incurred after authorisation by the Managing Director or Board of Directors as appropriate.

- 4.17. The Director of Finance shall keep the Managing Director and Board of Directors informed of the financial consequences of any changes in policy, pay awards and other events and trends affecting budgets and shall advise on the financial and economic aspects of future plans and projects.

5. Financial Statements and Books of Account

- 5.1. The Board of Directors shall be responsible for preparing the Board of Directors Report, Strategic Report and Financial Statements and for maintaining the books of account of the Company in accordance with the requirements of the Companies Act 2006.
- 5.2. Where employees are engaged in the business of maintaining these records it is for the Board of Directors to judge whether the manner of discharge is to their satisfaction.
- 5.3. The Board of Directors shall ensure that the books of account are maintained to a sufficient standard to support fully the preparation of Group consolidation financial statements in line with the deadline set by the NHS FT Regulator, for the year of account.
- 5.4. The Board of Directors are responsible for the accounting policies and estimation techniques (including asset lives and depreciation methods) which are appropriate to the Company.
- 5.5. The Board of Directors are responsible for the preparation of Company annual accounts and returns and submissions to Companies House and submission of corporation tax returns
- 5.6. The Company accounts must be audited by an auditor appointed by the Board of Directors. The Company's audited annual accounts will be consolidated in the Group accounts and presented at a public meeting.

6. Banking

- 6.1. The Board of Directors are responsible for approving the banking arrangements of the Company. The Director of Finance is responsible for managing the Company's banking arrangements and for advising the Company on the provision of banking services and operation of accounts.

- 6.2. The Board of Directors will review the commercial banking arrangements of the Company at regular intervals to ensure they reflect best practice and represent best value for money by periodically seeking competitive tenders for the Company's commercial banking business.
- 6.3. The Director of Finance is responsible for ensuring that an appropriate scheme of authorisation and approved signatories is agreed and maintained.
- 6.4. The Director of Finance is responsible for ensuring payments do not exceed the amount credited to the accounts, except in circumstances specifically approved by the Board of Directors. He/she must report to the Board of Directors all arrangements with bankers for accounts to be overdrawn.
- 6.5. The Director of Finance must agree in writing with bankers the conditions under which each account will be operated.

7. Borrowing

- 7.1. The Board of Directors are responsible for reviewing the capital requirements of the Company and determining what borrowing levels are required to support the business plan.
- 7.2. The Board of Directors are responsible for reviewing the affordability of any borrowing or other financing proposal.
- 7.3. The Board of Directors may, at their discretion, delegate authority to the Finance Director to operate a short term financing facility so as to manage working capital within the limits of the annual plan agreed by the Board of Directors. Any such delegation should be confined to the quantum and duration set out in the plan as approved by the Board of Directors.
- 7.4. All long term borrowing must be explicitly approved by the Board of Directors at the point of contractual agreement.
- 7.5. The Board of Directors must notify the Parent of any intention to seek long term borrowing so that the Parent can understand the implications for the financial regulation of that undertaking. In the event that, in the opinion of the Board of Directors of the Parent, the implications for the financial regulation of that undertaking is unacceptable the Parent may, at its discretion, direct the Board of Directors of the Company not to enter into the borrowing arrangement.

- 7.6. The Director of Finance must prepare detailed procedural instructions concerning applications for loans and overdrafts.
- 7.7. All short term borrowing should be kept to the minimum period of time possible, consistent with the overall cash flow position. Any short term borrowing requirement must be authorised by the Director of Finance.

8. Income, Fees, Security of Cash, Cheques etc

- 8.1. The Director of Finance is responsible for:
 - 8.1.1. maintaining and ensuring compliance with systems for the proper recording, invoicing, collection and coding of all monies due;
 - 8.1.2. the prompt banking of all monies received;
 - 8.1.3. approving and reviewing the level of fees and charges;
 - 8.1.4. taking appropriate recovery action for all outstanding debts. Income not received should be dealt with in accordance with losses procedures;
 - 8.1.5. approving the form of all receipt books, agreement forms, or other means of officially acknowledging or recording monies received or receivable;
 - 8.1.6. ordering and securely controlling any such stationery;
 - 8.1.7. the provision of adequate facilities and systems for employees whose duties include collecting and holding cash, including the provision of safes or lockable cash boxes, the procedures for keys, and for coin operated machines;
 - 8.1.8. prescribing systems and procedures for handling cash and negotiable securities on behalf of the Company.
- 8.2. Company monies shall not under any circumstances be used for the encashment of private cheques or IOUs.
- 8.3. All cheques, postal orders, cash etc., shall be banked intact. Disbursements shall not be made from cash received, except under arrangements approved by the board of directors.
- 8.4. The holders of safe keys shall not accept unofficial funds for depositing in their safes unless such deposits are in special sealed envelopes or locked containers. It shall be made clear to the depositors that the Company or any superior undertaking is not to be held liable for any loss, and written indemnities must be obtained from the organisation or individuals absolving the Company and Group from responsibility for any loss.

- 8.5. The Company has a responsibility to report any suspicions of money laundering to the appropriate authorities. Unusual, significant, or suspicious transactions should be reported to the Director of Finance.

9. Assets (including disposal)

- 9.1. The Board of Directors are responsible for ensuring that
- 9.1.1. any capital expenditure is subject to an appropriate investment appraisal process including the production of a detailed business case which is commensurate with the extent of investment proposed prior to any contractual commitment being entered into
 - 9.1.2. any capital expenditure is entered into only where it is supported by the annual financial plan and medium term financial plan including consideration of any borrowing or financing implications
 - 9.1.3. any programme of capital expenditure is appropriately monitored by the Board of Directors so as to ensure that programmes are delivered on time and within the agreed cost envelope
 - 9.1.4. where the capital programme required interim stage payments that the cash flow projection supports the making of these stage payments.
 - 9.1.5. That the project is undertaken in full compliance with relevant taxation schemes and guidance
 - 9.1.6. where capital expenditure is incurred in connection with services rendered to a third party the nature of the relationship between the Company and the third party the responsibility for the resulting asset and any indemnities or warranties is clearly understood
 - 9.1.7. When acting as an agent of the Parent the subsidiary will act in accordance with the Standing Financial Instructions and Scheme of Delegation of the Parent at all times.
- 9.2. The Board of Directors are responsible for maintaining a clear and accurate record of the assets held by the Company and for taking such steps as are necessary to ensure the security of these assets and for ensuring that they remain in a useable condition. Securing the assets shall include
- 9.2.1. recording managerial responsibility for each asset;
 - 9.2.2. identification of additions and disposals;
 - 9.2.3. identification of all repairs and maintenance expenses;
 - 9.2.4. physical security of assets;
 - 9.2.5. periodic verification of the existence of, condition of, and title to, assets recorded;
 - 9.2.6. identification and reporting of all costs associated with the retention of an asset;

9.2.7. reporting, recording and safekeeping of cash, cheques, and negotiable instruments.

9.3. Where capital assets are lost, scrapped, or otherwise disposed of the Board of Directors are responsible for authorising this event.

9.4. The Board of Directors are responsible for ensuring proper conduct in connection with any asset disposals including taking sufficient steps to ensure that any related party transactions are clearly understood and authorised in advance by the Board of Directors.

9.5. The Director of Finance shall be responsible for the maintenance of the asset register and compliance to accounting policies.

9.6. Asset control procedures (including fixed assets, cash, cheques and negotiable instruments) must be approved by the Director of Finance.

9.7 Any disposal of assets above any limits set by the Parent must have approval of the Parent Board of Directors and any such any disposal must be reported to the Parent company accordingly.

10. Stocks/Stores

10.1. It is not anticipated that the Company will hold significant stock in the course of its business.

10.2. If, in the Board of Directors view, the holding of any such stocks and materials become significant then it is the responsibility of the Board of Directors to apply systems of control.

10.3. Stores should be:

- (i) Kept to a minimum;
- (ii) Subject to an annual stocktake;
- (iii) Valued at the lower of cost or net realisable value

10.4 The responsibility for security arrangements and the custody of keys shall be clearly defined in writing by the designated manager.

10.5 Stocktaking arrangements and procedures are the responsibility of the Director of Finance

11. Terms of Service, Allowance and Payment of Staff

11.1. The Board of Directors shall

- 11.1.1. Ensure an annual review of remuneration, allowances and terms of service is conducted to determine whether an uplift should be awarded and, if so, the level of uplift to all employees [excluding the Board of Directors]
 - 11.1.2. Oversee and advise on any severance packages, reporting any significant, novel or contentious arrangements outside of contracted terms to the Parent
 - 11.1.3. Give full consideration to succession planning for the senior employees of the Company taking into account the challenges and opportunities facing the Company and the planned future developments as set out in the business plan developed in accordance with section 4 of these instructions.
- 11.2. The workforce plans incorporated within the budget once approved by the Board, shall form the funded establishment.
- 11.3. The funded establishment may not be varied without approval of the Board
- 11.4. No Director or employee of the Company may engage, re-engage or re-grade employees, either on a permanent or temporary nature, or hire agency staff, or agree to any changes in any aspect of remuneration:
 - 11.4.1. Unless authorised to do by authority of the Board;
 - 11.4.2. Unless within the limit of their delegated budget and funded establishment.
- 11.5. The Director of Finance will be responsible for monitoring the provision of Payroll service against the terms of the Service Level Agreement
- 11.6. Appropriately nominated managers have delegated authority for:
 - 11.6.1. Completing time records and other notifications in accordance with the Service Level Agreement and in the form stipulated by that agreement
 - 11.6.2. Submitting time records and other notifications in accordance with the agreed timetables as set out in the Service Level Agreement
 - 11.6.3. Submitting termination forms in the form and manner prescribed immediately upon knowing the effective date of an employee's resignation, termination or retirement
- 11.7. The Board of Directors shall ensure that:
 - 11.7.1. All employees are issued with a contract of employment in a form approved by the Board and which complies with employment legislation; and

- 11.7.2. Variations to and termination of contracts of employment are dealt with.
- 11.7.3. The Board of Directors may elect, by decision of the Board, to delegate this responsibility.
- 11.8. Expert support in matters of Human Resource Management will be sourced under Service Level Agreement from the Parent.
- 11.9. Clauses related to the remuneration of the Board of Directors are addressed in Article 19 of the model Articles of Association, as modified by paragraph 7.5 of the amendments.
- 11.10. The Director of Finance shall make arrangements for the provision of payroll services to ensure the accurate determination of any entitlement and to enable prompt and accurate payment to officers.
- 11.11. Advances of pay will only be made in exceptional circumstances. The Director of Finance will prepare detailed procedural instructions.
- 11.12. The Company will only extend loans towards approved schemes agreed by the Company Board of Directors, e.g. salary sacrifice schemes
- 11.13. The Director of Finance shall be responsible for establishing procedures and systems for the payment of staff expenses. Expenses should be claimed monthly. Any claims older than three months will not be paid unless approval is obtained by the Director of Finance or Managing Director.

12. Non-Pay Expenditure

- 12.1. The approved level of non pay expenditure and delegated responsibility shall be set through the budget setting process set out in section 4.
- 12.2. The Managing Director will set out:
- 12.2.1 The list of managers who are authorised to place requisitions for the supply of goods and services;
 - 12.2.2 The financial limits for requisitions and the system for authorisation above that level.
- 12.3. The Director of Finance shall set out procedures on the seeking of professional advice regarding the supply of goods and services.

Choice, Requisitioning, Ordering, Receipt and Payment for Goods and Services

12.4. The requisitioner, in choosing the item to be supplied or the service to be performed, shall always obtain best value for money for the Company. In so doing, the advice of the Company's responsible officer shall be sought.

12.5. Payment of contract invoices shall be in accordance with contract terms.

12.6. The Director of Finance must be provided with a copy of all contracts involving payment.

12.7. The Director of Finance will:

12.7.1 Advise the Board of Directors regarding the setting of thresholds above which Quotations (competitive or otherwise) or formal Tenders must be obtained. Once approved, the thresholds should be reviewed annually;

12.7.2 Prepare detailed procedures for requisitioning, ordering, receipt and payment of goods, works and services;

12.7.3 Be responsible for the prompt payment of all properly authorised accounts and claims;

12.7.4 Be responsible for designing and maintaining a system of verification, recording and payment of all amounts payable.

12.8 The system shall provide for:

12.8.1 Certification that:

- Goods / services have been duly received, examined and are in accordance with specification and the prices are correct;
- Work done or services rendered have been satisfactorily carried out in accordance with the order and, where applicable, the materials used are of the requisite standard and the charges are correct;
- In the case of contracts based on the measurement of time, materials or expense, the time charged is in accordance with the time sheets, the rates of labour are in accordance with the appropriate rates, the materials have been checked as regards quantity, quality, price and the charges for the use of vehicles, plant and machinery have been examined;
- Where appropriate, the expenditure is in accordance with regulations and all necessary authorisations have been obtained;
- The account is arithmetically correct;
- The account is in order for payment.

- 12.8.2 A system for submission to the Director of Finance of accounts for payment; provision shall be made for the early submission of accounts subject to cash discounts or otherwise requiring early payment;
 - 12.8.3 A list of officers, including specimens of their signatures, authorised to certify any type of payment. It is the responsibility of budget holders to inform the Director of Finance of changes to authorised officers;
 - 12.8.4 Instructions to officers regarding the handling and payment of accounts within the Finance Department;
 - 12.8.5 The delegation of responsibility for ensuring that payment for goods and services is only made once the goods / services are received, except where below applies;
 - 12.8.6 All invoices must be addressed to the Accounts Payable Department and not to individual officers, wards or departments. Under no circumstances will invoices be paid on behalf of third parties.
- 12.9 Prepayments are only permitted where exceptional circumstances apply. In such instances:
- 12.9.1 The financial advantages must outweigh the disadvantages i.e. cash flows must be discounted to Net Present Value (NPV);
 - 12.9.2 The appropriate officer must provide in the form of a written report, a case setting out all the relevant circumstances of the purchase. The Report must set out the effects on the Company if the supplier is at some time during the course of the prepayment agreement, unable to meet their commitments;
 - 12.9.3 The Director of Finance will need to be satisfied with the proposed arrangements before contractual arrangements proceed;
 - 12.9.4 The budget holder is responsible for ensuring that all items due under a prepayment contract are received and they must immediately inform the Director of Finance if problems are encountered.
- 12.10 Official orders must:
- 12.10.1 Be consecutively numbered;
 - 12.10.2 Be in a form approved by the Director of Finance;
 - 12.10.3 State the Company's Terms and Conditions of trade;
 - 12.10.4 Only be issued to, and used by, those duly authorised by the Managing Director.
- 12.11 Officers must comply fully with the procedures and limits specified by the Director of Finance, ensuring that:

- 12.11.1 All contracts, leases, tenancy agreements and any other commitments which may result in a liability are notified and a copy sent to the Director of Finance in advance of any commitment being made;
- 12.11.2 Contracts above specified thresholds are advertised and awarded in accordance with EU rules on public Procurement;
- 12.11.3 Where consultancy advice is being obtained, the procurement of such advice must be in accordance with the Company's Protocol for contracting with management consultants;
- 12.11.4 No order shall be issued for any item or items to any firm that has made an offer of gifts, reward or benefit to Directors or officers, other than exceptions detailed in the Standards for Business Conduct and Conflicts of Interest Policy;
- 12.11.5 No requisition / order (including the use of purchasing cards) is placed for any item / service for which there is no budget provision unless authorised by the Director of Finance;
- 12.11.6 The Director of Finance shall determine that no goods, services or works, other than works and services executed in accordance with a contract and agreed exceptions, e.g. utility services, shall be ordered except on an official order, raised following receipt by the Purchasing and Supplies Office of a properly authorised requisition, and contractors / suppliers shall be notified that they should not accept orders unless on an official order form;
- 12.11.7 Officers adhere to the procedures regarding verbal orders developed by the Director of Finance. These shall be issued only in cases of emergency by the Purchasing and Supplies Office following receipt of a properly completed requisition. The Purchasing and Supplies Office will place the verbal order and then issue an official order marked 'confirmation order' no later than the next working day;
- 12.11.8 Orders are not split or otherwise placed in a manner devised so as to circumvent the financial thresholds;
- 12.11.9 Purchases from Petty Cash are restricted in value and by type of purchase in accordance with instructions issued by the Director of Finance. Petty Cash Records are to be maintained in a form as determined by the Director of Finance.

12.12 Goods and services for which Contracts are in place should be purchased within those Contracts. Any purchasing request made outside such Contracts must be referred, in the first instance, to the responsible officer for approval.

- 12.13 The Managing Director and Director of Finance shall ensure that the arrangements for financial control and financial audit of Building and Engineering Contracts and property transactions comply with Guidance of the Parent. The technical audit of these Contracts shall be the responsibility of the Managing Director.

13. Tendering and Contracting

- 13.1. These clauses shall apply to all expenditure proposed in connection with the construction, acquisition or other major works to capital assets carried out in respect of the Company assets or on behalf of third parties or otherwise connected to the principle purpose of the Company. Where doubt exists as to whether an element of expenditure should be covered by section 11 or section 12 guidance should be sought from the Managing Director or the Director of Finance.
- 13.2. Tendering and Contracting will be in line with the Parent tendering and contracting arrangements. Public procurement regulations will apply and be adhered to.
- 13.3. Authorisation and tendering of contracts will be in line with the limits set in the Scheme of Reservation and Delegation.

14. Information Technology and Information Governance

- 14.1. Information technology services shall be provided by the outsourced provider and the terms of this service will be governed by a Service Level Agreement (SLA) to be agreed by the Board of Directors. The Managing Director is responsible for managing the provision of this service to the terms set out in the SLA.
- 14.2. The outsourced provider shall be responsible for the security of computerised financial data relating to the Company so long as it is stored in an agreed manner on supported assets and platforms.
- 14.3. The Board of Directors are responsible for the security of any financial data relating to the Company not held on agreed supported assets and platforms.
- 14.4. The Board of Directors are responsible for agreeing any necessary procedures to ensure adequate and reasonable protection of the Company's data, programmes and computer hardware for which the Board of Directors are responsible from accidental or intentional

disclosure to unauthorised persons, deletion or modification, theft or damage, having due regard for the Data Protection Act 1998 and Freedom of Information Act.

- 14.5. The Board of Directors are responsible for the maintenance and updating of Estates and Facilities Management software, eg “Backtraq”. This responsibility will extend to the following.
 - 14.5.1. Devising and implementing any necessary procedures to ensure adequate (reasonable) protection of the Company’s data and programmes from accidental or intentional disclosure to unauthorised persons, deletion or modification, theft or damage, having due regard for the Data Protection Act 1998
 - 14.5.2. Ensuring that adequate (reasonable) controls exist over data entry, processing, server storage and output to ensure security, privacy, accuracy, completeness and timeliness of the data, as well as the efficient and effective operation of the system. Server storage must be contained within the service level agreement setting out the limits required.
 - 14.5.3. Ensuring that adequate controls exist such that the compute operation is separated from development, maintenance and amendment.
 - 14.5.4. Ensuring that an adequate management (audit) trail exists through the computerised system
 - 14.5.5. Ensuring that new system amendments are developed in a controlled manner and thoroughly tested prior to implementation. Where this is undertaken by another organisation, assurances of adequacy must be obtained from them prior to implementation.
 - 14.5.6. Ensuring that any system acquisition, development and maintenance are in line with the medium term plan.
 - 14.5.7. Ensuring that the data produced for use with financial systems is adequate, complete and timely and that a management (audit) trail exists
 - 14.5.8. Ensuring that the Board of Directors have ready access to the data
 - 14.5.9. Ensuring that such computer audit reviews as the Board of Directors may consider necessary are carried out
 - 14.5.10. The Board of Directors shall ensure that risks to the Company arising from the use of IT are effectively

identified and considered and appropriate action taken to mitigate or control risk.

15. Losses and Special Payments

- 15.1. The Board of Directors are responsible for recording and communicating any losses to the Parent undertaking to assist the Parent Board of Directors in forming a view of the governance arrangements throughout the Group. In discharging this responsibility the Board of Directors of the Company should have regard to the arrangements and requirements set out in the corporate governance manual of the Parent. The formation of a Losses and Special Payments system will be provided applying the same rules as the Parent. Any diversion must be agreed by the Board of Directors and reported to the Group Audit Committee.
- 15.2. All staff and the Board of Directors of the Company have a duty to prevent loss due to fraud. Where such a loss is known or suspected to have occurred the Board of Directors should be notified immediately unless it is suspected that the Board of Directors are implicated in the loss, in which case the Director of Finance of the Parent should be notified.

16. Internal Audit

- 16.1. Internal Audit is an independent assurance function. The work of Internal Audit embraces the risk management, control and governance processes of the Company including all of its operations, resources, services and responsibilities.
- 16.2. The Director of Finance is responsible for :
- 16.2.1 Ensuring there are arrangements to review, evaluate and report on the effectiveness of internal financial control;
 - 16.2.2 Ensuring that the internal audit is adequate and meets the mandatory audit standards;
 - 16.2.3 Deciding at what stage to involve the police in cases of misappropriation and other irregularities;
 - 16.2.4 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property or any suspected irregularity in the exercise of any function of a pecuniary nature, the Director of Finance must be notified immediately.

- 16.3. The Board of Directors shall comply with the reasonable requests of the Internal Auditors to the Parent who may, from time to time and in accordance with the agreed audit plan and scope of work, require access to Company staff and documentation.

17. Counter Fraud

- 17.1. The Board of Directors shall co-operate with the local counter fraud specialist appointed by the Parent providing all information and explanations required upon request
- 17.2. The Board of Directors shall co-operate with NHS Protect providing all information and explanations required upon request.

18. External Audit

- 18.1. The Board of Directors shall make available all books and records, information and explanations to the auditors of the Group Financial Statements as the auditor judges necessary to form an opinion on the financial statements of the Group.
- 18.2. The Board of Directors shall, at all times, comply with Companies Act 2006 requirements to subject the financial statements of the Company to external audit.
- 18.3. The Board of Directors shall be responsible for the appointment of an external auditor of the Company accounts where appropriate.

19. Risk Management

- 19.1. The Board of Directors shall implement a system of risk management which is commensurate with the risks faced and sufficient to allow them to make a clear statement of assurance to the Parent in support of the Group wide Annual Governance Statement
- 19.2. The Board of Directors shall determine the appropriate form and content of the risk management process and shall be responsible for communicating the requirements to the staff of the Company.
- 19.3. The Parent may, at its discretion, and solely in connection with its duty to prepare a Group wide Annual Governance Statement, require the Board of Directors to amend, enhance or otherwise adapt their process for the recording and management of risk.

20. Retention of Documentation

- 20.1. The Board of Directors shall be responsible for maintaining archives for all documents required to be retained under the direction contained in the Records Management Code of Practice 2006.
- 20.2. The documents held in archives shall be capable of retrieval by authorised persons.
- 20.3. Documents held in accordance with the latest Department of Health guidance shall only be destroyed at the express instigation of the Board of Directors. Detail shall be maintained of records destroyed.

21. Gifts, Hospitality, Related Parties and Interests

- 21.1. Having due regard to relevant legislation such as the Bribery Act 2012 the Board of Directors shall implement a clear policy on the acceptance and offering of gifts and hospitality howsoever made.
- 21.2. The Board of Directors shall maintain a current and complete record of all such gifts and hospitality offered and received.
- 21.3. For the purposes of providing assurance to the Parent the Board of Directors shall also have regard to relevant department of health guidance such as HSG (93) 5 “Standards of Business Conduct for NHS Staff”.
- 21.4. The Board of Directors shall ensure that a current register of all relevant related parties to and interests of the Board of Directors and employees of the company is maintained at all times and in such a way as to be available for inspection upon request. For the purposes of this clause the Board of Directors should have regard to standing order 7 contained within the Governance Manual of the Parent.
- 21.5. Canvassing of the Board of Directors or senior officers directly or indirectly for any appointment with the Company shall disqualify the candidate for such an appointment.
- 21.6. Candidates for any Company appointment are to be notified that, when making their application, they must disclose in writing whether to their knowledge they are related to any director or senior employee of the Company. Failure to disclose such a relationship shall disqualify a candidate and, if appointed render them liable to instant dismissal.

21.7. The Board of Directors and senior officers of the Company shall disclose to the Board of Directors the existence of any relationship, contact or canvassing, whether formal or informal, as soon as they become aware that the counterparty has begun to seek an appointment with the Company.

22. Review and Revision to this document

22.1. This document shall judge to have effect until such time as it is replaced.

22.2. This document may only be amended or replaced following review by the Shareholders and acceptance of amendments at a properly convened meeting of the Company Board of Directors

22.3. Any changes to this document should be communicated to the Group Audit Committee for the purposes of informing the Group wide Annual Governance Statement

22.4. This document should be reviewed annually by the Chief Executive of the Shareholder or at least every three years and may be amended and updated following such review.