

<b>Formation, Investment and Governance of Subsidiaries</b>	
<b>Enabling Policy Statement; Executive Owner; Approval Route:</b>	Our Operations - Chief Operating Officer - Operations Committee
<b>Associated Policy Statements:</b>	Our Partners and Reputation - Vice-President External Engagement
<b>Authorised Owner:</b>	University Secretary and General Counsel
<b>Authorised Co-ordinator:</b>	Head of Governance
<b>Effective date:</b>	September 2022
<b>Due date for full review:</b>	September 2025
<b>Sub documentation:</b>	N/A.

### **Approval History**

<b>Version</b>	<b>Reason for review</b>	<b>Approval Route</b>	<b>Date</b>
1.0	To reflect changes to the scheme of delegation approved by EB October 2022 and Council November 2022	Executive Board Council	20/10/22 24/11/22

## 1. Purpose

- 1.1. In accordance with charity law considerations, the University will seek to undertake non-charitable trading through Subsidiaries where this is in the University's best interests. Those interests include the need to run operations as efficiently as possible and increase revenues through trading activities, to maximise resources available for teaching and research.
- 1.2. This Procedure is aimed at ensuring that the University uses Subsidiaries appropriately by setting out the matters that need to be addressed and approvals obtained at various steps in their formation and ongoing governance. As the University remains accountable for its Subsidiaries, this Procedure is also associated with the Our Partners and Reputation Policy Statement.

## 2. Scope and Exceptions to the Procedure

- 2.1. This Procedure applies to the formation, investment into and governance of all University Subsidiaries. There are no exceptions to this Procedure.

## 3. Definitions and Terminology

- 3.1. The following definitions apply to this Procedure

**"Ancillary trading"** means trading ancillary to a charity's primary purpose, legally part of the charity's 'primary purpose trading'. For the University, this will include such matters as student accommodation and catering;

**"Approval Process"** the document that specifies which body of the University approves a matter or exercises a power under the Governance Agreement. In the Default Governance Documentation it is incorporated into the Governance Agreement.

**"Default Governance Documentation"** means the documentation at annex 2.

**"Governance Agreement"** the agreement that must, in accordance with this Procedure, be put in place between the University and each of its Subsidiaries (or between Innovate Surrey Ltd (ISL) and each ISL subsidiary), which sets out certain governance arrangements between the two companies (e.g. appointment of directors and observers and provision of financial and operational information) and pursuant to which the Subsidiary or ISL Subsidiary cannot take certain actions without the consent of the University/ISL. The Governance Agreement will also specify which of the University's Procedures do not apply to the Subsidiary;

**"Governance Documentation"** means Articles of Association (or equivalent for non Ltd companies), Governance Agreement and Approval Process Document.

**"Innovate Surrey Ltd" (ISL)** a Subsidiary of the University;

**"Investment"** means investment by way of share capital or loan capital into a Trading Subsidiary;

**"ISL Subsidiary"** a subsidiary of ISL;

**"Members"** means the shareholders of a company limited by shares, or the guarantors of a company limited by guarantee, who are registered as members in the register of members of the company;

**"Mixed Subsidiary"** a subsidiary that carries out primary/ancillary trading and non-primary purpose trading;

**"Primary purpose trading"** means trading that is carried on by a charity in the course of carrying out a primary purpose of the charity. For the University, its primary purpose is set out in its Charter and includes Ancillary trading;

**"Non-primary purpose trading"** means trading which is not primary purpose trading.

**"Sponsoring EB Member"** the member of the Senior Executive Team who is sponsoring a proposed Subsidiary formation under this Procedure;

**"Subsidiary"** means: a company:

- a) in which the University holds a majority of the voting rights; or
- b) of which the University is a Member and has the right to appoint or remove a majority of

- the directors; or
- c) of which the University is a Member and controls, alone, or under an agreement with other Members, a majority of the voting rights  
or if it is a subsidiary of a company that is itself a subsidiary of that other company.

**“Trading Subsidiary”** means a Subsidiary that carries out Non-primary purpose or Mixed Trading;  
**“Wholly- owned Subsidiary”** is a company of which the University is the only Member.

#### 4. Procedural Principles

##### 4.1. The procedural steps for the formation of a new Subsidiary are as follows:

Step 1: Due Diligence required for approval of a new Subsidiary

Step 2: Approval of new Subsidiary

Step 3: Registration of new Subsidiary at Companies House

Step 4: Activation of new Subsidiary

Further details of these steps are set out below.

##### 4.2. In limited circumstances, the University will register a company prior to the necessary approval being obtained under this Procedure, where there is compelling evidence that registration is required to protect the proposed name of the Subsidiary (i.e. to prevent a company being registered at Companies House by a third party using the same or a similar name). See Step 3 below for more details. No Investment can be made until the completion of all Steps.

##### 4.3. STEP 1: Proposal for approval of a new Subsidiary including ISL Subsidiary

The following documents and information are required to complete this step.

###### 4.3.1. Where no Investment is to be made into the proposed Subsidiary

The following matters must be addressed by the Sponsoring EB Member in its proposal to the appropriate University body (see Step 2) in order to show that the use of a Subsidiary for the activities is in the University’s best interests. The Sponsoring EB Member should use the proforma set out at Annex I to this Procedure:

a. *Proposed name of the Subsidiary*

b. *Nature of the proposed activities*

- If the activities are primary or ancillary, the benefit to the University of the activities being delivered via a Subsidiary which must exceed the additional costs to the University of running the Subsidiary;
- If the activities are non-primary purpose trading, a business plan showing financial viability of the trading Subsidiary, based on its business plan, cash flow forecasts, profit projections, risk analysis and other available information;
- Any University staff, buildings or equipment that will be provided to the Subsidiary and the applicable market rate terms.

c. *Governance Documentation*

- The Articles of Association or equivalent (see section 4.4);
- Governance Agreement;
- Approval Process.

Where these vary from the Default Governance Documentation, confirmation that the above documents have been reviewed and approved by the University’s legal team.

d. *Proposed Directors*

###### 4.3.2. Where Investment is to be made into the proposed Subsidiary

In addition to the information and documentation set out at 4.3.1 above (as set out in Annex 1), appropriate advice on the suitability of the investment. What is ‘appropriate’ will depend on the circumstances. The cost of taking the advice is a relevant factor, and the cost should be commensurate to the size of the proposed investment.

#### 4.4. STEP 2: Approval of new Subsidiary

Requests for approval of a new Subsidiary must be made to the appropriate body as specified in the Scheme of Delegation and set out in the table below:

10.1	Approval of subsidiaries, joint ventures or partnerships <i>Medium and high risk on the recommendation of PRC</i>	High risk	Council
		Medium risk	VC sitting as Executive Board
		Low risk	Partnerships & Reputation Committee
10.2	Approval of equity investment or loan capital into subsidiaries, joint ventures or partnerships	Over £1m	Council
		Up to £1m	VC sitting as Executive Board

#### 4.5. STEP 3: Registering a wholly-owned Subsidiary or ISL Subsidiary at Companies House (where Subsidiary is a company limited by shares)

4.5.1. Requests to register a Subsidiary may only be made when approval has been given by the appropriate body under Step 2 above. Requests must be made by the Sponsoring EB Member to Secretariat (Secretariat & Legal) [secretariat@surrey.ac.uk](mailto:secretariat@surrey.ac.uk) with the following information:

- 4.5.1.1. Written approval to register a Subsidiary from the appropriate body under Step 2 above
- 4.5.1.2. Name of Subsidiary and details of the Executive Board member(s) and other individuals who will be director(s). One of the directors appointed by the University would normally be the Sponsoring EB Member.
- 4.5.1.3. Proposed Articles of Association for the Subsidiary (as approved under Step 2 above).

4.5.2 In limited circumstances, the University will register a Subsidiary prior to the necessary approval being obtained under Step 2 above, where there is compelling evidence that registration is required to protect the proposed name of the Subsidiary (i.e. to prevent a company being registered at Companies House by a third party using the same or a similar name). In those circumstances, the request must be made by the Sponsoring EB Member Secretariat (Secretariat & Legal) [secretariat@surrey.ac.uk](mailto:secretariat@surrey.ac.uk) with the following information:

- 4.5.2.1 Written approval to register the Subsidiary from the Chief Financial Officer
- 4.5.2.2 The proposed name of the Subsidiary
- 4.5.2.3 The reasons for this exceptional procedure being used
- 4.5.2.4 The name of the director(s) of the proposed Subsidiary

4.5.3 Where the procedure at 4.5.2 is adopted, the Secretariat will register the company using the Model Articles. The company must remain dormant until the necessary approvals have been obtained under Step 2 above.

4.5.4 Requests to form other forms of company must follow the process at step 4.7 below. The Subsidiary will be dormant until the steps set out below are taken.

#### 4.6 STEP 4: Activating the Subsidiary or ISL Subsidiary

No assets may be transferred into, or acquired, or any Investment made into a Subsidiary until the

approvals at Step 2 have been given and the governance documents are in place (i.e. Articles of Association, Governance Agreement, etc).

#### 4.7 Other Legal Forms

This includes all other legal entities including but not limited to: companies limited by guarantee; unlimited company; Limited Liability Partnership; Community Interest Company. Specialist legal and tax advice must be obtained prior to the formation of these entities. The legal and tax advice should be provided by the Sponsoring EB Member to the relevant approving body with the rest of the supporting documentation.

### 5. Governance Requirements

#### 5.1. Implementation: Communication Plan

This Procedure will be published on the Policies and Procedures Webpages. All Executive Board Members will communicate the Procedure to their senior leadership teams.

#### 5.2. Implementation: Training Plan

No specific training is required for this Procedure.

#### 5.3. Implementation: Maintenance and Administration

The default position is that a member of the Secretariat will act as Secretary to the Subsidiary and be responsible for all Company filings and for administration of meetings. Exceptions to this position must be approved by the Vice-Chancellor.

#### 5.4. Review

This Procedure will be reviewed every three years.

#### 5.5. Legislative Context and Higher Education Sector Guidance or Requirements

Income and Corporation Taxes Act 1988

Finance Act 2000

Companies Act 2006

Charity Commissioner Guidance <https://www.gov.uk/government/publications/trustees-trading-and-tax-how-charities-may-lawfully-trade-cc35/trustees-trading-and-tax-how-charities-may-lawfully-trade>

#### 5.6. Sustainability

This Procedure has no environmental impact.

### 6. Stakeholder Engagement and Equality Impact Assessment

6.1. An Equality Impact Assessment was completed on 11/10/2022 and is held by the Authorised Co-ordinator.

6.2. Stakeholder Consultation was completed, as follows:

Stakeholder	Nature of Engagement	Date	Name of Contact
Governance	Commented on drafts	11/10/22	Head of Governance and Compliance Manager OIA and Policy Framework
H&S	Sent draft	26/09/22	Director of Health & Safety
Our Operations PS Executive Owner	Commented on drafts	11/10/22	Chief Operating Officer
Our Partnership and	Commented on drafts	26/09/22	VP External

Reputation PS Executive Owner			Engagement
Chief Financial Officer	Commented on drafts	26/09/22	Chief Financial Officer
Information Compliance Unit	Sent drafts	26/09/22	Data Protection Officer
IT Services	Sent draft	26/09/22	Chief Information and Digital Officer

**ANNEX I: DUE DILIGENCE PRO-FORMA FOR APPROVAL OF A SUBSIDIARY AND ISL SUBSIDIARY**

**1. PROPOSED NAME OF THE SUBSIDIARY**

**2. PROPOSED DIRECTORS**

**3. NATURE OF PROPOSED ACTIVITIES OF THE SUBSIDIARY, WHETHER PRIMARY, ANCILLARY, MIXED OR TRADING?**

Please provide details of the proposed nature of the activities and when they are proposed to start.

**4. PARENT COMPANY OF PROPOSED SUBSIDIARY?**

Whether it is University or ISL subsidiary

**5. WHAT ARE THE PROPOSED ACTIVITIES PRIMARY, ANCILLARY, TRADING OR MIXED (BOTH PRIMARY/ANCILLARY AND TRADING)**

Please seek advice from University's legal team at [link to be inserted]

**6. IF ACTIVITY IS PRIMARY OR ANCILLARY PURPOSE, THE BENEFIT TO THE UNIVERSITY OF DELIVERY OF THESE ACTIVITIES VIA THE SUBSIDIARY**

Reasons here may relate to (non-exhaustive):

- Terms and conditions of employment
- Ability to provide services to third parties
- Ability to seek third party investment
- The non-primary purpose activity may generate sizeable profits and the University wishes to take advantage of the 'gift aid' regime which enables the subsidiary to pass its profits to the University free from tax.

**7. IF THE SUBSIDIARY IS TRADING OR MIXED, PLEASE SUPPLY A BUSINESS PLAN**

This should show financial viability, cash flow forecast, profit projections, risk analysis.

**8. UNIVERSITY RESOURCES THAT WILL BE USED OR TRANSFERRED INTO THE SUBSIDIARY**

The following documents should be supplied where relevant:

- Service level agreements
- Data sharing/processing agreements
- Leases/licences
- Lists of assets/ employees.

**9. CONFIRMATION THAT SECRETARIAT, HEALTH AND SAFETY, INFORMATION GOVERNANCE, IT SERVICES AND FINANCE HAVE BEEN CONSULTED IN RELATION TO APPLICABLE PROCEDURES**

**10. PROVIDE THE GOVERNANCE DOCUMENTATION FOR THE SUBSIDIARY TOGETHER WITH CONFIRMATION THAT HAVE BEEN APPROVED BY UNIVERSITY LEGAL TEAM**

**11. WHERE INVESTMENT IS BEING SOUGHT INTO A TRADING SUBSIDIARY OR MIXED SUBSIDIARY, PLEASE ALSO PROVIDE ADVICE ON THE SUITABILITY OF THE INVESTMENT**

For Trading Subsidiaries, the advice should make a fair comparison of investment with other forms of investment which might be selected and must involve an objective assessment of the trading subsidiary's business prospects and be based on the financial viability of the trading subsidiary, based on its business plan, cash flow forecasts, profit projections, risk analysis and other available information

For Mixed Subsidiaries, how any investment or support into the Mixed Subsidiary will be delineated between primary/ancillary and trading activities.

**12. FOR COMPANIES OTHER THAN COMPANIES LIMITED BY SHARES**

Please provide legal and tax advice as to the suitability of the selected form.

**13. ACCOUNTING YEAR END**

Where this is other than 31<sup>st</sup> July, written approval from CFO and Chair of Audit and Assurance Committee.



## ANNEX 2: DEFAULT GOVERNANCE DOCUMENTATION

**THIS AGREEMENT** is made on [DATE]

### **BETWEEN:-**

- (1) **THE UNIVERSITY OF SURREY** (incorporated under Royal Charter, number RC000671), whose administrative address is at 388 Stag Hill, Guildford, Surrey, United Kingdom, GU2 7XH (the "**Parent**"); and
- (2) **[SUBSIDIARY]** (registered number [INSERT] whose registered office is [INSERT] (the "**company**").

### **BACKGROUND:-**

- (A) The Parent is the sole shareholder of [SUBSIDIARY].
- (B) The parties have agreed to enter into this Agreement for the purpose of recording the terms and conditions and regulation of their relationship with each other and the management of subsidiaries of [SUBSIDIARY].
- (C) The parties have agreed that they will comply with the terms and conditions of this Agreement insofar as they lawfully can do so.

### **IT IS AGREED** as follows:-

#### 1. **INTERPRETATION**

##### 1.1 In this Agreement:-

<b>"Articles"</b>	means the articles of association of [SUBSIDIARY] as amended from time to time and any reference to an Article shall mean a specific Article in the Articles
<b>"Approval Process Document"</b>	means the document as set out at Schedule 2 which documents which University employee or committee acting on behalf of Council may exercise any of the Consent Matters
<b>"Associate"</b>	where a person (" <b>P</b> ") is an individual any person who is or who has been:  P's spouse or P's civil partner;  a brother, sister, uncle, aunt, nephew, niece, lineal ancestor or lineal descendant (together a " <b>Relative</b> ") of P, P's spouse or P's civil partner;  the spouse or civil partner of a Relative of P or P's spouse or civil partner;  if P is a member of a partnership, any of P's partners and the spouse or civil partner of any such person; and  where P is a body corporate, any person who is a shareholder of P
<b>"Board"</b>	means the board of directors of [SUBSIDIARY] from time to time
<b>"Business Day"</b>	means any day (other than a Saturday or Sunday or a bank or public holiday in England)
<b>"CA 2006"</b>	means the Companies Act 2006 (as amended from time to time)
<b>"Consent Matters"</b>	the matters referred to in Schedule 1

<b>"Council"</b>	means the Council (or equivalent corporate governance body from time to time) of the University;
<b>"Finance Documents"</b>	means any documents relating to the provision of finance to the company or any subsidiary and <b>"Finance Document"</b> means any one of them
<b>"Intellectual Property"</b>	means all patents, trademarks, copyright, moral rights, rights to prevent passing off or unfair competition, rights in designs, know-how and all other intellectual or industrial property rights, in each case whether registered or unregistered and including applications or rights to apply for them and together with all extensions and renewals of them and in each case all rights or forms of protection having equivalent or similar effect anywhere in the world
<b>"Security Interest"</b>	includes any mortgage, charge, pledge, lien, encumbrance, hypothecation or assignment or any other agreement or arrangement having the effect of conferring security
<b>"University Director"</b>	shall have the meaning given in the Articles

- 1.2 words and expressions defined in the Articles have the same meaning in this Agreement (unless expressly defined in this Agreement);
- 1.3 words and expressions used or defined in the CA 2006 will have the same meaning in this Agreement unless expressly defined in this Agreement or the Articles;
- 1.4 references to any statute or statutory provision include, unless inconsistent with the context, a reference to that statute or statutory provision as modified, re-enacted or consolidated and in force from time to time, whether before or after the date of this Agreement and any subordinate legislation made pursuant to it whether before or after the date of this Agreement provided that, as between the parties, no such modification, re-enactment or consolidation after the date of this Agreement will apply to the extent it creates or extends the liability of any of the parties to this Agreement;
- 1.5 references to a person includes references to that person's legal personal representatives and permitted assigns and reference to parties will be construed accordingly;
- 1.6 the headings are for convenience only and will not affect the interpretation of the Agreement;
- 1.7 references to persons will include any individual, firm, body corporate, unincorporated association or partnership;
- 1.8 references to the plural will include the singular and vice versa;
- 1.9 references to a document being "**in the agreed form**" is a reference to a document approved and for the purposes of identification signed by each party or by a person acting on their behalf;
- 1.10 references to a "**subsidiary**" or "**holding company**" will have the meanings defined by section 1159 CA 2006 and for the purposes of section 1159(1) a company (the first company) shall be treated as a member of another company if:-
  - 1.10.1 any of its subsidiaries is a member of that other company; or
  - 1.10.2 any shares in that other company are held by a person acting on behalf of the first company or any of its subsidiaries; or
  - 1.10.3 any shares in that other company are registered in the name of a person (or its nominee) by way of security or in connection with the granting of security over those shares by the first company;
- 1.11 references to a "subsidiary undertaking" will have the meaning defined in 1162 CA 2006;

- 1.12 any phrase introduced by the term "include", "including", "in particular" or any similar expression will be construed as illustrative and will not limit the sense of the words preceding that term;
- 1.13 the schedule forms part of the operative provisions of this Agreement and references to a clause or schedule, unless the context otherwise requires, is a reference to a clause of or Schedule to this Agreement; and
- 1.14 all covenants, warranties and other obligations given or entered into by more than one person are given or entered into, as the case may be, jointly and severally except as otherwise provided by this Agreement.

## 2. **BOARD OBSERVER**

- 2.1 The Parent may appoint and remove University Directors under the Articles.
- 2.2 To the extent that the Parent chooses not to appoint University Directors from time to time, the Parent shall have the right to appoint a representative to attend as an observer of each and any meeting of the Board ("**Observer**").
- 2.3 The appointment and removal of an Observer shall be by written notice from the Parent to the Board.
- 2.4 In order to facilitate the exercise of the right under clause 2.2, the Parent shall be made aware of a meeting of the Board at least 48 hours in advance of such a meeting taking place.

## 3. **MATTERS REQUIRING PARENT CONSENT**

- 3.1 [SUBSIDIARY] agrees that, save with advance written consent from the Parent, it shall not effect or propose any of the matters referred to in column 1 of the table in Schedule 1 (the "**Consent Matters**").
- 3.2 Consent to a Consent Matter shall be given in writing signed on behalf of the body designated in column 2 of the table in Schedule 1 (the "**Approval Process**") and may be given subject to such terms and conditions as the Parent may impose and any breach of such terms and conditions by any person subject thereto will be deemed to be a breach of the terms of this Agreement.

## 4. **CONSENT NOT RECEIVED**

- 4.1 **Subject** to clause 4.2, if a Consent Matter has been identified and consent sought from the Parent, acting through the Council or other body designated in accordance with the Approval Process, and no response has been received by [SUBSIDIARY] within 15 Business Days, the University Directors acting unanimously can provide consent on behalf of the Parent either in writing or by way of decision at a Board meeting where the matter is discussed.
- 4.2 **If** the Parent, acting through the Council or the body designated in the Approval Process, has indicated that it does not consent or that a decision is pending, the University Directors may not provide consent to a Consent Matter on the Parent's behalf.
- 4.3 If there are no University Directors at the relevant time, the matter cannot proceed unless and until a response is provided by the Parent.

## 5. **PROVISION OF INFORMATION BY [SUBSIDIARY]**

- 5.1 [SUBSIDIARY] shall send to the Parent:-
- 5.1.1 within 60 calendar days of its year end, its draft accounts;
- 5.1.2 within 30 calendar days of the end of each quarter, the quarterly management accounts;
- 5.1.3 within 15 calendar days of the end of each half year, an updated copy of the risk register; and

5.1.4 the reports set out at Schedule 2.

5.2 [SUBSIDIARY] will adopt all applicable University policies and procedures communicated to [SUBSIDIARY] by the University from time to time and will provide in its Annual Report the details of and reasons for any additional policies or procedures it has adopted.

## 6. Termination

Should the Parent no longer hold any shares in the capital of [SUBSIDIARY], this Agreement shall terminate.

## 7. Confidentiality

7.1 Each party undertakes that for the duration of this Agreement and thereafter it will keep confidential the terms of this Agreement.

7.2 The obligations in clause 7.1 shall not apply in relation to:

7.2.1 information which is or becomes public knowledge other than as a result of a breach of clause 7.1;

7.2.2 information which the party using or disclosing the information either knew prior to the other party's first disclosure to it or received from a third party entitled to disclose the same;

7.2.3 information which any party is required to disclose by law to any Court of competent jurisdiction, any Government agency or regulatory body lawfully requesting the same.

## 8. Notices

8.1 Any notice, demand or other communication in connection with this Agreement will be in writing and may be delivered by hand, courier service to the recipient's address as set out above, marked for the attention of the recipient (or such other address or person which the recipient has notified in writing to the sender in accordance with this clause 8, to be received by the sender not less than seven Business Days before the notice is despatched).

8.2 The notice, demand or communication will be deemed to have been duly served:

8.2.1 if delivered by hand, at the time of delivery; or

8.2.2 If delivered by courier six Business Days after being posted;

provided that, where in the case of delivery by hand, such delivery or transmission occurs either after 4.00 pm on a Business Day, or on a day other than a Business Day, service will be deemed to occur at 9.00 am on the next following Business Day (such times being local to the time at the address of the recipient).

8.3 Where proceedings have been issued in the Courts of England and Wales, the provisions of the Civil Procedure Rules must be complied with in respect of the service of documents in connection with those proceedings.

## 9. Counterparts

This Agreement may be executed in any number of counterparts, each of which when executed will be an original but together will constitute one and the same agreement.

## 10. No Partnership

Nothing contained in this Agreement will be deemed to constitute a partnership between the parties or any of them.

## 11. Conflicts with Articles

In the event of any conflict or inconsistency between the provisions of this Agreement and the Articles, the parties will co-operate to ensure that the provisions of this Agreement will prevail and will procure the passing of such resolutions as will be necessary to amend the Articles to eliminate such conflict or inconsistency.

12. **Entire Agreement**

This Agreement, and the documents referred to in it, constitutes the entire agreement between the parties and supersedes and replaces any previous agreement, understanding, representation, warranty or arrangements of any nature whatsoever between the parties relating to the subject matter of this Agreement.

13. **Waiver and Variation**

13.1 A waiver of any term, provision or condition of, or consent granted under, this Agreement will be effective only if given in writing and signed by the waiving or consenting party and then only in the instance and for the purpose for which it is given.

13.2 No failure or delay on the part of any party in exercising any right, power or privilege under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any such right, power or privilege preclude any other further exercise thereof or the exercise of any other right, power or privilege.

13.3 No breach of any provision of this Agreement will be waived or discharged except with the express written consent of the parties.

13.4 The rights and remedies herein provided are cumulative with and not exclusive of any rights or remedies provided by law.

13.5 No variation to this Agreement shall be effective unless made in writing and signed by all parties to this Agreement.

14. **Severance**

If any term of this Agreement is found by any court or body or authority of competent jurisdiction to be illegal, unlawful, void or unenforceable, such term will be deemed to be severed from this Agreement and this will not affect the remainder of this Agreement which will continue in full force and effect.

15. **Third Party Rights**

The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

16. **Governing Law**

16.1 This Agreement and any non-contractual obligations arising out of or in connection with it will be governed by English law.

16.2 The Courts of England and Wales will have exclusive jurisdiction to settle any dispute which arises out of or in connection with this Agreement (including (without limitation) in relation to any non-contractual obligations). The parties irrevocably agree to submit to that jurisdiction.

**SCHEDULE 1 AND APPROVAL PROCESS**

CONSENT MATTER	APPROVAL PROCESS
<b>A.1 FINANCIAL TRANSACTIONS</b>	
<p>1A. Investment into [SUBSIDIARY] (other than from the University)</p> <p><i>The amounts are accumulative.</i></p> <p><i>DN. Investments into subsidiary by University are covered by the Scheme of Delegation</i></p>	<p><i>Within £[INSERT] limit:</i></p> <ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. VC sitting as EB to approve</li> </ol> <p><i>If over £[INSERT]</i></p> <ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. VC sitting as EB to recommend</li> <li>3. FinComm to approve</li> </ol> <p><i>If over £[INSERT]</i></p> <ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. VC sitting as EB to recommend</li> <li>3. FinComm to Recommend</li> <li>4.. Council to approve</li> </ol>
<p>1B. Partnership arrangements or joint ventures of [SUBSIDIARY] (PRC to assess reputation risk)</p>	<p><i>High Risk</i></p> <ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. VC sitting as EB to recommend</li> <li>3. Council to approve</li> </ol> <p><i>Medium to Low Risk</i></p> <ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. VC sitting as EB to approve</li> </ol>
<p>1C. Borrowing or lending (including, without limitation, finance leases, but excluding operating leases)</p> <p>CFO must confirm that the transaction accords with the University's financial covenants</p>	<p><i>Up to £[INSERT]</i></p> <ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. VC sitting as EB to approve</li> </ol> <p><i>Over £[INSERT]</i></p> <ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. VC sitting as EB to recommend</li> <li>3. FinComm to Recommend</li> <li>4. Council to approve</li> </ol>
<p>1D. Making political or charitable donations; issuing shares or other securities in the company; reducing, increasing, consolidating, sub-dividing or converting the company's share capital.</p>	<ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. Council to approve</li> </ol>
<p>1E. Giving any guarantee or indemnity in respect of any third party; granting security over the company's property or assets (except for security currently in place); acquiring or subscribing for any securities in any other corporate body.</p> <p>CFO must confirm that the transaction accords with the University's financial covenants</p>	<ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. Council to approve</li> </ol>
<p>1F. Level of distributions to the University</p>	<ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. VC sitting as EB to approve</li> </ol>
<b>A.2 APPOINTMENTS AND REMOVALS OF DIRECTORS, STAFF AND ADVISERS</b>	
<p>2A. Appointing University Directors</p>	<ol style="list-style-type: none"> <li>1. [SUBSIDIARY] to recommend</li> <li>2. Council to approve</li> </ol>
<p>2B. Removing University Directors</p>	<ol style="list-style-type: none"> <li>1. [SUBSIDIARY] to recommend</li> <li>2. Council to approve</li> </ol>
<p>2C. Appointing directors other than University Directors</p>	<ol style="list-style-type: none"> <li>1. [SUBSIDIARY] to recommend</li> <li>2. VC sitting as EB to approve</li> </ol>

CONSENT MATTER	APPROVAL PROCESS
2D. Appointing senior employees	<p><i>£INSERT</i></p> <ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to approve <i>Over INSERT</i></li> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. VC sitting as EB to approve <i>Over £INSERT</i></li> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. Council to approve.</li> </ol>
<b>A.3 GOVERNANCE AND COMPANY DOCUMENTATION AND ACTIONS</b>	
3A. Changes to Corporate Governance Guidelines (including this Governance Agreement)	<ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. Council to approve</li> </ol>
3B. Amending the articles of association of the company or adopting new articles of association for the company.	<ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. Council to approve</li> </ol>
3C. Changing the secretary, bankers, registered office or accounting reference date of the company.	<ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. VC to approve Secretary and registered office changes</li> <li>3. All other matters, FinComm to recommend</li> <li>4. Council to approve</li> </ol>
3D. Changing the name of the company.	<ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. Council to approve</li> </ol>
<b>A.4 LEGAL AND MATERIAL CHANGES</b>	
4A. Re-registering the company as anything other than a private company limited by shares.	<ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. Council to approve</li> </ol>
4B. Commencing, settling or abandoning any litigation (excluding debt collection in the normal course of business).	<ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. VC sitting as EB to approve</li> <li>3. Council to approve if legal costs likely to exceed £100K</li> </ol>
4C. Management agreement for services to be provided to [SUBSIDIARY] by the University at an arm's length	<ol style="list-style-type: none"> <li>1. VC sitting as EB to recommend</li> <li>2. [SUBSIDIARY] to approve</li> </ol>
4D. Strategic approach and material changes to strategy	<ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. Council to approve</li> </ol>
4E. Material changes to the brand	<ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to propose</li> <li>2. VC sitting as EB to recommend</li> <li>3. Council to approve</li> </ol>
4F. Granting of any sub-licence of the brand to any third parties	<ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to propose</li> <li>2. VC sitting as EB to recommend</li> <li>3. Council to approve</li> </ol>
4G. Taking any step to wind up the company	<ol style="list-style-type: none"> <li>1. [SUBSIDIARY] Board to recommend</li> <li>2. Council to approve</li> </ol>
4H. Enter into a contract or transaction or make a payment to incur a commitment in excess of £INSERT or otherwise of a material nature other than in ordinary course of business and on arm's length terms	<p><i>Up to £INSERT</i></p> <ol style="list-style-type: none"> <li>1. [SUBSIDIARY] to recommend</li> <li>2. VC sitting as EB to approve</li> </ol> <p><i>Above £INSERT</i></p> <ol style="list-style-type: none"> <li>1. [SUBSIDIARY] to recommend</li> <li>2. Council to approve</li> </ol>
4I. Enter into a contract or transaction with a related party of the company, a "related party" for these purposes being: <ul style="list-style-type: none"> <li>• a person, other than the University, who is a shareholder in the company or who is a Relative of a shareholder in the company</li> </ul>	<ol style="list-style-type: none"> <li>1. [SUBSIDIARY] to recommend</li> <li>2. VC sitting as EB to approve</li> </ol>

CONSENT MATTER	APPROVAL PROCESS
<ul style="list-style-type: none"> <li>• a person who is or was, in the 12 months before the transaction or arrangement, a director or shadow director of the company or any other company which is (and, if he has ceased to be such, was while he was a director or shadow director of such other company) its subsidiary undertaking (which is not an insignificant subsidiary), parent undertaking or a fellow subsidiary of its parent undertaking.</li> <li>• A person exercising significant influence (that is, a person or entity which exercises significant influence over the company) (other than the University).</li> <li>• An Associate of any of the above</li> </ul>	
4J. Taking any step to place the company into administration	3. [SUBSIDIARY] Board to recommend 4. Council to approve
4K. Make any Modern slavery statement or statement to regulator	1. [SUBSIDIARY] to propose 2. VC sitting as EB to approve
4L. Making any arrangement or compromise with the company's creditors.	1. [SUBSIDIARY] Board to recommend 2. Council to approve
4M. Appointing a receiver or administrative receiver over all or any part of the company's assets  CFO must confirm that the decision to appoint accords with the University's financial covenants	1. [SUBSIDIARY] Board to recommend 2. Council to approve
4N. Taking any other step which comprises a material change in the nature or scope of the company's business or in the manner in which it is conducted.	1. [SUBSIDIARY] Board to recommend 2. Council to approve
<b>A.5 AUDIT AND FINANCIAL REPORTING</b>	
➤	
5A. Annual financial statements	1. [SUBSIDIARY] Board to approve 2. Audit & Assurance Committee, Finance Committee and Council to note either the full financial statements or a performance summary, as agreed annually with the Chairs.
5B. Appointing the auditors to carry out the statutory audit	Council (on recommendation by Audit and Assurance Committee).

## SCHEDULE 2

### REPORTING REQUIREMENTS

Monthly reports ➤ Management Accounts Half yearly report: ➤ Risk Register Annual report: ➤ Risk Register ➤ Milestones	[SUBSIDIARY] Board to note  _____ [SUBSIDIARY] Board to note  _____ 1. [SUBSIDIARY] Board to note 2. VC sitting as EB to note 3. Council to note
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