

Meeting of the Board of Governors

4.00 pm on Tuesday, 13 June 2017
in 1B27 - Technopark, SE1 6LN

Completion pack – for information only

This pack contains near final versions of the documents for approval in order to legally complete the transaction with Lambeth College and referred to in the Governance Agreement.

The Secretary will produce one set of final originals to the meeting and, approved, for execution by authorised signatories.

For LSBU Board, if thought fit, to approve:

- Collaboration Agreement (for information please see a note below on procurement compliance);
- Governance Agreement – to follow; and
- LSBU Board pro forma completion minutes

For Lambeth College Board to approve (and for LSBU Board's information):

- Revised Instrument and Articles of Lambeth College;
- Lambeth governors template resignation letter; and
- Lambeth College Board pro forma completion minutes

The collaboration agreement and risk of procurement challenge

As indicated at pages 18 and 19 of the board pack, the Collaboration Agreement (CA) sets out the operational arrangements by which improvements will be delivered within the college.

In the CA, LSBU senior executives will provide “support, advice and guidance” on “key professional services”, covering:

- Finance;
- HR;
- ICT;
- Procurement;
- Marketing and Communications;

- Governance and legal;
- Estates and Academic Environment;
- Student support and welfare;
- Recruitment and admissions; and
- Enterprise and Innovation

In addition, if found to be business necessary, specific LSBU managers may be seconded to the College by formal agreement.

The Lambeth College Principal remains the Chief Executive of the College and reports, as agreed, to the Lambeth College board, which will include LSBU appointed governors.

In addition, wording has been added to the collaboration agreement so that it complies with procurement rules. Legal advice has been received from VWV in relation to the risk of procurement challenge.

In summary, the risk of challenge is believed by the executive to be low and there are four factors that mitigate the risk:

- (i) the purpose of the CA is to regularise the post-completion relationship between LC and LSBU and is not a procurement of services by Lambeth College;
- (ii) the CA is not a procurable contract because it is a public-to-public collaboration;
- (iii) if a challenge becomes known, an award notice can be published before the CA is signed; and
- (iv) any paid service provision in the CA can be “switched off” if there is a challenge.

In addition, the risk of the CA being a “public contract” is reduced further if LSBU does not charge for its services.

The legal advice note is available to any governor on request.

Draft: 08.06.17

Dated

2017

Collaboration Agreement

between

Lambeth College

and

London South Bank University

Contents

Clause

1	Interpretation	3
2	Commencement and duration	9
3	Lambeth obligations	9
4	The Principal	11
5	LSBU Obligations	11
6	Provision by LSBU of support, advice and guidance	12
7	Actions of Lambeth requiring LSBU consent	12
8	Costs and VAT	13
9	Future Collaboration	13
10	Confidentiality	14
11	Data protection	16
12	Intellectual property	16
13	Anti bribery	16
14	Termination	17
15	Consequences of termination	19
16	Force majeure	20
17	Assignment and other dealings	20
18	Variation	20
19	Notices	20
20	Severance	22
21	No partnership or agency	22
22	Rights and remedies	22
23	Waiver	22
24	Counterparts	23
25	Third party rights	23
26	Further assurance	23
27	Costs	23
28	Entire agreement	23
29	Governing law	23
30	Jurisdiction	23

Parties

- (1) **Lambeth College**, a statutory corporation established under the Further and Higher Education Act 1992 whose principal place of business is Clapham Common South Side, London, SW4 9BL (**Lambeth**); and
- (2) **London South Bank University**, an exempt charitable company limited by guarantee registered with company number 00986761, whose registered office is at 103 Borough Road, London, SE1 0AA (**LSBU**).

Background

- (A) Lambeth operates a further education college, which provides education to adults and young people in south London.
- (B) LSBU operates a university in south London, as well as a number of other educational institutions.
- (C) The parties have agreed that Lambeth can best achieve its educational objectives by amending its instrument and articles of government so as to give LSBU the right to appoint a majority of its governors.
- (D) In addition, the parties have agreed to collaborate in order to:
 - (a) provide high quality education outcomes and student experience for their respective students and the local community more generally, in particular by ensuring that there are clear learning pathways between Lambeth and LSBU to allow students to progress their education;
 - (b) deliver high quality education that meets the needs of learners, local employers and stakeholders; and
 - (c) make best use of their respective resources.
- (E) The parties wish to record these arrangements in this Agreement.

1 Interpretation

- 1.1 The definitions and rules of interpretation in this clause apply in these Heads of Terms.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Common Educational Framework: the framework determined by LSBU from time to time setting out the pedagogic approach of LSBU and Lambeth, which is adapted to and supports the progression of individual learners educated by Lambeth.

Completion: means the completion of the Governance Agreement in accordance with its terms.

Encumbrance: any interest or equity of any person (including any right to acquire, option or right of pre-emption) or any mortgage, charge, pledge, lien, assignment, hypothecation, security interest, title retention or

any other security agreement or arrangement.

Enterprise and Innovation:

all aspects of enterprise and innovation that should be undertaken by a further education college including, but not limited to:

- (a) enterprise services; and
- (b) student entrepreneurship.

Estates and Academic Environment:

all aspects of estates that should be undertaken by or are otherwise relevant to a further education college including, but not limited to:

- (a) library and learning resources;
- (b) timetabling and room bookings;
- (c) space management;
- (d) events;
- (e) environmental sustainability;
- (f) maintenance, mechanical & electrical and building trades;
- (g) cleaning;
- (h) catering services;
- (i) security & reception services; and
- (j) customer service desk.

Finance:

all aspects of financial activity that should be undertaken by or are otherwise relevant to a further education college including, but not limited to:

- (a) order to cash;
- (b) procure to pay;
- (c) financial accounting;
- (d) management accounting;
- (e) general accounting;
- (f) treasury;
- (g) payroll;
- (h) compliance;
- (i) planning, budgeting and forecasting; and
- (j) internal audit services.

Governance Agreement:

means an agreement between the parties providing for the adoption of new instrument and articles of government for

Lambeth, the resignation of the governors of Lambeth in office immediately before Completion and the appointment of new governors of Lambeth from Completion.

Governance and Legal: all aspects of governance and legal affairs that should be undertaken by or are otherwise relevant to a further education college including, but not limited to:

- (a) legal advice (unless specifically related to a dispute between Lambeth and LSBU or other aspects of their relationship and which the governing body of Lambeth considers to be confidential to Lambeth);
- (b) contract negotiation;
- (c) clerking support to the Board; and
- (d) governance process and control.

Governing Body: the governors of Lambeth from time to time.

Group: in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company.

Human Resources: all aspects of human resources that should be undertaken by or are otherwise relevant to a further education college including, but not limited to:

- (a) recruitment and staffing;
- (b) compensation and benefits;
- (c) training and development;
- (d) career development;
- (e) talent management;
- (f) leadership development;
- (g) HR control;
- (h) employee relations;
- (i) union liaison;
- (j) retirement; and
- (k) HR service desk.

Information Technology: all aspects of information technology that should be undertaken by or are otherwise relevant to a further education college including, but not limited to:

- (a) service strategy;

- (b) service design;
- (c) service transition;
- (d) service operation (including service desk);
- (e) continual service improvement;
- (f) demand management;
- (g) supplier management;
- (h) IT business operations; and
- (i) information and cyber security.

Instrument and Articles of Government:

the instrument and articles of government of Lambeth (or such other governing document as shall be in place from time to time).

Intellectual Property Rights:

patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Key Professional Services:

has the meaning given in clause 3.3.10.

Lambeth Executives:

executives employed by or seconded to Lambeth responsible for the Key Professional Services and other senior employees responsible for the management and oversight of the education provided to Lambeth's learners as determined by LSBU from time to time.

LSBU Brand:

the names "London South Bank University", "LSBU", other names used by LSBU and its Group, and all associated crests, images and graphics.

Management Information Services:

all aspects of Management Information Services (MIS) that should be undertaken by a further education college, including, but not limited to:

- (a) data returns to funding bodies;
- (b) exams; and

(c) reporting.

Management Services: the provision of support, advice and guidance by LSBU to Lambeth on the Key Professional Services and the management of them in accordance with the Management Services Plan.

Management Services Plan: the plan determined by LSBU from time to time setting out the process for reports on the Key Professional Services to be made by Lambeth to it from time to time (including the level at which such reports should be made) and for Management Services to be given by LSBU (including the level at which such Management Services should be given).

Marketing and Communications: all aspects of marketing and communications that should be undertaken by or are otherwise relevant to a further education college including, but not limited to:

- (a) market research;
- (b) branding;
- (c) campaign management;
- (d) marketing materials;
- (e) PR;
- (f) internal communications;
- (g) content and social media; and
- (h) agency management.

Mission and Overarching Strategy: the mission and overarching strategy for LSBU and Lambeth as determined by LSBU from time to time.

Principal: the individual acting as principal of the further education college operated by Lambeth from time to time and appointed in accordance with clause 4.

Procurement: all aspects of procurement that should be undertaken by or may otherwise be relevant to a further education college including, but not limited to:

- (a) planning;
- (b) strategic sourcing;
- (c) contract management;
- (d) procure to pay; and
- (e) supplier management.

Recruitment and all aspects of recruitment and admissions that should be undertaken by or are otherwise relevant to a further education

Admissions: college including, but not limited to:

- (a) marketing services;
- (b) student recruitment and admissions;
- (c) outreach and engagement;
- (d) PR and communications related to recruitment and admissions; and
- (e) printing services.

Roadmap: a local vision and roadmap developed by Lambeth which demonstrates how Lambeth will contribute to the Mission and Overarching Strategy and how it fits in with the Common Educational Framework and which will set out performance indicators (which must be agreed in writing with LSBU) against which progress can be monitored.

Student Support and Welfare: all aspects of student support and welfare that should be undertaken by or are otherwise relevant to a further education college including, but not limited to:

- (a) course and student administration;
- (b) student employability;
- (c) student health & wellbeing;
- (d) student advice services; and
- (e) safeguarding, including Prevent.

Teaching Quality and Enhancement: all aspects of teaching quality and enhancement that should be undertaken by or are otherwise relevant to a further education college including, but not limited to:

- (f) academic quality enhancement; and
- (g) academic staff development unit.

Vice Chancellor: the individual appointed as the Vice-Chancellor of LSBU from time to time and who is at the date of this Agreement is Professor David Phoenix and who will be the joint accountable officer for HE and FE within the LSBU group, including Lambeth.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 The Schedules (if any) form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this **Agreement** includes the Schedules.
- 1.4 References to clauses and Schedules are to the clauses and Schedules of this Agreement and references to paragraphs are to paragraphs of the Schedules.

- 1.5 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.
- 1.6 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.7 A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006.
- 1.8 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.9 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.10 A reference to any **party** shall include that party's personal representatives, successors and permitted assigns.
- 1.11 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.12 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.13 A reference to **writing** or **written** includes fax but not e-mail.
- 1.14 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.15 References (if any) to a document in **agreed form** are to that document in the form agreed by the parties and initialled by them or on their behalf for identification.
- 1.16 A reference to **this Agreement** or to **any other agreement or document referred to in this Agreement** is a reference to this agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this Agreement) from time to time.
- 1.17 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.18 Any reference to this Agreement terminating shall, where the context requires, include a reference to this Agreement terminating by expiry.

2 **Commencement and duration**

- 2.1 This Agreement shall commence on Completion and shall continue in force until terminated in accordance with this Agreement.

3 **Lambeth obligations**

- 3.1 From Completion Lambeth shall:
- 3.1.1 continue to carry out a further education college for the benefit of adults and young people in south London subject to the terms of this Agreement and the ESFA Funding Agreement; and
- 3.1.2 comply with the Instruments and Articles of Government adopted on Completion.

- 3.2 At Completion (or, in relation to the Mission and Overarching Strategy and Common Educational Framework, as soon as reasonably practicable after their adoption by LSBU), Lambeth shall:
- 3.2.1 adopt the Mission and Overarching Strategy;
 - 3.2.2 adopt the Common Educational Framework;
 - 3.2.3 appoint the Vice Chancellor as the accountable officer for Lambeth;
 - 3.2.4 comply with its obligations in clause 4 in relation to the Principal; and
 - 3.2.5 commence development of the Roadmap and ensure that it is adopted by the end of September 2017.
- 3.3 From Completion and until termination of this Agreement, Lambeth shall:
- 3.3.1 adopt any updated Mission and Overarching Strategy provided by LSBU from time to time;
 - 3.3.2 adopt any updated Common Educational Framework provided by LSBU from time to time;
 - 3.3.3 appoint any new Vice Chancellor (who has indicated a willingness to act) as accountable officer;
 - 3.3.4 review and update the Roadmap annually or as is required from time to time;
 - 3.3.5 carry out a review of and benchmark the Roadmap on at least an annual basis (such review to be undertaken by the Governing Body);
 - 3.3.6 report in writing on progress within the Roadmap to LSBU and, in particular, progress against the performance indicators contained within it on at least an annual basis;
 - 3.3.7 work with LSBU to provide clear learning pathways for its students to match their needs, styles and aspirations and, in particular, ensure that the design of its curriculum allows for students to progress to courses at LSBU, which should be sufficiently signposted to learners;
 - 3.3.8 comply with its obligations in clause 4 in relation to any new Principal;
 - 3.3.9 employ such Lambeth Executives as are nominated by LSBU from time to time on such terms and conditions as Lambeth shall consider appropriate from time to time (taking into account its obligations in clause 6.4);
 - 3.3.10 carry out and provide the following functions and services using reasonable care and skill and in accordance with good industry practice and so as to comply with all applicable laws:
 - (a) Finance;
 - (b) Human Resources;
 - (c) Information Technology;
 - (d) Procurement;

- (e) Marking and Communications;
 - (f) Governance and Legal;
 - (g) Estates and Academic Environment;
 - (h) Teaching Quality and Enhancement;
 - (i) Student Support and Welfare;
 - (j) Recruitment and Admissions;
 - (k) Enterprise and Innovation; and
 - (l) Management Information Services
- (together the **Key Professional Services**).

- 3.3.11 report to LSBU on the carrying out and provision of the Key Professional Services in such format and at such intervals as LSBU shall from time to time reasonably require;
- 3.3.12 carefully consider and take into account the Management Services provided by LSBU in accordance with clause 6 below;
- 3.3.13 comply with its obligations set out in clause 6; and
- 3.3.14 comply with the payment obligations in clause 8.

4 The Principal

- 4.1 Unless determined otherwise by LSBU, the Principal shall be appointed by LSBU and be an employee of LSBU, either on an interim or permanent basis.
- 4.2 When appointed by LSBU, the Principal shall be seconded to Lambeth on such terms as LSBU shall determine from time to time to carry out his or her duties in relation to Lambeth and Lambeth shall enter into such agreement with LSBU as LSBU shall determine in order to second the Principal to Lambeth on those terms.
- 4.3 At LSBU's discretion, the Principal may be a member of the LSBU executive team and carry out such duties as LSBU may determine in relation to LSBU.
- 4.4 The Principal shall be primarily responsible for ensuring that Lambeth provides high quality education to its learners and such other duties as LSBU shall determine from time to time.

5 LSBU Obligations

- 5.1 At Completion (or as soon as reasonably practicable following Completion) LSBU shall:
 - 5.1.1 adopt the Mission and Overarching Strategy;
 - 5.1.2 adopt the Common Educational Framework;
 - 5.1.3 provide Lambeth with the Management Services Plan; and
 - 5.1.4 notify Lambeth in writing of the Principal to be engaged by it in accordance with clause 4.
- 5.2 From Completion and until termination of this Agreement LSBU shall, from time to time:

- 5.2.1 work with Lambeth to provide clear learning pathways for Lambeth's students to match their needs, styles and aspirations;
- 5.2.2 notify Lambeth in writing of any change in Principal in order to allow Lambeth to comply with its obligations in clause 4;
- 5.2.3 nominate Lambeth Executives to be employed by Lambeth;
- 5.2.4 update the Mission and Overarching Strategy, Common Educational Framework and Management Services Plan; and
- 5.2.5 provide Management Services in accordance with clause 6.

6 Provision by LSBU of Management Services

- 6.1 Lambeth shall undertake the Key Professional Services in accordance with clause 3.3.10.
- 6.2 Lambeth shall report to LSBU on the Key Professional Services in accordance with the Management Services Plan.
- 6.3 LSBU shall provide Management Services to Lambeth in respect of the Key Professional Services in accordance with the Management Services Plan.
- 6.4 Lambeth shall carefully consider and take into account all aspects of the Management Services received from LSBU and shall ensure that such Management Services are:
 - 6.4.1 reported to the Principal as soon as reasonably practicable (unless LSBU confirms in writing that such a report is not necessary); and
 - 6.4.2 reported to the Governing Body as soon as is reasonably practicable where instructed in writing by LSBU to do so.
- 6.5 LSBU (and employees of LSBU) who provide Management Services to Lambeth shall not be liable to Lambeth in respect of the support, advice or guidance so given.
- 6.6 No employee of LSBU shall become seconded to or otherwise employed by Lambeth as a result of any Management Services provided (unless otherwise agreed between the parties).

7 Actions of Lambeth requiring LSBU consent

- 7.1 Lambeth undertakes to LSBU that it will not without the prior written consent of LSBU (such consent not to be unreasonably withheld or delayed):
 - 7.1.1 outsource any Key Professional Services;
 - 7.1.2 enter into any borrowing;
 - 7.1.3 enter into or grant any security or other Encumbrance over any property owned by Lambeth;
 - 7.1.4 enter into any contract or otherwise incur any liability in excess of £100,000;
 - 7.1.5 enter into any arrangement, contract or transaction outside the normal course of its business or otherwise than on arm's length terms and in particular (but without limitation) enter into any long-term, onerous or unprofitable arrangement, contract or transaction;
 - 7.1.6 dispose of any assets outside the ordinary course of business; or

7.1.7 take any action relating to the dissolution of Lambeth.

8 **Costs and VAT**

- 8.1 Lambeth will pay to LSBU the reasonable costs of providing the Management Services in accordance with clause 6.
- 8.2 LSBU shall provide to Lambeth a certificate of cost which shall specify the costs incurred by LSBU during each month during the continuation of the Collaboration Agreement. The costs shall be based upon a fair and reasonable allocation of all overheads and other expenses (including staff time) and other direct and indirect costs and expenses incurred by LSBU in providing the Management Services.
- 8.3 LSBU shall have an absolute discretion to decide whether it shall charge for any Management Services provided from time to time.
- 8.4 Costs will be charged exclusive of VAT (where applicable).
- 8.5 Lambeth shall pay an invoice issued to it in accordance with this Agreement within 30 days of the date of the invoice.
- 8.6 If Lambeth fails to make a payment due to LSBU under this Agreement by the due date, then, without limiting LSBU's remedies under clause 14, Lambeth shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment.
- 8.7 Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 8.8 All amounts due under this Agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

9 **Future Collaboration**

- 9.1 The parties acknowledge that they may enter into further arrangements relating to:
- 9.1.1 the provision of shared services;
 - 9.1.2 the sharing of learners' data subject to all applicable laws;
 - 9.1.3 the development of joint policies;
 - 9.1.4 the secondment of staff; and
 - 9.1.5 such other arrangements as they consider necessary in order to further their respective educational objectives.

10 **Confidentiality**

- 10.1 **Confidential information** means all confidential information (however recorded or preserved) disclosed by a party or its Representatives (as defined below) to the other party and that party's Representatives whether before or after the date of this Agreement in connection with this Agreement and/or the subject matter of this Agreement, including but not limited to:
- 10.1.1 the existence and terms of this Agreement;

- 10.1.2 any information that would be regarded as confidential by a reasonable business person relating to:
- (a) the business, affairs, students, suppliers, or plans, intentions, or opportunities of the disclosing party (or of any member of the group of entities to which the disclosing party belongs); and
 - (b) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party (or of any member of the group of entities to which the disclosing party belongs); and
- 10.1.3 any information developed by the parties in the course of carrying out this Agreement.

Representatives means, in relation to a party, its employees, officers, representatives and advisers.

- 10.2 The provisions of this clause shall not apply to any Confidential Information that:
- 10.2.1 is or becomes generally available to the public (other than as a result of its disclosure by the receiving party or its Representatives in breach of this clause); or
 - 10.2.2 was available to the receiving party on a non-confidential basis before disclosure by the disclosing party; or
 - 10.2.3 was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party; or
 - 10.2.4 the parties agree in writing is not confidential or may be disclosed; or
 - 10.2.5 forms part of a public announcement as LSBU may make from time to time in relation to this Agreement and/or the subject matter of this Agreement and/or its relationship with Lambeth.
- 10.3 Each party shall keep the other party's Confidential Information confidential and shall not:
- 10.3.1 use such Confidential Information except for the purpose of exercising or performing its rights and obligations under or in connection with this Agreement and/or the subject matter of this Agreement (**Permitted Purpose**); or
 - 10.3.2 disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this clause 9.
- 10.4 A party may disclose the other party's Confidential Information to those of its Representatives who need to know such Confidential Information for the Permitted Purpose, provided that:
- 10.4.1 it informs such Representatives of the confidential nature of the Confidential Information before disclosure; and
 - 10.4.2 it procures that its Representatives shall, in relation to any Confidential Information disclosed to them, comply with the obligations set out in this clause as if they were a party to this Agreement;

and it is at all times liable for the failure of any Representatives to comply with the obligations set out in this clause 10.

- 10.5 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority, or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible.
- 10.6 A party may, provided that it has reasonable grounds to believe that the other party is involved in activity that may constitute a criminal offence under the Bribery Act 2010, disclose Confidential Information to the Serious Fraud Office without first informing the other party of such disclosure.
- 10.7 Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in this Agreement are granted to the other party, or to be implied from this Agreement.
- 10.8 On termination of this Agreement, each party shall:
- 10.8.1 destroy or return to the other party all documents and materials (and any copies) containing, reflecting, incorporating or based on the other party's Confidential Information;
- 10.8.2 erase all the other party's Confidential Information from computer and communications systems and devices used by it, including such systems and data storage services provided by third parties (to the extent technically and legally practicable); and
- 10.8.3 certify in writing to the other party that it has complied with the requirements of this clause, provided that a recipient party may retain documents and materials containing, reflecting, incorporating or based on the other party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority. The provisions of this clause shall continue to apply to any such documents and materials retained by a recipient party.
- 10.9 Except as expressly stated in this Agreement, no party makes any express or implied warranty or representation concerning its Confidential Information.
- 10.10 The provisions of this clause 9 shall continue to apply after termination of this Agreement.

11 **Data protection**

- 11.1 Each party shall ensure that it complies with the requirements of all legislation and regulatory requirements in force from time to time relating to the use of personal data, including, without limitation, the Data Protection Act 1998 (**DPA**).
- 11.2 Without prejudice to Clause 11.1 neither party shall provide any Personal Data (as that term is defined in the DPA) to the other until after they have entered into a data sharing and processing agreement setting out each party's rights and obligations in relation to processing Personal Data.

12 **Intellectual property**

- 12.1 This Agreement does not transfer any interest in or grant any rights in respect of, LSBU's Intellectual Property Rights to Lambeth. Subject to clause 12.5 below, Lambeth shall have no rights to use LSBU's Intellectual Property Rights.
- 12.2 This Agreement does not transfer any interest in Lambeth's Intellectual Property Rights to LSBU.

- 12.3 The parties shall, prior to any use of LSBU's brand of trade mark by Lambeth, enter into a fully-detailed brand licence agreement.
- 12.4 All Intellectual Property Rights developed or created by a party pursuant to this Agreement shall be owned by that party (**Created IPR**).
- 12.5 Each party grants to the other party a non-exclusive, personal, royalty-free licence during the term of this Agreement to use its Created IPR in the UK in relation to and to the extent strictly necessary for the other party to carry out its obligations in relation to this Agreement.
- 12.6 Lambeth shall not do, or omit to do, any act that will or may damage any aspect of the LSBU Brand or the goodwill associated with the LSBU Brand, or which may otherwise damage the reputation of LSBU.

13 **Anti bribery**

13.1 Lambeth shall:

- 13.1.1 comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;
- 13.1.2 not do anything, or omit to do anything, which would put it in breach of the Bribery Act 2010 or cause LSBU to commit an offence under the Bribery Act 2010;
- 13.1.3 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- 13.1.4 comply with any anti-bribery and anti-corruption policies and procedures notified to the Lambeth by LSBU from time to time;
- 13.1.5 have and shall maintain in place throughout the duration of this Agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with its obligations under this clause 13, and will enforce them where appropriate;
- 13.1.6 promptly report to LSBU any request or demand for any undue financial or other advantage of any kind received by it; and
- 13.1.7 within three months of the date of this agreement, and annually thereafter, certify to LSBU in writing signed by an officer of the Supplier, compliance with this clause 13 by Lambeth and all persons associated with it under clause 13.2. Lambeth shall provide such supporting evidence of compliance as LSBU may reasonably request

13.2 Lambeth shall ensure that any person associated with Lambeth who is performing services, or providing goods, in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on Lambeth in this clause 13 (**Relevant Terms**). Lambeth shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to LSBU for any breach by such persons of any of the Relevant Terms.

13.3 Breach of this clause 13 by Lambeth shall be a material breach under clause 14.

13.4 LSBU shall:

- 13.4.1 comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;
 - 13.4.2 not do anything, or omit to do anything, which would put it in breach of the Bribery Act 2010 or cause Lambeth to commit an offence under the Bribery Act 2010;
 - 13.4.3 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK; and
 - 13.4.4 have and shall maintain in place throughout the duration of this Agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with its obligations under this clause 13, and will enforce them where appropriate.
- 13.5 For the purpose of this clause 13, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this clause 13 a person associated with a party includes, but is not limited to, any subcontractor of that party.

14 Termination

- 14.1 This Agreement shall immediately terminate in the event that LSBU ceases to have the right to appoint the LSBU Governors (as defined in the Instrument and Articles of Government).
- 14.2 The parties may terminate this Agreement at any time by mutual consent.
- 14.3 Without affecting any other right or remedy available to it, LSBU may terminate this Agreement with immediate effect by giving written notice to Lambeth:
 - 14.3.1 if at any time LSBU no longer has the right to appoint a majority of the members of the governing body of Lambeth in the Instrument and Articles of Government;
 - 14.3.2 if at any time LSBU is satisfied that Lambeth has insufficient funds to continue to operate a further education college;
 - 14.3.3 if Lambeth fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
 - 14.3.4 if Lambeth commits a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - 14.3.5 if Lambeth repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;
 - 14.3.6 Lambeth suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts;
 - 14.3.7 if the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;

- 14.3.8 if a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of Lambeth;
- 14.3.9 if the holder of a qualifying floating charge over the assets of Lambeth has become entitled to appoint or has appointed an administrative receiver;
- 14.3.10 if a person becomes entitled to appoint a receiver over the assets of Lambeth or a receiver is appointed over the assets of the other party;
- 14.3.11 if a creditor or encumbrancer of Lambeth attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- 14.3.12 if any event occurs, or proceeding is taken, with respect to Lambeth in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.3.6 to clause 14.3.11 (inclusive);
- 14.3.13 if Lambeth suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- 14.3.14 if there is a change of control of Lambeth;
- 14.3.15 if LSBU is required to terminate or shorten this Agreement following any final decision of any court, tribunal or decision making body and which is not subject to any appeal or potential appeal; or
- 14.3.16 in accordance with clause 16.
- 14.4 Without affecting any other right or remedy available to it, LSBU may terminate this Agreement on giving not less than six months' written notice to Lambeth.
- 14.5 Without affecting any other right or remedy available to it, Lambeth may terminate this Agreement with immediate effect by giving written notice to the other party:
 - 14.5.1 if LSBU commits a material breach of any term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - 14.5.2 LSBU suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts;
 - 14.5.3 If LSBU commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of LSBU with one or more other companies or the solvent reconstruction of LSBU;
 - 14.5.4 if a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of LSBU other than for the sole purpose of a scheme for a solvent amalgamation of LSBU with one or more other companies or the solvent reconstruction of LSBU;
 - 14.5.5 if an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over LSBU;

- 14.5.6 if the holder of a qualifying floating charge over the assets of LSBU has become entitled to appoint or has appointed an administrative receiver;
 - 14.5.7 if a person becomes entitled to appoint a receiver over the assets of LSBU or a receiver is appointed over the assets of LSBU;
 - 14.5.8 if a creditor or encumbrancer of LSBU attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of LSBU's assets and such attachment or process is not discharged within 14 days;
 - 14.5.9 if any event occurs, or proceeding is taken, with respect to LSBU in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.3.6 to clause 14.3.11 (inclusive);
 - 14.5.10 if the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
 - 14.5.11 if Lambeth is required to terminate or shorten this Agreement following any final decision of any court, tribunal or decision making body and which is not subject to any appeal or potential appeal; or
 - 14.5.12 in accordance with clause 16.
- 14.6 For the purposes of clause 14.3.4 and 14.5.1, **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from a substantial portion of this Agreement.

15 Consequences of termination

- 15.1 On termination of this Agreement, the following clauses shall continue in force:
- 15.1.1 Clause 1 (Interpretation);
 - 15.1.2 Clause 8 (Costs and VAT);
 - 15.1.3 Clause 10 (Confidentiality)
 - 15.1.4 Clause 11 (Data protection);
 - 15.1.5 Clause 12 (Intellectual property);
 - 15.1.6 Clause 15 (Consequences of termination);
 - 15.1.7 Clause 16 (Force majeure);
 - 15.1.8 Clause 19 (Notices);
 - 15.1.9 Clause 20 (Severance);
 - 15.1.10 Clause 21 (No partnership or agency);
 - 15.1.11 Clause 22 (Rights and remedies);
 - 15.1.12 Clause 23 (Waiver);
 - 15.1.13 Clause 25 (Third party rights);
 - 15.1.14 Clause 28 (Entire agreement);

15.1.15 Clause 29 (Governing law); and

15.1.16 Clause 30 (Jurisdiction).

15.2 Termination of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.

16 Force majeure

16.1 Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for one month, the party not affected may terminate this Agreement by giving one month's written notice to the affected party.

17 Assignment and other dealings

17.1 Subject to clause 17.2, neither party shall assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Agreement without the prior written consent of the other party.

17.2 LSBU may assign or subcontract any or all of its rights and obligations under this Agreement to a member of its Group.

18 Variation

18.1 No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

19 Notices

19.1 A notice given to a party under or in connection with this Agreement:

19.1.1 shall be in writing and in English (or be accompanied by an accurate translation into English);

19.1.2 shall be sent to the relevant party for the attention of the contact and to the address specified in clause 19.2, or such other address, fax number or person as that party may notify to the others in accordance with the provisions of this clause 19;

19.1.3 shall be:

- (a) delivered by hand; or
- (b) sent by pre-paid first class post, recorded delivery or special delivery; or
- (c) sent by airmail or by reputable international overnight courier (if the notice is to be served by post to an address outside the country from which it is sent); and
- (d) is deemed received as set out in clause 19.4.

19.2 The addresses for service of notices on the parties are:

19.2.1 LSBU

- (a) address: 103 Borough Road, London, SE1 0AA
 - (b) for the attention of: James Stevenson
- 19.2.2 Lambeth
 - (a) address: Clapham Common South Side, London, SW4 9BL
 - (b) for the attention of: the Clerk
- 19.3 A party may change its details for service of notices as specified in clause 19.2 by giving notice to each of the other parties, provided that the address for service is an address in the UK following any change. Any change notified pursuant to this clause shall take effect at 9.00 am on the later of:
 - 19.3.1 the date (if any) specified in the notice as the effective date for the change; or
 - 19.3.2 five Business Days after deemed receipt of the notice of change.
- 19.4 Delivery of a notice is deemed to have taken place (provided that all other requirements in this clause have been satisfied):
 - 19.4.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the address; or
 - 19.4.2 if sent by pre-paid first class post, recorded delivery or special delivery to an address in the UK, at 9.00 am on the second Business Day after posting; or
 - 19.4.3 if sent by pre-paid airmail to an address outside the country from which it is sent, at 9.00 am on the fifth Business Day after posting; or
 - 19.4.4 if sent by reputable international overnight courier to an address outside the country from which it is sent, on signature of a delivery receipt or at the time the notice is left at the address; or
 - 19.4.5 if deemed receipt under the previous paragraphs of this clause 19.4 would occur outside business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of receipt), at 9.00 am on the day when business next starts in the place of deemed receipt. For the purposes of this clause, all references to time are to local time in the place of deemed receipt.
- 19.5 To prove service, it is sufficient to prove that:
 - 19.5.1 if delivered by hand or by reputable international overnight courier, the notice was delivered to the correct address; or
 - 19.5.2 if sent by fax, a transmission report was received confirming that the notice was successfully transmitted to the correct fax number; or
 - 19.5.3 if sent by post or by airmail, the envelope containing the notice was properly addressed, paid for and posted.
- 19.6 This clause 19 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 19.7 A notice given under or in connection with this Agreement is not valid if sent by email.

20 Severance

- 20.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.
- 20.2 If any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

21 No partnership or agency and status of the Management Services

- 21.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 21.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 21.3 The parties acknowledge and agree that this Agreement aims to establish or implement a co-operation between LSBU and Lambeth with the aim of ensuring that the education services they have to perform are provided with a view to achieving objectives that they have in common.

22 Rights and remedies

- 22.1 The rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

23 Waiver

- 23.1 A waiver of any right or remedy under this Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.
- 23.2 A failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

24 Counterparts

- 24.1 This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one Agreement.

25 Third party rights

- 25.1 A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.
- 25.2 The rights of the parties to rescind or vary this Agreement are not subject to the consent of any other person.

26 **Further assurance**

26.1 At its own expense, each party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this Agreement.

27 **Costs**

27.1 Each party shall pay its own costs incurred in connection with the negotiation, preparation, and execution of this Agreement and any documents referred to in it.

28 **Entire agreement**

28.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings between them, whether written or oral, relating to its subject matter.

28.2 Each party agrees that it shall have no remedies in respect of any representation or warranty (whether made innocently or negligently) that is not set out in this Agreement. No party shall have any claim for innocent or negligent misrepresentation based on any statement in this Agreement.

29 **Governing law**

29.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

30 **Jurisdiction**

30.1 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

Executed by **Lambeth College** by affixing the Common Seal of **Lambeth College** in the presence of:

SEAL TO BE AFFIXED HERE

.....

Chair of the Corporation of Lambeth College

Print name:

.....

.....

Member of the Corporation of Lambeth College

Print name:

.....

Executed by **London South Bank University**,
acting by a director

.....

Signature of director

DRAFT

LONDON SOUTH BANK UNIVERSITY

("LSBU")

Extract of Minutes of meeting of the governors of LSBU(the "**Governors**") held on 13 June 2017 at 4pm at Technopark, 90 London Road, London SE1 6LN

Present :

In attendance :

Apologies : Shachi Blakemore

1 Chair

1.1 Jerry Cope chaired the meeting (the "**Chair**").

2 Notice and quorum

2.1 The Chair reported that due notice of the meeting had been given to the Governors and that a quorum was present. Accordingly the Chairman declared the meeting open.

3 Purpose of the meeting

3.1 The Chairman explained that the purpose of the meeting was to consider and if thought fit approve arrangements whereby LSBU would enter into an agreement with Lambeth College ("**Lambeth**") under which LSBU would:

3.1.1 obtain rights to appoint the majority of governors of the board of Lambeth in accordance with revised instrument and articles of government to adopted by Lambeth on completion; and

3.1.2 provide certain support, advice and guidance to Lambeth under the terms of a collaboration agreement

(the "**Transaction**").

3.2 The Chair further explained that it was proposed to complete the transaction as soon as reasonably practicable following a meeting of the Lambeth board of governors on 15 June 2017.

- 3.3 The Chair noted that the following items had been circulated to the whole board for information:
- 3.3.1 an application submitted to the Department for Education by Lambeth applying for funds to implement the outcome of the area review process;
 - 3.3.2 a letter dated 30 May 2017 from Jules Pipe of the GLA relating to the Lambeth College Nine Elms Skills Centre Grant Agreement
- 3.4 The Chair noted that the strategic case for the transaction had been discussed by the Board at its meeting of 19 May 2017
- 4 **Conflicts of interest**
- 4.1 The Board noted that Shachi Blakemore had previously declared an interest in the Transaction and that she had sent apologies for the meeting.
- 5 **Documents**
- 5.1 The following documents were produced to the meeting:
- 5.1.1 A strategic case for the Transaction prepared by Matthew Dunn;
 - 5.1.2 the instrument and articles of government currently in place for Lambeth;
 - 5.1.3 revised instrument and articles of government to be adopted by Lambeth on completion of the Transaction (the "**Instrument and Articles of Government**");
 - 5.1.4 a draft governance agreement between LSBU and Lambeth setting out the terms of the Transaction (the "**Governance Agreement**");
 - 5.1.5 a draft collaboration agreement between LSBU and Lambeth setting out how the parties shall work together to achieve their common objectives (the "**Collaboration Agreement**");
 - 5.1.6 a legal due diligence report prepared by Veale Wasbrough Vizards LLP setting out the legal risks associated with the Transaction on the basis of information supplied by Lambeth and in accordance with the instructions given by LSBU;
 - 5.1.7 a financial due diligence report prepared by PwC setting out the financial, VAT and other taxes, and pensions risks associated with the Transaction on the basis of information supplied by Lambeth and in accordance with the instructions given by LSBU;
 - 5.1.8 a full business case prepared by PwC setting out the business case for entering into the Transaction;
 - 5.1.9 an advice note prepared by Veale Wasbrough Vizards LLP on unwinding the Transaction should that be necessary in the future;
 - 5.1.10 a draft letter from LSBU to Lambeth:
 - (a) appointing Professor David Phoenix as a governor of and accountable officer for Lambeth;
 - (b) appointing [name of LSBU Governor], [name of LSBU Governor], Richard Flatman, Ian Mehrtens and Mandy Eddolls as governors of Lambeth; and

- (c) nominating Michael Smith, Mohammed Seedat and Kirsty Wadsley as independent governors of Lambeth;

as from completion of the Transaction;

- 5.1.11 draft resolutions to be passed by Lambeth approving the Transaction, adopting the Instrument and Articles of Government and entering into the Governance Agreement, Collaboration Agreement and any other documents required for completion of the Transaction;
- 5.1.12 draft resignation letters to be signed by the current governors of Lambeth (with the exception of one staff governor and one student governor who will remain in office) effective from completion,
together the "**Documents**".

6 Resolutions

- 6.1 After due and careful consideration of the Documents and the matters referred to in section 172 of the Companies Act 2006, it was resolved that the Transaction is expedient and in the best interests of LSBU (including its current and future beneficiaries).
- 6.2 Accordingly, it was resolved that the Documents be approved subject to any amendments that any two Governors may in their discretion approve for and on behalf of LSBU.
- 6.3 It was further resolved that:
 - 6.3.1 the Governors (acting in their capacity as directors of LSBU) approve the terms of, and entry into the Governance Agreement and Collaboration Agreement (subject to any amendments that any two Governors may in their discretion approve for and on behalf of LSBU);
 - 6.3.2 any two Governors (or any Governor in the presence of a witness) in the case of an agreement to be signed as a deed and any one Governor in the case of an agreement to be signed under hand are authorised to execute and complete the following for and on behalf of the Charity:
 - (a) the Governance Agreement;
 - (b) the Collaboration Agreement; and
 - (c) any other deeds, instruments, contracts or other documents necessary in order to give effect to the Transaction; and
 - 6.3.3 any Governor be authorised to take any other action that may be required (or authorise certain individuals to do so on the LSBU's behalf) as may be necessary or desirable to complete the Transaction for and on behalf of LSBU.

There being no further business to discuss, the meeting then closed.

.....
Chairman

This page is intentionally left blank

Section 5
STATUTORY REGULATIONS

INSTRUMENT AND ARTICLES
OF GOVERNMENT

THE FURTHER AND HIGHER EDUCATION ACT 1992

THE FURTHER EDUCATION CORPORATIONS (FORMER FURTHER EDUCATION COLLEGES) (MODIFICATION OF INSTRUMENTS AND ARTICLES OF GOVERNMENT) ORDER 2012

The Secretary of State for Business, Innovation and Skills makes the following Order in exercise of the powers conferred by section 22(2) and (3) of the Further and Higher Education Act 1992(a). In accordance with section 22(3)(b) of that Act, the Secretary of State has consulted the Chief Executive of Skills Funding and the further education corporations listed in the Schedule to this Order ("the colleges").

1. This Order may be cited as the Further Education Corporations (Former Further Education Colleges) (Modification of Instruments and Articles of Government) Order 2012 and comes into force on 31st March 2012.

2. The Secretary of State orders that the instrument and articles of government(b) of each of the colleges shall be modified as set out in articles 3, 4, 5, 6 and 7.

Amendments to the Instrument of Government

3-(1). Omit clause 11(1) and renumber the following paragraphs accordingly.

(2) Substitute "paragraph (2)" for "paragraph (3)", wherever those words appear.

4. Omit clause 18.

Amendments to the Articles of Government

5. After article 3(1)(a) insert—

" (aa) publishing arrangements for obtaining the views of staff and students on the determination and periodic review of the educational character and mission of the institution and the oversight of its activities;".

6. Omit article 12(6).

7. After article 24 insert—

" Modification or replacement of the Instrument and Articles of Government

25.-(1) Subject to paragraph (2), the Corporation may by resolution of the members modify or replace its instrument and articles of government, after consultation with any other persons who, in the Corporation's view, are likely to be affected by the proposed changes.

(2) The Corporation shall not make changes to the instrument or articles of government that would result in the body ceasing to be a charity.

Dissolution of the Corporation

26.-(1) The Corporation may by resolution dissolve itself and provide for the transfer of its property, rights and liabilities.

(a) 1992 c.13; subsection (2) was amended by paragraph 23 of Schedule 9 to the Learning and Skills Act 2000 (c.21).

(b) Prescribed by S.I. 2008/3084 for Leeds City College; by S.I. 2008/50 for The Manchester College; by S.I. 2008/1734 for South Staffordshire College; and by S.I. 2011/2975 for the South Gloucestershire and Stroud College. Prescribed separately by local order for Salford City College; Hilderstone College; and Redcar and Cleveland College. For all the other further education corporations, prescribed by the Further Education Corporations (Former Further Education Colleges) (Replacement of Instruments and Articles of Government) Order 2007, a local order which came into force on 1st January 2008.

(2) The Corporation shall ensure that a copy of the draft resolution to dissolve the corporation on a specified date shall be published at least one month before the proposed date of such resolution."

30 March 2012

Deputy Director
FE & Skills System Relationship Management Unit
Department for Business, Innovation & Skills

SCHEDULE 1 INSTRUMENT OF GOVERNMENT

CONTENTS

1. Interpretation of the terms used
2. Composition of the Corporation
3. Determination of ~~membership~~Governor numbers
4. ~~Transitional arrangements~~Not used
5. Appointment of the ~~members~~Governors of the Corporation
6. Appointment of the Chair and Vice-Chair
7. Appointment of the Clerk to the Corporation
8. Persons who are ineligible to be ~~members~~Governors
9. The term of office of a ~~member~~Governor
10. Termination of office of a Governor~~membership~~Governorship
- ~~11. Members not to hold interests in matters relating to the institution~~
11. Conflicts of interest
12. Meetings
13. Quorum
14. Proceedings of meetings
15. Minutes
16. Public access to meetings
17. Publication of minutes and papers
18. Copies of the Instrument of Government
19. Change of name of the Corporation
20. Application of the seal

1. Interpretation of the terms used

In this Instrument of Government: and the Articles of Government:

- ~~a) any reference to 'the Principal' shall include a person acting as Principal;~~
a) 'the Articles' means the Articles of Government;
b) 'Chair' and 'Vice-Chair' mean respectively the Chair and Vice-Chair of the Corporation appointed under clause 6 of the Instrument of Government;
~~b)c) 'the Clerk' means the Clerk to the Corporation;~~
d) 'Conflict of Interest' means any Interest of a Governor that conflicts, or may conflict, with the interests of the Corporation and includes a conflict of interest and duty and a conflict of duties;
e) 'Controlled' means:
i. a Subsidiary Company; or
ii. any other entity in which the University has the right to exercise more than 50% of the voting rights; or
iii. any other entity in which the University has a right to nominate more than 50% of the trustees, governors or directors.
~~e)f) 'the Corporation' means any further education corporation to which this Instrument applies;~~
~~e)g) 'the institution' means the institution which the Corporation is established to conduct and any institution for the time being conducted by the Corporation in exercise of its powers under the Further and Higher Education Act 1992;~~
h) 'this Governor' means a member of the Corporation;
~~e)i) 'the Instrument' means this Instrument of Government;~~
~~f) 'the CE of Skills Funding' means the Chief Executive of Skills Funding;~~
j) 'Interest' means any direct or indirect interest (and includes any interest a Governor may have as a consequence of any duty he or she may owe to any other person);
~~g)k) 'meeting' includes a meeting at which the membersGovernors attending are present in more than one room, provided that by the use of video-conferencing facilities it is possible for every person present at the meeting to communicate with each other; (including by video-conference or telephone conference);~~
h)l) 'necessary skills' means skills and experience, other than professional qualifications, specified by the Corporation as appropriate for membersGovernors to have;
m) 'staff member'the Principal' means any person who is undertaking the role of Principal or CEO in respect of the institution who shall be appointed by the University (unless such appointment is specifically delegated to the Corporation by the University) and 'student member'who may be but need not be employed by the University;
n) 'Relevant Matter' means a transaction or arrangement between the Corporation and the University (or, where relevant, another entity Controlled by the University) or any other situation or matter which relates to the relationship between the Corporation and the University (or, where relevant, another entity Controlled by the University);
~~i)o) 'Staff Governor' and 'Student Governor' have the meanings given to them in clause 2;~~
~~j) 'the previous Instrument of Government' means the Instrument of Government relating to the Corporation which had effect immediately before 1st January 2008;~~
~~k)p) 'the Secretary of State' means the Secretary of State for Business, Innovation and SkillsEducation;~~
q) 'senior post' means such senior posts employed by the Corporation as the Corporation may decide for the purposes of the Articles of Government;
r) 'staff' means all the staff who have a contract of employment with the Corporation (which does not include any individual who is employed directly by the University);
s) 'staff matters' means the remuneration, conditions of service, promotion, conduct, suspension, dismissal or retirement of staff; n) 'the students' union'
~~h)t) 'students union' means any association of students formed to further the educational purposes of the institution and the interests of students, as students;~~
u) 'Subsidiary Company' means any company in which the University holds:
i. more than 50% of the shares; or
ii. more than 50% of the voting rights attached to the shares; or
iii. the right to appoint one or more of the directors.
v) 'University' means London South East University;

~~m)w)~~ a 'variable category' means any category of ~~members~~Governors whose numbers may vary according to clauses 2 and 3.

2. Composition of the Corporation

2.1 ~~Subject to the transitional arrangements set out in clause 4, the~~The Corporation shall consist of:

- a) ~~external members at least two and no more than three~~ Governors who:
- appear to the ~~Corporation~~University to have the necessary skills and experience to ensure that the Corporation carries out its functions under article 3 of the Articles of Government; ~~(and taking account of the need to ensure continuity of Governorship of the Corporation); and~~
 - ~~the Principal are independent of the institution, unless~~ University being neither Governors nor staff of the University who shall be nominated by the Principal chooses not University and approved and appointed by the Corporation in accordance with clause 5.1 ("Independent Governors");
- b) the Vice Chancellor of the University ex officio ("Vice Chancellor") provided that he or she is willing to be act as a member Governor;
- c) up to five individuals (at least the discretion of the University in accordance with clause 3.1) who are either governors of the University or members of the senior management team of the University and who are appointed and removed by the University;
- e)d) one member Governor who is a member of the institution's staff and has a contract of employment with the institution Corporation and who has been nominated and elected as set out in paragraphs (3), (4) or (5) ('staff members' clause 2.3 below ('Staff Governor')); and
- d)e) ~~at least one member Governor enrolled as a student at the institution and has been nominated and elected by their fellow students, or if the Corporation so decides, by a recognised association representing such the students ('student members' union ('Student Governor')).~~

2.2 A person who is not for the time being enrolled as a student at the institution, shall nevertheless be treated as a student during any period of authorised absence from the institution for study or travel.

2.3 ~~Where the Corporation has decided or decides that there is to be one staff member; the~~ member The Staff Governor may be a member of the academic staff or the non-academic staff and shall be nominated and elected by all staff.

~~2.4 Where the Corporation has decided or decides that there are to be two staff members:~~

- a) ~~one may be a member of the academic staff, nominated and elected only by academic staff; and the other may be a member of the non-academic staff, nominated and elected only by non-academic staff, or~~
- b) ~~each may be a member of the academic or non-academic staff, nominated and elected by all staff.~~

~~2.5 Where the Corporation has decided that there are to be three staff members:~~

- a) ~~all may be members of the academic or non-academic staff, nominated and elected by all staff;~~
- b) ~~one may be a member of the academic or the non-academic staff, nominated and elected by all staff, one may be a member of the academic staff, nominated and elected by academic staff only, and one may be a member of the non-academic staff nominated and elected by non-academic staff only;~~
- c) ~~two may be members of the academic staff, nominated and elected by academic staff only, and one may be a member of the non-academic staff, nominated and elected by non-academic staff only, or~~
- d) ~~one may be a member of the academic staff, nominated and elected by academic staff only, and two may be members of the non-academic staff, nominated and elected by non-academic staff only.~~

~~2.6 The appointing authority, as set out in clause 5, will decide whether a person is eligible for nomination, election and appointment as a member of the Corporation under paragraph (1).~~

3. Determination of ~~membership~~Governor numbers

~~3.1 Subject to paragraph (2) and the transitional arrangements in clause 4, the~~
The number of ~~members~~Governors of the Corporation, and the number of ~~members~~Governors of each variable category shall be that decided by the ~~Corporation in the most recent determination made under the previous Instrument of Government.~~

~~3.2 The Corporation may at any time vary the determination referred to in paragraph (1) and any subsequent determination under this paragraph provided that:~~

~~a) the number of members of the Corporation shall be determined by the Corporation; and~~

~~3.3.1 the numbers of members of each variable category shall be~~University subject to the limit which applies to that category set out in ~~Clause 2~~requirements of this Instrument.

~~3.4.2~~ No determination under this clause shall terminate the appointment of any person who is already a ~~member~~Governor of the Corporation at the time when the determination is made.

4. ~~Transitional arrangements~~[Not used]

~~Where, following the last determination under the previous Instrument of Government, the membership of the Corporation does not conform in number to that determination:~~

~~a) nothing in clauses 2 and 3 of this Instrument shall require the removal of members where the previous Instrument would not have required their removal; but~~

~~b) the Corporation shall ensure that any new appointments are made so that its composition conforms to the determination as soon as possible.~~

5. Appointment of the ~~members~~Governors of the Corporation

~~5.1 Subject to paragraph (2) the Corporation~~The University is the appointing authority in relation to the appointment of ~~its members~~the Governors of the Corporation, except in relation to Independent Governors appointed in accordance with clause 2.1(a) above for whom the Corporation is the appointing authority following nomination by the University.

5.2 If the number of ~~members~~Governors falls below the number needed for a quorum, the Secretary of State is the appointing authority in relation to the appointment of those ~~members~~Governors needed for a quorum.

5.3 The University, as the relevant appointing authority, may decline to appoint a person as a ~~parent, staff~~Staff Governor or ~~student member~~Student Governor if:

(a) it is satisfied that the person has been removed from office as a ~~member~~Governor of a further education corporation in the previous ten years; or

- (b) the appointment of the person would contravene any rule or bye-law made under article 23 of the Articles of Government concerning the number of terms of office which a person may serve, ~~provided that such rules or bye-laws make the same provision for each category of members appointed by the appointing authority;~~ (which for the avoidance of doubt shall not apply to ex officio Governors); or
- (c) the person is ineligible to be a ~~member~~Governor of the ~~corporation~~Corporation because of clause 8.
- 5.4 The ~~corporation~~University may use the power to suspend a ~~member under clause 5.1 of the instrument~~Governor where the ~~member~~Governor is ill or there is some financial or other concern (such as pending investigation, criminal prosecution or disciplinary proceedings) that in the ~~Corporations~~Corporation's view may impact upon the suitability of the person to be a ~~Corporation member~~Governor. The decision to suspend should not be regarded as a punishment but as a neutral act intended to protect the ~~College's~~institution's reputation and/or to ensure it can properly exercise its powers and discharge its legal duties to internal and external stakeholders. The ~~Corporation~~University will undertake such steps to consider the concern as ~~they consider~~it considers appropriate.
- 5.5 Where the office of any ~~member~~Governor becomes vacant the relevant appointing authority shall as soon as practicable take all necessary steps to appoint a new ~~member~~Governor to fill the vacancy, except where a retiring Governor was appointed by the University pursuant to clause 2.1(c) and as such the University has discretion as to whether it replaces that Governor.
- ~~5.6—~~The Student ~~member(s)~~Governor must be enrolled at the ~~College~~institution as ~~students;~~employment a student. A student who is also employed by the ~~college~~institution, e.g. as an apprentice, and/or in part time work at the ~~College,~~doesinstitution.
- ~~5.7.6~~ is not ~~preclude an enrolled student~~precluded from being appointed as a Student Governor.
- ## 6. Appointment of the Chair and Vice-Chair
- 6.1 The ~~members of the Corporation~~University shall appoint a Chair and a Vice-Chair from among ~~themselves~~the Governors.
- 6.2 ~~Neither the Principal nor any staff or student member~~No Staff Governor or Student Governor shall be eligible to be appointed as Chair or Vice-Chair or to act as Chair in their absence.
- 6.3 If both the Chair and the Vice-Chair are absent from any meeting of the Corporation, the ~~members~~Governors present shall choose someone from among themselves to act as Chair for that meeting.
- 6.4 The Chair and Vice-Chair shall hold office for such period as the ~~Corporation~~University decides.
- 6.5 The Chair or Vice-Chair may resign from office at any time by giving notice in writing to the Clerk. The Clerk shall immediately inform the University.
- 6.6 If the ~~Corporation~~University is satisfied that the Chair is unfit or unable to carry out the functions of office, it may give written notice, removing the Chair from office and the office shall then be vacant.
- 6.7 If the ~~Corporation~~University is satisfied that the Vice-Chair is unfit or unable to carry out the functions of office, it may give written notice, removing the Vice-Chair from office and the office shall then be vacant.
- 6.8 ~~At~~Prior to the last meeting before the end of the term of office of the Chair, or ~~at~~before the first meeting following the Chair's resignation or removal from office, the ~~members~~University shall appoint a replacement from among ~~themselves~~the Governors.

- 6.9 ~~At~~Prior to the last meeting before the end of the term of office of the Vice-Chair, or ~~at~~before the first meeting following the Vice-Chair's resignation or removal from office, the ~~members~~University shall appoint a replacement from among ~~themselves~~the Governors.
- 6.10 At the end of their respective terms of office, the Chair and Vice-Chair shall be eligible for reappointment.

~~Paragraph (~~

- 6.11 ~~Clause 6.10)~~ is subject to any rule or bye-law made by the Corporation under article 23 of the Articles of Government concerning the number of terms of office which a person may serve.

7. Appointment of the Clerk to the Corporation

- 7.1 The Corporation shall appoint a person to serve as its Clerk, but the Principal or Vice Chancellor may not be appointed as Clerk.
- 7.2 In the temporary absence of the Clerk, the Corporation shall appoint a person to serve as a temporary Clerk, but the Principal or Vice Chancellor may not be appointed as temporary Clerk.
- 7.3 Any reference in this Instrument to the Clerk shall include a temporary Clerk appointed under ~~paragraph (2)~~clause 7.2.
- 7.4 Subject to clause 14, the Clerk shall be entitled to attend all meetings of the Corporation and any of its committees.
- 7.5 The Clerk may also be a member of staff at the institution or University.

8. Persons who are ineligible to be ~~members~~Governors

- 8.1 No one under the age of 18 years may be a ~~member~~Governor, except as a ~~student member~~Student Governor.
- 8.2 The Clerk may not be a ~~member~~Governor.
- 8.3 Subject to ~~paragraphs (clauses 8.6)~~ and ~~(8.7)~~, a person shall be disqualified from holding, or from continuing to hold, office as a ~~member~~Governor, if that person has been adjudged bankrupt or is the subject of a bankruptcy restrictions order, an interim bankruptcy restrictions order or a bankruptcy restrictions undertaking within the meaning of the Insolvency Act 1986, or if that person has made a composition or arrangement with creditors, including an individual voluntary arrangement.
- 8.4 Where a person is disqualified by reason of having been adjudged bankrupt or by reason of being the subject of a bankruptcy restrictions order, an interim bankruptcy restrictions order or a bankruptcy restrictions undertaking, that disqualification shall cease:
- on that person's discharge from bankruptcy, unless the bankruptcy order has before then been annulled; or
 - if the bankruptcy order is annulled, at the date of that annulment; or
 - if the bankruptcy restrictions order is rescinded as a result of an application under section 375 of the Insolvency Act 1986, on the date so ordered by the court; or
 - if the interim bankruptcy restrictions order is discharged by the court, on the date of that discharge; or
 - if the bankruptcy restrictions undertaking is annulled, at the date of that annulment.
- 8.5 Where a person is disqualified by reason of having made a composition or arrangement with

creditors, including an individual voluntary arrangement, and then pays the debts in full, the disqualification shall cease on the date on which the payment is completed and in any other case it shall cease on the expiration of three years from the date on which the terms of the deed of composition, arrangement or individual voluntary arrangement are fulfilled.

8.6 Subject to ~~paragraph (clause 9), below~~, a person shall be disqualified from holding, or from continuing to hold, office as a ~~member~~Governor if:

- a) within the previous five years that person has been convicted, whether in the United Kingdom or elsewhere, of any offence and has received a sentence of imprisonment, whether suspended or not, for a period of three months or more, without the option of a fine; or
- b) within the previous twenty years that person has been convicted as set out in sub-paragraph (a) and has received a sentence of imprisonment, whether suspended or not, for a period of more than two and a half years; ~~or~~
- c) that person has at any time been convicted as set out in sub-paragraph (a) and has received a sentence of imprisonment, whether suspended or not, of more than five years; or
- d) he or she is unsuitable to have access to children or vulnerable adults for any other reason in the opinion of the University.

8.7 For the purpose of this regulation there shall be disregarded any conviction by or before a court outside the United Kingdom for an offence in respect of conduct which, if it had taken place in the United Kingdom, would not have constituted an offence under the law then in force anywhere in the United Kingdom.

8.8 Upon a ~~member~~Governor of the Corporation becoming disqualified from continuing to hold office under ~~paragraphs (clause 5) or (this clause 8)~~, the ~~member~~Governor shall immediately give notice of that fact to the Clerk. The Clerk shall immediately inform the University.

9. The term of office of a ~~member~~Governor

9.1 A ~~member~~Governor of the Corporation shall hold and vacate office in accordance with the terms of the appointment, but the length of the term of office shall not exceed four years except for any ex officio role.

9.2 ~~Members~~Governors retiring at the end of their term of office shall be eligible for reappointment, and clause 5 shall apply to the reappointment of a ~~member~~Governor as it does to the appointment of a ~~member~~Governor.

9.3 ~~Members~~Governors are set a maximum of two terms of office. ~~Paragraph (except for~~ Governors appointed under clause 2) 1(c) who may continue to serve consecutive terms of office for so long as they remain a governor of the University or a senior staff member of the University. Clause 9.2 is subject to any rule or bye-law made by the Corporation under article 23 of the Articles of Government concerning the number of terms of office which a person may serve.

10. Termination of ~~membership~~office of a Governor

10.1 A ~~member~~Governor may resign from office at any time by giving notice in writing to the Clerk. The Clerk shall immediately inform the University.

10.2 If at any time the ~~Corporation~~University is satisfied that any ~~member~~Governor:

- a) is unfit or unable to discharge the functions of a ~~member~~Governor; or
- b) has been absent from meetings of the Corporation for a period longer than six consecutive months without the permission of the Corporation, ~~the Corporation may by notice in writing to that member remove the member from office and the office shall then be vacant. or the~~ University; or

~~Any person who is a member~~in the case of the Corporation by virtue of being a member of a Governor appointed under 2.1(c), for any other reason the ~~staff at~~University may by notice in writing to that Governor remove the institution, including ~~Governor from office and~~ the ~~Principal~~office shall then be vacant.

10.3 The Vice Chancellor shall cease to hold office upon ceasing to be Vice Chancellor of the University.

~~10.3~~10.4 A Staff Governor shall cease to hold office upon ceasing to be a member of the staff and the office shall then be vacant.

~~10.4~~10.5 A student member~~Student Governor~~ shall cease to hold office:

- a) at the end of the student's final academic year, or at such other time in the year after ceasing to be a student as the Corporation may decide; or
- b) if expelled from the institution,

and the office shall then be vacant.

11. Members not to hold interests in matters relating to the institution

~~11.1 1 A member to whom paragraph (2) applies shall:~~

~~10.6 disclose to the Corporation~~A Governor appointed under clause 2.1 (c) shall cease to be a Governor on ceasing to be a governor or member of the senior management team of the University.

11. Conflicts of interest

~~11.2~~11.1 A Governor who has or may have a Conflict of Interest shall declare the nature and extent of ~~the interest; and~~such an Interest to the Corporation.

- ~~a) if present at a meeting of the Corporation, or of any of its committees, at which such supply, contract or other matter as is mentioned in paragraph (2) is to be considered, not take part in the consideration or vote on any question with respect to it and not be counted in the quorum present at the meeting in relation to a resolution on which that member is not entitled to vote; and~~
- ~~b) withdraw, if present at a meeting of the Corporation, or any of its committees, at which such supply, contract or other matter as is mentioned in paragraph (2) is to be considered, where required to do so by a majority of the members of the Corporation or committee present at the meeting.~~

~~11.3 This paragraph applies to a member who:~~

- ~~a) has any financial interest in:
 - ~~i) the supply of work to the institution, or the supply of goods for the purposes of the institution;~~
 - ~~ii) any contract or proposed contract concerning the institution; or~~
 - ~~iii) any other matter relating to the institution; or~~~~
- ~~b) has any other interest of a type specified by the Corporation in any matter relating to the institution.~~

11.2 Subject to clauses 11.3, 11.7 and 14.5, a Governor who has or may have a Conflict of Interest in relation to any transaction, arrangement or matter relating to the Corporation shall:

- a) withdraw from the meeting or that part of the meeting to which his/her Conflict of Interest relates;
- b) not count in the quorum for that part of the meeting to which his/her Conflict of Interest is discussed; and

c) withdraw from the vote in relation to any matter that his or her Conflict of Interest relates.

11.3 Clause 11.2 shall not apply where:

a) the Conflict of Interest relates to a Relevant Matter and the Governor concerned is:

i. not a governor of the University or, where relevant, a governor, director or trustee of any entity Controlled by the University; or

ii. has not voted in respect of the Relevant Matter as a governor of the University or, where relevant, as a governor, director or trustee of any entity Controlled by the University; or

b) subject to clause 11.5, the Governors having no Conflict of Interest have authorised the Governor concerned to attend the meeting, count in the quorum and vote having decided it would be in the best interests of the Corporation to allow this.

11.4 For the avoidance of doubt and in accordance with clause 12.6, a Governor shall at all times act in the best interests of the Corporation including where he or she has a Conflict of Interest and is authorised to vote under clause 11.3.

11.5 Governors having no Conflict of Interest may only authorise a Governor with a Conflict of Interest to attend a meeting, count in the quorum and vote where the Governor with a Conflict of Interest has no personal financial interest in relation to that transaction, arrangement or matter.

~~11.4~~11.6 This clause shall not prevent the ~~members~~Governors considering and voting upon proposals for the Corporation to insure them against liabilities incurred by them arising out of their office or the Corporation obtaining such insurance and paying the premium.

~~11.5~~11.7 Where the matter under consideration by the Corporation or any of its committees relates to the pay and conditions of all staff, or all staff in a particular class, a staff member:

~~a) need not disclose a financial interest; and~~

~~b)~~a) may take part in the consideration of the matter, vote on any question with respect to it and count towards the quorum present at that meeting, provided that in so doing, the staff member acts in the best interests of the Corporation as a whole and does not seek to represent the interests of any other person or body, but

~~e)~~b) shall withdraw from the meeting if the matter is under negotiation with staff and the staff member is representing any of the staff concerned in those negotiations.

~~11.6~~11.8 The Clerk shall maintain a register of the interests of the ~~members~~Governors which have been disclosed and the register shall be ~~made available during normal office hours at provided to~~ the ~~institution to any person wishing to inspect it~~University.

12. Meetings

12.1 The Corporation shall meet at least once in every term, ~~and~~subject to a minimum of 4 meetings in each calendar year. The Corporation shall hold such ~~other~~further meetings as may be necessary.

12.2 Subject to ~~paragraphs (clauses 12.4) and (12.5)~~ and to clause ~~13(4)~~,13.4, all meetings shall be called by the Clerk, who shall, at least seven calendar days before the date of the meeting, send to the ~~members of the Corporation~~Governors written notice of the meeting and a copy of the proposed agenda.

12.3 If it is proposed to consider at any meeting the remuneration, conditions of service, conduct, suspension, dismissal or retirement of the Clerk, the Chair shall, at least seven calendar days before the date of the meeting, send to the ~~members~~Governors a copy of the agenda item concerned, together with any relevant papers.

12.4 A meeting of the Corporation, called a 'special meeting', may be called at any time by the Chair or at the request in writing of any five ~~members~~Governors.

12.5 Where the Chair, or in the Chair's absence the Vice-Chair, decides that there are matters requiring urgent consideration, the written notice convening the special meeting and a copy of the proposed agenda may be given within less than seven calendar days.

12.6 Every ~~member~~Governor shall act in the best interests of the Corporation and shall not be bound to speak or vote by mandates given by any other body or person.

13. Quorum

13.1 Meetings of the Corporation shall be quorate if ~~the number of members present is at least 40% of the number of currently appointed members~~at least three Governors are present, including at least one Independent Governor.

13.2 If the number of ~~members~~Governors present for a meeting of the Corporation does not constitute a quorum, the meeting shall not be held.

13.3 If during a meeting of the Corporation there ceases to be a quorum, the meeting shall be terminated at once.

13.4 If a meeting cannot be held or cannot continue for lack of a quorum, the Chair may call a special meeting as soon as it is convenient.

14. Proceedings of meetings

14.1 Every question to be decided at a meeting of the Corporation shall be decided by a majority of the votes cast by ~~members~~Governors present and entitled to vote on the question.

14.2 Where, at a meeting of the Corporation, there is an equal division of votes on a question to be decided, the Chair of the meeting shall have a second or casting vote.

14.3 A ~~member~~Governor may not vote by proxy or by way of postal vote.

14.4 No resolution of the ~~members~~Governors may be rescinded or varied at a subsequent meeting unless consideration of the rescission or variation is a specific item of business on the agenda for that meeting.

14.5 Except as provided by procedures made pursuant to article 16 of the Articles of Government, a ~~member~~Governor of the Corporation who is a member of staff at the institution, ~~including the Principal~~, shall withdraw:

a) from that part of any meeting of the Corporation, or any of its committees, at which staff matters relating solely to that member of the staff, as distinct from staff matters relating to all members of staff or all members of staff in a particular class, are to be considered;

b) from that part of any meeting of the Corporation, or any of its committees, at which that ~~member's~~Governor's reappointment or the appointment of that ~~member's~~Governor's successor is to be considered;

c) from that part of any meeting of the Corporation, or any of its committees, at which the matter under consideration concerns the pay or conditions of service of all members of staff, or all members of staff in a particular class, where the member of staff is acting as a representative (whether or not on behalf of a recognised trade union) of all members of staff or the class of staff (as the case may be); and

d) if so required by a resolution of the other ~~members~~Governors present, from that part of any meeting of the Corporation or any of its committees, at which staff matters relating to any member of staff holding a post senior to that ~~member's~~Governor's are to be considered, except those relating to the pay and conditions of all staff or all staff in a particular class.

- 14.6 ~~A~~The Principal ~~who has chosen not to be a member of the Corporation~~ shall ~~still~~ be entitled to attend and speak, or otherwise communicate, at all meetings of the Corporation and any of its committees, except that the Principal shall withdraw in any case where the Principal ~~would be~~is required to withdraw ~~under paragraph (5)~~by majority vote of the Corporation.
- 14.7 A ~~student member~~Student Governor who is under the age of 18 shall not vote at a meeting of the Corporation, or any of its committees, on any question concerning any proposal:
- for the expenditure of money by the Corporation; or
 - under which the Corporation, or any ~~members~~Governors of the Corporation, would enter into any contract, or would incur any debt or liability, whether immediate, contingent or otherwise.
- 14.8 Except as provided by rules made under article ~~18 (3)~~18.3 of the Articles of Government relating to appeals and representations by students in disciplinary cases, a ~~student member~~Student Governor shall withdraw from that part of any meeting of the Corporation or any of its committees, at which a student's conduct, suspension or expulsion is to be considered.
- 14.9 In any case where the Corporation, or any of its committees, is to discuss staff matters relating to a member or prospective member of staff at the institution, a ~~student member~~Student Governor shall:
- take no part in the consideration or discussion of that matter and not vote on any question with respect to it; and
 - where required to do so by a majority of the ~~members~~Governors, other than ~~student members~~the Student Governor, of the Corporation or committee present at the meeting, withdraw from the meeting.
- 14.10 The Clerk:
- shall withdraw from that part of any meeting of the Corporation, or any of its committees, at which the Clerk's remuneration, conditions of service, conduct, suspension, dismissal or retirement in the capacity of Clerk are to be considered; and
 - where the Clerk is a member of staff ~~at the institution~~, the Clerk shall withdraw in any case where a ~~member~~Governor of the Corporation is required to withdraw under ~~paragraph (clause~~14.5).
- 14.11 If the Clerk withdraws from a meeting, or part of a meeting, of the Corporation under ~~paragraph (clause 14.10)~~14.5, the Corporation shall appoint a person from among themselves to act as Clerk during this absence.
- 14.12 If the Clerk withdraws from a meeting, or part of a meeting, of a committee of the Corporation, the Corporation shall appoint a person from among themselves to act as Clerk to the committee during this absence.
- ## 15. Minutes
- 15.1 Written minutes of every meeting of the Corporation shall be prepared, and, subject to ~~paragraph (2)~~clause 15.2, at every meeting of the Corporation the minutes of the last meeting shall be taken as an agenda item.
- 15.2 ~~Paragraph (Clause 15.1)~~ shall not require the minutes of the last meeting to be taken as an agenda item at a special meeting, but where they are not taken, they shall be taken as an agenda item at the next meeting which is not a special meeting.
- 15.3 Where minutes of a meeting are taken as an agenda item and agreed to be accurate, those minutes shall be signed as a true record by the Chair of the meeting.

15.4 Separate minutes shall be taken of those parts of meetings from which ~~staff members~~Staff Governors, the Principal, ~~student members~~Student Governor or the Clerk have withdrawn from a meeting in accordance with clause 14(~~5~~), (~~14.6~~), (~~14.8~~), (~~14.9~~) or (~~14.10~~) and such persons shall not be entitled to see the minutes of that part of the meeting or any papers relating to it.

16. Public access to meetings

16. The Corporation shall decide any question as to whether a person should be allowed to attend any of its meetings where that person is not a ~~member, the Clerk~~Governor or the ~~Principal~~Clerk and in making its decision, it shall give consideration to clause 17(~~2~~).

17. Publication of minutes and papers

17.1 ~~Subject to paragraph (2), the~~ The Corporation shall ~~ensure that a copy~~make by laws under article 23 of the Articles of Government relating to the publication of:

- a) the agenda for every meeting of the Corporation;
- ~~b) the draft minutes of every such meeting, if they have been approved by the Chair of the meeting;~~
- ~~e)~~b) the signed minutes of every such meeting; and
- ~~d)~~c) any report, document or other paper considered at any such meeting.

~~shall as soon as possible be made available during normal office hours at the institution to any person wishing to inspect them.~~

17.2 There shall be excluded from any item made available for inspection to any person not being a Governor or the University any material relating to:

- a) a named person employed at or proposed to be employed at the institution;
- b) a named student at, or candidate for admission to, the institution;
- c) the Clerk; or
- d) any matter which, by reason of its nature, the Corporation is satisfied should be dealt with on a confidential basis.

~~17.3 The Corporation shall ensure that a copy of the draft or signed minutes of every meeting of the Corporation, under paragraph (1), shall be placed on the institution's website, and shall, despite any rules the Corporation may make regarding the archiving of such material, remain on its website for a minimum period of 12 months.~~

~~17.4 The Corporation shall review regularly all material excluded from inspection under paragraph (2)(d) and make any such material available for inspection where it is satisfied that the reason for dealing with the matter on a confidential basis no longer applies, or where it considers that the public interest in disclosure outweighs that reason.~~

18. Copies of the Instrument of Government

A copy of this Instrument shall be given free of charge to every ~~member~~Governor of the Corporation and at a charge not exceeding the cost of copying or free of charge to any other person who so requests a copy, and shall be available ~~for inspection at the institution~~ upon request, during normal office hours, to every member of staff and every student.

19. Change of name of the Corporation

The Corporation may change its name with the approval of the Secretary of State.

20. Application of the seal

The application of the seal of the Corporation shall be authenticated by:

- a) the signature of either the Chair or of some other member authorised either generally or specially by the Corporation to act for that purpose; and
 - b) the signature of any other member.
-

~~SCHEDULE 2-~~

ARTICLES OF GOVERNMENT

CONTENTS

1. Interpretation of the terms used
2. Conduct of the institution
3. Responsibilities of the Corporation, the Principal and the Clerk
4. The establishment of committees and delegation of functions generally
5. The ~~search~~[academic standards, quality and student experience](#) committee
[5A.The finance committee](#)
6. The audit committee [and other committees](#)
7. Composition of committees
- [8.](#) Access to committees by non-~~members and publication of minutes~~ [Governors](#)
- 9.,10., 11. Delegable and non-delegable functions
- 12., 13 Appointment and promotion of staff
14. Rules relating to the conduct of staff
15. Academic freedom
16. Grievance, suspension and disciplinary procedures
17. Suspension and dismissal of the Clerk
18. Students
19. Financial matters
20. Co-operation with the ~~CE of Skills Funding's~~ [Funding Agency's](#) auditor
21. Internal audit
22. Accounts and audit of accounts
23. Rules and bye-laws
24. Copies of Articles of Government and rules and bye-laws
25. Modification or replacement of the Instrument and Articles of Government

26. Dissolution of the Corporation

[27. Obligations of University](#)

1. Interpretation of the terms used

In these Articles of Government:

- ~~a) any reference to 'the Principal' all terms shall include a person acting as Principal;~~
- ~~b) 'the Articles' means these Articles of Government;~~
- ~~c) 'Chair' and 'Vice Chair' mean respectively the Chair and Vice Chair of the Corporation appointed under clause 6 of the Instrument of Government;~~
- ~~d) 'the Clerk' has have the same meaning as in the Instrument of Government;
'the Corporation' has the same meaning as unless otherwise defined in the Instrument of Government; these Articles.~~
- ~~e) 'the CE of Skills Funding' means the Chief Executive of Skills Funding;~~
- ~~f) 'parent member', 'staff member' and 'student member' have the same meanings as in the Instrument of Government;~~
- ~~g) 'the Secretary of State' means the Secretary of State for Business, Innovation and Skills;~~
- ~~h) 'senior post' means the post of Principal and such other senior posts as the Corporation may decide for the purposes of these Articles;~~
- ~~i) 'the staff' means all the staff who have a contract of employment with the institution;~~
- ~~j) 'the students' union' has the same meaning as in the Instrument of Government.~~

2. Conduct of the institution

The institution shall be conducted in accordance with the provisions of the Instrument of Government, these Articles, any rules or bye-laws made under these Articles and any trust deed regulating the institution.

3. Responsibilities of the Corporation, the Principal, Vice Chancellor and the Clerk

3.1 The Corporation shall be responsible for the following functions:

- a) the determination and periodic review of the educational character and mission of the institution and the oversight of its activities;
~~publishing arrangements for obtaining the views of staff and students on the determination and periodic review of the educational character and mission of the institution and the oversight of its activities;~~
- b) approving the quality strategy of the institution;
- c) the effective and efficient use of resources, the solvency of the institution and the Corporation and safeguarding their assets;
- d) approving annual estimates of income and expenditure;
- e) the appointment, grading, suspension, dismissal and determination of the pay and conditions of service of the holders of senior posts and the Clerk, including, where the Clerk is, or is to be appointed as, a member of staff, the Clerk's appointment, grading, suspension, dismissal and determination of pay in the capacity of a member of staff; and
- f) setting a framework for the pay and conditions of service of all other staff.

3.2 Subject to the responsibilities of the Corporation, the Principal shall be the Chief Executive of the institution, and shall be responsible for the following functions:

- a) making proposals to the Corporation about the educational character and mission of the institution and implementing the decisions of the Corporation;
- b) the determination of the institution's academic and other activities;
- ~~c) preparing annual estimates of income and expenditure for consideration and approval by the Corporation, and the management of budget and resources within the estimates approved by the Corporation;~~

- ~~d) the organisation, direction and management of the institution and leadership of the staff;~~
- ~~e) the appointment, assignment, grading, appraisal, suspension, dismissal and determination, within the framework set by the Corporation, of the pay and conditions of service of staff,~~
- ~~f)c) other than the holders of senior posts or the Clerk, where the Clerk is also a member of the staff of the institution; and~~
- ~~g)d) maintaining student discipline and, within the rules and procedures provided for within these Articles, suspending or expelling students on disciplinary grounds or expelling students for academic reasons.~~

3.3 Unless otherwise agreed by the Corporation and the Skills Funding Agency (or any successor body) then the accountable officer of the institution with the Skills Funding Agency (or any successor body) shall be the Vice Chancellor.

~~3.3.3.4~~ The Clerk shall be responsible for the following functions:

- a) advising the Corporation with regard to the operation of its powers;
- b) advising the Corporation with regard to procedural matters;
- c) advising the Corporation with regard to the conduct of its business; and
- d) advising the Corporation with regard to matters of governance practice.

4. The establishment of committees and delegation of functions generally

4.1 The Corporation may establish committees for any purpose or function, other than those assigned in these Articles to the Principal or Clerk and may delegate powers to:

- a) such committees;
- b) the Chair, or in the Chair's absence, the Vice-Chair; or
- c) the Principal.

4.2 The number of members of a committee and the terms on which they are to hold and to vacate office, shall be decided by the Corporation.

4.3 The Corporation may also establish committees under collaboration arrangements made ~~with other universities.~~ further education institutions or maintained schools (or with both), and such joint committees shall be subject to any regulations made under section 166 of the Education and Inspections Act 2006 governing such arrangements. (where applicable).

5. The ~~search~~academic standards, quality and student experience committee

~~5.1~~ The Corporation shall establish a committee, to be known as the '~~search~~academic standards, quality and student experience committee', to advise on:

- ~~a) the appointment of members (other than as a parent, staff or student member); and~~
- ~~b) such other matters relating to membership and appointments as the Corporation may ask it to.~~

~~5.2.1~~ The Corporation shall not appoint any person as a member (other than as a parent, staff or student member) without first consulting the Corporation's academic standards, quality and considering the advice of the search committee student experience.

5.2 The Corporation may make rules specifying the way in which the ~~search~~academic standards, quality and student experience committee is to be conducted. ~~A copy of these rules, together with the search committee's terms of reference and its advice~~

5A. The finance committee

5A.1 The Corporation shall establish a committee to be known as the 'Finance Committee', to ~~the~~

~~Corporation, other than any advice which the Corporation is satisfied should be dealt with~~ advise on a confidential basis, matters related to the Corporation's finances and financial controls.

5A.2 The Finance Committee shall be published on the institution's website and shall be made available for inspection consist of at the institution by any person during normal office hours. least three Governors. Unless the Governors resolve that it would be in the best interests of the Corporation that the Finance Committee include members who are also on the Audit Committee (or vice versa), members of the Audit Committee are not eligible to be members of the Finance Committee (and vice versa). Any such resolution to include members of the Audit Committee on the Finance Committee must be minuted setting out the rationale for the decision. In any event, the Chair of the Audit Committee must not be a member of the Finance Committee.

~~5.3—5A.3~~ The Corporation ~~shall review regularly all material excluded from inspection under paragraph (3) and shall~~ may make any such material available for inspection where it is satisfied that rules specifying the reason for dealing with way in which the matter on a confidential basis no longer applies, or where it considers that the public interest in disclosure outweighs that reason. Finance Committee is to be conducted.

6. The audit committee and other committees

6.1 The Corporation shall establish a committee, to be known as the 'audit committee', to advise on matters relating to the Corporation's audit arrangements and systems of internal control.

6.2 The audit committee shall consist of at least three persons including at least one Independent Governor and may include members of staff at the institution ~~with~~ but shall not include any person who is precluded from membership by the exception Joint Audit Code of those in senior posts, Practice and shall operate in accordance with any requirements of the ~~GE of Skills Funding Agency (or any successor body).~~

6.3 The Corporation may establish such other committees as it sees fit.

6.4 The Corporation shall make terms of reference for the audit committee (which comply with the Joint Audit Code of Practice) and may make rules specifying the way in which other committees are to be conducted.

7. Composition of committees

Any committee established by the Corporation, ~~other than the committee referred to in article 10,~~ may include persons who are not ~~members~~ Governors of the Corporation.

8. Access to committees by non-~~members~~ Governors and publication of minutes

The Corporation shall ~~ensure that:~~

adopt a written statement of its policy regarding attendance at committee meetings by persons who are not committee members; ~~and~~

~~a) the minutes of committee meetings, if they have been approved by the Chair of the meeting,~~

~~are published on the institution's website and made available for inspection at the institution by any person, during normal office hours.~~

9,10,11 Delegable and non-delegable functions

9. The Corporation shall not delegate the following functions:

- a) the determination of the educational character and mission of the institution;
- b) the approval of the annual estimates of income and expenditure;
- c) the responsibility for ensuring the solvency of the institution and the Corporation and for safeguarding their assets;
- d) the appointment of the ~~Principal or holder of a~~ senior post holders;
- e) the appointment of the Clerk, (including, where the Clerk is, or is to be, appointed as a member of staff the Clerk's appointment in the capacity of a member of staff); and
- f) the modification or revocation of these Articles.

10.1 The Corporation may not delegate:

- a) the consideration of the case for dismissal, and
- b) the power to determine an appeal in connection with the dismissal

of ~~the Principal, the Clerk or the holder of a~~ senior post holders and the Clerk, other than to a committee of ~~members~~ Governors of the Corporation.

10.2 The Corporation shall make rules specifying the way in which a committee having functions under ~~paragraph (article 10.1)~~ shall be established and conducted.

11. The Principal may delegate functions to the holder of any other ~~senior~~ post other than: any functions that have been delegated directly to the Principal by the Corporation.

- ~~a) the management of budget and resources; and~~
- ~~b) any functions that have been delegated to the Principal by the Corporation.~~

12,13 Appointment and promotion of staff

~~12.2~~ 12.1 Where there is a vacancy or expected vacancy in a senior post, the Corporation shall:

- ~~a) advertise the vacancy nationally; and~~
- ~~b) appoint a selection panel consisting of:~~
 - ~~i) at least five members of the Corporation including the Chair or the Vice-Chair or both, where the vacancy is for the post of Principal; or~~
 - ~~ii) the Principal and at least three other members of the Corporation, where the vacancy is for any other senior post.~~

~~12.3~~ The members of the selection panel shall:

- ~~a) decide on~~ determine the arrangements for ~~selecting the applicants for interview;~~
- ~~b) interview the applicants;~~ advertisement, selection and where they consider it appropriate to do so, recommend to the Corporation for appointment ~~one of the applicants they have interviewed~~ of a successor.

~~12.4~~ If the Corporation approves the recommendation of the selection panel, that person shall be appointed.

~~12.5~~ If the members of the selection panel are unable to agree on a person to recommend to the Corporation, or if the Corporation does not approve their recommendation, the Corporation may make an appointment itself of a person from amongst those interviewed, or it may require the panel to repeat the steps specified in paragraph (2), with or without first re-advertising the vacancy.

~~12.6~~ 12.2 Where there is a vacancy in of a senior post holder or Clerk or where a senior post ~~or where the holder of a senior post~~ or Clerk is temporarily absent, until that post is filled or the absent post holder returns, a member of staff:

- a) may be required to act ~~as Principal or~~ in the place of any ~~other~~ senior post holder or the Clerk; and
 - b) if so required, shall have all the duties and responsibilities of the ~~Principal or such other~~ senior post holder or Clerk during the period of the vacancy or temporary absence.
13. The Principal shall have responsibility for selecting for appointment all members of staff other than:
- a) senior post holders; and
 - b) where the Clerk is also to be appointed as a member of staff, the Clerk in the role of a member of staff.

14. Rules relating to the conduct of staff

~~After consultation with the staff,~~ the Corporation shall make rules relating to ~~their~~ the conduct of staff.

15. Academic freedom

In making rules under article 14, the Corporation shall have regard to the need to ensure that academic staff at the institution have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without putting themselves at risk of losing their jobs or any privileges which they may enjoy at the institution.

16. Grievance, suspension and disciplinary procedures

16.1 After consultation with the ~~staff,~~ the Corporation shall make rules setting out:

- a) grievance procedures for all staff;
 - b) procedures for the suspension of all staff; and
 - c) disciplinary and dismissal procedures for: all staff.
- ~~i) senior post holders, and~~
~~ii) staff other than senior post holders~~

and such procedures shall be subject to the provisions of articles ~~3(1)(e)(f), 3(2)(e), 9(d), 9(e), 10(1)~~ and 17.

16.2 Any rules made under ~~paragraph (article 16.1)(b)~~ shall include provision that where a person has been suspended without pay, any appeal against such suspension shall be heard and action taken in a timely manner.

16.3 Any rules made under ~~paragraph (article 16.1)(c)(i)~~ shall include provision that where the Corporation considers that it may be appropriate to dismiss a person, a preliminary investigation shall be conducted to examine and determine the case for dismissal.

17. Suspension and dismissal of the Clerk

~~17.1 Where the Clerk is also a member of staff at the institution, the Clerk is to be treated as a senior post holder for the purposes of article 16(c).~~

~~17.2~~17.1 Where the Clerk is suspended or dismissed under article 16, that suspension or dismissal shall not affect the position of the Clerk in the separate role of Clerk to the Corporation.

18. Students

- 18.1 Any students' union shall conduct and manage its own affairs and funds in accordance with a constitution approved by the Corporation and no amendment to, or rescission of, that constitution, in part or in whole, shall be valid unless approved by the Corporation.
- 18.2 The students' union shall present audited accounts annually to the Corporation.
- 18.3 After consultation with representatives of the students, the Corporation shall make rules concerning the conduct of students, including procedures for their suspension and expulsion (including expulsion for an unsatisfactory standard of work or other academic reason).

19. Financial matters

The Corporation shall set the policy by which the tuition and other fees payable to it are determined, subject to any terms and conditions attached to grants, loans or other payments paid or made by the ~~CE of Skills Funding~~ Agency (or any successor body).

20. Co-operation with the ~~CE of Skills Funding's~~ Funding Agency's auditor

The Corporation shall co-operate with any person who has been authorised by the ~~CE of Skills Funding~~ Agency (or any successor body) to audit any returns of numbers of students or claims for financial assistance and shall give any such person access to any documents or records held by the Corporation, including computer records.

21. Internal audit

- 21.1 The Corporation shall, at such times as it considers appropriate, examine and evaluate its systems of internal financial and other control to ensure that they contribute to the proper, economic, efficient and effective use of the Corporation's resources.

21.2 The Corporation may arrange for the examination and evaluation mentioned in ~~paragraph (article 21.1)~~ to be carried out on its behalf by internal auditors.

- 21.2 The Corporation shall not appoint persons as internal auditors to carry out the activities referred to in ~~paragraph (article 21.1)~~ if those persons are already appointed as external auditors under article 22.

22. Accounts and audit of accounts

22.1 The Corporation shall:

- a) keep proper accounts and proper records in relation to the accounts; and
- b) prepare a statement of accounts for each financial year of the Corporation.

22.2 The statement shall:

- a) give a true and fair account of the state of the Corporation's affairs at the end of the financial year and of its income and expenditure in the financial year; and
- b) comply with any directions given by the ~~CE of Skills Funding~~ Agency (or successor body) as to the information to be contained in it, the manner in which the information is to be presented, the methods and principles according to which it is to be prepared and the time and manner of publication.

22.3 The accounts and the statement of accounts shall be audited by external auditors appointed

by the Corporation in respect of each financial year.

22.4 The Corporation shall not appoint persons as external auditors in respect of any financial year if those persons are already appointed as internal auditors under article 21.

22.5 Auditors shall be appointed and audit work conducted in accordance with any requirements of the ~~CE of Skills Funding~~ Agency (or any successor body).

22.6 The 'financial year' means the first financial year and, except as provided for in ~~paragraph (8)~~ article 22.7, each successive period of twelve months.

~~22.7 The 'first financial year' means the period from the date the Corporation was established up to the second 31st July following that date, or up to some other date which has been chosen by the Corporation with the CE of Skills Funding's approval.~~

~~22.8~~ 22.7 If the Corporation is dissolved:

- a) the last financial year shall end on the date of dissolution; and
- b) the Corporation may decide, with the ~~CE of Skills Funding's~~ Funding Agency's (or any successor body's) approval, that what would otherwise be the last two financial years, shall be a single financial year for the purpose of this article.

23. Rules and bye-laws

The Corporation shall have the power to make rules and bye-laws relating to the government and conduct of the institution and these rules and bye-laws shall be subject to the provisions of the Instrument of Government and these Articles.

24. Copies of Articles of Government and rules and bye-laws

A copy of these Articles, and of any rules and bye-laws, shall be given free of charge to every ~~member~~ Governor of the Corporation and at a charge not exceeding the cost of copying or free of charge, to any other person who requests a copy and shall be available for inspection at the institution upon request, during normal office hours, to every member of staff and every student.

25. Modification or replacement of the Instrument and Articles of Government

25.1 Subject to paragraph ~~(25.2)~~ the Corporation may by resolution of the ~~members~~ Governors modify or replace its instrument and articles of government, ~~after consultation with any other persons who, in~~ with the ~~Corporation's view, are likely to be affected by~~ prior written consent of the ~~proposed changes~~ University.

25.2 The Corporation and University shall not make changes to the instrument or articles of government that would result in the body ceasing to be a charity.

26. Dissolution of the Corporation

26.1 The Corporation may with the prior written consent of the University by resolution dissolve itself and provide for the transfer of its property, rights and liabilities.

26.2 The Corporation shall ensure that a copy of the draft resolution to dissolve the corporation on a specified date shall be published at least one month before the proposed date of such resolution.

27. Obligations of University

Where in the Instrument or Articles of Government of the institution the University has a right or obligation then such right or obligation shall be exercised in the best interests of the institution.

This page is intentionally left blank

[address]

[date]

Mary Heslop
Interim Clerk
Lambeth College
45 Clapham Common Southside
London
SW4 9BL

Dear Mary

RESIGNATION

Please treat this letter as my formal resignation as a Governor of Lambeth College with effect from 16 June 2017.

I confirm that I have no claims against the College as a Governor, except in respect of any unpaid expenses and I waive all and any such claim I may have.

[add in any personal words or thanks or comments]

Yours sincerely

[signature]

[name of Governor]

This page is intentionally left blank

Minutes of a meeting of Lambeth College FEC ("**College**") governors held on 15th June 2017 at [5]pm

Present: [list names]

In attendance; [list names]

Apologies for absence; [list names]

1. Introduction

[Name] took the Chair, declared the meeting validly convened and open and confirmed that a quorum was present.

2. Declarations of Interest

The Chair described the nature of the business to be transacted at the meeting. [There were no declarations of interest] OR [She received the following declarations of interest]¹

3. London South Bank University ("LSBU")

The Chair gave a brief resume of the history of the proposed collaboration with LSBU and that legal and financial due diligence had been carried out by the College on LSBU as discussed at the previous meeting. The Clerk gave an update on issues arising out of that due diligence and it was noted that nothing of significance was uncovered by such due diligence.

The Chair asked for the meeting to consider if there were any other better options for the College, but all governors felt that the arrangements proposed with LSBU were in the best interests of the College and its future viability and in the best interests of the College's learners (both current and future).

She then reported that at a meeting of the governors of LSBU held on 13th June 2017, LSBU had resolved to complete the proposed transaction by entering into the Governance Agreement and Collaboration Agreement referred to below in accordance with the resolution so passed.

4. Governance Agreement

There was produced to the meeting a draft of an agreement between the College and LSBU setting out the future arrangements for the governance of Lambeth and associated relationship with LSBU (the "**Governance Agreement**"). The Governance Agreement was carefully considered and after consideration of all the circumstances and on being satisfied that it was in the best interests of Lambeth to enter into it, it was [unanimously] approved by the governors of the College.

It was further resolved that the College seal be affixed to the Governance Agreement and signed in the presence of the Chair and one other governor, but that the agreement be left undated pending completion of it.

5. Instrument and Articles of Government of the College

Pursuant to the terms of the Governance Agreement, the College had agreed to amend its Instrument and Articles of Government. A draft of the amended Instrument and Articles of Government agreed with LSBU were produced to the meeting. It was reported by the Chair that a one month consultation process in relation to the changes had been carried out by the College (ending on 9th June 2017) and that all interested stakeholders (particularly staff and students) had been invited to comment on it. A copy of the consultation documents were produced to the meeting.

Copies of all responses received by the College were also received by the meeting *or* a report on all comments received by the College was also received by the meeting. The responses to the

¹ If declarations of interest then consider if can be present and vote and form part of quorum

consultation exercise were carefully considered and it was resolved that none of the responses required amendments to the Instrument and Articles of Government.²

It was [unanimously] resolved that such amended Instrument and Articles of Government be adopted to take effect from completion of the Governance Agreement to the exclusion of the current Instrument and Articles of Government.

The Clerk was instructed to place a copy on the College's website immediately after completion of the Governance Agreement.

6. Collaboration Agreement

There was produced to the meeting a draft of an agreement between the College and LSBU setting out the framework of the proposed collaboration with LSBU (the "**Collaboration Agreement**").

After due and careful consideration of the Collaboration Agreement and on being satisfied that it was in the best interests of Lambeth it was [unanimously] approved by the governors of the College.

It was further resolved that the College seal be affixed to the Collaboration Agreement and signed in the presence of the Chair and one other governor, but that the agreement be left undated pending completion of the Governance Agreement, which will complete simultaneously with the Collaboration Agreement and adoption of the Instrument and Articles of Government.

7. Resignations and appointments

There were produced to the meeting letters of resignation from all governors to take effect from completion of the Governance Agreement, with the exception of Ruth Begusa (student governor) and Teum Teklehaimanot (staff governor) who were to remain on the Board. It was unanimously resolved to accept the resignations to take effect from completion of the Governance Agreement.

There was also produced to the meeting a letter of appointment from LSBU appointing the following individuals as governors of the College with effect from completion of the Governance Agreement and the adoption of the new Instrument and Articles of Government:

- [insert name]
- [insert name]
- [Richard Flatman]
- [Ian Mehrstens]
- [Mandy Eddolls]

The appointment of these individuals from completion was noted.

It was further noted that the appointment letter nominated the following individuals to be appointed as independent governors on completion of the Governance Agreement and adoption of the new Instrument and Articles of Government:

- Michael Smith
- Mohammed Seedat
- Kirsty Wadsley

It was unanimously resolved to appoint these governors from completion of the Governance Agreement.

It was noted that under the terms of the new Instrument and Articles of Government the current Vice Chancellor of LSBU would become a governor ex officio on completion. The appointment of Professor David Phoenix (who had confirmed his willingness to act) from completion was noted.

² If comments of note are received then this will need to be considered further.

8. Further resolutions

It was resolved to appoint the Vice Chancellor of LSBU as the College’s accountable officer from completion of the Governance Agreement (it being noted that ESFA had noted such appointment).

It was noted that under the terms of the Collaboration Agreement LSBU has the right to appoint the Principal of the College from time to time either on a permanent or interim basis. Steps are currently being undertaken with a view to a new appointment being made. It was, however, acknowledged that until such time as an appointment is made by LSBU (or otherwise as directed by LSBU) that the current Interim Principal will remain in post.

It was further resolved that, any governor be authorised on behalf of the College (and all other governors) to give instructions to Eversheds to complete the Governance Agreement and Collaboration Agreement and to take all other action as may be required in order to complete the proposed transaction with LSBU.

It was confirmed that the Clerk would remain in office.

9. Future dissolution of the College

It was reported that both LSBU and Lambeth anticipated that a new wholly owned subsidiary of LSBU would be incorporated and the assets and liabilities of Lambeth transferred to it in the near future. If such an arrangement is approved by the ESFA, it is proposed that such a transfer would take place and the College be dissolved.

It was noted that LSBU was currently discussing this proposal with the ESFA.

10. Conclusion

There being no further business the meeting then concluded.

.....
Chair

This page is intentionally left blank