

**SUNSHINE HEART, INC.  
CHARTER OF THE AUDIT COMMITTEE**

**DECEMBER 2013**

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**PURPOSE AND POLICY**

The primary purpose of the Audit Committee (the “*Committee*”) shall be to act on behalf of the Board of Directors (the “*Board*”) of SUNSHINE HEART, INC., a Delaware corporation (the “*Company*”), in fulfilling the Board’s oversight responsibilities with respect to the Company’s corporate accounting and financial reporting processes, the systems of internal control over financial reporting and financial disclosure controls and procedures, and audits of financial statements, as well as the quality and integrity of the Company’s financial statements and reports which will be provided to the Company’s stockholders, the Securities and Exchange Commission (the “*SEC*”) and other persons, and the qualifications, independence and performance of the firm or firms of certified public accountants engaged as the Company’s independent outside auditors (the “*Auditors*”). The operation of the Committee shall be subject to the Bylaws of the Company as in effect from time to time and Section 141 of the Delaware General Corporation Law.

The policy of the Committee, in discharging these obligations, shall be to maintain and foster an open avenue of communication among the Committee, the Board, the Auditors and the Company’s financial management.

**COMPOSITION**

The Committee shall consist of at least three members of the Board of Directors. The members of the Committee shall satisfy the independence requirements of the Securities and Exchange Act of 1934, as amended (the “*Exchange Act*”), and the independence and financial literacy requirements of The Nasdaq Stock Market (“*Nasdaq*”) applicable to Committee members as in effect from time to time, when and as required by Nasdaq. At least one member shall qualify as a financial expert as defined by the SEC and satisfy the applicable Nasdaq financial sophistication requirements (Rule 5605(c)(2)(A)) as in effect from time to time. The members of the Committee shall be appointed by and serve at the discretion of the Board. Vacancies occurring on the Committee shall be filled by the Board. The Chairman of the Committee shall be designated by the Board.

**MEETINGS AND MINUTES**

The Committee shall hold such regular or special meetings as its members shall deem necessary or appropriate, however such meetings shall occur at least once per quarter. Minutes of each meeting of the Committee shall be prepared and distributed to each director of the Company and the Secretary of the Company promptly after each meeting. The Chairman of the Committee shall report to the Board from time to time, or whenever so requested by the Board. The Committee will be governed by the same rules regarding meetings of the Board (including meetings by conference telephone or similar communications equipment), action without meetings, notice, waiver of notice, and quorum and voting requirements that are applicable to the

Board.

## **AUTHORITY**

The Committee shall have authority to appoint, determine compensation for, and at the expense of the Company, retain and oversee the Auditors as set forth in Section 10A(m)(2) of the Exchange Act, and the rules thereunder and otherwise to fulfill its responsibilities under this Charter. The Committee shall have authority to retain and determine compensation for, at the expense of the Company, special legal, accounting or other advisors or consultants as it deems necessary or appropriate in the performance of its duties. The Committee shall also have authority to pay, at the expense of the Company, ordinary administrative expenses that, as determined by the Committee, are necessary or appropriate in carrying out its duties. The Committee shall have full access to all books, records, facilities and personnel of the Company as deemed necessary or appropriate by any member of the Committee to discharge his or her responsibilities hereunder. The Committee shall have authority to require that any of the Company's personnel, counsel, Auditors or investment bankers, or any other consultant or advisor to the Company attend any meeting of the Committee or meet with any member of the Committee or any of its special legal, accounting or other advisors and consultants. The approval of this Charter by the Board shall be construed as a delegation of authority to the Committee with respect to the responsibilities set forth herein.

## **RESPONSIBILITIES**

The Committee shall oversee the Company's financial reporting process on behalf of the Board, shall have direct responsibility for the appointment, compensation, retention and oversight of the work of the Auditors, who shall report directly and be accountable to the Committee. The Committee's functions and procedures should remain flexible to address changing circumstances most effectively. To implement the Committee's purpose and policy, the Committee shall be charged with the following functions and processes with the understanding, however, that the Committee may supplement or (except as otherwise required by applicable laws or rules) deviate from these activities as appropriate under the circumstances:

1. To evaluate the performance of the Auditors, to assess their qualifications (including their internal quality control procedures and any material issues raised by that firm's most recent internal quality control review or any investigations by regulatory authorities) and to determine whether to retain or to terminate the existing Auditors or to appoint and engage new Auditors for the ensuing year, which retention shall be subject only to ratification by the Company's stockholders (if the Committee or the Board elects to submit such retention for ratification by the stockholders), the denial of which, though not legally binding, will be taken under advisement by the Committee.

2. To determine and approve engagements of the Auditors (prior to commencement of such engagements) to perform all proposed audit, review and attest services, including the scope of and plans for the audit, the adequacy of staffing, the compensation to be paid to the Auditors and the negotiation and execution, on behalf of the Company, of the Auditors' engagement letters, which approval may be pursuant to preapproval policies and procedures, including the delegation of preapproval authority to one or more Committee members so long as

any such preapproval decisions are presented to the full Committee at the next scheduled meeting.

3. To determine and approve engagements of the Auditors, prior to commencement of such engagements (unless in compliance with exceptions available under applicable laws and rules related to immaterial aggregate amounts of services), to perform any proposed permissible non-audit services, including the scope of the service and the compensation to be paid therefor, which approval may be pursuant to preapproval policies and procedures established by the Committee consistent with applicable laws and rules, including, the delegation of preapproval authority to one or more Committee members so long as any such preapproval decisions are presented to the full Committee at the next scheduled meeting.

4. To monitor the rotation of the partners of the Auditors on the Company's audit engagement team as required by applicable laws and rules and to consider periodically and, if deemed appropriate, adopt a policy regarding rotation of auditing firms.

5. Prior to engagement of any prospective Auditors, and at least annually thereafter, to receive and review written statements from the Auditors delineating all relationships between the Auditors and the Company or persons in financial oversight roles at the Company that may reasonably be thought to bear on independence and a letter from the Auditors affirming their independence, to consider and discuss with the Auditors any potential effects of any such relationships on the independence of the Auditors as well as any compensation or services that could affect the Auditors' objectivity and independence, and to assess and to otherwise take appropriate action to oversee the independence of the Auditors in accordance with the rules of the Public Company Accounting Oversight Board (United States) (the "**PCAOB**").

6. To pre-approve employment by the Company of individuals employed or formerly employed by the Company's Auditors and engaged on the Company's account.

7. To review, upon completion of the audit, the financial statements proposed to be included in the Company's Annual Report on Form 10-K to be filed with the SEC and to recommend whether or not such financial statements should be so included.

8. To review with management and the Auditors the results of the annual audit, including the Auditors' assessment of the quality, not just acceptability, of accounting principles, the reasonableness of significant judgments and estimates (including material changes in estimates), any material audit adjustments proposed by the Auditors and any adjustments proposed but not recorded, the adequacy of the disclosures in the financial statements, the effect of any off-balance sheet arrangements on the Company's financial statements, significant proposed changes to any of the foregoing, and any other matters required to be communicated to the Committee by the Auditors under the standards of the PCAOB.

9. To review with management and the Auditors the results of the Auditors' review of the Company's quarterly financial statements, prior to public disclosure of quarterly financial information or filing with the SEC of the Company's Quarterly Report on Form 10-Q, and any other matters required to be communicated to the Committee by the Auditors under the standards of the PCAOB.

**10.** To review with management and the Auditors, as appropriate, the Company's disclosures in its periodic reports on Form 10-K and Form 10-Q to be filed with the SEC and approve the filing of each such report.

**11.** To review with management and the Auditors, as appropriate, earnings press releases.

**12.** To review with management and the Auditors significant issues that arise regarding accounting principles and financial statement presentation, including critical accounting policies and practices, alternative accounting policies available under generally accepted accounting principles ("**GAAP**") related to material items discussed with management and any other significant reporting issues and judgments.

**13.** To review with management and the Auditors, as appropriate, the Company's major financial and legal risk exposures and the steps taken by management to monitor and control these exposures.

**14.** To evaluate the cooperation received by the Auditors during their audit examination, including any significant difficulties with the audit or any restrictions on the scope of their activities or access to required records, data and information, significant disagreements with management and management's response, if any.

**15.** To review with the Auditors and, if appropriate, management, any "management" letter issued or, to the extent practicable, proposed to be issued by the Auditors and management's response, if any, to such letter, as well as any additional material written communications between the Auditors and management.

**16.** To review with the Auditors communications between the audit team and the firm's national office with respect to accounting or auditing issues presented by the engagement.

**17.** To review with management and the Auditors any conflicts or disagreements between management and the Auditors regarding financial reporting, accounting practices or policies and to resolve any such conflicts or disagreements regarding financial reporting.

**18.** To confer with management and the Auditors regarding the scope, adequacy and effectiveness of internal control over financial reporting, including any special audit steps taken in the event of material weaknesses, and to advise the Auditors and the Board of any known or suspected fraud in connection with financial reporting or accounting practices. To confer with management and the Auditors regarding any fraud, whether or not material, that includes management or other employees who have any significant role in the Company's internal control over financial reporting and any significant changes in internal controls or other factors that could significantly affect internal controls. To confer with management to ensure that adequate and effective processes are in place to maintain financial disclosure controls and procedures that ensure that information required to be disclosed by the Company are recorded, processed, summarized and reported accurately and within the applicable time periods and that such information is accumulated and communicated to management, as appropriate, to allow for timely decisions regarding required disclosure. In fulfilling its responsibilities relating to oversight of

such public filings and disclosures, the Committee shall maintain regular and ongoing contact and communicate with the Company's Disclosure Committee and shall receive notices of, and all minutes from, meetings of the Company's Disclosure Committee.

**19.** Periodically, to meet in separate sessions with the Auditors and management to discuss any matters that the Committee, the Auditors or management believe should be discussed privately with the Committee.

**20.** To consider and review with management, the Auditors, outside counsel, as appropriate, and, in the judgment of the Committee, such special counsel, separate accounting firm and other consultants and advisors as the Committee deems appropriate, any significant regulatory or other legal or accounting initiatives or matters that may have a material impact on the Company's financial statements, reports concerning material fraud or regulatory noncompliance that occur at the Company, and any correspondence with regulators or governmental agencies and any published reports that raise material issues regarding the Company's financial statements or accounting policies.

**21.** To establish and monitor enforcement of procedures for the receipt, retention and treatment of complaints made under the Company's procedures regarding confidential anonymous submission of complaints by employees or otherwise received by the Company regarding accounting, internal accounting controls or auditing matters and the confidential and anonymous submission by employees of concerns regarding questionable accounting or auditing matters.

**22.** To determine and approve engagements of any registered public accounting firm (in addition to the Auditors) to perform any other audit, review or attest service, including the compensation to be paid to such firm and the negotiation and execution, on behalf of the Company, of such firm's engagement letter, which approval may be pursuant to preapproval policies and procedures, including the delegation of preapproval authority to one or more Committee members so long as any such preapproval decisions are presented to the full Committee at the next scheduled meeting, and to regularly evaluate the performance of any such firm and to determine whether to continue or terminate any such engagement.

**23.** To review the results of management's efforts to monitor compliance with the Company's programs and policies designed to ensure adherence to applicable laws and rules, including the Company's financial disclosure controls and procedures, as well as to its procedures regarding confidential anonymous submission of complaints by employees and Code of Business Conduct and Ethics, including review and approval of every transaction with a related person that must be disclosed by the Company pursuant to Item 404(a) of Regulation S-K of the SEC.

**24.** To investigate any matter brought to the attention of the Committee within the scope of its duties if, in the judgment of the Committee, such investigation is necessary or appropriate.

**25.** To prepare the report required by the rules of the SEC to be included in the Company's annual proxy statement.

**26.** To review and assess the adequacy of this Charter annually and recommend any proposed changes to the Board for approval.

**27.** To report to the Board with respect to material issues that arise regarding the quality or integrity of the Company's financial statements, the performance or independence of the Company's Auditors, or such other matters as the Committee deems appropriate from time to time or whenever it shall be called upon to do so.

**28.** To review, discuss and assess the Committee's own performance at least annually.

**29.** To perform such other functions and to have such powers as may be necessary or appropriate in the efficient and lawful discharge of the foregoing.

It shall be the responsibility of management to prepare the Company's financial statements and periodic reports and the responsibility of the Auditors to audit the Company's annual financial statements and to review the Company's quarterly financial statements. These functions shall not be the responsibility of the Committee, nor shall it be the Committee's responsibility to ensure that the financial statements or periodic reports are complete and accurate, conform to GAAP or otherwise comply with applicable laws.

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