

DATED 26th March 2020

**COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY
SHARES**

**MEMORANDUM AND ARTICLES OF
ASSOCIATION**

**OF
NG HEALTHCARE LIMITED**



MILLS & REEVE

COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION OF
NG HEALTHCARE LIMITED
(the "Company")

PART 1: PRELIMINARY

1 Interpretation

1.1 In these Articles, unless the context otherwise requires:

"Act" means the Companies Act 2006;

"appointor" has the meaning given in article 12.1;

"Articles" means the company's articles of association for the time being in force;

"business day" means any day (other than a Saturday, Sunday or public holiday in the United Kingdom) on which clearing banks in the City of London are generally open for business;

"Conflict" has the meaning given in article 8.1;

"eligible director" means a director who would be entitled to vote on the matter at a meeting of directors (but excluding any director whose vote is not to be counted in respect of the particular matter);

"Model Articles" means the model articles for private companies limited by shares contained in Schedule 1 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) as amended prior to the date of adoption of these Articles.

1.2 Save as otherwise specifically provided in these Articles, words and expressions which have particular meanings in the Model Articles shall have the same meanings in these Articles, subject to which and unless the context otherwise requires, words and expressions which have particular meanings in the Act shall have the same meanings in these Articles.

- 1.3 Headings in these Articles are used for convenience only and shall not affect the construction or interpretation of these Articles.
- 1.4 A reference in these Articles to an "article" is a reference to the relevant article of these Articles unless expressly provided otherwise.
- 1.5 Unless expressly provided otherwise, a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of:
- 1.5.1 any subordinate legislation from time to time made under it; and
- 1.5.2 any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.
- 1.6 Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.7 The Model Articles shall apply to the Company, except in so far as they are modified or excluded by these Articles.
- 1.8 Articles 8, 9(1), 11(2) and (3), 13, 14(1), (2), (3) and (4), 17(2), 44(2), 52 and 53 of the Model Articles shall not apply to the company.
- 1.9 Article 7 of the Model Articles shall be amended by:
- 1.9.1 the insertion of the words "for the time being" at the end of article 7(2)(a); and
- 1.9.2 The insertion in article 7(2) of the words "(for so long as he remains the sole director)" after the words "and the director may".
- 1.10 Article 20 of the Model Articles shall be amended by the insertion of the words "(including alternate directors) and the secretary (if any)" before the words "properly incur".
- 1.11 In article 25(2)(c) of the Model Articles, the words "evidence, indemnity and the payment of a reasonable fee" shall be deleted and replaced with the words "evidence and indemnity".

- 1.12 Article 27(3) of the Model Articles shall be amended by the insertion of the words ' subject to article 10," after the word "But".
- 1.13 Article 29 of the Model Articles shall be amended by the insertion of the words ", or the name of any person(s) named as the transferee(s) in an instrument of transfer executed under article 28(2)," after the words "the transmittee's name".

PART 2: SHARE CAPITAL

2 Further issues of shares: pre-emption rights

- 2.1 In accordance with section 567(1) of the Act, sections 561 and 562 of the Act shall not apply to an allotment of equity securities (as defined in section 560(1) of the Act) made by the company.
- 2.2 Unless otherwise agreed by special resolution, if the company proposes to allot any equity securities (other than any equity securities to be held under an employees' share scheme), those equity securities shall not be allotted to any person unless the company has first offered them to all shareholders on the date of the offer on the same terms, and at the same price, as those equity securities are being offered to other persons on a pari passu and pro rata basis to the number of shares held by those holders (as nearly as possible without involving fractions). The offer:
- 2.2.1 shall be in writing, shall be open for acceptance for a period of 15 business days from the date of the offer and shall give details of the number and subscription price of the relevant equity securities; and
- 2.2.2 may stipulate that any shareholder who wishes to subscribe for a number of equity securities in excess of the proportion to which he is entitled shall, in his acceptance, state the number of excess equity securities ("**Excess Securities**") for which he wishes to subscribe.
- 2.3 Any equity securities not accepted by shareholders pursuant to the offer made to them in accordance with article 2.2 shall be used for satisfying any requests for Excess Securities made pursuant to article 2.2. If there are insufficient Excess Securities to satisfy such requests, the Excess Securities shall be allotted to the applicants pro rata to the number of shares held by the applicants immediately before the offer was made to shareholders in accordance with article 2.2 (as nearly as possible without involving fractions or increasing the number of Excess Securities allotted to any shareholder beyond that applied for by him). After that allotment, any Excess Securities remaining

shall be offered to any other person as the directors may determine, at the same price and on the same terms as the offer to the shareholders.

2.4 Subject to article 2.2 and article 2.2 and to section 551 of the Act, any equity securities shall be at the disposal of the directors who may allot, grant options over or otherwise dispose of them to any persons at those times and generally on the terms and conditions they think proper.

2.5 At the date of the adoption of these Articles the issued share capital of the Company is £502 divided into:

2.5.1 'A' Ordinary Shares of £1.00 each (the 'A' Shares);

2.5.2 'B' Ordinary Shares of £1.00 each (the 'B' shares).

2.6 The 'A' and 'B' shares shall constitute separate classes of shares. The holders of all Ordinary shares are eligible to receive dividends when declared and have full voting rights and full entitlement to a return of capital upon winding up or other distribution. For the avoidance of doubt the directors of the company reserve the right to declare different amounts of dividends on different classes of shares.

PART 3: DIRECTORS

3 Unanimous Decisions

3.1 A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter.

3.2 Such a decision may take the form of a resolution in writing, where each eligible director has signed one or more copies of it, or to which each eligible director has otherwise indicated agreement in writing.

3.3 A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.

4 Calling a Directors' Meeting

Any director may call a directors' meeting by giving notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.

5 Quorum for Directors' Meetings

- 5.1 Subject to article 5.2, the quorum for the transaction of business at a meeting of directors is any two eligible directors.
- 5.2 For the purposes of any meeting (or part of a meeting) held pursuant to article 8 to authorise a directors conflict, if there is only one eligible director in office other than the conflicted director(s), the quorum for such meeting (or part of a meeting) shall be one eligible director.
- 5.3 If the total number of directors in office for the time being is less than the quorum required, the directors must not take any decision other than a decision:
- 5.3.1 to appoint further directors; or
 - 5.3.2 to call a general meeting so as to enable the shareholders to appoint further directors.

6 Casting Vote

If the numbers of votes for and against a proposal at a meeting of directors are equal, the chairman or other director chairing the meeting shall not have a casting vote.

7 Transactions or other Arrangements with the Company

- 7.1 Subject to sections 177(5) and 177(6) and sections 182(5) and 182(6) of the Act and provided he has declared the nature and extent of his interest in accordance with the requirements of the Companies Acts, a director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the company:
- 7.1.1 may be a party to, or otherwise interested in, any transaction or arrangement with the company or in which the company is otherwise (directly or indirectly) interested;
 - 7.1.2 shall be an eligible director for the purposes of any proposed decision of the directors (or committee of directors) in respect of such contract or proposed contract in which he is interested;

- 7.1.3 shall be entitled to vote at a meeting of directors (or of a committee of the directors) or participate in any unanimous decision, in respect of such contract or proposed contract in which he is interested;
- 7.1.4 may act by himself or his firm in a professional capacity for the company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a director;
- 7.1.5 may be a director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the company is otherwise (directly or indirectly) interested; and
- 7.1.6 shall not, save as he may otherwise agree, be accountable to the company for any benefit which he (or a person connected with him (as defined in section 252 of the Act)) derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under section 176 of the Act.

8 Directors' Conflicts of Interest

- 8.1 The directors may, in accordance with the requirements set out in this article, authorise any matter or situation proposed to them by any director which would, if not authorised, involve a director breaching his duty under section 175 of the Act to avoid conflicts of interest (a "**Conflict**").
- 8.2 Any authorisation under this article will be effective only if:
 - 8.2.1 the matter in question shall have been proposed by any director for consideration at a meeting of directors in the same way that any other matter may be proposed to the directors under the provisions of these Articles or in such other manner as the directors may determine;
 - 8.2.2 any requirement as to the quorum at the meeting of the directors at which the matter is considered is met without counting the director in question; and

- 8.2.3 the matter was agreed to without his voting or would have been agreed to if his vote had not been counted.
- 8.3 Any authorisation of a Conflict under this article may (whether at the time of giving the authorisation or subsequently):
- 8.3.1 extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter so authorised;
 - 8.3.2 be subject to such terms and for such duration, or impose such limits or conditions as the directors may determine; and
 - 8.3.3 be terminated or varied by the directors at any time.
- 8.4 This will not affect anything done by the director prior to such termination or variation in accordance with the terms of the authorisation.
- 8.5 In authorising a Conflict the directors may decide (whether at the time of giving the authorisation or subsequently) that if a director has obtained any information through his involvement in the Conflict otherwise than as a director of the Company and in respect of which he owes a duty of confidentiality to another person, the director is under no obligation to:
- 8.5.1 disclose such information to the directors or to any director or other officer or employee of the company; or
 - 8.5.2 use or apply any such information in performing his duties as a director, where to do so would amount to a breach of that confidence.
- 8.6 Where the directors authorise a Conflict they may (whether at the time of giving the authorisation or subsequently) provide, without limitation, that the director:
- 8.6.1 is excluded from discussions (whether at meetings of directors or otherwise) related to the Conflict;
 - 8.6.2 is not given any documents or other information relating to the Conflict; and
 - 8.6.3 may or may not vote (or may or may not be counted in the quorum) at any future meeting of directors in relation to any resolution relating to the Conflict.

8.7 Where the directors authorise a Conflict:

8.7.1 the director will be obliged to conduct himself in accordance with any terms imposed by the directors in relation to the Conflict; and

8.7.2 the director will not infringe any duty he owes to the company by virtue of sections 171 to 177 of the Act provided he acts in accordance with such terms, limits and conditions (if any) as the directors impose in respect of its authorisation.

8.8 A director is not required, by reason of being a director (or because of the fiduciary relationship established by reason of being a director), to account to the Company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a Conflict which has been authorised by the directors or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.

9 Records of Decisions to be kept

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

10 Number of Directors

Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) shall not be subject to any maximum but shall not be less than two.

11 Appointment of Directors

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

12 Appointment and Removal of Alternate Directors

12.1 Any director (an "appointor") may appoint as an alternate any other director, or any other person approved by resolution of the directors, to:

12.1.1 exercise that director's powers; and

12.1.2 carry out that director's responsibilities, in relation to the taking of decisions by the directors, in the absence of the alternate's appointor.

12.2 Any appointment or removal of an alternate must be effected by notice in writing to the company signed by the appointor, or in any other manner approved by the directors.

12.3 The notice must:

12.3.1 identify the proposed alternate; and

12.3.2 in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the director giving the notice.

13 Rights and Responsibilities of Alternate Directors

13.1 An alternate director may act as alternate director to more than one director and has the same rights in relation to any decision of the directors as the alternate's appointor.

13.2 Except as the Articles specify otherwise, alternate directors:

13.2.1 are deemed for all purposes to be directors;

13.2.2 are liable for their own acts and omissions;

13.2.3 are subject to the same restrictions as their appointors; and

13.2.4 are not deemed to be agents of or for their appointors

and, in particular (without limitation), each alternate director shall be entitled to receive notice of all meetings of directors and of all meetings of committees of directors of which his appointor is a member.

13.3 A person who is an alternate director but not a director:

- 13.3.1 may be counted as participating for the purposes of determining whether a quorum is present (but only if that person's appointor is not participating);
- 13.3.2 may participate in a unanimous decision of the directors (but only if his appointor is an eligible director in relation to that decision, but does not participate); and
- 13.3.3 shall not be counted as more than one director for the purposes of articles 13.2.1 and 13.2.2.

13.4 A director who is also an alternate director is entitled, in the absence of his appointor, to a separate vote on behalf of his appointor, in addition to his own vote on any decision of the directors (provided that his appointor is an eligible director in relation to that decision), but shall not count as more than one director for the purposes of determining whether a quorum is present.

13.5 An alternate director is not entitled to receive any remuneration from the company for serving as an alternate director except such part of the alternate's appointor's remuneration as the appointor may direct by notice in writing made to the company.

14 Termination of Alternate Directorship

14.1 An alternate director's appointment as an alternate terminates:

- 14.1.1 when the alternate's appointor revokes the appointment by notice to the company in writing specifying when it is to terminate;
- 14.1.2 on the occurrence, in relation to the alternate, of any event which, if it occurred in relation to the alternate's appointor, would result in the termination of the appointor's appointment as a director;
- 14.1.3 on the death of the alternate's appointor; or
- 14.1.4 when the alternate's appointor's appointment as a director terminates.

15 Secretary

The company is not required to have a secretary. However, the directors may appoint any person who is willing to act as the secretary for such term, at such remuneration

and upon such conditions as they may think fit and from time to time remove such person and, if the directors so decide, appoint a replacement, in each case by a decision of the directors.

PART 4: DECISION MAKING BY SHAREHOLDERS

16 Poll Votes

- 16.1 A poll may be demanded at any general meeting by any qualifying person (as defined in section 318 of the Act) present and entitled to vote at the meeting.
- 16.2 Article 44(3) of the Model Articles shall be amended by the insertion of the words "A demand so withdrawn shall not invalidate the result of a show of hands declared before the demand was made" as a new paragraph at the end of that article.

17 Proxies

- 17.1 Article 45(1)(d) of the Model Articles shall be deleted and replaced with the words "is delivered to the company in accordance with the Articles not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in accordance with any instructions contained in the notice of the general meeting (or adjourned meeting) to which they relate".
- 17.2 Article 45(1) of the Model Articles shall be amended by the insertion of the words "and a proxy notice which is not delivered in such manner shall be invalid, unless the directors, in their absolute discretion, accept the notice at any time before the meeting" as a new paragraph at the end of that article.

PART 5: ADMINISTRATIVE ARRANGEMENTS

18 Means of Communication to be used

- 18.1 Any notice, document or other information shall be deemed served on or delivered to the intended recipient:
 - 18.1.1 if properly addressed and sent by prepaid United Kingdom first class post to an address in the United Kingdom, 48 hours after it was posted (or five business days after posting either to an address outside the United Kingdom or from outside the United Kingdom to an address within the United Kingdom, if (in each case) sent by reputable international overnight courier addressed to the intended recipient, provided that delivery in at least

five business days was guaranteed at the time of sending and the sending party receives a confirmation of delivery from the courier service provider);

18.1.2 if properly addressed and delivered by hand, when it was given or left at the appropriate address;

18.1.3 if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and

18.1.4 if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.

18.2 For the purposes of this article, no account shall be taken of any part of a day that is not a working day.

18.3 In proving that any notice, document or other information was properly addressed, it shall be sufficient to show that the notice, document or other information was delivered to an address permitted for the purpose by the Act.

19 Indemnity

19.1 Subject to article 19.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

19.1.1 each relevant officer shall be indemnified out of the company's assets against all costs, charges, losses, expenses and liabilities incurred by him as a relevant officer in the actual or purported execution and/or discharge of his duties, or in relation to them; and

19.1.2 including (in each case) any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the company's (or any associated company's) affairs; and

- 19.1.3 the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in article 19.1.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.
- 19.2 This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.
- 19.3 In this article:
- 19.3.1 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and
- 19.3.2 a “**relevant officer**” means any director or other officer or former director or other officer of the company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act).

20 Insurance

- 20.1 The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant officer in respect of any relevant loss.
- 20.2 In this article:
- 20.2.1 a “**relevant officer**” means any director or other officer or former director or other officer of the company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act);
- 20.2.2 a “**relevant loss**” means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company; and
- 20.2.3 companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

21 Share transfers

21.1 Notwithstanding anything contained in these Articles, the Directors of the Company shall approve and shall not decline to register nor suspend the registration of, any transfer of shares:

21.1.1 where such transfer is in favour of a bank or other financial institution or any nominee bank or other financial institution and the transfer is as contemplated by, or pursuant to, any mortgage or charge of shares or any call or other share option granted in favour of such a lender, bank or other financial institution (in each case a "**Secured Institution**"); or

21.1.2 where such transfer is delivered to the Company for registration by or on behalf of a Secured Institution or its nominee in order to register the Secured Institution as legal owner of the shares or in order to transfer the shares to a third party upon disposal or realisation of shares following that Secured Institution having become entitled to exercise or enforce its rights under any such mortgage, charge and/ or call or other option; or

21.1.3 where such transfer is executed by a Secured Institution or its nominee pursuant to the power of sale or the power under any such security;

21.1.4 where such transfer is executed by a receiver or manager appointed by or on behalf of any Secured Institution or its nominee, under any such security,

and a certificate by any officer of the Secured Institution that the relevant transfer is within article 21.1.1, 21.1.2, 21.1.3 or 21.1.4 above shall be conclusive evidence of that fact

and furthermore, notwithstanding anything to the contrary contained in these Articles:

21.1.5 no transferor of any shares in the Company or proposed transferor of such shares to a Secured Institution or to its nominee;

21.1.6 no Secured Institution or its nominee; and

21.1.7 no receiver or manager appointed by or on behalf of a Secured Institution or its nominee,

shall be required to offer the shares which are or are to be the subject of any such transfer to the members for the time being of the Company or any of them, and no

such member shall have any right under these Articles or otherwise to require such shares to be transferred to them whether for consideration or not or shall be required as a condition of registration of any transfer of shares to be bound by the terms of any shareholder agreement.