

Annex – Articles of Association



The Companies Act 2006
Private Company Limited by Shares

Articles of Association
of
Agincare Heritage Limited

(Company number: 10618905)

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THE COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION

OF

AGINCARE HERITAGE LIMITED ("the Company")

INTRODUCTION

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 13.1.

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).

Holding Company: means Agincare Holdings Limited.

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.

Parent Company: means Agincare Homes Holdings Limited

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, 11(2) and (3), 13, 14(1), (2), (3) and (4), 17(2), 24(2)(c), 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 "and the secretary" 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 26(1) of the Model Articles shall be amended by the addition of the words "Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor and, unless the share is fully paid, the transferee." at the end of that article.
- 1.13 Article 27(3) of the Model Articles shall be amended by the insertion of the words ", subject to article 10," after the word "But".
- 1.14 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".
- 1.15 Articles 31(a) to (d) (inclusive) of the Model Articles shall be amended by the deletion, in each case, of the words "either" and "or as the directors may otherwise decide".

DIRECTORS

2. UNANIMOUS DECISIONS

- 2.1 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. Provided that the decision is committed to paper form within 7 days after the decision has been taken.
- 2.2 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.
- 2.3 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.

3. DECISION MAKING

- 3.1 Subject to the articles, the directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.
- 3.2 If there is any matter on which the directors do not agree because of an equal number of votes for and against the matter, the decision shall be referred to the board of directors of the Parent Company for determination.

4. CALLING A DIRECTORS' MEETING

- 4.1 Any director may call a directors' meeting by giving 2 Business Days' notice of the meeting (or such lesser notice as all the directors may agree) to the directors or by authorising the Company secretary (if any) to give such notice.

- 4.2 Notice of a directors' meeting shall be given to each director in writing.

5. QUORUM FOR DIRECTORS' MEETINGS

- 5.1 If and so long as there is a sole director, he may exercise all the powers and authorities vested in the directors by these articles and the quorum for the transaction of business at a meeting of directors shall be one. Subject to the foregoing, and 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 director's conflict, if there is only one Eligible Director in office other than the conflicted director(s), the quorum for such meeting (or part of a meeting) shall be one Eligible Director.

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 (an "Interested Director") breaching his duty under section 175 of the Act to avoid conflicts of interest (a "Conflict").

8.2 Any authorisation under this article 8 is subject to the provisions of article 11.9.10 and will be effective only if:

8.2.1 to the extent permitted by the Act, the matter in question shall have been proposed by any director for consideration 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 for consideration of the relevant matter is met without counting the Interested Director; and

8.2.3 the matter was agreed to without the Interested Director voting or would have been agreed to if the Interested Director's vote had not been counted.

8.3 Any authorisation of a Conflict under this article 8 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 or situation so authorised;

8.3.2 provide that the Interested Director be excluded from the receipt of documents and information and the participation in discussions (whether at meetings of the directors or otherwise) related to the Conflict;

8.3.3 provide that the Interested Director shall or shall not be an Eligible Director in respect of any future decision of the directors vote in relation to any resolution related to the Conflict;

8.3.4 impose upon the Interested Director such other terms for the purposes of dealing with the Conflict as the directors think fit;

8.3.5 provide that, where the Interested Director obtains, or has obtained (through his involvement in the Conflict and otherwise than through his position as a director of the Company) information that is confidential to a third party, he will not be obliged to disclose that information to the Company, or to use it in relation to the Company's affairs where to do so would amount to a breach of that confidence; and

8.3.6 permit the Interested Director to absent himself from the discussion of matters relating to the Conflict at any meeting of the directors and be excused from reviewing papers prepared by, or for, the Directors to the extent they relate to such matters.

8.4 Where the directors authorise a Conflict, the Interested Director will be obliged to conduct himself in accordance with any terms and conditions imposed by the directors in relation to the Conflict.

8.5 The directors may revoke or vary such authorisation at any time, but this will not affect anything done by the Interested Director, prior to such revocation or variation, in accordance with the terms of such authorisation.

8.6 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 hard copy form.

10. NUMBER OF DIRECTORS

Unless otherwise determined by ordinary resolution, the number of directors shall not be subject to any maximum but shall not be less than one.

11. POWERS OF DIRECTORS

Notwithstanding anything contained in the Model Articles the directors shall have no power to do or contract to do any of the following matters, which may only be done or contracted to be done having first obtained consent from the Holding Company or by the directors pursuant to the specific authority of a resolution from the Holding Company:

- 11.1 selling the undertaking, business or (except in the normal course of business) assets (valued at £20,000 or more per transaction or per series of related transactions) of the Company or of the Company's subsidiaries or any substantial part of any of them;
- 11.2 acquiring any undertaking, business or any shares in another company;
- 11.3 selling, charging or disposing of all or any interest in any shares of any subsidiary or associated company;
- 11.4 creating any subsidiary or acquiring any company or business or entering into any partnership, profit sharing arrangement or joint venture;
- 11.5 incurring any indebtedness except trade credit in the ordinary course of business;
- 11.6 entering into any litigation or settling any claim against the Company other than in relation to HR matters which shall be dealt with in accordance with the Company's HR policies;
- 11.7 creating any fixed or floating charge, lien (other than a lien arising by operation of law) or other encumbrance on the whole or any part of the undertaking property or assets of the company or any subsidiary or associated company;
- 11.8 borrowing any sum of money in excess of any sum which may be determined from time to time by the Company in general meeting (being either a fixed sum or determined by reference to a formula);
- 11.9 passing any resolution:
 - 11.9.1 to approve the annual report and accounts of the Company;
 - 11.9.2 to approve any significant change in accounting policy;
 - 11.9.3 to appoint or remove any financial advisors, auditors or bankers;
 - 11.9.4 to approve the Company's annual operating and capital expenditure budget;
 - 11.9.5 to approve any guarantee or any cross guarantee to be given by or in respect of the Company;
 - 11.9.6 to write off any individual bad-debt in excess of £2,000;
 - 11.9.7 to assume any liabilities of any third party or commit the Company to support any liabilities of any third party;
 - 11.9.8 to approve any employee share or incentive scheme;
 - 11.9.9 to approve any political or charitable donations; and

11.9.10 to approve any directors' external interests and potential conflicts of interest.

- 11.10 any other matter which the Company may by ordinary resolution determine to be subject to this article 10.

12. SHAREHOLDER RESERVE POWER

Notwithstanding anything contained in the Model Articles the directors shall have no power to do or contract to do any of the following matters, which may only be done or contracted to be done having first obtained consent from the Parent Company or by the directors pursuant to the specific authority of a resolution from the Parent Company:

- 12.1 appointing or removing a Company secretary or a director of the Company;
- 12.2 committing the Company to any liability above £10,000;
- 12.3 entering into any contracts with clauses providing for the Company to pay damages, give indemnities, or be liable for consequential losses;
- 12.4 entering into any employment contract with a director
- 12.5 authorising or approving the making of any director's bonus or the declaration of director's fees
- 12.6 authorising the employment or remuneration of any senior executive (earning in excess of £50,000 per annum);
- 12.7 entering into any contract with a fixed price or tied-in price of a term greater than three years;
- 12.8 approving any press releases (other than for marketing or advertising purposes);

13. APPOINTMENT OF DIRECTORS

- 13.1 Without prejudice to the powers of the Company under section 168 of the Act to remove a director by ordinary resolution, the Parent Company may at any time appoint any person to be a director, whether as an additional director or to fill a vacancy, and may remove from office any director howsoever appointed. Any such appointment or removal shall be effected by notice in writing to the Company signed by the director of the Parent Company. Any such appointment or removal shall take effect when the notice effecting the same is delivered to the registered office or to the secretary of the Company, or is produced at a meeting of the directors. Any such removal shall be without prejudice to any claim which a director may have under any contract between him and the Company.
- 13.2 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.

14. SECRETARY

The Parent Company 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 Parent Company so decides, appoint a replacement, in each case by written notice to the Company.

SHARES

15. UNISSUED SHARES

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.

16. FURTHER ISSUES OF SHARES: AUTHORITY

Save to the extent authorised by these articles, or authorised from time to time by ordinary resolution of the shareholders of the Company, the directors shall not exercise any power to allot shares or grant rights to subscribe for or convert any security into, any shares in the Company.

17. SHARE TRANSFERS

17.1 The directors shall not have any power to register or to refuse to register the transfer of any share. Such powers shall be exercised by ordinary resolution of the Company. The Company may in its absolute discretion, and without assigning any reason therefor, decline to register any transfer of a share (whether or not it is a fully paid share). In article 26 of the Model Articles references to "the directors" shall be deemed to be references to the Company in general meeting.

17.2 No share shall be issued or transferred to any bankrupt or person of unsound mind.

17.3 Notwithstanding article **Error! Reference source not found.** the Parent Company may transfer to any person(s) at any time or times any shares registered in its name and such transfer(s) shall be registered by the Company on presentation to the secretary, subject only to them being duly executed and stamped.

DECISION MAKING BY SHAREHOLDERS

18. POLL VOTES

18.1 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.

18.2 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.

19. PROXIES

19.1 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".

19.2 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 discretion, accept the notice at any time before the meeting" as a new paragraph at the end of that article.

ADMINISTRATIVE ARRANGEMENTS

20. MEANS OF COMMUNICATION TO BE USED

20.1 Any notice, document or other information shall be deemed served on or delivered to the intended recipient:

20.1.1 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);

- 20.1.2 if properly addressed and delivered by hand, when it was given or left at the appropriate address;
- 20.1.3 if properly addressed and sent or supplied by electronic means, one hour after the document or information was sent or supplied; and
- 20.1.4 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.

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

- 20.2 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.

21. INDEMNITY

- 21.1 Subject to article 21.2, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:

- 21.1.1 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 including 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

- 21.1.2 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 21.1.1 and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.

- 21.2 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.

- 21.3 In this article a "relevant officer" means any director or other officer or former director or other officer of the Company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the Company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor).

22. INSURANCE

- 22.1 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.

- 22.2 In this article:

- 22.2.1 a "relevant officer" means any director or other officer or former director or other officer of the Company or an associated company (including any company which is a trustee of an occupational pension scheme (as defined by section 235(6) of the Act), but excluding in each case any person engaged by the Company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor); and

22.2.2 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.