

**THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION.**

If you are in any doubt as about the contents of this document and /or the action you should take, you should seek your own advice from your stockbroker, bank manager, solicitor, accountant or other independent financial adviser authorised under the Financial Services and Markets Act 2000 (FSMA) if you are in the United Kingdom, or if not, another appropriately authorised independent financial adviser.

If you have sold or otherwise transferred all of your shares in Mattioli Woods plc, please pass this document together with the accompanying documents to the purchaser or transferee, or to the person who arranged the sale or transfer so they can pass these documents to the person who now holds the shares.

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# **MATTIOLI WOODS PLC**

*(Incorporated and registered in England and Wales with Registered No: 3140521)*

## **Notice of Annual General Meeting**

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Notice of the Annual General Meeting of Mattioli Woods plc, to be held at MW House, 1 Penman Way, Grove Park, Enderby, Leicester LE19 1SY on 22 October 2009 at 10.00am is set out on pages 4 and 5 of this document.

A Form of Proxy for use in connection with the Annual General Meeting is enclosed and should be completed, signed and returned to the Company's registrars at Capita Registrars, Proxies, The Registry, 34 Beckenham Road, Beckenham BR3 4TU as soon as possible and, in any event, by no later than 10.00am on 20 October 2009. Completion and return of a Form of Proxy will not preclude shareholders from attending and voting at the Annual General Meeting in person should they so wish. If you do not send in a valid Form of Proxy or attend the Annual General Meeting in person to vote, no-one else may vote on your behalf. For full details of proxy appointments, please see the notes to the Notice of Annual General Meeting and the Form of Proxy.

# LETTER FROM THE CHAIRMAN OF MATTIOLI WOODS PLC

## MATTIOLI WOODS PLC

(Incorporated and registered in England and Wales with registered number 3140521)

### Directors

Robert Woods (Chairman)  
Ian Mattioli (Chief Executive)  
Murray Smith (Director)  
Nathan Imlach (Director)  
Mark Smith (Director)  
John Redpath (Non-Executive Director)  
Michael Kershaw (Non-Executive Director)

### Registered Office

MW House  
1 Penman Way  
Grove Park  
Leicester  
LE19 1SY

18 September 2009

To holders of ordinary shares of 1p each in the capital of the Company ("Ordinary Shares") and, for information purposes only, to the holders of options to subscribe for Ordinary Shares

Dear Shareholder,

### Annual General Meeting of Mattioli Woods PLC (the "Company" or "MW")

#### 1. Introduction

I am pleased to be writing to you with details of our Annual General Meeting ("AGM") which we are holding at the offices of Mattioli Woods plc, MW House, 1 Penman Way, Grove Park, Enderby, Leicester LE19 1SY on 22 October 2009 at 10.00am. The formal notice of Annual General Meeting is set out on pages 4 and 5 of this document.

The purpose of this letter is to provide Shareholders with details of, the background to and reasons for, the resolutions to be proposed at the AGM (the "Resolutions"), to explain why the directors believe that the passing of the Resolutions is in the best interests of the Company and the Shareholders as a whole and to recommend that Shareholders vote in favour of the Resolutions. The Resolutions to be proposed at the AGM include, amongst other things, resolutions to authorise the Directors to allot new Ordinary Shares and to disapply statutory pre-emption rights on the allotment of new Ordinary Shares.

In addition, the Company will look to adopt new articles of association of the Company primarily to take account of changes in English company law brought about by the Companies Act 2006. An explanation of the main differences between the Company's current articles of association and the proposed new articles of association is set out in the Appendix to this document.

If you would like to vote on the resolutions but cannot attend the AGM, please complete the Form of Proxy enclosed with this document and return it as soon as possible to the Company's registrars at Capita Registrars, Proxies, The Registry, 34 Beckenham Road, Beckenham BR3 4TU. The Company must receive the completed Form of Proxy by 10.00 am on 20 October 2009.

#### 2. Business to be transacted at the AGM

Details of the resolutions which are to be proposed at the Annual General Meeting are set out below.

##### Ordinary resolution 1: Annual Report 2009

The business of the AGM will begin with a resolution to lay before members the Annual Report in respect of the year ended 31 May 2009 (the "Annual Report"). Shareholders will have the opportunity to put questions on the Annual Report to the directors before the resolution is proposed to the AGM.

##### Ordinary resolutions 2, 3 and 4: Re-election of Directors

In line with the Company's current Articles of Association (the "Current Articles"), one third of the directors of the Company, being the directors who have held office for the longest period without having offered themselves for re-election must retire by rotation, and, therefore, John Redpath, Ian Mattioli and Nathan Imlach will retire and stand for re-election. Brief biographical details of directors standing for re-election are included in the Annual Report at pages 12 to 13.

##### Ordinary resolutions 5 and 6: Re-appointment of auditors

Shareholders will be asked to confirm the re-appointment of Baker-Tilly UK Audit LLP as the Company's auditors to hold office until the conclusion of the next annual general meeting and to grant authority to the directors to determine the auditors' remuneration.

##### Ordinary resolution 7: Declaration of final dividend

Shareholders will be asked to approve the payment of a final dividend of 2.75 pence per ordinary share for the year ended 31 May 2009, as recommended by the directors. If you approve the recommended final dividend, it will be payable on 23 October 2009 to all shareholders on the register at the close of business on the record date 18 September 2009.

##### Ordinary resolution 8: Grant of authority to the Directors to allot Ordinary Shares

At last year's annual general meeting of the Company, shareholders passed a resolution giving the directors authority to allot Ordinary Shares. That power expires following the conclusion of the AGM therefore the directors propose that the relevant authority is renewed at the AGM and, accordingly, have proposed resolution 8 in the Notice of AGM to do this.

It is proposed to authorise the directors to allot Ordinary Shares up to a maximum nominal value of £17,300 (representing 1,730,000 Ordinary Shares) which is approximately equal to 10 per cent of the Company's issued share capital. The directors currently intend only to make use of this authority: (a) in connection with the grant of share-based payments or options to the directors of the Company and employees of the Company's group; (b) potentially for use as consideration in connection with any acquisitions of companies or businesses which the Company may wish to make; and (c) in order to raise funds through subscriptions for new shares in order to finance any such acquisitions or otherwise as may be necessary to satisfy the working capital requirements of the Group. This renewed authority would expire at the conclusion of next year's annual general meeting.

#### **Special resolution 9: Disapplication of statutory pre-emption rights on allotment of shares**

If the directors wish to allot unissued shares or other equity securities for cash or sell any shares which the Company may hold in treasury following a purchase of its own shares, the Companies Act 1985 requires that such shares or other equity securities are offered first to existing shareholders in proportion to their existing holdings. At the annual general meeting of the Company held last year, shareholders passed a special resolution giving the directors authority to allot equity securities for cash, without first being required to offer such securities to existing shareholders, by the limited disapplication of Section 89 of the Companies Act 1985. That power expires following the conclusion of the AGM therefore the directors propose that the relevant authority is renewed at the AGM and, accordingly, have proposed resolution 9 in the Notice of AGM to do this.

The authority is sought to grant the directors authority to allot equity securities or sell treasury shares for cash up to a maximum aggregate nominal value of £8,650 (representing 865,000 Ordinary Shares which would constitute approximately 5 per cent of the issued share capital of the Company as at 14 September 2009 without first offering the securities to existing shareholders. The total number of Ordinary Shares in issue as at 14 September 2009 is 17,311,027. The Company does not currently hold any treasury shares. The proposed resolution also disapplies the statutory pre-emption provisions in connection with a rights issue and allows the directors, in the case of a rights issue, to make arrangements in relation to fractional entitlements or other legal or practical problems which might arise.

The directors have no immediate plans to make use of this authority other than in those circumstances which I referred to in the explanation relating to resolution 8 above. This authority would expire at the conclusion of next year's annual general meeting.

#### **Special resolution 10: Adoption of new Articles of Association**

The directors are also asking shareholders to approve a number of amendments to the Company's Current Articles, primarily to take account of changes in English company law brought about by the Companies Act 2006. An explanation of the main differences between the Current Articles and the proposed new Articles of Association (the "New Articles") is set out in the Appendix to this document. Other differences, which are of a minor, technical or clarifying nature, have not been noted in the Appendix to this document.

A copy of the New Articles showing the changes proposed to be made and the differences between the Current Articles and the New Articles is available for inspection, as noted on page 5 of this document, and is available on the Company's website at <http://www.mattioli-woods.com>. Resolution 10 in the Notice of AGM, which will be proposed as a special resolution, seeks the approval of shareholders to the adoption of the New Articles containing the proposed amendments to the Current Articles.

### **3. Action to be taken**

You are entitled to appoint one or more proxies to attend and vote at the AGM on your behalf. You will find enclosed with this document a Form of Proxy for use in connection with the AGM. Whether or not you propose to attend the AGM in person, you are requested to complete and return the Form of Proxy to the Company's registrars at Capita Registrars, Proxies, The Registry, 34 Beckenham Road, Beckenham BR3 4TU as soon as possible and, in any event, so as to be received no later than 10.00am on 20 October 2009. Completion and return of a Form of Proxy will not stop you from attending the AGM and voting in person should you so wish.

### **4. Recommendation**

The directors consider that all of the resolutions to be proposed at the AGM are in the best interests of the Company and its shareholders as a whole. Accordingly, the directors unanimously recommend that shareholders vote in favour of all of the resolutions, as the directors intend to do in respect of their own beneficial holdings.

Yours faithfully

**Bob Woods**  
Chairman

# MATTIOLI WOODS PLC

(Incorporated and registered in England and Wales with registered number 3140521)

## NOTICE OF ANNUAL GENERAL MEETING

Notice is hereby given that the Annual General Meeting of Mattioli Woods plc (the "Company") will be held at MW House, 1 Penman Way, Grove Park, Enderby, Leicester LE19 1SY on 22 October 2009 at 10.00am for the transaction of the following business:

To consider and, if thought fit, to pass the following resolutions, numbers 1 to 8 of which will be proposed as ordinary resolutions and numbers 9 and 10 which will be proposed as special resolutions:

### Ordinary Resolutions

1. That the Company's annual accounts for the year ended 31 May 2009, together with the Directors' report and the auditors' report on those accounts, be received and adopted.
2. That John Redpath, who is retiring by rotation in accordance with Article 89 of the Company's Current Articles of Association and who, being eligible, is offering himself for re-election, be re-elected as a Director.
3. That Ian Mattioli, who is retiring by rotation in accordance with Article 89 of the Company's Current Articles of Association and who, being eligible, is offering himself for re-election, be re-elected as a Director.
4. That Nathan Imlach, who is retiring by rotation in accordance with Article 89 of the Company's Current Articles of Association and who, being eligible, is offering himself for re-election, be re-elected as a Director.
5. That Baker Tilly UK Audit LLP be re-appointed as auditors to the Company until the conclusion of the next Annual General Meeting of the Company.
6. That the Directors be authorised to agree and fix the auditors' remuneration.
7. That a final dividend of 2.75 pence per ordinary share be declared for the year ended 31 May 2009.
8. That for the purposes of section 80 of the Companies Act 1985 (and so that expressions used in this resolution shall bear the same meanings as in the said section 80):
  - (a) the Directors be and are generally and unconditionally authorised to exercise all powers of the Company to allot relevant securities up to a maximum nominal amount of £17,300 to such persons and at such times and on such terms as they think proper during the period expiring at the end of the next Annual General Meeting of the Company to be held after the date on which this resolution is passed (unless previously revoked or varied by the Company in general meeting); and
  - (b) the Company be and is hereby authorised to make prior to the expiry of such period any offer or agreement which would or might require relevant securities to be allotted after the expiry of the said period and the Directors may allot relevant securities in pursuance of any such offer or agreement notwithstanding the expiry of the authority given by this resolution;

and so that all previous authorities of the Directors pursuant to the said section 80 be and are hereby revoked.

### Special Resolutions

9. That the Directors be and are empowered in accordance with section 95 of the Companies Act 1985 (the "Act") to sell treasury shares (as defined in section 162A of the Act) for cash and, subject to and conditionally upon the passing of resolution 8 set out in the Notice convening this Meeting, make other allotments of equity securities (and the expression "allotment of equity securities" and like expressions used in this resolution shall have the meaning given to them by virtue of section 94 of the Act) for cash pursuant to the authority conferred on them to allot relevant securities (as defined in section 80 of the Act) by that resolution, in each case, as if section 89(1) and sub-sections (1)-(6) of section 90 of the Act did not apply to any such sale or allotment, provided that the power conferred by this resolution shall be limited to:
  - (a) the allotment of equity securities in connection with an issue or offering in favour of holders of equity securities and any other persons entitled to participate in such issue or offering (other than the company itself in respect of any shares held by it as treasury shares) where the equity securities respectively attributable to the interests of such holders and persons are proportionate (as nearly as may be) to the respective number of equity securities held by or deemed to be held by them on the record date of such allotment, subject only to such exclusions or other arrangements as the Directors may consider necessary or expedient to deal with fractional entitlements or legal or practical problems under the laws or requirements of any recognised regulatory body or stock exchange in any territory; and
  - (b) the allotment of equity securities (otherwise than pursuant to paragraph (a) of this resolution) up to an aggregate nominal value not exceeding £8,650;

and this power, unless renewed, shall expire at the end of the next Annual General Meeting of the Company to be held after the date on which this resolution is passed but shall extend to the making, before such expiry, of an offer or agreement which would or might require an allotment of equity securities in pursuance of such offer or agreement as if the authority conferred hereby had not expired.

10. That:

- (a) the Articles of Association of the Company be amended by deleting all the provisions of the Company's Memorandum of Association which, by virtue of section 28 of the Companies Act 2006, are to be treated as provisions of the Company's Articles of Association; and
- (b) the Articles of Association produced to the meeting and initialled by the chairman of the meeting for the purpose of identification be adopted as the Articles of Association of the Company in substitution for, and to the exclusion of, the existing Articles of Association.

Dated: 18 September 2009

Registered Office:  
MW House  
1 Penman Way  
Grove Park  
Enderby  
Leicester  
LE19 1SY

By order of the Board:  
Nathan Imlach  
Secretary

## Notes

1. Copies of the following documents will be available for inspection at the Company's registered office at MW House, 1 Penman Way, Grove Park, Enderby, Leicester LE19 1SY during usual business hours on any weekday (Saturdays, Sundays and public holidays excluded) from the date of this Notice until the conclusion of the Annual General Meeting and at the place of the Annual General Meeting itself from 15 minutes before the Annual General Meeting until the conclusion of the Annual General Meeting:
  - (a) the proposed new articles of association of the Company and a copy of the existing articles of association marked to show the changes being proposed by resolution 10 above;
  - (b) the service contracts of each of Ian Mattioli and Nathan Imlach; and
  - (c) the letter of appointment between the Company and John Redpath.
2. Members are entitled to appoint a proxy to exercise all or any of their rights to attend and to speak and vote on their behalf at the meeting. A shareholder may appoint more than one proxy in relation to the Annual General Meeting provided that each proxy is appointed to exercise the rights attached to a different share or shares held by that shareholder. Where more than one proxy is appointed, a member must specify the number of shares the rights in respect of which each proxy is entitled to exercise. A proxy need not be a shareholder of the Company. A Form of Proxy which may be used to make such appointment and give proxy instructions accompanies this notice.
3. To be valid, the Form of Proxy must be lodged with the Company's registrars at Capita Registrars, Proxies, The Registry, 34 Beckenham Road, Beckenham BR3 4TU by no later than 10.00am on 20 October 2009.
4. To appoint a proxy or to give or amend an instruction to a previously appointed proxy via the CREST system, the CREST message must be received by the issuer's agent RA10 not later than two business days before the time of the meeting or any adjournment thereof. For this purpose, the time of receipt will be taken to be the time (as determined by the timestamp applied to the message by the CREST Applications Host) from which the issuer's agent is able to retrieve the message. After this time any change of instructions to a proxy appointed through CREST should be communicated to the proxy by other means. CREST Personal Members or other CREST sponsored members, and those CREST Members who have appointed voting service provider(s) should contact their CREST sponsor or voting service provider(s) for assistance with appointing proxies via CREST. For further information on CREST procedures, limitations and system timings please refer to the CREST Manual. We may treat as invalid a proxy appointment sent by CREST in the circumstances set out in Regulation 35(5) (a) of the Uncertificated Securities Regulations 2001. In any case your proxy form must be received by the Company's registrars not later than two business days before the time of the meeting or any adjournment thereof.
5. The return of a completed Form of Proxy will not prevent a shareholder attending the Annual General Meeting and voting in person if he/she wishes to do so.
6. Pursuant to regulation 41 of the Uncertificated Securities Regulations 2001, only shareholders registered in the register of members of the Company as at 6.00pm on 20 October 2009 shall be entitled to attend and vote at the Annual General Meeting in respect of the number of shares registered in their name at such time. If the Annual General Meeting is adjourned, the time by which a person must be entered on the register of members of the Company in order to have the right to attend and vote at the adjourned meeting is 6.00pm on the day preceding the date fixed for the adjourned meeting. Changes to the register of members after the relevant times shall be disregarded in determining the rights of any person to attend and vote at the meeting.
7. As at 14 September 2009 (being the latest practicable date prior to the publication of this document), the Company's issued share capital consists of 17,311,027 ordinary shares of 1p each and which each carry one vote. Therefore, the total voting rights in the Company as at 14 September 2009 are 17,311,027.
8. Corporate shareholders are entitled to appoint a corporate representative to exercise all or any of their rights to attend and to speak and vote (on a show of hands and on a poll) on their behalf at the meeting. A corporate shareholder may appoint more than one corporate representative in relation to the Annual General Meeting. Where more than one corporate representative is appointed on a vote by show of hands, each corporate representative has the same voting rights as the corporate shareholder would be entitled to. Where more than one corporate representative is appointed on a poll vote in respect of the same share, if all corporate representatives exercise their power in respect of the same share in the same way, the power is exercised in that way, if they do not exercise the power in the same way as each other, the power is not treated as exercised.

## APPENDIX

### EXPLANATORY NOTES OF PRINCIPAL CHANGES TO THE COMPANY'S ARTICLES OF ASSOCIATION

It is proposed in resolution 10 to adopt the New Articles in order to update the Current Articles primarily to take account of changes in English company law brought about by the Companies Act 2006.

The principal changes introduced in the New Articles are summarised in this Appendix. Other changes, which are of a minor, technical or clarifying nature and also some more minor changes which merely reflect changes made by the Companies Act 2006 have not been noted in this Appendix.

The provisions of the Companies Act 2006 have been introduced into English company law in various stages over the past few years. On 1 October 2009 the final provisions of the Companies Act 2006 will come into force. The AGM will be taking place after the 1 October. The proposed changes to the New Articles therefore take into account all provisions of the Companies Act 2006, both those in force prior to and following 1 October 2009. The explanatory notes below are therefore also written on the basis that all provisions coming into force on 1 October 2009 are now in force and that the New Articles reflect such changes. References to the Companies Act 2006 therefore should be read as references to the Companies Act 2006 in force, as at 1 October 2009, and therefore not necessarily as at the date you receive these notes which may be an earlier date.

The proposed New Articles marked to show all the changes that will be made to the Current Articles in the event that resolution 10 is passed are available for inspection, as noted on page 5 of this document, and are available on the Company's website at <http://www.mattioli-woods.com>.

#### 1. The Company's objects

The provisions regulating the operations of the Company are currently set out in the Company's memorandum and articles of association. The Company's memorandum contains, among other things, the objects clause which sets out the scope of the activities the Company is authorised to undertake. This is drafted to give a wide scope.

The Companies Act 2006 significantly reduces the constitutional significance of a company's memorandum. The Companies Act 2006 provides that a memorandum will record only the names of the original subscribers and the number of shares each subscriber has agreed to take in the company. Under the Companies Act 2006 the objects clause and all other provisions which are currently contained in a company's memorandum, for existing companies as at 1st October 2009, will be deemed to be contained in a company's articles of association unless the company passes a special resolution to the contrary.

Further, the Companies Act 2006 states that, unless a company's articles provide otherwise, a company's objects are unrestricted. This abolishes the need for companies to have objects clauses. The Company is proposing to remove its objects clause together with all other provisions of its memorandum which, by virtue of the Companies Act 2006, are to be treated as forming part of the Company's articles of association to allow it to have the widest possible scope for its activities. Resolution 10(a) confirms the removal of these provisions for the Company. As the effect of this resolution will be to remove the statement currently in the Company's memorandum of association regarding limited liability, the New Articles also contain an express statement regarding the limited liability of shareholders.

#### 2. Change of name

Currently, a company can only change its name by special resolution. Under the provisions of the Companies Act 2006, a company will be able to change its name by other means provided for by its articles. To take advantage of this provision, the New Articles enable the directors to pass a resolution to change the Company's name.

#### 3. Variation of class rights

The Current Articles contain provisions regarding the variation of class rights. The proceedings and specific quorum requirements for a meeting convened to vary class rights are contained in the Companies Act 2006. The relevant provisions have therefore been amended in the New Articles.

#### 4. Authorised share capital and unissued shares

The provisions of Companies Act 2006 abolish the requirement for a company to have an authorised share capital. A consequence of resolution 10(b) would be the removal of this limitation from the Company's constitution and the New Articles reflect this. Directors will still be limited as to the number of shares they can at any time allot because allotment authority continues to be required under the Companies Act 2006, save in respect of qualifying employee share schemes.

#### 5. Share capital

The following changes have been made to the provisions of the Current Articles:

- (a) The Companies Act 2006 requires the reason for a refusal by the Board to register a transfer of shares on the register of members to be given. The New Articles reflect the requirements of the Companies Act 2006.
- (b) Amendments have been made to the Current Articles to update and clarify the position in respect of the holding of shares in the Company in uncertified form.
- (c) The drafting of the Current Articles relating to the action which the Board may take in circumstances where it has requested information from any person whom it believes to be interested in shares of the Company in accordance with the provisions of section 793 of the Companies Act 2006 (formerly section 212 of the Companies Act 1985) and that information is not provided, has been generally updated.

#### 5. Redeemable shares

At present, if a company wishes to issue redeemable shares, it must include in its articles the terms and manner of redemption. The provisions of the Companies Act 2006 permit directors to determine such matters instead provided they are so authorised by the articles. The New Articles contain such an authorisation. The Company has no plans to issue redeemable shares but if it did so the directors would need shareholders' authority to issue new shares in the usual way.

#### 6. Authority to purchase own shares, consolidate and sub-divide shares, and reduce share capital

Under the Companies Acts 1985 and 1989 a company required specific enabling provisions in its articles to purchase its own shares, to consolidate or sub-divide its shares and to reduce its share capital or other undistributable reserves as well as shareholder authority to undertake the relevant action. The Current Articles include these enabling provisions. Under the provisions of Companies Act 2006, a company will only require shareholder authority to do any of these things and it will no longer be necessary for articles to contain enabling provisions. The drafting of these provisions in the Current Articles has been updated accordingly.

## **7. Suspension of registration of share transfers**

The Current Articles permit the directors to suspend the registration of transfers. Under the Companies Act 2006 share transfers must be registered as soon as practicable. The power in the Current Articles to suspend the registration of transfers is inconsistent with this requirement. Accordingly, this power has been removed in the New Articles.

## **8. General meetings**

Certain of the provisions in the Current Articles dealing with the convening of general meetings, the length of notice required to convene general meetings and the requisitioning by members of the Company of resolutions to be moved at general meetings are being removed in the New Articles as these matters are subject to express provisions in the Companies Act 2006. A consequence of this change will be that, by virtue of the Companies Act 2006, a general meeting to consider a special resolution can be convened on 14 clear days' notice whereas previously 21 clear days' notice was required. The provisions in the Current Articles dealing with who is entitled to receive notice of general meetings are being amended to conform to the new provisions in the Companies Act 2006. The position in relation to adjourned general meetings has been changed in the New Articles so that a quorum at an adjourned meeting (which was adjourned because of a lack of quorum at the original meeting) will now be the same as the quorum requirement for the original meeting, namely, two person present in person or by proxy or by corporate representative. If a quorum is not present at such adjourned general meeting, the meeting will be dissolved. The obligations of the Company under the New Articles to give notice to Shareholders of adjourned meetings have also been clarified and the New Articles provide that at least seven clear days' notice of an adjourned general meeting must be given to Shareholders in respect of (a) all general meetings adjourned through lack of a quorum and (b) all other adjourned meetings where the adjournment is for 14 days or more.

## **9. Voting rights, proxies and corporate representatives**

The provisions in the Current Articles relating to the appointment of proxies by members have been generally updated in the New Articles to reflect the provisions of the Companies Act 2006. Under the Companies Act 2006, proxies are entitled to vote on a show of hands whereas under the Current Articles proxies are only entitled to vote on a poll. The time limits for the appointment or termination of a proxy appointment have been altered by the Companies Act 2006 so that the articles cannot provide that they should be received more than 48 hours before the meeting or, in the case of a poll taken more than 48 hours after the meeting, more than 24 hours before the time for the taking of a poll. The New Articles give the Directors discretion, when calculating the time limits, to exclude weekends and bank holidays. Multiple proxies may be appointed provided that each proxy is appointed to exercise the rights attached to a different share held by the shareholder. Multiple corporate representatives may be appointed (but if they purport to exercise their rights in different ways on a poll vote, then the power is treated as not being exercised). The New Articles reflect all of these new provisions.

## **10. Directors' interests in contracts**

The Current Articles provide that a Director can be a party to, or interested in, a transaction or arrangement with the Company or in which the Company is interested provided that the Director has declared the nature and extent of the Director's interest. The New Articles contain a new provision which continues to allow Directors' interests in contracts that are disclosed but which has been amended to conform it to the Companies Act 2006.

## **11. Conflicts of Interest**

The Companies Act 2006 sets out directors' general duties which largely codify the existing law but with some changes. Under the Companies Act 2006 a director must avoid a situation where he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the company's interests. The requirement is very broad and could apply, for example, if a Director becomes a director of another company or a trustee of another organisation.

The Companies Act 2006 allows directors of public companies to authorise conflicts and potential conflicts, where appropriate, where the articles of association contain a provision to this effect. The Companies Act 2006 also allows the articles of association to contain other provisions for dealing with directors' conflicts of interest so as to avoid directors finding themselves in breach of a duty. The New Articles give the Directors authority to approve such situations and include other provisions to allow conflicts of interest to be dealt with in a similar way to the current position.

There are safeguards which will apply when Directors decide whether to authorise a conflict or potential conflict. First, only Directors who have no interest in the matter being considered will be able to take the relevant decision and, secondly, in taking the decision, the Directors must act in a way they consider, in good faith, will be most likely to promote the Company's success. The Directors will be able to impose limits or conditions when giving authorisation if they think this is appropriate.

It is also proposed that the New Articles should contain provisions relating to confidential information, attendance at board meetings and availability of board papers to protect a Director being in breach of duty if a conflict of interest or potential conflict of interest arises. These provisions will only apply where the situation giving rise to the potential conflict has previously been authorised by the Directors. It is the Board's intention to report annually on the Company's procedures for ensuring that the Board's powers of authorisation of conflicts are operated effectively and that the procedures have been followed.

## **12. Vacation of office by directors**

The Current Articles specify the circumstances in which a director must vacate office. The New Articles update these provisions to reflect the approach taken on mental and physical incapacity in the model articles for public companies produced by the Department for Business, Enterprise and Regulatory Reform.

## **13. Retirement by rotation**

The Current Articles relating to retirement of Directors by rotation have been redrafted since they no longer reflect best corporate governance practice. In line with such best practice, the New Articles require all Directors to offer themselves for re-election every three years and all non-executive Directors who have held office for a continuous period of nine years or more to offer themselves for re-election annually.

## **14. Form of resolution**

The Current Articles provide for ordinary, special and extraordinary resolutions. References to extraordinary resolutions are not included in the New Articles as the concept of extraordinary resolutions has not been retained under the Companies Act 2006.

## **15. Removal of Directors**

The Current Articles had included a power of the Company to remove a Director from office by the passing of an special resolution. This has been updated to reflect the new position under the Companies Act 2006 which requires only an ordinary resolution to be passed but that special notice (i.e. 28 days' notice) is to be given.

## **16. Board Meetings**

Changes have been made to the provisions of the Current Articles relating to notices given to Directors of meetings of the Board and to the quorum requirements at such meetings.

Under the Current Articles, the provisions relating to notices of meetings of the Board given to Directors provide that, when a Director is abroad, he can request that notice of meetings of the Board are sent to him at a specified address and, if he does not do so, he is not entitled to receive notice while he is away. This provision has been amended as modern communications mean that there may be no particular obstacle to giving notice to a Director who is abroad. A more general provision has been added stating that, if a Director is absent from his usual address and has not provided a forwarding address or if he has provided a forwarding address but cannot be contacted at such address after a reasonable attempt to do so, it shall not be necessary to send notice of a meeting of the Board to such Director.

#### **17. Accounts, Accounting Records and Minutes**

The provision in the Current Articles requiring the Board to send the annual accounts of the Company to members has been removed as this requirement is contained in the Companies Act 2006. The provisions in the Current Articles requiring the Board to keep records and minutes have also been removed as these requirements are contained in the Companies Act 2006.

#### **18. Use of seals**

Under the Companies Act 2006 a company no longer requires authority in its articles to have an official seal for use abroad. Accordingly, the relevant authorisation has been removed in the New Articles.

For consistency with the Companies Act 2006 changes to the execution of documents by companies, the New Articles provide an alternative option for affixing a seal. Under the New Articles, when the seal is affixed to a document it may be signed by one authorised person in the presence of a witness, whereas previously the requirement was for signature by either a director and the secretary or two directors or such other person or persons as the directors may approve.

#### **19. Capitalisation of profits**

The Current Articles have been amended to make clear that, where any sum resolved to be capitalised is appropriated to the members (or any class of them) in accordance with the provisions of the articles, such appropriated sum will be distributed to such members who would be entitled to it under the articles and in the same proportions as if such sum was a dividend.

#### **20. Notices and electronic and web communications**

Provisions of the Companies Act 2006 which came into force in January 2007 enable companies to communicate with members by electronic and/or website communications. The New Articles allow communications to members in electronic form and also permit the Company to take advantage of the provisions relating to website communications. A document or information may only be sent to a member in electronic form if that member has agreed (generally or specifically) that the document or information may be sent or supplied in that form and such agreement is in force and has not been revoked. Similarly, before the Company can communicate with a member by means of website communication, the relevant member must be asked individually by the Company to agree that the Company may send or supply documents or information to him by means of a website, and the Company must either have received a positive response or have received no response within the period of 28 days beginning with the date on which the request was sent. The Company will notify the member (either in writing, or by other permitted means) when a relevant document or information is placed on the website and a member can always request a hard copy version of the document or information.

The Companies Act 2006 provides that, in the absence of a provision in a company's articles to the contrary, then the agreement or consent of all the joint holders of the company's shares is required for the delivery of a notice, documents or information to be made in a particular manner. The New Articles will provide that the agreement of the first named joint holder in the register of members shall be sufficient.

#### **21. Retention of documents**

The provisions of the Current Articles have been amended in order to clarify the time periods for retention of certain documents (being proxy appointments and paid dividend warrants and cheques) in addition to those documents for which the Current Articles already specify a period for retention.

#### **22. Distribution of assets otherwise than in cash**

The Current Articles contain provisions dealing with the distribution of assets in kind in the event of the Company going into liquidation. These provisions have been removed in the New Articles on the grounds that a provision about the powers of liquidators is a matter for insolvency law rather than that articles and that the Insolvency Act 1986 confers powers on the liquidator which would enable it to do what is envisaged by the Current Articles.

#### **23. Provision for employees on cessation of business**

The Companies Act 2006 provides that the powers of the directors of a company to make provision for a person employed or formerly employed by the company or any of its subsidiaries in connection with the cessation or transfer to any person of the whole or part of the undertaking of the company or that subsidiary, may only be exercised by the directors if they are so authorised by the company's articles or by the company in general meeting.

#### **24. Directors' indemnities and funding Directors' expenditure**

The Companies Act 2006 has in some areas widened the scope of the powers of a company to indemnify directors and to fund expenditure incurred in connection with certain actions against directors. In particular, the existing exemption allowing a company to provide money for the purpose of funding a director's defence in court proceedings now expressly covers regulatory proceedings and applies to associated companies. The New Articles reflect this and permit the Company to indemnify the Directors to the extent allowed by law.

#### **25. Articles which duplicate statutory provisions**

Provisions in the Current Articles which replicate provisions contained in the Companies Act 2006 have been either amended to bring them into line with the Companies Act 2006 or removed from the New Articles. Certain examples of such provisions include provisions as to the form of resolutions, the appointment of corporate representatives, the requirement to send annual accounts to members, the requirement to keep minutes of meetings and provisions regarding the requisition by members of resolutions to be moved at general meetings and the period of notice required to convene general meetings.

#### **26. General**

Generally, the opportunity has been taken to update some of the language and drafting in the New Articles with the intention of making the drafting of some of the existing provisions more clear.