

**THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION.** It contains the resolutions to be voted on at the Company's Annual General Meeting to be held on 27 July 2009. If you are in any doubt as to the action you should take, you are recommended to seek your own personal financial advice from your stockbroker, bank manager, solicitor, accountant or other independent financial adviser who is authorised under the Financial Services and Markets Act 2000.

If you have sold or otherwise transferred all your ordinary shares in the Company, please forward this document and the form of proxy for use in relation to the Annual General Meeting of the Company, as soon as possible to the purchaser or transferee, or to the stockbroker, bank or other agent through whom the sale or transfer was effected for transmission to the purchaser or transferee. If you have sold or otherwise transferred some of your ordinary shares in the Company, you should consult with the stockbroker, bank or other agent through whom the sale or transfer was effected.

Please see the attached explanatory notes for further details on the resolutions to be proposed at the Annual General Meeting.

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## **NEXTGEN GROUP PLC**

(incorporated and registered in England and Wales under number 5556404)

### **NOTICE OF ANNUAL GENERAL MEETING**

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Notice of the Annual General Meeting of the Company to be held at the offices of Seymour Pierce Limited, 20 Old Bailey, London EC4M 7EN at 10.00 a.m. on 27 July 2009 is set out at the end of this document.

Whether or not you propose to attend the Annual General Meeting, please complete and submit a proxy form in accordance with the instructions printed on the enclosed form. The proxy form must be received not less than 48 hours before the time of the holding of the Annual General Meeting.

# NEXTGEN GROUP PLC

(incorporated and registered in England and Wales under number 5556404)

## *Directors*

Klaus Rosenau (Chairman)  
Dr. Michael Pisano  
Frank Matthäi  
Dr. Thomas Borcholte

## *Registered Office*

8<sup>th</sup> Floor, Kildare House  
3 Dorset Rise  
London, EC4Y 8EN

**3 July 2009**

Dear Shareholder,

## **2009 Annual General Meeting**

I am pleased to be writing to you with details of the Annual General Meeting ("**AGM**") of NextGen Group plc (the "**Company**" and together with its subsidiaries the "**Group**") which we are holding at the offices of Seymour Pierce Limited, 20 Old Bailey, London EC4M 7EN at 10.00 a.m. on 27 July 2009. The formal notice of AGM is set out on pages 4 to 5 of this document.

If you would like to vote on the resolutions but cannot come to the AGM, please fill in the proxy form sent to you with this notice and return it to our registrars, Capita Registrars, as soon as possible. They must receive it by no later than 6:00p.m. on 24 July 2009.

There are a number of items of business to which I would like to draw your attention. Full details of these and all other resolutions to be proposed are set out in the Explanatory Notes to the resolutions on pages 7 to 11 of this document.

## **Appointment of Leif Hamø and retirement of Frank Matthäi**

It is proposed that Mr. Leif Hamø is appointed to act as the new Finance Director of the Company with effect from the end of the AGM.

Mr. Hamø has more than 20 years experience in the financial and biotech sector and has held several board positions within financial and biotech companies. From 2002 to 2009, Mr. Hamø was the Chief Financial Officer of TopoTarget A/S, a cancer drug biotech company listed on the NASDAQ OMX and the Copenhagen stock exchange. Before this role Mr. Hamø was Chief Executive Officer of AcceptFinance A/S, a Danish credit card company. Mr. Hamø has a BSc in Economics and Business Administration and a Graduate Diploma in Business Administration, Finance, Organisation and Management.

Subject to shareholder approval of Mr. Hamø's appointment at the AGM, Frank Matthäi will stand down as Finance Director of the Company.

## **Appointment of Klaus Rosenau as Chief Executive Officer**

The Directors now intend to focus all of the Group's resources on growing the biomarker service business to exploit a market which is predicted to grow significantly over the next five years

It is proposed that the existing U.S based biomarker team be strengthened with the addition of key personnel and operational infrastructure to support the pharmaceutical industry's trend towards outsourcing research. In order to sustain this development, changes at the Group level are proposed. Mr. Klaus Rosenau will take over the role and function of the Chief Executive Officer of the Group and Dr. Michael Pisano will continue as Chief Executive Officer and President of NextGen Sciences Inc., the operating company in the US.

Mr. Rosenau will focus on marketing and investor relations for the Group which will free Dr. Pisano of these issues and allow him to focus on growth of the biomarker business.

Mr. Rosenau is recommended by the board of directors for re-election as Director and Chairman by rotation in accordance with the articles of association of the Company and if re-elected, it is proposed that he will immediately assume the role of Chief Executive Officer of Group.

Dr. Pisano will continue as a non-executive Director of the Group.

### **Increase in authorised share capital, grant of authority to allot shares and disapply pre-emption rights**

We announced on 13 October 2008 and 27 November 2008 that the Company had raised gross funds of £315,000 and £639,000, respectively, through placings of new ordinary shares of £0.001 each (the "Placings").

The Placings utilised the existing authorities of the Directors to allot shares. Accordingly, the Directors renewed their general authorities to issue ordinary shares and/or other securities of the Company at the Extraordinary General Meeting of the Company held on 29 January 2009. We announced on 26 June 2009 that the Company had raised gross funds of £500,000 through a further placing of new ordinary shares of £0.001 each, with warrants, in order to support the continued operation and growth of the Group. This placing has utilised the renewed general authorities to allot shares, which in any event expire at the end of this AGM. Accordingly, the Directors are now seeking to renew these general authorities.

The general authorities will be utilised to grant options to the management team, and to allot shares pursuant to the conversion of a loan of £270,000 which the Company entered into on 25 June 2009.

In addition, the Directors are in the final stage of negotiations with the Company's major shareholders to arrange further funding through a placing of new ordinary shares in order to support the continued operation and growth of the Group. The response of these existing shareholders gives the Directors confidence that further funds will be available to the Group in the near future. Accordingly, the Directors anticipate utilising the requested authorities to issue shares in the near future in respect of the placing.

In addition, the current authorised share capital of the Company is £4,500,000 divided into 4,500,000,000 ordinary shares of £0.001 each. It is proposed that the authorised share capital be increased from £4,500,000 to £9,500,000 by the creation of 5,000,000,000 ordinary shares of £0.001 each. This is to enable the Company to issue shares and/or other securities of the Company pursuant to the general authorities referred to above and to allot shares pursuant to the exercise of the existing options and warrants of the Company, as well as creating an additional reserve of shares available for issue in the future. A further announcement in this regard will be made in due course.

Accordingly, shareholder resolutions are being proposed at the AGM for the purpose of (i) increasing the share capital of the Company; (ii) granting the Directors authority to allot ordinary shares; and (iii) disapplying pre-emption rights in connection with such allotments.

### **Amendments to the Articles of Association**

We are also asking shareholders to approve a number of amendments to our articles of association primarily to reflect the provisions of the Companies Act 2006. An explanation of the main changes between the proposed and the existing articles of association is set out on pages 8 to 11 of this document.

## **Entitlement to Attend and Vote**

To have the right to attend and vote at the meeting (and also for the purposes of calculating how many votes a person may cast) a person must have their name entered on the register of members no later than 10.00 a.m. on 25 July 2009. Changes to entries on the register after this time will be disregarded in determining the rights of any person to attend or vote at the meeting.

Explanatory notes on all the business to be considered at this year's AGM appear on pages 7 to 11 of this document.

## **Documents Available for Inspection**

Copies of the following documents will be available for inspection during business hours on any weekday (public holidays excepted) at the registered office of the Company from the date of this document until the conclusion of the AGM and at the offices of Seymour Pierce Limited, 20 Old Bailey, London EC4M 7EN from 15 minutes before the AGM until it ends:

- Copies of the Executive Directors' service contracts and proposed service contracts
- Copies of letters of appointment of the Non-Executive Directors
- A copy of 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 in resolution 11.

## **Recommendation**

The Directors consider that all the resolutions set out in the Notice of AGM are in the best interests of the Company and its shareholders as a whole and recommend that you vote in favour of each of these resolutions, as each of the Directors intends to do in respect of his own beneficial holding of shares in the Company, representing 4.03% of the current issued share capital.

Klaus Rosenau

**Chairman**

## NEXTGEN GROUP PLC

*(Incorporated and registered in England and Wales with registered number 5556404)*

### NOTICE OF ANNUAL GENERAL MEETING

**NOTICE IS HEREBY GIVEN that the Annual General Meeting of NextGen Group plc (the "Company") will be held at the offices of Seymour Pierce Limited, 20 Old Bailey, London EC4M 7EN at 10.00 a.m. on 27 July 2009 for the following purposes:**

To consider and, if thought fit, to pass resolutions 1 to 9 (inclusive) as ordinary resolutions:

1. To receive and adopt the directors' report, the auditor's report and the Company's accounts for the year ended 31 December 2008.
2. To appoint Leif Hamø as a director of the Company.
3. To re-appoint Klaus Rosenau as a director of the Company.
4. To re-appoint Thomas Borcholte as a director of the Company.
5. To re-appoint Grant Thornton UK LLP as auditor in accordance with section 489 of the Companies Act 2006 to hold office until the conclusion of the Annual General Meeting of the Company in 2010.
6. To authorise the Directors to determine the remuneration of the auditor.
7. THAT the authorised share capital of the Company be increased from £4,500,000 to £9,500,000 by the creation of 5,000,000,000 additional ordinary shares of £0.001 each ranking pari passu in all respects with the existing ordinary shares of £0.001 each in the capital of the Company.
8. THAT, the directors be authorised generally and unconditionally pursuant to Section 80 of the Companies Act 1985 as amended (the "**1985 Act**") (in substitution for all other existing authorities pursuant to Section 80 of the 1985 Act to the extent not utilised at the date this resolution is passed) to exercise all the powers of the Company to allot relevant securities, provided that the authority conferred by this resolution shall be limited to the allotment of relevant securities of the Company up to an aggregate nominal amount of £6,453,021.356 such authority (unless previously revoked, varied or renewed) to expire on the conclusion of the Annual General Meeting of the Company to be held in 2010 or, if earlier, 15 months after the date on which this resolution has been passed, provided that the Company may, before such expiry, make an offer, agreement or other arrangement which would or might require relevant securities to be allotted after such expiry and the directors may allot such relevant securities in pursuance of such offer, agreement or other arrangement as if the authority conferred hereby had not expired (and in this resolution the expression "relevant securities" and reference to the allotment of relevant securities shall bear the same respective meanings as in section 80 of the 1985 Act).
9. That with effect from 00.01am on 1 October 2009, all provisions in the memorandum and articles of association of the Company as to the amount of the Company's authorised share capital or setting the maximum amount of shares which may be allotted by the Company shall be revoked and be of no further force or effect.

To consider and, if thought fit, to pass resolutions 10 and 11 as special resolutions:

10. THAT, subject to resolution 8 above being duly passed, in substitution for any existing and unexercised authorities, the directors be and are hereby generally empowered to allot equity securities (within the meaning of Section 94(2)) for cash pursuant to the authority conferred by resolution 8 above or by way of sale of treasury shares as if Section 89(1) of the Companies

Act 1985 (the "**1985 Act**") or any pre-emption provisions contained in the Company's articles of association did not apply to any such allotment, provided that the power conferred by this resolution shall be limited to

- (i) any allotment of equity securities where such securities have been offered (whether by way of rights issue, open offer or otherwise) to holders of equity securities in proportion (as nearly as may be practicable) to their then holdings of such securities, but subject to the directors having the right to make such exclusions or other arrangements in connection with such offer as they deem necessary or expedient to deal with fractional entitlements or legal or practical problems arising in, or pursuant to, the laws of any territory or the requirements of any regulatory body or stock exchange in any territory or otherwise howsoever;
- (ii) the allotment (otherwise than pursuant to sub-paragraph (i) above) of equity securities up to an aggregate nominal value of £6,453,021.356,

such authority and power (unless previously revoked, varied or renewed) to expire on the earlier to occur of 15 months after the passing of this resolution or the conclusion of the Annual General Meeting of the Company to be held in 2010, provided that the Company may prior to such expiry make any offer, agreement or other arrangement which would or might require equity securities to be allotted after such expiry and the directors may allot equity securities pursuant to any such offer, agreement or other arrangement as if the power hereby conferred had not expired.

11. THAT:

- (i) the amended articles of association produced as a printed document to this meeting and initialled by the Chairman for the purposes 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; and
- (ii) with effect from 00.01hrs on 1 October 2009 the articles of association of the Company be amended by (a) 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 part of the Company's articles of association, and (b) inserting a new article 2A stating that "The liability of the members is limited".

BY ORDER OF THE BOARD

Klaus Rosenau  
*Chairman*

3 July 2009

*Registered Office:*  
8<sup>th</sup> Floor, Kildare House  
3 Dorset Rise  
London, EC4Y 8EN

**Notes:**

1. Pursuant to Regulation 41 of the Uncertificated Securities Regulations 2001, only those members registered in the register of members of the Company as at 10:00 on 25 July 2009 shall be entitled to attend and vote at this Annual General Meeting in respect of the number of shares registered in their name at that time. Changes to entries on the relevant register of securities after such time shall be disregarded in determining the rights of any person to attend or vote at this Annual General Meeting.
2. Any member who is entitled to attend and vote at this Annual General Meeting is entitled to appoint one or more proxies to exercise all or any of his/her rights to attend, speak and vote at the meeting. To appoint more than one proxy, additional Forms of Proxy may be obtained by contacting the Registrars or you may photocopy this form. If you appoint more than one proxy, each proxy must be appointed to exercise the rights attached to a different share or shares held by you. Please indicate in the box next to the proxy holder's name the number of shares in relation to which they are authorised to act as your proxy. Please also indicate by ticking the box provided if the proxy instruction is one of multiple instructions being given. A proxy need not be a member of the Company. Completion and return of the Form of Proxy will not preclude a member from attending and voting at this Annual General Meeting. If you have appointed a proxy and attend the meeting in person, your proxy appointment will automatically be terminated.
3. In the case of joint holders, where more than one of the joint holders purports to appoint a proxy, only the appointment submitted by the most senior holder will be accepted. Seniority is determined by the order in which the names of the joint holders appear in the Company's register of members in respect of the joint holding (the first-named being the most senior).
4. If you submit more than one valid proxy appointment in respect of the same shares, the appointment received last before the latest time for the receipt of proxies will take precedence.
5. In order for a proxy appointment made by means of CREST to be valid, the appropriate CREST message (a "CREST Proxy Instruction") must be properly authenticated in accordance with CRESTCo's specifications and must contain the information required for such instructions, as described in the CREST Manual. The message must be transmitted so as to be received by the issuer's agent (ID RA10) by the latest time(s) for receipt of proxy appointments specified in the notice of meeting. 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 by enquiry to CREST in the manner prescribed by CREST. CREST members and, where applicable, their CREST sponsors or voting service providers should note that CRESTCo does not make available special procedures in CREST for any particular messages. Normal system timings and limitations will therefore apply in relation to the input of CREST Proxy Instructions. It is the responsibility of the CREST member concerned to take (or, if the CREST member is a CREST personal member or sponsored member or has appointed a voting service provider(s), to procure that his CREST sponsor or voting service provider(s) take(s)) such action as shall be necessary to ensure that a message is transmitted by means of the CREST system by any particular time. In this connection, CREST members and, where applicable, their CREST sponsors or voting service providers are referred, in particular, to those sections of the CREST Manual concerning practical limitations of the CREST system and timings. The Company may treat as invalid a CREST Proxy Instruction in the circumstances set out in Regulation 35(5)(a) of the Uncertificated Securities Regulations 2001.
6. A Form of Proxy is enclosed which to be effective must be completed, signed and received by the Company's registrars, Capita Registrars, The Registry, 34 Beckenham Road, Beckenham, Kent BR3 4TU, no later than 48 hours before the time of the Annual General Meeting. You can only appoint a proxy using the procedures set out in these notes and in the notes to the enclosed Form of Proxy.
7. In order to facilitate voting by corporate representatives at the Annual General Meeting, arrangements will be put in place at the meeting so that (i) if a corporate member appointed the chairman of the meeting as its corporate representative with instructions to vote on a poll in accordance with the directions of all of the other corporate representatives for that member at the meeting, then on a poll those corporate representatives will give voting directions to the chairman and the chairman will vote (or withhold a vote) as corporate representative in accordance with those directions; and (ii) if more than one corporate representative for the same corporate member attends the meeting but the corporate member has not appointed the chairman of the meeting as its corporate representative, a designated corporate representative will be nominated, from those corporate representatives who attend, who will vote on a poll and the other corporate representatives will give voting directions to that designated corporate representative. Corporate members are referred to the guidance issued by the Institute of Chartered Secretaries and Administrators on proxies and corporate representatives – [www.icsa.org.uk](http://www.icsa.org.uk) – for further details of this procedure. The guidance includes a sample form of representation letter if the chairman is being appointed as described in (i) above.

## EXPLANATORY NOTES

The notes on the following pages given an explanation of the proposed resolutions.

Resolutions 1 to 9 are proposed as ordinary resolutions. This means that for each of those resolutions to be passed, more than half of the votes cast must be in favour of the resolution. Resolutions 10 to 11 are proposed as special resolutions. This means that for each of the those resolutions to be passed, at least three-quarters of the votes cast must be in favour of the resolution.

### ANNUAL REPORT AND ACCOUNTS (RESOLUTION 1)

The Directors are required to lay before the Company at this AGM the accounts of the Company for the financial year ended 31 December 2008, the report of the Directors and the report of the Company's auditors on those accounts

### ELECTION AND RE-ELECTION OF DIRECTORS (RESOLUTIONS 2, 3 AND 4)

It is proposed that Mr. Leif Hamø is appointed to act as the new Finance Director of the Company with effect from the end of the AGM. Subject to shareholder approval of Mr. Hamø's appointment at the AGM, Frank Matthäi will stand down as Finance Director of the Company with effect from the end of the AGM.

In addition, Klaus Rosenau and Thomas Borcholte will be submitting themselves for re-election by rotation in accordance with the Company articles of association (the "**Current Articles**"). If re-elected, it is proposed that Klaus Rosenau will, in addition to his role as Chairman, also assume the role as Chief Executive Officer of Group. Due to the contribution made by each of these individuals to date, and which the Company expects them to make in the future, the board recommends the re-election of both of these Directors.

### APPOINTMENT OF AUDITORS (RESOLUTION 5)

The Company is required to appoint auditors at each general meeting at which accounts are laid, to hold office until the next such meeting. Resolution 5 proposes the re-appointment of Grant Thornton UK LLP as auditors of the Company.

### REMUNERATION OF AUDITORS (RESOLUTION 6)

Resolution 6 authorises the Directors to determine the auditors' remuneration for the ensuing year.

### INCREASE OF AUTHORISED SHARE CAPITAL (RESOLUTION 7)

Resolution 7 increases the authorised share capital of the Company by £5,000,000 from £4,500,000 to £9,500,000 by the creation of 5,000,000,000 ordinary shares of £0.001 each, which will rank pari passu with the existing ordinary shares of £0.001 each in the capital of the Company. Following this increase, the authorised but unissued share capital will be £6,453,021.356. Of this aggregate nominal amount, approximately £3.965 million is reserved for issue in connection with the conversion of convertible loans, the exercise of outstanding options and warrants and a further fundraising in the near future; and approximately £2.488 million will provide an additional reserve of shares available for issue in the future.

## **AUTHORITY TO ALLOT ORDINARY SHARES (RESOLUTION 8)**

Under section 80 of the Companies Act 1985, Directors require shareholders' authority for allotment of shares. Shareholders last granted such general authority to the Directors at the Extraordinary General Meeting of the Company held in January 2009. Such authority will expire at the end of this AGM and resolution 8 seeks to renew it. Resolution 8 will be proposed as an ordinary resolution, to authorise the Directors to allot generally relevant securities up to a maximum nominal value of £6,453,021.356, equal to the authorised but unissued share capital of the Company following the increase of share capital pursuant to Resolution 7. This authority will expire on the earlier of 15 months after the passing of the resolution or on the conclusion of the AGM of the Company to be held in 2010.

## **REMOVAL OF AUTHORISED SHARE CAPITAL (RESOLUTION 9)**

Under the Companies Act 2006, the requirement for a company to have an authorised share capital is abolished from 1 October 2009. However, under the Companies Act 2006 (Commencement No. 8, Transitional Provisions and Savings) Order 2008, on this date any existing provisions in the Company's memorandum of association are treated as being part of the Company's articles of association. In order to allow the Company to take advantage of the removal of the requirement for an authorised share capital, resolution 9 asks shareholders to consent to the removal of this provision as required by the Companies Act 2006 (Commencement No. 8, Transitional Provisions and Savings) Order 2008. The allotment of shares by the board will remain subject to the authorities granted under resolution 8 (and/or any subsequent authority).

## **AUTHORITY TO ALLOT ORDINARY SHARES FOR CASH (RESOLUTION 10)**

Under section 89 of the Companies Act 1985, if the Directors wish to allot any of the unissued ordinary shares for cash they must in the first instance offer them to existing ordinary shareholders in proportion to their ordinary shareholdings. There may be occasions, however, when the Directors will need the flexibility to finance business opportunities by the issue of ordinary shares without a pre-emptive offer to existing ordinary shareholders.

The Directors are in the final stage of negotiations with the Company's major shareholders to arrange further funding through a placing of new ordinary shares in order to support the continued operation and growth of the Group. The response of these existing shareholders gives the Directors confidence that further funds will be available to the Group in the near future. Accordingly, the Directors anticipate utilising the requested authorities to issue shares in the near future.

Shareholders last granted authority to the Directors to disapply pre-emptive rights at the Extraordinary General Meeting of the Company held in January 2009. Such authority will expire at the end of the end of this AGM and resolution 10 seeks to renew it. Resolution 10 will be proposed as a special resolution, to authorise the Directors to disapply statutory pre-emption rights and issue equity securities for cash up to a maximum nominal value of £6,453,021.356 equal to the authorised but unissued share capital of the Company following the increase of share capital pursuant to Resolution 7. This authority will expire on the earlier of 15 months after the passing of the resolution or on the conclusion of the AGM of the Company to be held in 2010.

## **AMENDMENTS TO THE ARTICLES OF ASSOCIATION OF THE COMPANY (RESOLUTION 11)**

It is proposed in resolution 11 to adopt new Articles of Association (the "**New Articles**") in order to update the Company's Current Articles primarily to take account of changes in company law brought about by the Companies Act 2006. Copies of the Current Articles and proposed New Articles (and a comparison document showing all the proposed changes to the articles) are available for inspection during normal business hours at the registered office of the Company until the date of this AGM or upon request from the company secretary. Copies will be available at least 15 minutes prior to and during the AGM.

The material differences between the Current Articles and the proposed New Articles are summarised below. Changes of a minor, conforming or purely technical nature, and also some minor changes

which merely reflect changes made by the Companies Act 2006, have not been mentioned specifically.

### **Summary of principal changes to the Company's articles of association:**

#### **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 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 at 1 October 2009, will be deemed to be contained in a company's articles of association but the company can remove these provisions by special resolution.

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. For this reason 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 as of 1 October 2009. Resolution 11 (ii) 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 the shareholders.

#### **2. Articles Which Duplicate Statutory Provisions**

Provisions in the Current Articles which replicate provisions contained in the Companies Act 2006 are in the main amended to bring them into line with the Companies Act 2006.

#### **3. Change of name**

Currently, a company can only change its name by special resolution. Under the Companies Act 2006 a company will be able to change its name by other means provided for by its articles of association. To take advantage of this provision, the New Articles enable the Directors to pass a resolution to change the Company's name with effect from 1 October 2009.

#### **4. 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 Companies Act 2006 enables Directors to determine such matters instead provided they are so authorised by the articles. The New Articles contain such an authorisation which will take effect from 1 October 2009. 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.

#### **5. Use of seals**

The New Articles provide an alternative option for execution of documents (other than share certificates). 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.

## **6. 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.

## **7. 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.

## **8. 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 removed in the New Articles.

## **9. Convening Extraordinary and Annual General Meetings**

The provisions in the Current Articles dealing with the convening of general meetings and the length of notice required to convene general meetings are being removed in the New Articles because the relevant matters are provided for in the Companies Act 2006. In particular an Extraordinary General Meeting to consider a special resolution can be convened on 14 days' notice whereas previously 21 days notice was required.

## **10. Votes of Members**

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 of association 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, with weekends and bank holidays being permitted to be excluded for this purpose. Multiple proxies may be appointed provided that each proxy is appointed to exercise the rights attached to a different share held by the shareholder. The New Articles reflect all of these new provisions.

## **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 to avoid a breach of duty. The New Articles give the Directors authority to approve such situations and to 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. Only Directors who have no interest in the matter being considered will be able to take the relevant decision and the Directors will be able to impose limits or conditions when giving authorisation if they think this is appropriate.

**12. Records to be Kept**

The provision in the Current Articles requiring the Board to keep accounting records has been removed as this requirement is contained in the Companies Act 2006.

**13. 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 the 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.

**14. Provision for Employees on Cessation of Business**

The Companies Act 2006 provides that the powers of the Directors to make provision for a person employed or formerly employed by the Company in connection with the cessation or transfer to any person of the whole or part of the undertaking of the Company, may be exercised by the Directors or by the Company in general meeting. However, if the power is to be exercised by the Directors, the Articles of Association must include a provision to this effect. The New Articles provide that the Directors may exercise this power.

**15. Directors' indemnities and Loans to Fund 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, a Company that is a trustee of an occupational pension scheme can now indemnify a Director against liability incurred in connection with the Company's activities as trustee of the scheme. In addition, 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.

**16. General**

Generally the opportunity has been taken to bring clearer language into the New Articles and in some areas to conform the language of the New Articles with that used in the model articles for public companies produced by the Department for Business, Enterprise and Regulatory Reform.