

# BRITISH RETAIL CONSORTIUM

Company number: 00405720

THE COMPANIES ACT 1985  
COMPANY LIMITED BY GUARANTEE  
SPECIAL RESOLUTION

-of-

BRITISH RETAIL CONSORTIUM (the "Company")

passed on 7 February 2007

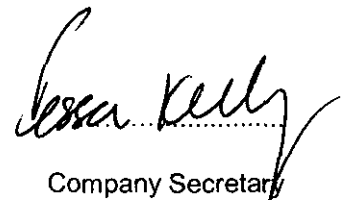
At an extraordinary general meeting of the Company duly convened and held on the 7 February 2007 the following resolution was duly passed as a special resolution:-

- 1 THAT THE NEW ARTICLES OF ASSOCIATION OF THE COMPANY IN THE FORM ATTACHED TO THIS RESOLUTION BE ADOPTED IN SUBSTITUTION FOR AND TO THE EXCLUSION OF ALL THE EXISTING ARTICLES OF ASSOCIATION.

THURSDAY



A19      \*AHKXJN3H\*      554  
15/02/2007  
COMPANIES HOUSE

  
Company Secretary



**THE COMPANIES ACT, 1929**

**and**

**THE COMPANIES ACTS 1985 and 1989**

**COMPANY LIMITED BY GUARANTEE AND NOT HAVING  
A  
SHARE CAPITAL**

**MEMORANDUM OF ASSOCIATION**

A19

15/02/2007  
COMPANIES HOUSE

555

**(as altered by Special Resolutions dated 22nd November 1978,  
3rd March 1983, 21st November 1991, 21st September 2001, 18th November 2003 and 7th February  
2007)**

**- of -**

**BRITISH RETAIL CONSORTIUM**

- \*1. The name of the Company (hereinafter called "the Consortium") is "THE MULTIPLE SHOPS FEDERATION".
2. The registered office of the Consortium will be situate in England.
- \*\*3. The objects for which the Association is established are:-
  - (i) To acquire, take over, and carry on the work of an unincorporated federation known as The Multiple Shops Federation and an unincorporated association known as Multiple Food and Drink Retailers' Association and to carry on the activities formerly carried on by the Association of Retail Distributors.
  - 3(ii) To acquire, take over, and carry on the activities of The Retail Consortium, a company limited by guarantee and not having a share capital, in addition to the existing activities of the Consortium.

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\* In 1st January 1979 pursuant to a Special Resolution dated 22nd November 1978 the name of the Company was changed to "BRITISH MULTIPLE RETAILERS ASSOCIATION". On 28th March 1983 pursuant to a Special Resolution dated 3rd March 1983 the name of the Company was changed to "BRITISH RETAILERS ASSOCIATION".

On 1st January 1992 pursuant to a Special Resolution dated 21st November 1991 the name of the Company was changed to "BRITISH RETAIL CONSORTIUM".

\*\* As altered by Special Resolutions dated 22nd November 1978, 3rd March 1983, 21st November 1991, 21st September 2001 and 18th November 2003.

- (iii) To provide facilities for the interchange of views amongst persons engaged in retail trading (hereinafter referred to as "Retailing") regarding questions of common interest and to safeguard and promote their trading interests within the United Kingdom and elsewhere.
- (iv) To establish a Council representative of persons concerned in various classes of Retailing.
- (v) To encourage and to assist in the promotion of associations of persons engaged in Retailing within the different classes of trade in which they are interested.

- (vi) To communicate the views and opinions of the Consortium to any government department, public authority, or other body, and to assist any such department, authority or body with information and advice concerning matters affecting or relating to Retailing.
- (vii) To give to the legislature, government departments, local authorities, and other public bodies throughout the United Kingdom, the European Economic Community, and any other governments or authorities, supreme municipal or local, facilities for conferring with the Consortium concerning matters directly or indirectly affecting or relating to Retailing.
- (viii) To promote or support any legislation or the making of any order, rule or regulation by any government or authority, supreme, municipal or local, which in the opinion of the Council is or would be conducive to the interests of Retailing and the trade of the United Kingdom generally, and to oppose or advocate the repeal, amendment or modification of any legislation, order, rule or regulation which in the opinion of the Council is or would be contrary to such interests.
- (ix) To collect and disseminate statistics or other information which in the opinion of the Council would be conducive to the interests of Retailing.
- (x) To co-operate with any other organised body in furtherance of the general interests of Retailing and the trade of the United Kingdom generally.
- (xi) To promote the advancement of education, skills, knowledge and learning for the benefit of persons employed, or aspiring to be employed, in the retail industry, and to provide, participate, facilitate in and promote training and skills development for such persons.
- (xii) to own, licence, commission and publish in any printed, electronic or other medium books, newspapers, journals, guides and other publications related to Retailing.

And in pursuance of these objects but not further or otherwise the Consortium shall have and may exercise all or any of the following powers:-

- (a) To establish, subsidise, promote, become a member of, act as or appoint agents or delegates for, control, manage, superintend or otherwise assist, any organised body incorporated or unincorporated, not being a trade union, with a view to its carrying on any activity within the Consortium's objects or any other activity, trade or business conducive to the attainment of any of the Consortium's objects.
- (b) To appoint such officers and servants of the Consortium as may be deemed desirable in pursuit of the objects of the Consortium and to remunerate such officers if thought desirable either by fees or a payment answering under the name of an honorarium or otherwise.
- (c) To adopt such means of making known the objects of the Consortium or any of them as may seem expedient and in particular by advertising in the Press, by circulars, by purchase and exhibition of works of art or interest, by publication in books and periodicals, and by granting prizes, rewards and donations, and to carry on and conduct prize and competition schemes or any scheme or arrangement of any kind, either alone or in conjunction with any other person, firm or company whereby the objects of the Consortium or any of them may be promoted or developed, or whereby the Consortium's affairs may be more extensively advertised and made known.
- (d) To purchase, take on lease or in exchange, hire or otherwise acquire and hold for any estate or interest any lands, buildings, easements, rights, privileges, concessions, machinery, plant and any real or personal property of any kind, necessary or convenient for the purpose of or in connection with the objects of the Consortium or any part thereof.
- (e) To borrow or raise or secure the payment of money for the purposes of or in connection with the objects of the Consortium.
- (f) To mortgage and charge the undertaking and all or any of the real and personal property and assets, present and future, of the Consortium, and to issue at par or at a premium or discount, and for such consideration, and with such rights, powers and privileges as may be thought fit, debentures, mortgage debentures or debenture stock, payable to bearer or otherwise, and either permanent,

redeemable or repayable, and collaterally or further to secure any securities of the Company by a trust deed or other assurance.

- (g) To establish and maintain or procure the establishment and maintenance of any non-contributory or contributory pension or superannuation schemes or funds for the benefit of and to give or procure the giving of donations, gratuities, pensions, allowances or emoluments to any persons who are or were at any time in the employment or service of the Consortium, or who are or were at any time officers of the Consortium or any persons in whose welfare the Consortium is or has been at any time interested, and the wives, widows, families and dependants of any such persons, and also to establish and subsidise or subscribe to any institutions, associations, clubs or funds calculated to be for the benefit of or to advance the interests and well-being of any such persons as aforesaid, and to make payments for or towards the insurance of any such persons as aforesaid and either alone or in conjunction with any other person, firm or company.
- (h) To provide professional indemnity/liability insurance for any Director, officer or employee.
- (i) To draw, make, accept, endorse, negotiate, discount and execute promissory notes, bills of exchange and other negotiable instruments.
- (j) To sell, improve, manage, develop, turn to account, exchange, let on rent, royalty, share of profits or otherwise, grant licences, easements and other rights in or over, and in any other manner deal with or dispose of, all or any of the property and assets for the time being of the Consortium for such consideration as may be deemed fit, with a view to the promotion of the objects of the Consortium.
- (k) Subject to the laws affecting property and maintenance to take up and defend or pursue or prosecute any action at law or legal proceedings which in the opinion of the Consortium involves a question of general importance and interest to the members of the Consortium.
- (l) To make or take any gift of property whether subject to any special trust or not, for any one or more of the objects of the Consortium.
- (m) To establish, promote and support or aid in the establishment, promotion and support of any association, institution or other body or any fund or trust having as its object or one of its objects the promotion or encouragement of education or research or any charitable or benevolent object and to subscribe or guarantee money for charitable or benevolent purposes in any way connected with the purposes of this Consortium or calculated to further its objects.
- (n) to invest any moneys not immediately required for the purposes of the Consortium in or upon such investments, securities or property as may be thought fit subject nevertheless to such conditions (if any) and such consents (if any) as may for the time being be imposed or required by law and subject also as hereinafter provided.
- (o) To do all or any of the above things in any part of the world, and either as principals, agents, trustees, or otherwise, and either alone or in conjunction with others, and either by or through agents, trustees or otherwise.
- (p) To do all such other things as are incidental or, as the Consortium may think, conducive to the above objects or any of them.

**PROVIDED THAT:-**

- (i) in case the Consortium shall take or hold any property which may be subject to any trusts, the Consortium shall only deal with or invest the same in such manner as allowed by law, having regard to such trusts.
- (ii) the objects of the Consortium shall not extend to the regulation of relations between workers and employers or organisations of workers and organisations of employers.
- (iii) in case the Consortium shall take or hold any property subject to the jurisdiction of the Charity Commissioners for England and Wales, the Consortium shall not sell, mortgage, charge or lease the

same without such authority, approval or consent as may be required by law, and as regards any such property the Council or governing body of the Consortium shall be chargeable for any such property that may come into their hands and shall be answerable and accountable for their own acts, receipts, neglects and defaults, and for the due administration of such property in the same manner and to the same extent as they would as the Council or governing body have been if no incorporation had been effected, and the incorporation of the Consortium shall not diminish or impair any control or authority exercisable by the Chancery Division or the Charity Commissioners over the Council or governing body but they shall as regards any such property be subject jointly and separately to such control or authority as if the Consortium were not incorporated.

4. The income and property of the Consortium shall be applied solely towards the promotion of its objects as set forth in this Memorandum of Association and no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise howsoever by way of profit, to Members of the Consortium.

PROVIDED that nothing herein shall prevent any payment in good faith by the Consortium

- (i) of reasonable and proper remuneration to any Member, officer or servant of the Consortium for any services rendered to the Consortium.
- (ii) of interest on money lent by any Member of the Consortium at a rate per annum not exceeding 2 per cent. less than the minimum lending rate prescribed for the time being by the Bank of England, or 3 per cent whichever is the greater.
- (iii) of reasonable and proper rent for premises demised or let by any Member of the Consortium.

5. The liability of the Members is limited.

6. Every Member of the Consortium undertakes to contribute to the assets of the Consortium in the event of its being wound up while he is a Member, or within one year after he ceases to be a Member, for payment of the debts and liabilities of the Consortium contracted before he ceases to be a Member and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding £1.

7. If, upon the winding up of the Consortium, there remains, after the satisfaction of all its debts and liabilities, any property or assets whatsoever, the same shall not be paid to or distributed among the Members of the Consortium, but shall be given or transferred to some other institution or institutions (whether or not such institution(s) is a Member of the Consortium) having objects similar to the objects of the Consortium, and which shall prohibit the distribution of its or their income or property to an extent at least as great as is imposed on the Consortium under or by virtue of Clause 4 hereof, such institution or institutions to be determined by the Members of the Consortium at or before the time of winding up, and if and so far as effect cannot be given to the aforesaid provisions, then to another institution or institutions (whether or not such institutions) is a Member of the Consortium) the objects of which are the promotion of charity and anything incidental or conducive thereto.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this Memorandum of Association.

#### NAMES ADDRESSES AND DESCRIPTIONS OF SUBSCRIBERS

For and on behalf of

W.H. SMITH & SON LIMITED,  
Strand House, WC2  
F. BOWYER, Personnel Manager

For and on behalf of

F.W. WOOLWORTH & CO, LTD.,  
1/5 New Bond Street, W.1.  
B.E. UFFINDELL, Managing Director

For and on behalf of  
TIMOTHY WHITES & TAYLORS LTD.,  
70 Vauxhall Bridge Road, SW,  
A.J. ESPLEY, Vice-Chairman

For and on behalf of  
FULLERS LTD.,  
Hammersmith, W6,  
A. ERNEST BURDETT, Managing Director

For and on behalf of  
THE VICTORIA WINE CO. LIMITED  
60/62 Ballards Lane, Finchley, N.,  
ERIC FISHER, Managing Director

For and on behalf of  
J. SAINSBURY LTD.,  
Staford House, Blackfriars, SE1,  
ALLAN J. SAINSBURY, Director  
and Joint General Manager

For and on behalf of  
ALLIED SUPPLIERS LTD., -  
179/189 City Road, EC1,  
A. PURVES, Director

Dated the 28th day of February 1946.

WITNESS to the above Signatures:-

B.L.B. HUTCHINGS,  
5 Thavies Inn,  
London EC1  
Solicitor

**THE COMPANIES ACT 1929**

**AND**

**THE COMPANIES ACTS 1985 AND 1989**

**COMPANY LIMITED BY GUARANTEE AND**

**NOT HAVING A SHARE CAPITAL**

**NEW ARTICLES OF ASSOCIATION**

**of**

**BRITISH RETAIL CONSORTIUM**

**(Adopted by a Special Resolution passed on 21st September 2001 and altered by a Special Resolution dated 7<sup>th</sup> February 2007)**

**I INTERPRETATION**

1. In these Articles, unless there is something in the subject or context inconsistent therewith: -

- (a) **"the Act"** means the Companies Act 1985 as amended by the Companies Act 1989 and any other statutory re-enactment or modification thereof for the time being in force;

**"Affiliated Member"** means a person affiliated to the Consortium pursuant to Article 7(a)

**"Associated Member"** means a person associated to the Consortium pursuant to Article 7(b)

**"the Board"** means the board of directors of the Consortium constituted in accordance with Articles 40 and 41.

**"the Chairman"** means the Chairman of the Board elected pursuant to Article 39 and for the time being holding office as such.

**"the Consortium"** means the above-named company.

**"Committee"** means a committee of the Consortium.

**"Deputy Chairman"** means a Deputy Chairman appointed pursuant to Article 57 and for the time being holding office as such;

**"General Meeting"** means a general meeting of the Consortium.

**"the Honorary Treasurer"** means the person appointed as Honorary Treasurer pursuant to Article 57 for the time being holding office as such.

**"Member"** means a member of the Consortium.

**"Membership"** means membership of the Consortium.

**"month"** means calendar month.

**"the Office"** means the registered office of the Consortium from time to time.

**"Representative"** means a representative of a Member appointed pursuant to Article 9.

**"retailing"** means the sale and/or supply of goods or services to members of the public in their capacity as consumers.

**"the Secretary"** means the secretary of the Consortium for the time being appointed pursuant to Article 58.

**"Section"** means any of the four Sections of Membership referred to in Articles 6 and 7.

**"Sub-Committee"** means a sub-committee of a Committee.

**"these Articles"** means these Articles of Association and reference to an Article is a reference to that Article in these Articles.

**"trading as retailers"** means such trading as is so defined by the Board from time to time.

**"the United Kingdom"** means Great Britain and Northern Ireland.

**"year"** means a calendar year commencing on 1st January.

- (b) Expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form;
- (c) Words or expressions contained in these Articles shall bear the same meaning as in the Statutes;
- (d) Words importing the singular number only shall include the plural number and vice versa;
- (e) Words importing the masculine gender only shall include the feminine gender;
- (f) Words importing persons shall include firms, associations and corporate bodies;
- (g) Any reference to a Member being present at a meeting in person shall be deemed to include reference to a Representative (or in his absence an alternate Representative) of such Member being present in person.

## **II GENERAL**

- 2. For the purposes of registration the number of the Members was declared to be 1,000 with provision for the Council to authorise an increase in such number to be registered as may from time to time become necessary, which provision is hereby renewed.

## **III MEMBERS**

- 3. At the date of adoption of these Articles the Members are those persons whose names are entered in the register of members of the Consortium.
- 4. On application for Membership being made to the Secretary in such form as the Board may from time to time prescribe the Board may (subject to Article 2) accept such application if made by a person eligible for Membership as specified in Articles 6 and 7. Acceptance or rejection of any such application for Membership shall be in the discretion of the Board whose decision shall be final. The Secretary shall enter in the register of Members the name of each person who is accepted by the Board for Membership and shall from time to time record the Section to which the Member belongs.
- 5. There shall be Full Members as specified in Article 6 and Affiliated Members and Associated Members as specified in Article 7.
- 6. Full Members of the Consortium will be divided into two Sections:



- (a) Members in Section 1, being persons engaged in retailing within the United Kingdom.
  - (b) Members in Section II, being trade or professional associations, incorporated or otherwise, whose membership consists principally of persons engaged in retailing in the United Kingdom.
7. (a) Section III shall comprise Affiliated Members, being any companies engaged in retailing outside of the UK who are not incorporated in the UK or operating retail stores in the UK.
- (b) Section IV shall comprise Associated Members, being any persons which are neither directly engaged in retailing in the United Kingdom nor trade or professional associations capable of being Members within Section II or Section III.
- (c) Affiliated Members and Associated Members shall be entitled to receive notice of meetings of the Consortium but shall not be entitled to attend meetings of the Consortium or its Committees except by the invitation of the Consortium or the relevant Committee and shall not be entitled to vote at any such meeting.
- (d) Members in Section VI being any persons which are engaged in the food service sector, selling food to consumers or persons supplying food to consumers and persons engaged in catering in the United Kingdom.
8. Membership shall not be transferable or transmissible except with the express permission of the Board.
9. (a) Every Member may from time to time by notice to the Secretary authorise a director or senior executive of the Member or one of its principal retailing subsidiaries to act as the Member's representative at meetings of the Consortium and may at any time revoke such authority and authorise another person to be its representative.
- (b) Upon any Member ceasing to be a Member pursuant to Article 10 any such authority shall be deemed to be revoked.
- (c) Upon a representative's appointment being or being deemed to be revoked he shall cease to be a member of any Committee or Sub-Committee of which at the time of such revocation he is a Member.
- (d) Every Member may also from time to time by notice to the Secretary appoint another director or senior executive of the Member or one of its principal retailing subsidiaries to act as its representative in the absence of the representative appointed pursuant to paragraph (a) of this Article.
10. On the happening of any of the following events the Secretary shall remove the name of a Member from the register of Members and that person shall thereupon cease to be a Member: -
- (a) if, being an individual, he dies or he becomes bankrupt or makes any arrangement or composition with his creditors generally;
  - (b) if, being a firm or association, it is dissolved;
  - (c) if, being a corporation, a resolution is passed or an order is made for its winding-up, whether compulsory or voluntary;
  - (d) on expiry of not less than three months' notice in writing from that Member to the Secretary to the effect that that Member wishes to resign;
  - (e) on the passing of a resolution by the Board that the Member be expelled on any of the following grounds:-
    - (i) that in the opinion of the Board the Member is not qualified to be a Member;

- (ii) that in the opinion of the Board the Member's conduct renders him unfit for Membership;
- (iii) that the Member's subscription is more than three months in arrears;
- (iv) that the Member has failed to fulfil any other duty of Membership;

No such resolution shall be effective unless the Member in question has been given a reasonable opportunity of stating why in his opinion he should not be expelled but subject thereto any resolution of the Board shall be final and binding for all purposes.

- 11. Any Member who shall resign or who is expelled, or who for any other reason ceases to be a Member, shall forfeit all claims to any money paid to the Consortium and all interest in its properties and funds, but shall remain liable for any unpaid subscription for the financial year of the Consortium in which he ceases to be a Member.

#### **IV SUBSCRIPTIONS**

- 12.
  - (a) Annual subscriptions, levies and other payments from Members shall be determined by the Board from time to time.
  - (b) The Consortium in general meeting shall have no power to determine or vary any such subscriptions, levies or other payments.
  - (c) Each member shall be obliged to provide on request such information (which may change from time to time) as the Board may reasonably require to determine the basis for a subscription fee;
  - (d) Members in Section III, Section IV and Section VI shall pay subscriptions at rates determined by the Board; and
  - (e) Members (in whatever Section) which are also members of Trade Groups (pursuant to Article 52) may be required to pay a surcharge upon their annual subscriptions at a rate determined by the Board.
- 13.
  - (a) Subscriptions shall be due on acceptance of an application for Membership and on the first day of each financial year of the Consortium thereafter.
  - (b) The financial year of the Consortium, until otherwise determined by the Board, shall commence on the first day of July in each year.
  - (c) The Board shall be entitled to suspend all or any membership rights of any Member whose subscription is in arrears.
  - (d) The Board may require payment of an additional fee from any Member upon its first joining the Consortium.

#### **V GENERAL MEETINGS**

- 14. Unless otherwise resolved by elective resolution, as permitted by the Act, the Consortium shall in each year hold a general meeting as its Annual General Meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notice calling it. Not more than fifteen months shall elapse between the date of one Annual General Meeting of the Consortium and that of the next.
- 15. All general meetings other than Annual General Meetings shall be called Extraordinary General Meetings.
- 16. The Board whenever it thinks fit may, and upon a requisition made in writing by any ten or more Members in Sections I or II or by more than half of the Members in Section II (if they are fewer than 18 in number) shall, convene an Extraordinary General Meeting. The requisition must state the objects of the meeting, must be signed by the requisitionists and deposited at the Office and may consist of several documents in like form each signed by one or more requisitionists.

17. If the Board does not, within 21 days of deposit of a requisition under Article 16, proceed duly to convene a meeting (giving the notice thereof required by Article 20) the requisitionists or a majority of them may themselves convene a meeting, but any meeting so convened shall not be held after the expiration of three months from the date of deposit of the requisition.
18. A meeting convened by requisitionists under Article 17 shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by the Board.
19. Meetings of the Consortium shall be convened by the Board: -
  - (a) to carry out such functions in relation to the election of the members of the Board and the Chairman as are specifically provided for in these Articles;
  - (b) to advise the Board and its Committees in relation to the policies and representational activities of the Consortium and its Committees and keep such policies and activities under review; and
  - (c) to receive and review reports from the Board.

## **VI NOTICE OF GENERAL MEETINGS**

20. An Annual General Meeting and a general meeting at which a resolution is to be proposed as a special resolution shall be called by at least twenty-one days' notice in writing, and any other general meeting shall be called by at least fourteen days' notice in writing. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the day and the hour of meeting and, in the case of special business, the general nature of that business, and shall be given, in the manner specified in Article 67, to such persons as are entitled to receive such notices from the Consortium.
21. The accidental omission to give notice of a general meeting to, or the non-receipt of notice of a general meeting by any person entitled to receive the notice shall not invalidate the proceedings at that meeting.
22. If a general meeting is adjourned for seven days or more, notice of the adjourned meeting shall be given in the same manner as of the original meeting, except that such notice need be given only three clear days before the date of the adjourned meeting and that it shall not be necessary to specify in it the nature of the business to be transacted at the adjourned meeting.
23. Save as provided in Article 17 all notices convening general meetings shall be sent in the name of the Secretary or of two members of the Board.

## **VII PROCEEDINGS AT GENERAL MEETINGS**

24. All business shall be deemed special that is transacted at an Extraordinary General Meeting, and likewise all business that is transacted at an Annual General Meeting with the exception of the consideration of the financial statements of the Consortium and the reports of the Board and of the auditors upon such financial statements, the appointment and the fixing of the remuneration of the auditors and the appointment of members of the Board and the Chairman.
25. No business shall be transacted at any general meeting unless a quorum of Members is present, in person or by proxy, at the commencement of such business. A quorum shall be 5 Members, all of whom are present in person.
26. The Chairman, if any, shall be entitled to preside as chairman at all general meetings. If there is no Chairman, or if the Chairman is not present or is unable or unwilling to act as chairman of the meeting, one of the Deputy Chairmen in accordance with Article 39(d) or, in their absence, another member of the Board chosen by the meeting, shall be chairman of the meeting.
27. The chairman of any general meeting at which a quorum is present may, with the consent of the meeting, (and shall if so directed by the meeting), adjourn the meeting from time to time and from

place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

28. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the chairman of the meeting or by at least three Members present in person or by proxy. Unless a poll be so demanded a declaration by the chairman of the meeting that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of proceedings of the Consortium shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn.
29. Except as provided in Article 30, if a poll is duly demanded, it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the general meeting at which the poll was demanded.
30. A poll demanded on the election of a chairman of a general meeting, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs and any business, other than that upon which a poll has been demanded, may be proceeded with pending the taking of the poll.
31. No Member may be represented in person at any general meeting other than by a Representative or alternate Representative notified to the Secretary pursuant to Article 9 or by another person approved for the purpose by the chairman of the meeting and the decision of the chairman thereon shall be conclusive as to whether such person is so entitled to attend and vote on behalf of the Member.

#### **VIII VOTES OF MEMBERS**

32. (a) For the purposes of general meetings the Members in Section I and the Members in Section II shall be separate classes. Each such Member shall have a single vote, whether on a show of hands or on a poll.
- (b) No resolution proposed at a general meeting as an ordinary resolution shall be passed unless, on a show of hands, it is approved by a simple majority of the Members present or, on a poll, it is approved by a majority of the Members in Section I voting and a majority of the Members in Section II voting.
- (c) Any resolution which is required by the Act to be passed as a special resolution or as an extraordinary resolution shall not be passed unless, on a show of hands, it is approved by seventy-five per cent. of the Members present or, on a poll, it is approved by seventy-five per cent. of the Members in Section I voting and by seventy-five per cent. of the members in Section II voting.
- (d) Members in Sections III or IV shall not be entitled to vote at any general meeting.
33. (a) In the case of an equality of votes on a show of hands at a general meeting the chairman of that meeting shall be entitled to a casting vote.
- (b) In the case of an equality of votes within either Section I or Section II on a poll, the chairman of the general meeting at which the poll is demanded shall be entitled to a casting vote within that Section whether or not he (or the Member for whom he is a Representative) is a Member in that Section. In the case of an equality of votes on a poll within both Section I and Section 11 the chairman of such meeting shall not have a casting vote within either Section.
34. When any election is to be carried out under these Articles by way of a ballot it will be carried out in the manner set out in Articles 35 to 38 and subject thereto in such manner as the Board may determine.
35. If a ballot is to be carried out at a general meeting of the Consortium:

- (a) ballot papers shall be sent to each Member entitled to vote in the election not less than 21 days prior to the date of the meeting;
  - (b) a ballot paper shall not be valid unless it is duly completed in accordance with the instructions thereon, signed by or on behalf of the Member and lodged with the Secretary not later than the time specified for the commencement of the meeting.
36. If a ballot is not to be taken at a general meeting of the Consortium:
- (a) then each ballot paper shall specify the date and time by which it is to be returned to the Secretary which shall not in any event be fewer than 14 days from the date of despatch of ballot papers to Members;
  - (b) a ballot paper shall not be valid unless completed in accordance with the instructions thereon, signed by or on behalf of the Member and lodged with the Secretary not later than the time specified in the ballot paper or the notice accompanying the same.
37. Each ballot paper shall state the names of each candidate standing for election and such further information relating to them as the Board considers appropriate.
38. (a) Unless otherwise specified in these Articles or in the ballot paper or a notice accompanying the same:
- (i) no Member shall be entitled to vote for more than that number of persons as is equal to the number of vacancies to which the election relates; and
  - (ii) the persons to be elected shall be those who have received in aggregate the most valid votes;
- (b) The declaration of the Chairman as to the result of an election and an entry to that effect in the minutes of the relevant meeting or the statutory books of the Consortium shall be conclusive evidence of the fact without proof of the number or proportion of the votes given.

## **IX THE CHAIRMAN**

39. (a) The Board shall be responsible for appointing a Chairman. Such appointment to take effect from the beginning of the Consortium's financial year.
- (b) The Chairman shall hold office from the start of the Consortium's financial year immediately following his appointment by the Board (or such date as is agreed with the Board) for a period not exceeding 2 years.
- (c) Save in exceptional circumstances as determined by the Board no person shall be eligible for election as Chairman if he would as a result be Chairman for more than 3 consecutive years.
- (d) Notwithstanding the foregoing provisions of this Article 39, the Board shall be entitled to appoint a person who is willing to act as Chairman to fill a vacancy in respect of that position. A Chairman so appointed shall hold office only until the next following annual general meeting. If not re-appointed at such annual general meeting, he shall vacate the office of Chairman at the conclusion of that meeting.

## **X THE BOARD**

40. (a) The Board shall consist of up to 16 individuals elected by the Members in Section I ("the Section I directors") and 8 individuals elected by the Members in Section 11("the Section II directors"), together with the Chairman and the Director-General as ex-officio members.
- (b) Each such election shall be by ballot in accordance with this Article and Articles 35 to 38.

- (c) The Board may appoint a person who is willing to act to be a member of the Board to fill a vacancy. With any such vacancy the Board may only appoint a person who is from the relevant Section where the vacancy arose.
  - (d) Not less than 21 clear days before the date appointed for the holding of the annual general meeting, there shall be sent to each Member in Section 1 a list comprising the names of:-
    - (i) any Section 1 director who is to retire at the meeting; and
    - (ii) any other individual who is standing for election as a Section 1 director.
  - (e) Not less than 21 clear days before the date appointed for the holding of the annual general meeting, there shall be sent to each Member in Section II a list comprising the names of:-
    - (i) any Section II director who is to retire at the meeting; and
    - (ii) any other individual who is standing for election as a Section II director.
  - (f) No person shall be appointed or re-appointed a director at any general meeting unless:
    - (i) he is recommended by the Board; or
    - (ii) not less than 28 clear days before the date appointed for the meeting, notice has been given to the Consortium nominating that person for appointment as a Section I director or a Section II director signed by or on behalf of not less than 2 Members in Section I or (as the case may be) 2 members in Section II. Such notice shall also be signed by the person so nominated to indicate his willingness to be appointed.
  - (g) For the purposes of an election pursuant to this article each Member shall be entitled to vote for that number of candidates standing for election as is equal to the number of vacancies in the Section of which he is a Member.
  - (h) If the number of candidates within either Section exceeds the number of vacancies the candidates appointed shall be those who shall have received the highest number of votes.
  - (i) In the event of an equality of votes the winner shall be determined by lot.
41. (a) No person shall be eligible for election to the Board as a Section I director unless he has been nominated as such by a Member in Section 1 and is a director or senior executive of that Member or one of its principal retailing subsidiaries.
- (b) No person shall be eligible for election to the Board as a Section II director unless he has been nominated as such by a Member in Section II and is a director or senior executive of that Member or one of its constituent members.
- (c) Unless otherwise resolved by the Board a member of the Board who during his term of office ceases to be eligible for nomination shall cease to be a member of the Board.
- (d) a member of the Board shall cease to be a member thereof if a resolution is passed at a general meeting of the Consortium removing him as a member of the Board.
42. (a) The members of the Board shall be the directors of the Consortium and shall accordingly be responsible for the general management and control of the business and affairs of the Consortium.
- (b) The Board may exercise all such powers of the Consortium and do on behalf of the Consortium all such acts as may be exercised and done by the Consortium, unless such act or powers are required by law or by these Articles to be exercised or done by the Consortium in general meeting. No regulation made by the Consortium in general meeting shall invalidate any prior act of the Board which would have been valid if such regulation had not been made.

- (c) Unless or until otherwise determined by the Members in general meeting, the quorum for the Board shall be not less than six, being four Section I directors and two Section II directors.
  - (d) Any member of the Board shall be entitled to appoint an alternate to attend meetings of the Board to act as their representative in the event that such Board member cannot attend, subject to the prior consent of the Secretary being obtained. An alternate director shall be entitled to receive notice of all meetings of the Board, to attend and vote at any such meeting at which the director appointing him is not personally present, and generally to perform all the functions of his appointor as a director in his absence. An alternate director shall cease to be an alternate director if his appointor ceases to be a director.
  - (e) Any appointment or removal of an alternate director shall be by notice to the Secretary signed by the director making or revoking the appointment. Save as provided in these Articles, an alternate director shall be deemed for all purposes to be a director and shall alone be responsible for his own acts and defaults and shall not be deemed to be the agent of the director appointing him.
  - (f) The Board may permit any other person to attend its meetings whether or not eligible to be a Member or a Representative.
  - (g) Any question arising at a meeting of the Board shall be decided by a majority of the Section I directors and a majority of the Section II directors.
43. (a) All acts bona fide done by any meeting of the Board or by any person acting as a member of the Board shall, notwithstanding it be afterwards discovered that there was some defect in the appointment or continuance in office of any such member of the Board or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a member of the Board.
- (b) The Board shall cause proper minutes to be made of all appointments of officers of the Consortium and of the proceedings of all meetings of the Consortium, the Board, the Committees and the Sub-Committees, and of all business transacted at such meetings, and any such minutes of any meeting, if purporting to be signed by the chairman of such meeting, or by the chairman of the next succeeding meeting, shall be sufficient evidence without any further proof of the facts therein stated.
- (c) A resolution in writing signed by not less than two thirds of the Section I directors and not less than two thirds of the Section II directors, shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and constituted and may consist of several documents in the like form each signed by one or more of the members of the Board.

## **XI COMMITTEES SUB-COMMITTEES AND TRADE GROUPS**

44. The Consortium shall have such Committees (including an Audit Committee and a Finance and General Purposes Committee) and Sub-Committees as the Board may from time to time decide.
45. The Board may delegate to each of the Committees such powers (subject to the control of the Board) as it may from time to time decide.
46. Whilst subject to the overall guidance of the Board in relation to the external policy of the Consortium, each Committee shall be responsible for the business of the Consortium within its terms of reference and shall (unless otherwise determined by the Board) be entitled to act without prior reference to the Board in relation to those matters.
47. The members of the Audit Committee and Finance and General Purposes Committee shall be appointed by the Board. Each other Committee shall determine its own membership, subject to the consent of the Board.

48. Each Committee may appoint and delegate powers to one or more Sub-Committees as it may think fit.
49. (a) Each Committee shall have a Chairman who shall be elected annually by the members of the Committee.
- (b) Any member of the Committee or the Board may nominate a Chairman. A nominee shall not be required to be a member of the Committee.
- (c) A Committee may appoint a Deputy Chairman but shall not be required to do so. Any such appointment shall be made in such manner as the Committee may determine. A Deputy Chairman shall be eligible to stand for election as Chairman if nominated in accordance with paragraph (b) of this Article.
- (d) A Committee shall have power to act notwithstanding any vacancy in the office of Chairman.
50. The provisions of Article 49 shall apply to each Sub-Committee.
51. The Board may from time to time establish and vary orders of procedure for the Committees and Sub-Committees.
52. The Consortium may have Trade Groups including a Wines and Spirits Group and such other Trade Groups as the Board of Management may from time to time determine. A Member shall be eligible for membership of any Trade Group if not less than 50% of its or (in the case of a member in Section II) its members' annual retail sales is derived from trading in the products covered by that Trade Group or if in the opinion of the Board such Member has substantial annual retail sales in such products.
53. The Board shall make by-laws for each Trade Group but so that each Trade Group may elect its own chairman and committee with power for that committee to appoint and delegate powers to sub-committees. Whilst subject to the overall guidance and control of the Board each Trade Group, through its elected committee, shall be responsible (in relation only to the product or products with which it is concerned) for assisting the Consortium as to its policy in relation to such product or products and shall be entitled, through its elected committee, to be consulted on matters where it takes such responsibility.
54. (a) Save insofar as the Board may otherwise determine the provisions of Article 43(a) and (b) shall apply to every Committee, Sub-Committee and Trade Group with the substitution of references to the Committee Sub-Committee or Trade Group (as applicable) for references to the Board. Subject thereto every Committee, Sub-Committee and Trade Group may meet together for the despatch of business, adjourn or otherwise regulate its meetings as it may think fit.
- (b) Unless and until otherwise determined by the Board of Management the quorum for every Committee shall be five and for every Sub-Committee shall be two.
- (c) Questions arising at any meeting of a Committee or Sub-Committee shall be decided by simple majority.
55. (a) Each Member, any of whose officers or employees is a member of the Board or any Committee, Sub-Committee or working group of the Consortium or who otherwise provides assistance to the Consortium, agrees that:
- (i) copyright in and to any materials created by such officer or employee (whether alone or jointly) of such Member solely in the course of his providing assistance to the Consortium shall vest in the Consortium, on the basis that insofar as the copyright material discloses any knowhow proprietary to such Member the Member also so far as it is within its power licences to the Consortium the non-exclusive right to use such of that know-how as is required to enable the Consortium to exploit the copyright in such material
- (ii) *in the case of all pre-existing materials created by such Member or its officers or employees and provided to the Consortium in the provision of assistance to it then save if and to the extent that the Member concerned expressly places any restriction on the use of such*



materials by or on behalf of the Consortium at the time of their provision by notice in writing to the Consortium, and in so far as the Member owns the copyright in such material, it hereby grants to the Consortium a non-exclusive licence to exploit the copyright in such material worldwide throughout the term of protection for the purposes of the Consortium including, without limitation, the right to license such material to others. The Consortium shall not be bound to give a credit of any kind or nature to the authors of such material

(iii) it will if specifically so requested by the Consortium take such steps as it, acting reasonably, considers appropriate, at the Consortium's expense, to procure that each such officer or employee shall irrevocably and unconditionally waive any and all moral rights in materials created on behalf of or provided to the Consortium to the extent permitted by law

(iv) it will at the Consortium's expense sign and execute all such documents and deeds as the Consortium may reasonably require and take such other steps as it, acting reasonably, considers appropriate to give effect to the provisions of this Article 55

(b) Nothing in these Articles shall act so as to grant or to require any Member to grant any licence or other right in respect of any proprietary right or intellectual property except to the extent expressly provided in this Article 55.

(c) References in this Article to the officers or employees of a Member include any person who is an officer or employee of any company which is a holding company of the Member or a subsidiary of the Member or of any such holding company and references to Member shall be construed accordingly.

## **XII DIRECTOR GENERAL AND OTHER OFFICERS**

56. The Board may appoint a Director-General of the Consortium and determine his terms of employment. The Board shall determine the powers, duties and responsibilities of the Director-General, which shall be communicated to him in writing, but subject thereto he shall have responsibility for the day to day management of the Consortium.

57. (a) The Board may from time to time appoint from among its members a Deputy Chairman Section 1, a Deputy Chairman Section II and an Honorary Treasurer. The term of appointment of each Deputy Chairman shall be from his date of appointment until the conclusion of the meeting of the Board immediately following the next Annual General Meeting.

(b) The Deputy Chairman Section I shall be appointed by the Section I directors.

(c) The Deputy Chairman Section II shall be appointed by the Section II directors.

(d) The Honorary Treasurer shall advise the Board on any matters of principle governing the financial administration of the Consortium and on such other matters as may from time to time be considered desirable by the Board.

## **XIII SECRETARY**

58. The Board shall appoint a Secretary of the Consortium, and may authorise him to perform such duties and exercise such powers as the Board of Management may from time to time determine, and may remove any Secretary so appointed. The Secretary shall act as secretary of the Board, and of such other Committees and Sub-Committees as the Board may determine.

59. Anything required or authorised to be done by or to the Secretary may, if the office is vacant or for any other reason the Secretary is not capable of acting, be done by or to any assistant or deputy secretary, or, if there is none such, by or to any officer of the Consortium authorised generally or specially in that behalf by the Board.

## **XIV APPOINTMENTS TO EXTERNAL BODIES**

60. (a) The Board shall be entitled to appoint a person (whether or not a member of the Board or any Committee or Sub-Committee) to represent the Consortium at meetings of EuroCommerce and any other external bodies determined by the Board.
- (b) Save as provided in paragraph (a) of this Article, appointments to external bodies shall be made by the Director General or, if he considers it appropriate, by a Committee or Sub-Committee.
- (c) The Board, the Director General or Committee or Sub-Committee responsible for any such appointment shall also be entitled to appoint an alternate to attend meetings of any such external body and otherwise represent the Consortium when the Consortium's representative is not available. The Consortium's representative shall have no right to appoint his own alternate nor to delegate any of his powers to any other person.

## **XV ACCOUNTS**

61. The Board shall cause accounting records to be kept in accordance with the Act.
62. The accounting records shall be kept at the Office or, subject to the Act, at such other place or places as the Board thinks fit, and shall always be open to the inspection of the members of the Board.
63. The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Consortium or any of them shall be open to the inspection of Members who are not members of the Board. No Member shall have any right of inspecting any account or book or document of the Consortium except as conferred by law or authorised by the Board, or by the Consortium in General Meeting.
64. The Board shall from time to time, in accordance with the Act, cause to be prepared and to be laid before the Consortium in general meeting such financial statements and reports as are required and shall cause the report of the Auditors to be read in general meeting and to be open to inspection in accordance with the Act.
65. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the Consortium in general meeting, together with a copy of the Auditors' report and the report of the Board, shall not less than twenty-one days before the date of the meeting be sent to every Member, the Auditors, and the holders (if any) of debentures of the Consortium, provided that these documents need not be sent to any person of whose address the Consortium is not aware, or to more than one of the joint holders (if any) of any debenture of the Consortium, and the accidental omission to send any such document to any Member shall not invalidate the proceedings at the meeting.

## **XVI AUDITORS**

66. Auditors shall be appointed and their duties regulated in accordance with the Act.

## **XVII NOTICES**

67. A notice may be given by the Consortium to any Member either personally or by sending it by post to him or to his registered address, or (if he has no registered address within the United Kingdom) to the address, if any, within the United Kingdom supplied by him to the Consortium for the giving of notice to him or by giving it using electronic communications to an address for the time being notified to the Consortium by the Member. Where a notice is sent by first class post, service of the notice shall be deemed to be effected in the case of a notice of a general meeting at the expiration of twenty-four hours after the letter containing the same is posted, and in any other case at the time at which the letter would be delivered in the ordinary course of post.
68. Notice of every general meeting shall be given in any manner hereinbefore authorised to:-
- (a) every Member except those Members who (having no registered address within the United Kingdom) have not supplied to the Consortium an address within the United Kingdom for the giving of notices to them;

- (b) each member of the Board; and
- (c) the Auditors for the time being of the Consortium. No other person shall be entitled to receive notices of general meetings.

#### **XVIII SEALING**

- 69. The Consortium shall not have a common seal. A document signed by a director and the Secretary or by two directors and expressed to be executed by the Consortium shall have the same effect as if executed under the common seal of the Consortium. A document executed by the Consortium which makes it clear on its face that it is intended to be a deed has effect, upon delivery, as a deed.

#### **XIX INDEMNITY**

- 70. Subject to the Act every member of the Board, every other officer of the Consortium, the Chairman, the Vice-Chairmen and every member of any Committee or Sub-Committee shall be entitled to be indemnified out of the assets of the Consortium against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto.
- 71. Without prejudice to the provisions of Article 70 the directors shall have power to purchase and maintain insurance for or for the benefit of any persons who are or were at any time directors, officers, employees or auditors of the Consortium, or of any other company in which the Consortium has any interest whether direct or indirect or which is in any way affiliated to or associated with the Consortium including (without prejudice to the generality of the foregoing) insurance against any liability incurred by such persons in respect of any act or omission in the actual or purported execution and/or exercise and/or discharge of their duties, powers or offices in relation to the Consortium or any other such company.

#### **XX WINDING UP**

- 72. The Consortium shall be wound up voluntarily whenever a special resolution is passed requiring the Consortium to be so wound up. Clause 7 of the Memorandum of Association relating to the winding up and dissolution of the Consortium shall have effect as if the provisions thereof were repeated in these Articles.