

COMPANIES ACT 1985 (AS AMENDED)

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COMPANY LIMITED BY SHARES

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ARTICLES OF ASSOCIATION

of

ASDA QUEST TRUSTEES LIMITED

(Registered in England No. 3379444)

Slaughter and May,  
35 Basinghall Street,  
London EC2V 5DB.

(JZF/LZH)



## ARTICLES OF ASSOCIATION

of

### ASDA QUEST TRUSTEES LIMITED<sup>1</sup>

#### PRELIMINARY

1. Subject as hereinafter provided and except insofar as the same are excluded or modified by these Articles, the regulations contained in Table A in the Companies (Tables A to F) Regulations 1985 as amended by The Companies (Tables A to F) (Amendment) Regulations 1985 (hereinafter referred to as "Table A") shall apply to the Company and, together with these Articles, shall constitute the Articles of the Company, to the exclusion of all other regulations and articles.

#### INTERPRETATION

2. Unless the context otherwise requires, words and expressions which bear particular meanings in Table A shall bear the same respective meanings in these Articles.

#### TRANSFER OF SHARES

3. Subject as provided in the next following Article, the directors may in their absolute discretion and without assigning any reason therefor decline to register any transfer of any share whether or not it is a fully paid share. Regulation 24 of Table A shall not apply.
4. (a) For the purpose of this Article, the expression "the Holding Company" means the body corporate (if any), being a member of the Company, which is within the meaning of section 736 of the Act a holding company of the Company, and a copy of any resolution of the board of directors (or equivalent body) of the Holding Company certified by any director or secretary (or equivalent officer) of the Holding Company and deposited at the office or delivered at a meeting of the directors to the chairman or to the secretary or to any director shall be sufficient evidence of the passing thereof.  
  
(b) The Holding Company may by resolution of its board of directors (or equivalent body) declare that any share of the Company is held by the registered holder thereof as the nominee of the Holding Company (or in the case of a share registered in the name of a deceased or bankrupt holder was

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<sup>1</sup> The Company was incorporated on 2nd June, 1997 under the name "Trushelfco (No. 2253) Limited" and its name was subsequently changed to "Asda QUEST Trustees Limited" pursuant to a Special Resolution passed on 26th June, 1997.

so held at the time of his death or bankruptcy) and name some other person as authorised by the Holding Company to sign transfers in the place of the holder or the deceased or bankrupt holder and the directors shall be entitled and bound to give effect to any instrument of transfer of that share signed by the person so named as transferor in all respect as if the instrument were signed by the registered holder or by his personal representatives or trustee in bankruptcy and notwithstanding that it may not be accompanied by the certificate for that share.

#### TRANSMISSION OF SHARES

5. The directors may at any time give notice requiring any person becoming entitled to a share in consequence of the death or bankruptcy of a member to elect to be registered as holder of the share and if the notice is not complied with within ninety days the directors may thereafter withhold payment of all dividends, bonuses or other moneys payable in respect of the share until the requirements of the notice have been satisfied. Regulation 31 of Table A shall be modified accordingly.

#### NOTICE OF GENERAL MEETINGS

6. Regulation 38 of Table A shall apply subject to the omission of the words "or a resolution appointing a person as a director", the addition of the words "in the case of special business" before the words "the general nature" in the penultimate paragraph thereof and the deletion of the last paragraph thereof. Subject to the provisions of these Articles and to any restrictions imposed on any shares, the notice shall be given to all members and to the directors.

#### PROCEEDINGS AT GENERAL MEETINGS

7. Regulation 41 of Table A shall apply subject to the addition of the following sentence:  

"If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting shall be dissolved."
8. Regulation 53 of Table A shall apply subject to the addition of the words "or approved in writing" after the word "executed" in each place that it occurs in the said Regulation.

#### VOTES OF MEMBERS

9. Regulation 56 of Table A shall apply subject to the addition of the word "exercised" in the second sentence of the said Regulation, of the following words:  

"or be delivered at any time before the time appointed for the holding of such meeting or adjourned meeting to any director or to the secretary at the place appointed for the holding of such meeting or adjourned meeting".

10. Regulation 57 of Table A shall not apply.
11. Regulation 62 of Table A shall apply subject to the following additions:
  - (a) the addition, after the word "vote" in paragraph (a) of the said Regulation, of the words "or be delivered at any time before the time appointed for the holding of such meeting or adjourned meeting to any director or to the secretary at the place appointed for the holding of such meeting or adjourned meeting"; and
  - (b) the addition, after the words "taking of the poll" in paragraph (b) of the said Regulation and after the word "director" in paragraph (c) of the said Regulation, of the words "or be delivered at any time before the time appointed for the taking of the poll to any director or to the secretary at the place appointed for the taking of the poll".

#### DIRECTORS

12. The provisions of this Article 12 shall have the effect for so long as the Company is trustee of the Asda QUEST constituted by a deed between Asda Group plc ("Asda") (1) and the Company (2) to be dated ~~30 June 1997~~ <sup>6 February 1998</sup> ("the Trust Deed").
  - 12.1 There shall be not less than three directors, all of whom are resident in the United Kingdom for the purposes of United Kingdom taxation. The directors shall include at least one person who is a Professional Trustee Director and at least two persons who are Non-Professional Trustee Directors. At least half of the Non-Professional Trustee Directors shall be Employee Trustee Directors and the other Non-Professional Trustee Director(s) shall each be an Executive Trustee Director.
  - 12.2 A reference in these Articles to a "Non-Professional Trustee Director" is a reference to any director who is not a Professional Trustee Director.
  - 12.3 An Employee Trustee Director shall be a person who:-
    - 12.3.1 is a bona fide employee of any company which is a member of the Group;
    - 12.3.2 does not have and has not had a Material Interest in any company (including the Company) which is a member of the Group; and
    - 12.3.3 was selected for appointment as a director by either of the alternative procedures set out in Schedule 2 to the Trust Deed
  - 12.4 An Executive Trustee Director shall be a person, subject to Article 12.1, who is nominated as such pursuant to this Article 12.4 by Asda and who is not an

Employee Trustee Director or a Professional Trustee Director. An Executive Trustee Director may be removed from office as such by the member or members of the Company giving to the Company notice in writing signed by or on behalf of all the members of the Company to that effect.

- 12.5 The Professional Trustee Director shall be a person who:-
- 12.5.1 is a solicitor or a member of such other professional body as the Board of Inland Revenue may allow for the purposes of paragraph 3C(5) of Schedule 5 to the Finance Act 1989; and
  - 12.5.2 is not an employee of any company within the Group; and
  - 12.5.3 is not a director of any company within the Group (except the Company); and
  - 12.5.4 is selected for appointment by (and only by) those individuals who are the Non-Professional Trustee Directors.
- 12.6 Subject to Article 12.7, a Professional Trustee Director may be removed from office by resolution of the Non-Professional Trustee Directors passed by a simple majority.
- 12.7 No Professional Trustee Director, being the only Professional Trustee Director, may be removed from office pursuant to Article 12.6 unless another Professional Trustee Director is selected for appointment by the Non-Professional Trustee Directors and is appointed as a Professional Director with immediate effect.
- 12.8 A Professional Trustee Director may be appointed a director of the Company upon such terms as to remuneration and otherwise as may be agreed at the time of his appointment between Asda (on the one hand) and the Professional Trustee Director (on the other hand) PROVIDED ALWAYS that such agreement provides that such Professional Trustee Director may be removed at any time in accordance with Article 12.6.
- 12.9 A Non-Professional Trustee Director shall retire and his office as a director vacated if:-
- 12.9.1 he becomes bankrupt or makes any arrangement or confirmation with his creditors generally; or
  - 12.9.2 he ceases for any reason to be resident in the United Kingdom for the purposes of United Kingdom taxation; or

12.9.3 he is, or may be, suffering from mental disorder and he is admitted to hospital in pursuance to an application for admission for treatment under either the Mental Health Act 1983 or, in Scotland, under the Mental Health (Scotland) Act 1960.

12.10 In addition to the requirements of Article 12.9 an Employee Trustee Director shall retire from office if:-

12.10.1 he ceases to be an employee of the Group; or

12.10.2 he acquires a Material Interest in any company which is a member of the Group.

12.11 In these Articles:-

12.11.1 "Group" means Asda and any other company which is:-

- (a) resident in the United Kingdom for the purposes of United Kingdom taxation; and
- (b) is under the control (as that term is defined in section 840 of the Income and Corporation Taxes Act 1988) of Asda; and
- (c) is a subsidiary of Asda within the meaning given by section 736 of the Companies Act 1985.

12.11.2 "Material Interest" has the meaning given it in paragraph 16 of Schedule 5 to the Finance Act 1989.

13. Subject to Article 12, the Company may by ordinary resolution appoint a person who is willing to act to be a director either to fill a vacancy or as an additional director.

14. The directors holding office on and from the date <sup>of the execution of the Trust Deed</sup> ~~referred to in Article 12~~, with their respective offices, shall be the persons named as such in the Table to Rule 23 of Schedule 2 to the Trust Deed.

15. A director may not appoint an alternate director and regulations 65 to 69 (inclusive) of Table A shall not apply.

16. Directors shall not be required to retire by rotation and regulations 73 to 80 (inclusive) of Table A shall not apply.

## POWERS AND PROCEEDINGS OF DIRECTORS

17. The Chairman of the board of directors shall be the Professional Trustee Director. Regulation 88 of Table A shall be modified accordingly.
18. The quorum for the transaction of the business of the directors shall be three of whom one shall be the Professional Trustee Director and at least one other shall be an Employee Trustee Director. Regulation 89 of Table A shall be modified accordingly.
19. Subject to the Act, a director may vote at a meeting of directors or of a committee of directors (and may be counted in the quorum present at any such meeting) on any resolution concerning any matter in which he has, directly or indirectly, an interest which conflicts or may conflict with the interests of the Company provided that at or prior to such meeting he complies in respect of such a matter with the disclosure provisions of Section 317 of the Act. Compliance with Section 317 of the Act shall be sufficient disclosure by directors for the purpose of Regulations 85 and 86.
20. The directors may exercise all the powers of the Company conferred by the Memorandum to pay and/or provide pensions, annuities, gratuities, superannuation and other allowances, benefits, advantages, facilities and services both for persons who are or have been directors of, or who are or have been employed by the Company or by any subsidiary or associated company of the Company and their dependants and relatives by them or any of them by reason of the exercise of any such powers and Regulation 87 does not apply to the Company.
21. The directors shall be entitled to such remuneration (if any) by way of fee as shall from time to time be determined by resolution of the directors and the directors shall also be entitled to be paid their reasonable travelling, hotel and other expenses of attending and returning from meetings of the Company or otherwise incurred while engaged on the business of the Company or in the discharge of their duties and Regulations 82, 83 and 84 shall be amended accordingly.
22. Any director who, by request of the directors, performs special services for any purpose of the Company which in the opinion of the directors is outside the normal scope of such director's duties shall receive such extra remuneration by way of salary, percentage of profits or otherwise as the directors may determine, which shall be charged as part of the Company's ordinary revenue expenses.
23. Any director or member of a committee of directors may participate in a meeting of the directors or such committee by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can hear each other and any director or member of a committee participating in a meeting in this matter shall be deemed to be present in person at such meeting.

## INDEMNITY

24. Insofar as is permitted by law but without prejudice to any indemnity to which he may otherwise be entitled, every director, auditor, secretary or other officer of the Company shall be indemnified out of the assets of the Company against all costs, charges expenses, losses, damages and liabilities incurred by him in or about the execution of his duties or the exercise of his powers or otherwise in relation thereto including (without prejudice to the generality of the foregoing) any liability incurred by him in defending any proceedings, whether civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as an officer or employee of the Company in which judgement is given in his favour or in which he is acquitted, or which are otherwise disposed of without any finding or admission of material breach of duty on his part or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company. No director or other officer shall be liable for any loss, damage or misfortune which may happen or be incurred by the Company in the execution of the duties of his office or in relation thereto.

The directors shall have the power to purchase and maintain insurance for the benefit of persons who are or were directors, officers, employees or auditors of the Company including insurance against any liability incurred by such persons in respect of any negligence, default, breach of duty or trust of which they may be guilty in relation to the Company. Regulation 188 of Table A shall not apply.



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NAMES, ADDRESSES AND DESCRIPTIONS OF SUBSCRIBERS

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For and on behalf of  
TRUCIDATOR NOMINEES LIMITED,  
35 Basinghall Street,  
London EC2V 5DB

E. J. ZUERCHER

Authorised Signatory

For and on behalf of  
TREXCO LIMITED,  
35 Basinghall Street,  
London EC2V 5DB

D. C. J. ROWE

Authorised Signatory

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DATED the 16th day of May 1997

WITNESS to the above signatures:-

R.H. SMITH

35 Basinghall Street,  
London EC2V 5DB