

THE COMPANIES ORDINANCE [CAP 212]

COMPANY LIMITED BY SHARES

Memorandum  
AND  
Articles of Association  
OF

KUTANI LIMITED

Incorporated this \_\_\_\_\_ day of \_\_\_\_\_

DRAWN BY:

R. C. KESARIA,  
P. O. BOX 729,  
DAR ES SALAAM.



# Certificate of Incorporation

No.

I HEREBY CERTIFY that

KUTANI LIMITED

is this day incorporated under the Companies Ordinance (Cap.212), and that the Company is Limited

GIVEN under my hand at Dar es Salaam

this \_\_\_\_\_ day of \_\_\_\_\_

One thousand nine hundred and \_\_\_\_\_



\_\_\_\_\_  
*Registrar of Companies*

Stamp: TANZANIA, 25/2 Paid, 6/592326/5.7.88, Registrar of Companies

COMPANIES ORDINANCE (CAP. 212)

COMPANY LIMITED BY SHARES

MEMORANDUM OF ASSOCIATION  
OF

KUTANI LIMITED

Stamp: TANZANIA, 50/-, Stamp Duty Paid, ORIGINAL, 6/592326/5.7.88, Registrar of Companies, Stamp Duty Officer

- I. The name of the company is KUTANI LIMITED.
- II. The Registered Office of the company will be situated in Tanganyika.
- III. The objects for which the company is established are:-
  1. To carry on all or any of the trades and businesses of farmers, graziers, breeders of and dealers in livestock, market gardeners, arboriculturists; agriculturists, horticulturists and dairymen, and any other trade or business in connection with arboriculture, agriculture or horticulture.
  2. To breed, preserve, and deal in game, fish, and domestic and other animals of every description; and to carry on a fishery and to stock the same.
  3. To build cottages office premises, warehouses and dwelling houses for workmen and others, and to let the same and advance money to persons building such cottages, office premises, warehouses and dwelling houses at rents the company may deem fit and proper.
  4. To carry on any other business of a similar nature, or any business which may in the opinion of the directors be conveniently carried on by this company.
  5. To pay all costs, charges and expenses incurred or which the company shall consider to be in the nature of the preliminary expenses.
  6. To acquire and deal with any property real or personal, to carry on any trade or business, to erect any buildings, and generally to do all acts and things which, in the opinion of the company or the directors, may conveniently, or profitably, or usefully acquired and dealt with, carried on, erected or done by the company in connection with the business aforesaid.
  7. To carry on the business of electricians, mechanical engineers and manufacturers, workers and dealers in electrical apparatus and goods and the manufacture sale or hire of apparatus or goods to which the application of electricity or any like power, or any power that can be used as a substitute therefor, is or may be useful, convenient or ornamental, or any other business of a like nature.

8. To manufacture and produce and, either as principals or agents, trade and deal in any articles belonging to any such business, and all apparatus, appliances and things used in connection therewith, or with any inventions, patents or privileges for the time being belonging to the company.
9. To make experiments in, and public exhibitions of electrical machinery and appliances.
10. To let out on hire all or any of the property of the company (whether real or personal), including every description of apparatus or appliances of the company.
11. To manufacture, put up and use telephones, telegraphs (wireless or other), dynamos, accumulators, lamps, and all apparatus now known or that may hereafter be invented, connected with the generation, accumulation, distribution, supply and employment of electricity or any power that can be used as a substitute therefor, including all cables, wires or appliances for connecting apparatus at a distance with other apparatus, and including the formation of exchanges or centres.
12. To carry on the business as timber merchants, saw-mill proprietors, and timber growers, and to buy, sell, grow, prepare for market, manipulate, import, export and deal in timber and wood of all kinds in the manufacture of which timber or wood is used and to carry on the business of general merchants and to buy, clear, plant and work timber estates and to carry on any other business which may seem to the company capable of being conveniently carried in connection with any of the above or calculated directly or indirectly to render profitable or enhance the value of the company's property or rights for the time being.
13. To carry on the business as transporters of goods and passengers and generally to carry on the business of common carriers by any vehicle whatsoever.
14. To purchase or by any means acquire any freehold, leasehold or other property for any estate or interest whatsoever and any rights, privileges or easements over or in respect of any properties and any buildings, factories, mills, works, warves, roads, railways, tramways, and dead stock, barges, vessels or other things and real or personal properties or rights whatsoever which may be conveniently used with or may enhance the value of any other property of the company.
15. To carry on any other trade or business whatsoever which can in the opinion of the company, be to its advantage or benefit carried on whether or not by way of execution or extension of, or in connection with any business of the company or is or is not calculated directly or indirectly to develop any branch of the company's business or to increase the value of or turn to account any of the company's assets, property or rights.
16. To acquire and take over the whole or any part of the business, property and liabilities of any person or persons, firm, company corporation (carrying on any business within the scope of the objects of this

company) or to acquire any share or interest in any such business or undertaking, and to make arrangements for amalgamating, joint working or co-operation with any person, or company upon such terms as to division of profits, liabilities and otherwise, as may deemed desirable.

17. To promote any other company for the purpose of acquiring the whole or any part of the business or property and undertaking or any of the liabilities of this company, or undertaking any business or operations which may appear likely to assist or benefit this company, or to enhance the value of any property or business of this company; and to place or guarantee the placing of, underwrite, subscribe for, or otherwise acquire all or any part of the shares or securities of such company as aforesaid.
18. To enter into partnership or into any arrangement for sharing profits, union of interests, joint adventure, reciprocal concession or co-operation with any person or company and to take or otherwise acquire and hold shares or stock in or securities of and to subsidise or otherwise assist any such company and to sell, hold, reissue, with or without guarantee, or otherwise deal with such shares, stock or securities.
19. To take or otherwise acquire and hold shares, stock, debentures or other securities or interests in any other company, having its objects wholly or in part similar to those of this company or any business capable of being conducted so as directly or indirectly to benefit this company.
20. To pay for any property or rights acquired by the company, either in cash or fully or partly paid up shares, or by the issue of securities, or partly in one mode and partly by another and generally on such terms as may be determined.
21. To apply for, purchase or otherwise acquire any interests in any patents, brevets d'invention licences, concessions and the like conferring an exclusive or non-exclusive or limited right to use any secret or other information as to any invention which seem capable of being used for any purposes of the company, or the acquisition of which may seem calculated directly or indirectly to benefit this company and to use, exercise, develop, grant licences in respect of or otherwise turn to account, the property, rights and information so acquired.
22. To carry on business of transporters, carriers and of a service station for motor vehicles of all kinds.
23. To carry on the safe keeping, cleaning, repairing, refueling, and the general care of motor vehicles of all kinds whatsoever form of propulsion may be used.
24. To buy and sell petrol (gas) (gasoline) oil and petroleum products new and used motor vehicles, parts of such vehicles, accessories, supplies, radios, motorcycles, motor boats, and all kinds of machinery, rubber goods, electrical goods.

journeys of cars, lorries, trucks, tractors, and vehicles used in the repair of such vehicles.

26. To finance the purchase, hire-purchase or sale of any such vehicles or their accessories.
27. To insure against every description of vehicles inland transport risks, marine risks and aerial navigation risks which may legally be undertaken, relating to the perils of the inland transport, sea and air, fire, war, reprisals, and all other risks of a like nature incidental to transport by any means whatsoever, vehicles, ships, aeroplanes, vessels, and craft of all descriptions, and also the freights, goods, merchandise, cargo, earnings, property whatsoever, in or on board of the same, whether the property of members of the company, or otherwise, howsoever, so far as the same may be effected or made according to law.
28. To lend and advance money or give credit to such persons, firms or companies and on such terms as may seem expedient, and in particular to customers and others having dealings with the company, and to give guarantees or become surety for any persons, firms or companies for the due payment of money or for the performance of any obligations or liabilities.
29. To borrow or raise or secure payment of money by mortgage, or by the issue of debentures or debenture stock, perpetual or otherwise, or in such other manner as the company shall think fit and for the purposes aforesaid or for any other lawful purpose to charge all or any of the company's property or assets, present and future including its uncalled capital, and collaterally or further to secure any securities of the company by a trust deed or other assurance.
30. To open, keep, maintain and operate accounts current, fixed or otherwise with Bankers and Shroffs and to make advances with or without security upon such terms as may be determined.
31. To draw, make, accept, endorse, discount, execute and issue, promissory notes, bills of exchange, bills of lading, warrants, debentures and other negotiable or transferrable instruments.
32. To establish, maintain, subscribe to and support provident funds and grant, pensions, allowances, gratuities, bonuses or charitable aids to any persons who are or may have been Directors, Officers or Employees, of the company or of its predecessor in business or the wives, children or other relatives or the dependants of any such persons and to support and subscribe to any religious, charitable or public project and institution, Society, Club or funds whether capable of conferring any benefit on the company's employees or not.
33. To distribute amongst members of the company by way of dividends in kind or specie any of the properties or shares or securities belonging to the company.

34. To sell or dispose of the undertaking, property and assets of the company or any part thereof in such manner and for such consideration as the company may think fit and to improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the company.
35. To cause the company to be registered or recognized in other East African Territories or in any Commonwealth or foreign country, Dominion, State or place.
36. To pay and discharge all or any part of the costs, charges and expenses relating to the incorporation and formation of this company or the establishment of its business.
37. To do all or any of the above things in any part of the world and either as principals or agents, trustees or otherwise and either alone or in conjunction with others and by or through agents, sub-agents, trustees, or otherwise.
38. To do all such other things as are incidental or the company may think conducive to the attainment of the above objects or any of them.

AND IT IS HEREBY EXPRESSLY DECLARED that in the construction of these presents unless the context otherwise requires, the singular number shall include the plural and vice versa. And it is hereby declared that the word Company in this clause shall be deemed to include whether domiciled in Tanzania or elsewhere, and the intention is that the several objects specified in each paragraph of this clause shall be independent main objects and shall be in no wise limited or restricted by a reference to or inference from the terms of any other paragraph or the name of Company.



IV. The liability of the members is Limited.

V. The share capital of the company is Shs.5,000,000/= divided into 5000 shares of Shs. 1,000/= each. The shares in the original or any increased capital may be attached thereto respectively any preferential deferred or other special rights, privileges, conditions or restrictions as to dividends, capital, voting or otherwise.

VI. The company has power to increase its capital by issue of shares or reduce it at any time.

VII. In the event of the company being wound up the holder of the shares shall be entitled to the whole of the assets of the company in proportion to the amount credited as paid up on each share.

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, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names:-

Names, Addresses and Description of Subscribers	Number of Shares taken by each Subscriber	Signature of Subscribers
(1) MR. SAIDI OMARI MUHALI P.O. BOX 1192 DAR ES SALAAM  EMPLOYEE	ONE	
(2) MR. KANPILAL KUNJI VYAS P.O. BOX 1192 DAR ES SALAAM  EMPLOYEE	ONE	

Dated this 11th day of February 1988.

WITNESS to the above signatures:-

Full Name: S. M. M. SHARWALLA

Signature: 

Postal Address: S. M. M. SHARWALLA

Box 1192, Dar es Salaam

Qualification: AGENT



members of any local board established as aforesaid, or in favour of any company, or of the members, directors, nominees, or managers of any company or firm, or in favour of any person or persons whether nominated directly or indirectly by the Directors; and any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorney or attorneys as the Directors may think fit.

101. Any such delegate or attorneys as aforesaid may be authorised by the Directors to sub-delegate all or any of the powers, authorities, and discretions for the time being vested in them.

102. The company may exercise the powers conferred by the Companies Ordinance, 212 section 104 and such powers shall accordingly be vested in the Directors, and the company may cause to be kept in any part of Tanzania, the United Kingdom or any part of the world and Colonies in which it transacts business a branch register of members resident in that part. The Directors may, subject to section 105 of the Ordinance make such provisions as they think fit relating thereto and may comply with requirements of any local law.

#### DIVIDEND AND RESERVE

103. The company in General Meeting may declare dividends, but no dividend shall exceed the amount recommended by the Directors.

104. The Directors may from time to time pay to the members such interim dividends as appear to the Directors to be justified by the profits of the company.

105. No dividend shall be paid otherwise than out of profits.

106. Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid upon any of the shares in the company dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this article as paid on the share.

107. The Directors may, before recommending any dividend set aside, out of the profits of the company, such sums as they think proper as a reserve fund to meet contingencies, or for equalising dividends, or for property of the company, and for such other purposes as the Directors shall in their absolute discretion think conducive to the interests of the company; and may invest the several sums so set aside upon such investments (other than shares of the company) as they may think fit, and from time to time deal with and vary such investments, and dispose of all or any part thereof for the benefit of the company, and may divide the reserve fund into such special funds as they think fit and employ the reserve fund or any part thereof in the business of the company, and that without being bound to keep the same separate from other assets.

persons entitled to share therein.

110. The Declaration of the Directors as to the amount of the net profits of the company shall be conclusive.

111. The Directors may retain any dividends on which the company has a lien, and may apply the same in or towards satisfaction of the debt, liabilities or engagements in respect of which the lien exists.

112. Any General Meeting declaring a dividend may make a call on the members of such amount as the meeting fixes but so that the call on each member shall not exceed the dividend payable to him, and so that the call be made payable at the same time as the dividend, and the dividend may, if so arranged between the company and the members, be set off against the call. The making of call under this clause shall be deemed ordinary business of any Ordinary General Meeting which declares a Dividend.

113. Any General Meeting declaring a dividend may resolve that such dividend be paid wholly or in part by the distribution of specific assets, and in particular of paid up shares, debentures or debenture stock of the company or paid up shares, debentures or debenture stock of any other company, or in any one or more of such ways.

114. Any General Meeting may resolve that any moneys, investments or other assets forming part of the dividend profits of the company standing to the credit of the reserve fund or in the hands of the company and available for dividend (or representing premiums received on the issue of shares and standing to the credit of the share premium account) be capitalised and distributed amongst such of the shareholders as would be entitled to receive the same if distributed by way of dividend and in the same proportions on the footing that they become entitled thereto as capital and that all or any part of such capitalised fund be applied on behalf of such shareholders in paying up in full, either at part or at such premium as the resolution may provide, any unissued shares or debentures or debenture stock of the company which shall be distributed accordingly or in or towards payment of the uncalled liability on any issued shares or debentures or debenture stock, and that such distribution or payment shall be accepted by the such shareholders in full satisfaction of their interest in the said capitalised sum.

115. For the purpose of giving effect to any resolution under the two last preceding articles the Directors may settle any difficulty which may arise in regard to the distribution as they think expedient, and in particular may issue fractional certificates, and may fix the value for distribution of any specific assets, and may determine that cash payments shall be made to any members upon the footing of the value of fixed or that fractions of less value than shillings twenty may be disregarded in order to adjust the rights of all parties, and may vest any such cash or specific assets in trustees upon such trusts for the persons entitled to the dividend or capitalised fund as may seem expedient to the Directors.

such person shall become a member in respect of such shares or shall duly transfer the same.

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118. Unless otherwise directed any dividend may be paid by cheque or warrant sent through the post to the registered address of the member or person entitled, or, in the case of joint holders, to the registered address of that one whose name stands first on the register in respect of the joint holding; and every cheque or warrants so sent shall be made payable to the order of their person to whom it is sent.

119. All dividends unclaimed for one year after having been declared may be invested or otherwise made use of by the Directors for the benefit of the company until claimed, and all dividends unclaimed for five years after having been declared may be forfeited by the Directors for the benefit of the company.

120. No dividend shall bear interest against the company.

#### ACCOUNTS

121. The Directors shall cause true accounts to be kept:-

- (a) of all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place; and
- (b) of all sales and purchases of goods by the company;
- (c) of the assets and liabilities of the company.

122. The books of account shall be kept at the registered office of the company, or at such other place or places as the Directors think fit, and shall always be open to the inspection of the Directors.

123. The Directors shall from time to time determine whether and to what extent and what times and place and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being Directors, and no member (not being a Director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorised by the Directors of the company or by the company in General Meeting.

124. At the ordinary meeting in every year, the Directors shall lay before the company a profit and loss account, and a balance sheet, containing a summary of the property and liabilities of the company, made up to a date not more than six months before meeting, from the date up to which the last preceding account and balance sheet were made up, and in the case of the first account and balance sheet from the incorporation of the company, and such balance sheet and account shall comply with the provisions of the Companies Ordinance, 212 section 122 to 134, but the Directors shall not be bound

125. Every such account and balance sheet shall be accompanied by a report of the Directors as to the state and condition of the company, and as to the amount (if any) which they recommend to be paid out of the profits by way of dividend or bonus to the members and the amount (if any) which they propose to carry to the reserve fund, according to the provisions in that behalf hereinbefore contained; and the account, report and balance sheet shall be signed by two Directors.

126. A copy of such balance sheet and report shall, fourteen days previously to the meeting, be sent to the persons entitled to receive notices of general meetings in the manner in which notices are to be given hereunder.

#### AUDIT

127. Once at least in every year the accounts of the company shall be examined, and the correctness of the profit and loss account and balance sheet ascertained by one or more auditor or auditors.

128. The company at each Ordinary General Meeting shall appoint an auditor or auditors to hold office until the next Ordinary General Meeting and their appointment, remuneration, rights and duties shall be regulated by the Companies Ordinance, 212 sections 132(4) and 133.

129. Every account of the Directors, when audited and approved by a General Meeting, shall be conclusive except as regards any error discovered therein within three months next after the approval thereof. Whenever any such error is discovered within that period, the account shall forthwith be corrected, and thenceforth shall be conclusive.

#### NOTICES

130. A notice may be given by the company to any member either personally, or by sending it through the post in prepaid letter addressed to such member at his registered address, or (if he has no registered address in Tanzania) at the address, if any, within Tanzania supplied by him to the company for the giving of notices to him.

131. As regards those members who have no registered place of address in Tanzania, a notice posted up in the office shall be deemed to be well served on them at the expiration of twenty-four hours after it is so posted up.

132. The holders of shares warrants shall not, unless otherwise expressed therein, be entitled in respect thereof to notice of any General Meeting of the company, and it shall not be necessary to give notice of General Meetings to any person entitled to a share by transmission unless such person shall have been duly registered as a member of the company.

- (b) Sending to the Registrar notice of consolidation or sub-division of shares (Section 52).
- (c) Notice of increase of share capital (Section 54).
- (d) Keeping registers of mortgages and charges and allowing inspection, and registering such mortgages and charges with the registrar (Sections 80, 81, 87, 88 and 89).
- (e) Keeping a register of members (Section 96).
- (f) Making an Annual Return, etc. (Section 108 to 111).
- (g) Calling a General Meeting every year within the proper time (Section 112).
- (h) Sending to the Registrar copies of Special and Extraordinary Resolution etc., (Section 118).
- (i) Keeping a register of Directors and notifying their names and nationality and changes in the Board (Section 145).

#### ALTERATION OF ARTICLES

140. Subject to the provisions of the Ordinance and to those contained in the Memorandum of Association the company may by special resolution make alterations or additions to its Articles of Association and any such alteration or addition so made shall be as valid and effectual as if originally contained in these Articles and be subject in like manner to alteration by special resolution.

#### INDEMNITY

141. Every Director, Managing Agent, Auditor, Manager, Secretary, and other officer or servant of the company shall be indemnified by the company against all the costs, losses and expenses which may such officer or servant of the company may incur or become liable to, reason of any contract entered into, or act or thing done by him as such officer or servant, or in any way in the discharge of his duties, except any such as shall have arisen from their own respective wilful acts or defaults.

