

THE COMPANIES ORDINANCE (Cap. 212)

COMPANY LIMITED BY SHARES

**Memorandum**

AND

**Articles of Association**

OF

**MTIBWA SUGAR ESTATES LIMITED**

Incorporated the 22<sup>nd</sup> day of December 1961

THE COMPANIES ORDINANCE  
(Cap. 212)

COMPANY LIMITED BY SHARES

MEMORANDUM

and

ARTICLES OF ASSOCIATION

of

\*\*\*\*\*  
\* MTIBWA SUGAR ESTATES LIMITED \*  
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Incorporated the 22nd day of December, 1961.

TANGANYIKA TERRITORY

CERTIFICATE OF INCORPORATION

No. 2842

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I HEREBY CERTIFY that MTIBWA SUGAR ESTATES 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 22nd day of  
December, One thousand nine hundred and sixty-one.

Seal of the  
Registry of Companies  
Tanganyika Territory

D. J. A. Dowdall  
Asst. Registrar of Companies

THE COMPANIES ORDINANCE (Cap. 212)

COMPANY LIMITED BY SHARES

MEMORANDUM OF ASSOCIATION

of

MTIBWA SUGAR ESTATES LIMITED

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1. The name of the Company is "MTIBWA SUGAR ESTATES LIMITED."
2. The objects for which the Company is established are:-
  - (a) To acquire all those four parcels of land situated at Turiani in the district of Morogoro in extent seven thousand one hundred and two acres or thereabouts in the whole and being Land Office Numbers 12111, 12140, 12310 and 18105 and with a view thereto to adopt an agreement made on the 27th October, 1961, between Kwalukonge Estates Limited, Stephen Renos Emmanuel as trustee for the company and the subscribers to this Memorandum, being an agreement for the acquisition of the parcels hereinbefore mentioned.
  - (b) To carry on the business of planters, growers and producers of sugar, tea, coffee, pyrethrum, cocoa, tobacco, coconuts, papaya, flax, sisal, citrus fruits, wattle, india rubber, gutta percha, and other plants, timber, trees, fruit crops, and natural products of any kind or otherwise, cultivators, cattle, horse, sheep and pig breeders, dairy and poultry farmers, millers, graziers, market gardeners, seed growers, meat and fruit preservers, carriers, storekeepers, quarry owners, brickmakers, builders, merchants, importers and exporters, saw mill proprietors, timber merchants, and dealers and cultivators, winers and buyers of every kind of vegetable, mineral and other produce of the soil, and to cultivate and develop any land and to treat, cure, submit to any process or manufacture and prepare for market (whether on account of the Company or others) any produce or products, articles or things whatsoever, to buy, sell, warehouse, transport by land or water, and deal in, and sell any such produce or products and any other goods, produce, wares, merchandise, articles and things of any kind whatsoever.
  - (c) To grow, cultivate and gather any and every sort of crop or produce of the soil and to carry on the business of buyers of every kind of vegetable or mercantile produce, and to prepare, manufacture or render marketable any such produce and for such

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purposes to erect and work all such mills, machinery, dams, irrigation trenches, flumes and other contrivances which may be deemed necessary.

- (d) To carry on the business of mechanical engineers, machinists, fitters, millwrights, founders, wire drawers, tube makers, metallurgists, saddlers, galvanisers, japanners, annealers, enamellers, electro-platers, painters and packing case makers.
- (e) To buy, sell, repair and deal in apparatus, machinery, materials and articles of all kinds which shall be capable of being used for the purposes of any business herein mentioned or likely to be required by customers of any such business.
- (f) To buy, sell, manufacture and deal in minerals, plant, machinery, implements, oxen and other animals, conveniences, provisions and things capable of being used in connection with prospecting, mining and metallurgical operations.
- (g) To search for, get, win, work, make marketable, and use, sell and dispose of coal, oil, iron, clay, precious and other metals, minerals, and other substances or products on, within, or under any property of the Company, and to grant prospecting and mining and other licences, rights or privileges, for such purposes.
- (h) To purchase, take on lease or otherwise acquire any mines, mining claims, mining rights and metalliferous land in Tanganyika or elsewhere and any interest therein, and to explore, work, exercise, develop and turn to account the same.
- (i) To acquire from the Government of Tanganyika or any other Territories in Africa and any other sovereign state or authorities in Africa or elsewhere any concessions, grants, decrees, rights, powers, and privileges whatsoever which may seem to the Company capable of being turned to account, and to work, develop, carry out, exercise and turn to account the same.
- (j) To carry on business as prospectors, miners, store-keepers, farmers, cattlebreeders, stockmen, carriers, provision preservers, mechanical engineers, mining engineers, builders and contractors.
- (k) To carry on any other business or businesses of a similar nature, or any business or businesses which may in the opinion of the Directors be conveniently carried on by this Company in connection with the abovementioned business, or objects or any of them, or calculated directly or indirectly to enhance the value of or render profitable, any of the Company's property or rights.

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- (d) To carry on the business of mechanical engineers, machinists, fitters, millwrights, founders, wire drawers, tube makers, metallurgists, saddlers, galvanisers, japanners, annealers, enamellers, electro-platers, painters and packing case makers.
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- (f) To buy, sell, manufacture and deal in minerals, plant, machinery, implements, oxen and other animals, conveniences, provisions and things capable of being used in connection with prospecting, mining and metallurgical operations.
- (g) To search for, get, win, work, make marketable, and use, sell and dispose of coal, oil, iron, clay, precious and other metals, minerals, and other substances or products on, within, or under any property of the Company, and to grant prospecting and mining and other licences, rights or privileges, for such purposes.
- (h) To purchase, take on lease or otherwise acquire any mines, mining claims, mining rights and metalliferous land in Tanganyika or elsewhere and any interest therein, and to explore, work, exercise, develop and turn to account the same.
- (i) To acquire from the Government of Tanganyika or any other Territories in Africa and any other sovereign state or authorities in Africa or elsewhere any concessions, grants, decrees, rights, powers, and privileges whatsoever which may seem to the Company capable of being turned to account, and to work, develop, carry out, exercise and turn to account the same.
- (j) To carry on business as prospectors, miners, store-keepers, farmers, cattlebreeders, stockmen, carriers, provision preservers, mechanical engineers, mining engineers, builders and contractors.
- (k) To carry on any other business or businesses of a similar nature, or any business or businesses which may in the opinion of the Directors be conveniently carried on by this Company in connection with the abovementioned business, or objects or any of them, or calculated directly or indirectly to enhance the value of or render profitable, any of the Company's property or rights.

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- (l) To pay all costs, charges and expenses incurred or sustained in or about the promotion and establishment of the Company or which the Company shall consider to be preliminary.
- (m) To enter into partnership or into any arrangement for sharing profits or joint adventure with any person or persons or company carrying on, or about to carry on any business which this Company is authorised to carry on, or any business capable of being conducted so as directly or indirectly to benefit this Company, and to acquire or join in acquiring any such business.
- (n) To develop the resources and turn to account the lands, buildings and rights for the time being of the Company, in such a manner as the Company may think fit and in particular by cleaning, draining, fencing, building, planting, improving, farming, grazing, mining and by the establishment of towns, villages and settlements and dividing the land of the Company into small holdings.
- (o) To acquire, build and construct houses, factories, machinery outbuildings, boms, railways, tramways, roads, piers, wharves and jetties, to open, work and develop quarries or brick-works, and to erect and work timber and saw mills and maintain or alter any buildings, plants or works necessary or convenient for the purposes of the Company's business.
- (p) To purchase or by any other 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 property and any buildings, factories, mills, works, wharves, roads, railways, tramways, machinery, engines, rolling stock, live or dead stock, barges, vessels and any other real or personal property which the Company may think desirable in connection with its business.
- (q) To build, construct, maintain, alter, enlarge, pull down, and remove or replace any building, factories, mills, offices, works, wharves, roads, railways, tramways, machinery, engines, walls, fences, banks, dams, sluices or water courses, and to clear sites for the same or to join with any person, firm or company, in doing any of the things aforesaid, and to work, manage, and control the same, or to join with others in so doing.
- (r) To improve, manage, cultivate, develop, exchange, let on lease or otherwise, mortgage, sell, dispose of, turn to account, grant rights and privileges in respect of, or otherwise deal with all or part of the property and rights of the Company.

- (s) To acquire and undertake the whole or any part of the business goodwill, and assets of any person, firm or company carrying on or proposing to carry on any of the businesses which this Company is authorised to carry on, and as part of the consideration for such acquisition to undertake all or any of the liabilities of such person, firm or company or to acquire an interest in, amalgamate with or enter into any arrangement for sharing profits, or for co-operation or for limiting competition, or for mutual assistance with any such person, firm or company and to give or accept by way of consideration for any of the acts or things aforesaid or property acquired any shares, debenture stock, or securities that may be agreed upon and hold and retain or sell, mortgage, and deal with any shares, debentures, debenture stock or securities so received.
- (t) To purchase, take on lease, or in exchange, hire subscribe for or otherwise acquire and to hold, sell, let on lease or otherwise dispose of, or grant rights over and transfer and deal with any property immovable or movable, real or personal, including patents, patent rights, inventions, concessions, mines, mining rights and claims and shares, stock, debentures or obligations of any company and upon a distribution of assets or division of profits to distribute any such property amongst the members of this Company in specie.
- (u) To draw, make, accept, endorse, discount, negotiate, execute, issue, buy, sell and deal in promissory notes, cheques, bills of exchange, bills of lading and other negotiable or transferable instruments.
- (v) To borrow or raise or secure the payment of money in such manner as the Company shall think fit, and in particular by the issue of debentures or debenture stock, perpetual or otherwise, charged upon all or any of the Company's property (both present and future), including its uncalled capital, and to purchase, redeem or pay off any such securities.
- (w) To sell, exchange, let, develop, dispose of or otherwise deal with the undertaking of all or any of the property of this Company upon such terms and for such price or other consideration of any kind as the Company in general meeting may think fit.
- (x) To promote, or assist in or contract with any person or company for the promotion of any company or companies for the purpose of acquiring all or any of the property and liabilities of this Company or for any other purpose.
- (y) To remunerate or make donations to any person or persons whether Directors, officers or agents of this Company or not for services rendered or to be rendered in or about the conduct of the Company's business.

- (z) To invest and deal with the moneys of the Company not immediately required upon such securities and in such manner as may from time to time be determined by the Directors, the word "securities" being deemed to include fixed deposits with any bank.
- (aa) To sell, dispose of or transfer the business, property and undertaking of the Company, or any part, thereof, for any consideration which the Company may see fit to accept and in particular for shares, debentures or securities of any other company having objects altogether or in part similar to those of this Company.
- (bb) To distribute in specie or otherwise as may be resolved any assets of the Company amongst its members and particularly the shares, debentures or other securities of any other company formed to take over the whole or any part of the assets or liabilities of this Company.
- (cc) To procure the Company to be registered incorporated or otherwise constituted (if considered necessary or advisable) according to the law of the United Kingdom or any Colony Dominion or Dependency thereof or any foreign country.
- (dd) To lend and advance money or give credit to such persons and on such terms as may seem expedient and in particular to customers and others having dealings with the Company, and give guarantees or become security for any such persons.
- (ee) To make payments to committees, funds, associations, political parties, or other persons for the purpose of promoting legislation calculated to further the objects of the Company or for any other purpose which may seem expedient or for the purpose of opposing any legislation which may seem calculated directly or indirectly to prejudice the Company's interests.
- (ff) To subscribe for, take, purchase or otherwise acquire and hold shares or other interest in or securities of any other company having objects altogether or in part similar to those of this Company or carrying on any business capable of being conducted so as directly or indirectly to benefit this Company.
- (gg) To support and subscribe to any charitable or public object or institution, society or club which may be for the benefit of the Company or its employees, or may be connected with any town or place where the Company carries on business; to give pensions, gratuities or charitable aid to any person or persons who may have served the Company, including Directors or to the wives, children, or other relatives of such persons; to make payments towards insurance; and to form and contribute to provident and benefit funds for the benefit of any person employed by the Company including Directors.

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Certified True Copy of Resolution passed at an Extra Ordinary General Meeting of the Company held on 7th September, 1974:-

Increase in Authorised Share Capital

Resolution: "THAT THE AUTHORISED CAPITAL OF THE COMPANY BE AND IS HEREBY INCREASED FROM SHS.45,500,000/- DIVIDED INTO 1,700,000 ORDINARY SHARES OF SHS. 20/- EACH AND 575,000 PREFERENCE SHARES OF SHS.20/- EACH TO SHS.54,000,000/- BY FURTHER CREATION OF 425,000 ORDINARY SHARES OF SHS.20/- EACH TO RANK PARI PASSU WITH THE EXISTING ORDINARY SHARES OF SHS.20/- EACH."

**Resolutions passed at an Extra Ordinary General meeting of the Company held on 4.1.1974.**

**Resolutions**

1 It was resolved that 'The Authorised Capital of the Company be and is hereby increased from Shs. 34,000,000 divided into 1,700,000 Ordinary Shares of Shs. 20/- each to Shs. 45,500,000 by the creation of 575,000 Preference Shares of Shs. 20/- being 7% non-cumulative Redeemable Preference Shares amounting to Shs. 11,500,000.'

2 It was resolved that 'The Authorised Capital of the Company is Shs. 45,500,000/- divided into 1,700,000 Ordinary Shares of Shs. 20/- each and 575,000 Preference Shares of Shs. 20/- each. The said Preference Shares shall confer on the holders the right to be paid out of the profits of each financial year a fixed dividend for such year at the rate of 7 per cent per annum on the capital for the time being paid up thereon and shall rank in a winding up as regards return of capital and payment of arrears of dividend down to the commencement of the winding up in priority to the Ordinary Shares, but shall not confer the right to any further participation of profits or assets. The said Preference Shares are at the option of the Company liable to be redeemed on three months' prior notice to the holder thereof by the Company'.

As a consequence of this, the Articles shall be re-numbered.

- (hh) To distribute any of the property of the Company among the members in specie.
- (ii) To do all or any of the above things in any part of the world and as principals, agents, contractors, trustees, or otherwise, and by or through trustees, agents or otherwise, and either alone or in conjunction with others.
- (jj) To do all such other things as are incidental or conducive to the attainment of the above objects or any of them.

NONE of the foregoing sub-clauses or the objects therein specified, or the powers thereby conferred, shall be deemed subsidiary or ancillary merely to the objects mentioned in the first sub-clause of this clause, but the Company shall have full power to exercise all or any of the powers conferred by any part of this clause in any part of the world, and notwithstanding that the business, undertaking, property or acts proposed to be transacted, acquired, dealt with or performed do not fall within the objects of the first sub-clause of this clause,

3. The liability of the members is limited.

4. The capital of the Company is Shs 34,000,000/- divided into 700,000 shares of Shs. 20/- each. The Company has power from time to time to increase or reduce its capital, and to divide the shares in the original or increased capital into several classes and to attach thereto respectively any preference or deferred, qualified or special rights, privileges or conditions.

WE, the several persons whose names, addresses and descriptions 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 Descriptions of Subscribers	Number of Shares taken by each Subscriber	Signature	Witness
Virji Nanji Bhardia, P.O.Box 1820, Dar es Salaam. Advocates Clerk	1	Sd. V.N.Bhardia	Sd.S.H.M.Kanji
R. Dhanani, P.O.Box 1820, Dar es Salaam. Stenographer.	1	Sd. R.Dhanani	Sd.S.H.M.Kanji

Dated the 19th day of December, 1961.

WITNESS: Sgd. S. H. M. Kanji

THE COMPANIES ORDINANCE (Cap. 212)

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

of

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\* MTIBWA SUGAR ESTATES LIMITED \*  
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APPLICATION OF TABLE "A"

1. Subject as hereinafter provided the regulations contained in Table A in the First Schedule to the Companies Ordinance (Cap. 212) shall apply to the Company.

2. Regulations 7, 11, 23, 28, 48, 50, 64, 66, 68, 69, 70, 72 to 80, 82, 90 and 102 of Table A shall not apply to the Company but the Articles hereinafter contained and the remaining Regulations of Table A subject to modifications hereinafter contained shall apply to the Company.

PRELIMINARY

3. The Company is registered as a private Company, and accordingly -

- (a) The right to transfer shares is restricted in manner hereinafter provided;
- (b) The number of the members of the Company (exclusive of persons who are in the employment of the Company and of persons who having been formerly in the employment of the Company, were while in such employment and have continued after the determination of such employment to be members of the Company) is limited to fifty. Provided that where two or more persons hold one or more shares in the Company jointly they shall for the purpose of this article be treated as a single person.
- (c) Any invitation to the public to subscribe for any shares or debentures of the Company is prohibited.

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- (d) The Company shall not have power to issue share warrants to bearer.

#### SHARES

4. The shares shall be at the disposal of the Directors, and (save as otherwise directed by the Company in General Meeting) they may allot or otherwise dispose of them to such persons at such times and generally on such terms and conditions as they think proper provided that no share shall be issued at a discount, except as provided by Section 59 of the Ordinance.

5. The Company may pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the Company, or procuring or agreeing to procure subscriptions, whether absolutely or conditionally, for any shares in the Company, provided that the commission does not exceed 10 per cent of the price at which such shares are issued, or an amount equivalent thereto and such commission may be paid, in whole or in part in cash or fully or partly paid shares of the Company, as may be arranged. The statement required by Section 44 of the Ordinance shall be duly delivered to the Registrar of Companies for registration, and Section 43 of the Ordinance shall, where necessary, be duly complied with, and the amount of any such commission shall be duly stated in the Balance Sheets and Annual Returns of the Company as required by Section 108 of the Ordinance.

6. No persons shall be recognised by the Company as holding any shares upon any trust, and the Company shall not be bound by or recognise any equitable, contingent, future or partial interest in any share or any interest in any fractional part of a share, or (except only as by these presents otherwise expressly provided) any other right in respect of any share except an absolute right to the entirety thereof in the registered holder.

#### LIEN

7. The Company shall have a first and paramount lien and charge on all the shares registered in the name of a member (whether solely or jointly with others) for all moneys due to the Company from him or his estate, either alone or jointly with any other person, whether a member or not. The registration of a transfer of shares shall operate as a waiver of the Company's lien (if any) on such shares. The Company's lien (if any) on a share shall extend to all dividends and other moneys payable in respect thereof.

#### CALLS ON SHARES

8. The Directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares, and each member shall (subject to receiving at least fourteen days' notice specifying the time or times of payment) pay to the Company at the time or times specified, the amount called on his shares.

9. On the trial or hearing of any action for the recovery of any money due for any call, it shall be sufficient to prove that the name of the member sued is entered in the Register of Members of the Company as the holder, or one of the holders, of the shares in respect of which such debt accrued; that the resolution making the call is duly recorded in the Minute Book and that notice of

such call was duly given to the member sued in pursuance of these presents, and it shall not be necessary to prove the appointments of the Directors who made such call, nor any other matters whatsoever but the proof of the matters aforesaid shall be conclusive evidence of the debt.

#### TRANSFER AND TRANSMISSION OF SHARES

10. The Directors may decline to register any instrument of transfer unless (a) such a fee not exceeding two shillings as the Directors may from time to time determine, is paid to the Company in respect thereof and (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer. The Director may decline to register any transfers of any shares on which the Company has a lien. If the Directors refuse to register a transfer of any shares, they shall within two months after the date on which the transfer was lodged with the Company send to the transferee notice of the refusal as required by Section 80 of the Ordinance.

11. (a) A share may be transferred by a member or other person entitled to transfer to any member selected by the transferor; but save as aforesaid, and save as provided by clause (f) or (h) hereof, no share shall be transferred to a person who is not a member so long as any member or any person selected by the Company in general meeting as one whom it is desirable in the interests of the Company to admit to membership is willing to purchase the same at the fair value.

(b) Except where the transfer is made pursuant to clause (f) or (h) hereof, the person proposing to transfer any share hereinafter called the proposing transferor shall give notice in writing hereinafter called a transfer notice to the Company that he desires to transfer the same. Such notice shall specify the sum he fixes as the fair value, and shall constitute the Company his agent for the sale of the share to any member of the Company or person selected as aforesaid willing to purchase the share (hereinafter called the purchasing member) at the price so fixed, or, at the option of the purchasing member, at the fair value to be fixed by the auditor in accordance with clause (d) hereof. A transfer notice may include several shares, and in such case shall operate as if it were a separate notice in respect of each. A transfer notice shall not be revocable except with the sanction of the Directors.

(c) If the Company shall, within the space of twenty-eight days after being served with a transfer notice, find a purchasing member and shall give notice thereof to the proposing transferor, he shall be bound, upon payment of the fair value as fixed in accordance with clause (b) or (d) hereof, to transfer the share to the purchasing member.

(d) In case any difference arises between the proposing transferor and the purchasing member as to the fair value of a share, the auditor shall, on the application of either party, certify in writing the sum which, in his opinion, is the fair value, and such sum shall be

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deemed to be the fair value, and in so certifying the auditor shall be considered to be acting as an expert, and not as an arbitrator; and accordingly the Arbitration Ordinance Cap. 15, shall not apply.

(e) If in any case the proposing transferor, after having become bound as aforesaid, makes default in transferring the share, the Company may receive the purchase-money, and the proposing transferor shall be deemed to have appointed any one director or the secretary of the Company as his agent to execute a transfer of the share to the purchasing member, and upon the execution of such transfer the Company shall hold the purchase-money in trust for the proposing transferor. The receipt of the Company for the purchase-money shall be a good discharge to the purchasing member, and after his name has been entered in the register in purported exercise of the aforesaid power, the validity of the proceedings shall not be questioned by any person.

(f) If the Company shall not, within the space of twenty-eight days after being served with a transfer notice, find a purchasing member and give notice in manner aforesaid, the proposing transferor shall at any time within three months afterwards be at liberty, subject to clause (g) hereof, to sell and transfer the share or where there are more shares than one those not placed to any person and at any price.

(g) The Company in general meeting may make and from time to time vary rules as to the mode in which any shares specified in any transfer notice shall be offered to the members, and as to their rights in regard to the purchase thereof, and in particular may give any member or class of members a preferential right to purchase the same. Until otherwise determined, every such share shall be offered to the members in such order as shall be determined by lots drawn in regard thereto, and the lots shall be drawn in such manner as the Directors think fit.

(h) Any share may be transferred by a member to any child, son-in-law, daughter-in-law, father, mother, brother, sister, nephew, niece, wife, or husband of such member, and any share of a deceased member may be transferred by his executors or administrators to any child, son-in-law, daughter-in-law, father, mother, brother, sister, nephew, niece, widow or widower of such deceased member and shares standing in the name of the trustees of the will of any deceased member may be transferred upon any change of trustees for the time being of such will and the restrictions in clause (a) thereof shall not apply to any transfer authorised by this clause.

#### FORFEITURE OF SHARES

12. If a member fails to pay any call or instalment of a call on the day appointed for payment thereof the Directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment.

Certified True Copy of a Resolution passed at an Extra Ordinary  
General Meeting of the Company held on 7th September, 1974:-

Alteration in Articles of Association

Resolution: "THAT THE WORD 'EIGHT' IN THE ARTICLE 17 BE  
REPLACED BY THE WORD 'TEN.'"

- i) "That the word 'SIX' in the Article 17 be deleted and the word 'EIGHT' be added in place of the word 'SIX'."

of so much of the call or instalment as is unpaid together with any interest which may have accrued and any expenses incurred by reason of such non-payment. Such notice shall state the place at which the payment required by such notice is to be made.

13. An entry in the Minute Book of the Company of the forfeiture of any share, or that any have been sold to satisfy a lien of the Company, shall be sufficient evidence as against all persons claiming to be entitled to such shares that the said shares were properly forfeited or sold; and such entry and the receipt of the Company for the price of such shares shall constitute a good title to such shares and the name of the purchaser shall be entered in the Register of Members as a member of the Company and he shall not be bound to see to the application of the purchase money nor shall his title to the said shares be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture or sale. The remedy (if any) of the former holder of such shares, and of any person claiming under or through him, shall be against the Company and in damages only.

#### PROCEEDINGS AT GENERAL MEETINGS

14. The Chairman (if any) of the Board of Directors shall preside at every General Meeting but if at any meeting he shall not be present within fifteen minutes after the time appointed for holding the same, or shall be unwilling to act as Chairman the members present shall choose a Director or if no Director be present, or if all Directors present decline to take the chair, they shall choose a member present to be Chairman of the meeting.

15. 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 or by at least two members personally present and entitled to vote at the meeting or by the holder or holders present in person or by proxy of at least one-twentieth part of the issued ordinary share capital of the Company and unless a poll is so demanded a declaration by the Chairman that a resolution has on a show of hands been carried, or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority, and an entry to that effect in the Minute Book of the Company, shall be conclusive evidence thereof without proof of the number or proportion of the votes recorded in favour of or against such resolution.

16. A resolution in writing signed by every member of the Company shall have the same effect and validity as an Ordinary Resolution of the Company passed in General Meeting duly convened and constituted, but this provision shall not apply to a resolution for winding up the Company or to a resolution passed in respect of any matter which by the Ordinance or these presents is required to be dealt with in General Meeting of the Company.

16. A. The Chairman of any General Meeting of the Company shall not have a casting vote on any matter before the General Meeting when there is an equality of votes thereon.

#### DIRECTORS

17. Until otherwise determined by the company in general meeting the number of the directors shall not be less than two nor more than six. A director shall not require any share qualification. The names of the first Directors shall be determined

- ii) "That a New Article 17. A. (iv) be added which shall read

17. A. (iv)

Notwithstanding anything contained in the Articles of Association, so long as the East African Development Bank, The Tanzania Investment Bank and The Tanganyika Development Finance Company Limited shall have Loans outstanding, they shall jointly have the right to nominate two Directors on the Board of the Company."

in writing by the subscribers to the Memorandum of Association and until such determination is made the subscribers to the Memorandum of Association shall be the first Directors.

17. A. (i) Notwithstanding anything contained in the Articles of Association so long as the National Agricultural Food Corporation of Tanzania Government (herein called "the Corporation") does not convert its loan to the Company of Shs.7,452,100/- into shares and has any part of its loan and interest, if any, thereon, outstanding, pursuant to the terms of the Agreement dated 30th May, 1970 between the Company of the one part, Emco (Tanzania) Limited and Emco (Kenya) Limited (hereinafter called "the Shareholders") of the second part and the Corporation of the third part, or so long as the Corporation is a Shareholder of the Company the said Corporation shall have a right to nominate half the number of Directors for the time being of the Company and one of its such nominated Directors shall be the Chairman of the Board of Directors of the Company; but while the Chairman will have a right to vote like any other Director, he shall not have a second vote in case of any equality of votes on any matter before the Board of Directors, and the remaining equal number of Directors, shall be nominated by Emco (Tanzania) Limited, so long as it is a Shareholder of the Company.

(ii) The party nominating a Director, shall have a right, in case any of its nominees vacates the office of Director for any reason, (which shall include a recall of such nomination by appointing party) to fill the vacancy by nominating of any other person.

(iii) In case either the said Corporation or Emco (Tanzania) Limited ceases to hold the qualification required by Clause 17 (A) (i) above, empowering it to nominate directors as above, the directors of the Company from the date the party ceases to have the required qualification; and in that event the General Meeting shall have the right to elect the directors in their place.

#### POWERS AND DUTIES OF DIRECTORS

18. The Directors may from time to time appoint one or more of their body to be Managing Director for such periods and upon such terms as they may think fit, and may vest in any Managing Director such of the powers hereby vested in the Directors generally as they may think fit, and upon such conditions and subject to such restrictions and generally upon such terms as they may determine, and may from time to time be revoked, withdrawn, altered or varied as the Directors may think fit and any such appointment shall be subject to termination if the Company in General Meeting resolve that the tenure of office of such Managing Director be determined.

19. A Managing Director or Manager shall receive such remuneration (whether by way of salary, commission, participation in profits or otherwise) as the Directors may determine, and such remuneration may be either in addition to or in substitution for his remuneration as a Director.

20. A Managing Director shall not be subject to retirement by rotation and shall not be taken into account in calculating the number of Directors to retire but subject to the provisions of any contract between him and the Company, a Managing Director shall be subject to the same provisions as to resignation and removal as the other Directors of the Company and if he ceases to hold the office of Director he shall ipso facto and immediately cease to be a Managing Director.

21. The Directors may from time to time and at any time by Power of Attorney under the Common Seal, appoint any company, firm or person whatsoever or any fluctuating body of persons, whether nominated directly or indirectly by the Directors to be the Attorney of the Company for such purposes and with such powers, authorities and discretion (not exceeding those vested in or exercisable by the Directors under these presents) and for such period and subject to such conditions as they may think fit, and any such Power of Attorney may contain such provisions for the protection and convenience of persons dealing with any such Attorney as the Directors may think fit, and may also authorise any such Attorney to subdelegate all or any of the powers, authorities and discretions vested in him.

22. The Directors may raise or borrow for the purpose of the Company's business such sum or sums of money as they think fit and may secure the repayment of or raise any such sum or sums as aforesaid by mortgage or charge upon the whole or any part of the property and assets of the Company, present and future, including its uncalled or unissued Capital, or by issue, at such prices as they think fit, of Bonds or Debentures either charged upon the whole or any part of the property and assets of the Company or not so charged, or in such other way as the Directors may think expedient.

23. The Company may exercise the powers conferred by Section 33 of the Ordinance with regard to having an official seal for use abroad, and such powers shall be vested in the Directors.

24. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be in such manner as the Directors from time to time by resolution determine.

25. The Directors shall cause minutes to be made in books provided for the purpose:

- (a) Of all appointments of officers made by the Directors.
- (b) Of the names of the Directors present at each meeting of the Directors and of any committee of the Directors.
- (c) Of all resolutions and proceedings at all meetings of the Company and of the Directors and of committees of Directors.

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## DISQUALIFICATION OF DIRECTORS

26. The office of Director shall be vacated, if the Director

- (a) becomes bankrupt in Tanzania or in any territory which is declared to be a reciprocating territory under Section 150 of the Bankruptcy Ordinance (Cap. 25) or becomes insolvent or enters into any arrangement with his creditors; or
- (b) is found lunatic or becomes of unsound mind; or
- (c) resigns his office by notice in writing to the Company; or
- (d) is punished with imprisonment for a term exceeding six months without the option of a fine; or
- (e) if he absents himself from the meetings of the Directors during a continuous period of six months without special leave or absence from the other Directors and they pass a resolution that he has by reason of such absence vacated office.

27. A Director may hold any other office or place of profit under the Company (except that of Auditor) under such terms as to remuneration, tenure of office, and otherwise as may be determined by the Board. A Director of the Company may also accept office as a director of any company promoted by the Company or in which the Company is interested and may subscribe for or otherwise acquire shares in such company and shall not be accountable (unless otherwise agreed) for any benefit received by him as a director or member of such company. A Director may act by himself or his firm in a professional capacity for the Company and he or his firm shall be entitled to remuneration for his services as if he were not a Director.

28. A Director shall be capable of contracting or participating in the profits of any contract with the Company in the same manner as if he were not a Director, subject nevertheless to provision that he shall declare the nature of his interest in any contract or proposed contract in which he is interested in manner required by Section 200 of the Ordinance, but such declaration shall not be necessary where the Board is already aware of the interest of such Director and, subject to such declaration being made a Director may vote as a Director in respect of any such contract or proposed contract in which he is so interested as aforesaid and his vote shall be valid. A general notice that a Director is a member of any specified firm or company, and is to be regarded as interested in any subsequent transaction with such firm or company shall be a sufficient disclosure under this clause and after such general notice it shall not be necessary to give any special notice relating to any particular transaction with such firm or company.

## PROCEEDINGS OF DIRECTORS

29. The quorum necessary for the transaction of the business of the Directors may be fixed by the Directors and unless so fixed shall be two.

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30. A resolution in writing signed by all the Directors for the time being in Tanganyika Territory (including if any Director shall be absent from Tanganyika Territory, the alternative or substitute Director, if any, appointed by him) shall be as valid and effectual, as a resolution passed at a duly convened and constituted meeting of the Directors notwithstanding that the same may be signed at different times and places.

31. It shall not be necessary to give notice of a meeting of Directors, to any Director for the time being absent from Tanganyika Territory.

32. Any minute of any meeting of the Directors of the Company if purporting to be signed by the Chairman of such meeting or by the Chairman of the next succeeding meeting, shall be conclusive evidence without any further proof, of the facts therein stated.

#### ALTERNATE DIRECTORS

33. Any Director may from time to time and any time appoint any person (not disapproved on appointment by a majority of the other Directors for the time being) to be an alternate Director of the Company, and may at any time remove the alternate Director so appointed by him from office. An alternate Director so appointed shall not be entitled to receive any remuneration from the Company nor be required to hold any qualification but shall be entitled (subject to his giving to the Company an address within Tanganyika Territory at which notices may be served on him) to receive notices of and attend all meetings of the Directors and to vote as a Director at any such meeting at which the Director appointing him is not present and generally in the absence of his appointor to perform all functions of his appointor as a Director. An alternate Director may be removed from office by ordinary resolution of the Company in General Meeting and shall ipso facto cease to be an alternate Director if his appointor ceases for any reason to be a Director. All appointments and removals of alternate Directors made by any Director in pursuance of the provisions of this Article shall be in writing under the hand of the Director making the same and left at the registered office of the Company. The nomination of an alternate Director shall be valid if made by cable or telegram provided that such nomination shall be confirmed within three months from the date of such cable or telegram by a written nomination complying with the above mentioned requirements and any act done by the alternate Director nominated in such cable or telegram between the date thereof and the date of the receipt within the prescribed period by the Company of the nomination shall be as valid and effectual as if such alternate Director had been duly appointed in the first instance.

#### DIVIDENDS AND RESERVE

34. 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 according to the estimate formed by them thereof.

35. The Directors may deduct from any dividends payable to any Member all sums of money (if any) presently payable by him to the Company on account of calls or otherwise.

36. (a) The Company at any General Meeting at which a dividend is declared 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: Provided always that no distribution shall be made which would amount to a reduction of capital except in the manner appointed by law.

(b) The Company in General Meeting may at any time and from time to time pass a resolution to the effect that it is desirable to capitalise a sum, being the whole or part of the undivided profits of the Company then standing to the credit of the reserve fund or to the credit of the profit and loss account (or representing premiums received on the issue of shares and standing to the credit of the share premium account) or being otherwise available for distribution and accordingly that such sums be capitalised and distributed free of income tax among the holders of Ordinary shares of the Company (or their nominees) at the date of the passing of such resolution in proportion to the amount of capital paid up for the time being on the Ordinary shares held by them respectively and that the Directors be authorised to distribute among them (or their nominees) unissued shares credited as fully paid up to the like nominal value and in the like proportion and in satisfaction of such capitalised sum.

(c) When such resolution has been passed, the Directors may allot and issue unissued shares as fully paid up to the holders of Ordinary shares of the Company (or their nominees) in satisfaction of the said capitalised sum and as nearly as may be in proportion to the amount of capital paid up for the time being on the Ordinary shares held by them respectively, with full power to make such provision as they may think expedient for the case of fractions and, before such allotment (if they think fit) may authorise any person acting on behalf of the holders of any Ordinary shares of the Company to enter into an agreement with the Company providing for the allotment to them (or their nominees) of such shares credited as fully paid up in satisfaction as aforesaid and any agreement made under such authority shall be effective.

#### ACCOUNTS

37. Where any asset, business or property is bought by the Company as from a past date (whether such date be before or after the incorporation of the Company) upon the terms that the Company shall as from that date take profits or bear the losses thereof, such profits or losses, as the case may be, shall, at the discretion of the Directors, be credited or debited wholly or partly to the revenue for the purpose of ascertaining the fund available for

h) By substituting for the words "Section 206 of  
the Ordinance" in Article 40 the words "Section 153  
of the Ordinance".

dividend be treated as a profit or loss arising from the business of the Company and available for dividend accordingly.

38. For the purpose of making up the Company's Balance Sheet or Profit and Loss Account the Directors may estimate the value of any of the Company's property and assets the value of which cannot be accurately and definitely ascertained, and in so doing may rely upon reports, estimates and valuations made by any Director, officer or employee of the Company or by any other person, and shall not be liable for any error in estimates made in the bona fide exercise of the discretions hereby conferred on them, and the Auditors may accept such estimates as representing the fair value of the property and assets comprised therein.

NOTICES

39. If a Member or Director has no registered address in Tanganyika Territory and has not supplied to the Company an address within the Territory for the giving of notices to him a notice addressed to him and posted up in the Registered Office of the Company shall be deemed to be duly served on him on the day it is so posted up.

INDEMNITY

40. Every Director, managing director, agent, auditor, secretary and other officer of the Company shall be entitled to be indemnified out of the assets of the Company against all losses and liabilities (including any such liability as is mentioned in paragraph (b) of the proviso to Section 153 of the Ordinance) which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto, and no Director or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the execution of the duties of his office or in relation thereto. But this article shall only have effect in so far as its provisions are not avoided by the said section.

41. Whenever any difference arises between the Company on the one hand and any of the members their executors administrators or assigns on the other hand as to the construction incidence or consequence of these articles concerning anything done or to be done or omitted to be done in pursuance of the articles or touching any alleged breach of the articles or otherwise relating to these articles or any of the affairs of the Company, every such difference shall be referred to the decision of an arbitrator to be appointed by the parties in difference or if they cannot agree, to the decision of two arbitrators one being appointed by each of the parties in difference, and such arbitration shall be carried out in accordance with the provisions of the law relating to arbitration for the time being in force in the Territory.

Names, addresses and descriptions of Subscribers	Witness
Virji Nanji Bhardia, P.O.Box 1820, Dar es Salaam. Advocates Clerk	Sgd. S. H. M. Kanji
R. Dhanani, P.O.Box 1820, Dar es Salaam. Stenographer.	Sgd. S. H. M. Kanji

DATED this 19th day of December, 1951.

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