

Legal copy

THE COMPANIES ACT (CAP. 486)

COMPANY LIMITED BY SHARES

# Memorandum

AND

# Articles of Association

OF

UGHUMI SUPERMARKETS LIMITED

INCORPORATED THIS 17TH DAY OF DECEMBER 1975

I Certify that this is a true  
Copy of the Original  
PABLINE WAMUYU KIMOTHO  
ADVOCATE  
P. O. Box 3065 - 00306, NAIROBI.

KAPLAN & STRATTON,  
Advocates,  
NAIROBI,  
Kenya.

Current as at  
05/03/04

THE COMPANIES ACT (CAP. 486)

COMPANY LIMITED BY SHARES

MEMORANDUM

AND

ARTICLES OF ASSOCIATION

OF

UCHUMI SUPERMARKETS LIMITED

Incorporated the 17<sup>th</sup> day of December 1975

KAPLAN & STRATTON  
Advocates  
QUEENSWAY HOUSE  
KAUNDA STREET  
P.O. Box 40111  
NAIROBI.

Updated as per  
the resolutions of  
the 26<sup>th</sup> AGM  
held on 10.7.04

VAT NO 0014453A  
PIN NO P000608792M



*Your home of value!*

Uchumi Supermarkets Limited  
Box 73167 - 00200 NAIROBI  
Fax: +254 (020) 554768, 553501  
Email: customerservice@uchumi.com  
Yarrow Rd., Off Nanyuki Rd (Industrial Area)  
Mobile - 0722-205442, 0733-410028  
Landline - (Head Office) 020-650707, 550368,  
Wireless - 020-2041267, 2062769, 8020080/1

The Companies Act  
(Cap 486)

SPECIAL/ORDINARY RESOLUTIONS  
OF  
UCHUMI SUPERMARKETS LIMITED

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PASSED

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AT THE 30<sup>th</sup> ANNUAL GENERAL MEETING of the Members of the said Company duly convened and held at the Kenyatta International Conference Centre, Nairobi in the Province of Nairobi on the 21st day of April 2011 the following Special/Ordinary Resolution (s) were duly passed by the unanimous vote of members present:


1. THAT THE ARTICLES OF ASSOCIATION OF THE COMPANY BE ALTERED BY
  - a. DELETING ARTICLE 128 IN ITS ENTIRETY AND REPLACE IT WITH THE FOLLOWING NEW ARTICLE:-

“ANY DIVIDEND UNCLAIMED FOR A PERIOD OF MORE THAN SEVEN YEARS FROM THE DATE OF DECLARATION THEREOF SHALL BE FORFEITED AND SHALL BE PAID TO THE INVESTORS COMPENSATION FUND.”
  - b. DELETING ARTICLE 137 IN ITS ENTIRETY AND REPLACE IT WITH THE FOLLOWING NEW ARTICLE:-

“ANY NOTICE OR OTHER DOCUMENT MAY BE SERVED BY THE COMPANY ON ANY MEMBER OR DIRECTOR EITHER PERSONALLY, OR BY SENDING IT BY POST IN A PREPAID LETTER, OR BY FACSIMILE, OR THROUGH ELECTRONIC MAIL ADDRESSED TO SUCH MEMBER OR DIRECTOR AT HIS REGISTERED ADDRESS APPEARING IN THE REGISTER OF MEMBERS OR THE COMPANY'S OTHER RECORDS, WHETHER SUCH ADDRESS SHALL BE WITHIN OR OUTSIDE KENYA OR BY PUBLISHING THE NOTICE, DOCUMENT OR AN ABRIDGED VERSION OF THE DOCUMENT, IN A DAILY NEWSPAPER WITH NATIONAL CIRCULATION FOR AT LEAST TWO CONSECUTIVE DAYS.”
  - c. DELETING ARTICLE 139 IN ITS ENTIRETY AND REPLACE IT WITH THE FOLLOWING NEW ARTICLE:-

“WHERE A NOTICE OR OTHER DOCUMENT IS SENT BY POST IT SHALL BE DEEMED TO HAVE BEEN SERVED ON THE THIRD DAY AFTER THE DAY ON WHICH IT WAS POSTED, IF ADDRESSED WITHIN KENYA, AND ON THE FIFTH DAY AFTER THE DAY ON WHICH IT WAS POSTED, IF ADDRESSED OUTSIDE KENYA. IN PROVING SUCH SERVICE, IT SHALL BE SUFFICIENT TO PROVE THAT THE COVER CONTAINING THE NOTICE OR DOCUMENT WAS PROPERLY ADDRESSED AND PUT INTO THE POST

OFFICE AS A PREPAID LETTER OR PREPAID AIRMAIL LETTER. WHERE NOTICE IS SENT BY FACSIMILE OR ELECTRONICALLY, IT SHALL BE DEEMED TO HAVE BEEN SERVED AT THE EXPIRATION OF TWENTY-FOUR (24) HOURS AFTER THE TIME AT WHICH IT WAS SENT. WHERE NOTICE IS PUBLISHED IN A DAILY NEWSPAPER, IT SHALL BE DEEMED TO HAVE BEEN SERVED ON THE DAY ON WHICH IT WAS FIRST PUBLISHED"



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DIRECTOR



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SECRETARY

The Companies Act  
(Cap 486)

SPECIAL/~~ORDINARY~~ RESOLUTIONS

OF

UCHUMI SUPERMARKETS LIMITED

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PASSED

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AT THE 26<sup>th</sup> ANNUAL GENERAL MEETING of the Members of the said Company duly convened and held at the Grand Regency Hotel, Nairobi in the Province of Nairobi on the 10th day of December 2004 the following Special/~~Ordinary~~ Resolution (s) were duly passed by the unanimous vote of members present:

1. THAT THE NOMINAL SHARE CAPITAL OF THE COMPANY BE AND IS HEREBY INCREASED FROM KENYA SHILLINGS THREE HUNDRED MILLION (KSHS. 300,000,000.00) DIVIDED INTO SIXTY MILLION (60,000,000) ORDINARY SHARES OF KENYA SHILLINGS FIVE (KSHS 5.00) EACH TO KENYA SHILLINGS TWO BILLION (KSHS 2,000,000,000.00) BY THE CREATION OF:

**A: TWO HUNDRED AND FORTY MILLION NEW ORDINARY SHARES OF KENYA SHILLINGS FIVE (KSHS. 5.00) EACH RANKING *PARI PASSU* IN ALL RESPECTS WITH THE EXISTING ORDINARY SHARES IN THE CAPITAL OF THE COMPANY, TO BE ISSUED AT SUCH PRICE AS THE DIRECTORS SHALL DETERMINE AND OFFERED IN THE FIRST INSTANCE (BY WAY OF RENOUNCABLE PROVISIONAL ALLOTMENT) TO THE MEMBERS OF THE COMPANY IN PROPORTION TO THEIR EXISTING SHAREHOLDING AND THAT THE BOARD OF DIRECTORS BE EMPOWERED TO DISPOSE OF THE SHARES NOT TAKEN UP AS THEY MAY CONSIDER EXPEDIENT".**

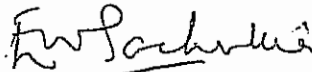
**B: TWENTY FIVE MILLION NEW PREFERENCE SHARES OF KENYA SHILLINGS TWENTY (20.00) REDEEMABLE IN FIVE (5) TO SEVEN (7) EQUAL ANNUAL INSTALMENTS WHICH MAY BE ISSUED IN PART TO A STRATEGIC EQUITY PARTNER ON SUCH DATE AND AT SUCH PRICE AS THE DIRECTORS SHALL DETERMINE.<sup>1</sup>**

2. THAT THE BOARD OF DIRECTORS SHALL DETERMINE AND OFFER (BY WAY OF PRIVATE PLACEMENT) TO THE STRATEGIC EQUITY PARTNER SOME OF THE NEW ORDINARY SHARES AT A PREMIUM ON SUCH DATE AS THE DIRECTORS SHALL DETERMINE.
3. THAT THE ARTICLES OF ASSOCIATION OF THE COMPANY BE ALTERED BY INSERTING A NEW ARTICLE TO READ:  
"47A. NOTWITHSTANDING THE PROVISIONS OF ARTICLES 8 AND 47 THE UNISSUED SHARES OF THE COMPANY SHALL BE AT THE DISPOSAL OF THE BOARD OF DIRECTORS AND BY THEIR DIRECTION MAY ALLOT, GRANT OPTIONS OVER OR OTHERWISE DISPOSE OF THEM TO SUCH PERSONS, AT SUCH TIMES, AND FOR SUCH CONSIDERATION, AND UPON SUCH TERMS AND CONDITIONS, AS THE BOARD MAY DETERMINE.

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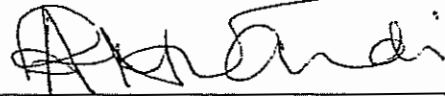
<sup>1</sup> This resolution (in part) appears both as an ordinary and as a special resolution. The reason for this is that according to the Article 46 an increase in nominal capital requires an Ordinary Resolution. According to Article 8 however the creation and issue of Preference shares requires a Special Resolution. The resolution having been passed unanimously obtained the requisite percentages for both Ordinary and Special Resolutions

4. THAT THE UNISSUED SHARES OF THE COMPANY SHALL BE AT THE DISPOSAL OF THE BOARD OF DIRECTORS AND BY THEIR DIRECTION MAY ALLOT, GRANT OPTIONS OVER OR OTHERWISE DISPOSE OF THEM TO SUCH PERSONS, AT SUCH TIMES, AND FOR SUCH CONSIDERATION, AND UPON SUCH TERMS AND CONDITIONS, AS THE BOARD MAY DETERMINE.
5. THAT THE ARTICLES OF ASSOCIATION OF THE COMPANY BE ALTERED BY DELETING ARTICLE 10A.
6. THAT THE BOARD OF DIRECTORS OF THE COMPANY BE AND IS HEREBY AUTHORISED TO SIGN ALL DOCUMENTS AND TO DO ALL SUCH THINGS AS MAY BE NECESSARY TO GIVE EFFECT TO THE ABOVE RESOLUTIONS.



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CHAIRPERSON



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SECRETARY

The Companies Act  
(Cap 486)

~~SPECIAL~~/ORDINARY RESOLUTION

OF THE

UCHUMI SUPERMARKETS LIMITED

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PASSED

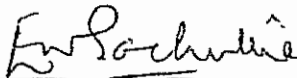
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AT THE 26<sup>th</sup> ANNUAL GENERAL MEETING of the Members of the said Company duly convened and held at the Grand Regency Hotel, Nairobi in the Province of Nairobi on the 10th day of December 2004 the following the following ~~Special~~/ Ordinary Resolution (s) was duly passed:

1. THAT THE NOMINAL SHARE CAPITAL OF THE COMPANY BE AND IS HEREBY INCREASED FROM KENYA SHILLINGS THREE HUNDRED MILLION (KSHS. 300,000,000.00) DIVIDED INTO SIXTY MILLION (60,000,000) ORDINARY SHARES OF KENYA SHILLINGS FIVE (KSHS. 5.00) EACH TO KENYA SHILLINGS TWO BILLION (KSHS. 2,000,000,000.00) BY THE CREATION OF:

A: TWO HUNDRED AND FORTY MILLION NEW ORDINARY SHARES OF KENYA SHILLINGS FIVE (KSHS. 5.00) EACH RANKING PARI PASSU IN ALL RESPECTS WITH THE EXISTING ORDINARY SHARES IN THE CAPITAL OF THE COMPANY, TO BE ISSUED AT SUCH PRICE AS THE DIRECTORS SHALL DETERMINE AND OFFERED IN THE FIRST INSTANCE (BY WAY OF RENOUNCABLE PROVISIONAL ALLOTMENT) TO THE MEMBERS OF THE COMPANY IN PROPORTION TO THEIR EXISTING SHAREHOLDING AND THAT THE BOARD OF DIRECTORS BE EMPOWERED TO DISPOSE OF THE SHARES NOT TAKEN UP AS THEY MAY CONSIDER EXPEDIENT .

B: TWENTY FIVE MILLION NEW PREFERENCE SHARES OF KENYA SHILLINGS TWENTY (20.00) REDEEMABLE IN FIVE (5) TO SEVEN (7). EQUAL ANNUAL INSTALMENTS WHICH MAY BE ISSUED IN PART TO A STRATEGIC EQUITY PARTNER ON SUCH DATE AND AT SUCH PRICE AS THE DIRECTORS SHALL DETERMINE.



CHAIRPERSON



SECRETARY

THE COMPANIES ACT (CHAPTER 486)  
COMPANY LIMITED BY SHARES

Memorandum of Association  
of  
UCHUMI SUPERMARKETS LIMITED

1. The name of the Company is "UCHUMI SUPERMARKETS LIMITED".
2. The Registered Office of the Company will be situated in the Republic of Kenya.
3. The objects for which the Company is established are:-
  - (1) To carry on business as proprietors, operators and managers of supermarkets, multiple stores and retail trading establishments of every description.
  - (2) To carry on the businesses of grocers, bakers, butchers, meat salesmen, bacon factors and merchants, butter factors and salesmen, cheese mongers, fruiterers and greengrocers, egg merchants and salesmen, poulterers, wine, spirit and beer merchants and salesmen and general provision merchants and to buy, sell, manufacture and deal in goods, stores and consumable articles of all kinds, both wholesale and retail.
  - (3) To carry on the businesses of hardware merchants and ironmongers and dealers in household utensils, china, glass cutlery, household fittings, electrical appliances, wiring and materials, television and radio receivers, apparatus and equipment, record, cassette and tape players and such other goods as may be conveniently sold therewith and all things capable of being used therewith or in the manufacture, maintenance and repair thereof.
  - (4) To carry on the businesses of house furnishers, upholsterers and dealers in and hirers, repairers, cleaners, storers and warehousemen of furniture, carpets and other floor coverings and home and office furnishings and fittings of all kinds and all things capable of being used therewith or in the manufacture, maintenance or repair thereof.
  - (5) To carry on the business of drapers, costumiers, robe, dress and mantle makers, tailors, silk mercers, makers and suppliers of clothing, lingerie and trimmings of every kind, haberdashers, milliners, boot and shoe makers and dealers in fabrics and materials of all kinds, footwear and leather goods, perfumes and cosmetics, sports goods and toys.

- (6) To carry on business as jewellers, gold and silver smiths dealers in curios, antiques and precious stones and manufacturers of and dealers in gold and silver plate, plated articles, watches, clocks, chronometers and optical and scientific instruments and appliances of every description.
- (7) To carry on business as photographers and dealers in cameras, projectors, photographic plates and films and photographic apparatus and equipment of every description.
- (8) To carry on business as proprietors of restaurants, hotels, refreshment and tea rooms, cafes and milk and snack bars, importers and manufacturers of, and dealers in, aerated and mineral waters, fruit drinks and beverages of every description, and as caterers and refreshment contractors, ice merchants and ice cream manufacturers and merchants and to establish and provide all kinds of facilities and attractions for customers and others including reading, writing and rest rooms, lockers and safe deposits, telephones, telegraphs and lavatories.
- (9) To carry on the businesses of wholesale and retail pharmaceutical chemists and druggists and of the dispensing of medicines and to manufacture and deal in drugs, medicines, medical, surgical and dental appliances, preparations and requirements and toilet and hygienic goods and requirements.
- (10) To carry on business as hairdressers, hair and scalp specialists, beauty specialists and experts, trichologists, chiropodists, manicurists and masseurs and as proprietors of hairdressing salons and parlours, shops and other establishments.
- (11) To carry on the businesses of launderers, dry cleaners, dyers, bleachers and laundry sundriesmen and the business of repairing all articles sent for laundering and cleaning and providing a valeting service.
- (12) To carry on business as manufacturers, processors, importers and exporters of and dealers in produce, materials, commodities, merchandise and goods of every description.
- (13) To carry on business as manufacturers' representatives and to act as agents and undertake and transact agency business of every description.
- (14) To manufacture, assemble, buy, sell, import, export, take on hire, charter, let on hire, operate, equip, service, repair, maintain, use and otherwise deal in motor and other vehicles, aircraft, rolling stock, vessels, ships, boats and craft of every description and spare parts of and

equipment and accessories for the foregoing and tools and instruments of every description and petrol, diesel oil and other fuels, lubricants, oils and petroleum products.

- (15) To carry on all or any of the businesses of transport, cartage and haulage contractors and agents, owners and charterers of road vehicles, aircraft, ships, tugs, barges and boats of every description, owners and operators of garages and service stations, lightermen, shipping, chartering, forwarding and commission agents, stevedores, wharfingers, carmen, customs agents, cargo superintendents, packers, hauliers, warehousemen, storekeepers, engineers, electricians, refrigerators and jobmasters.
- (16) To carry on the businesses of farming and ranching in all their branches and to carry on business as livestock breeders and dealers, feed-lot owners and operators, horticulturists, seed merchants, millers and manufactures of cereal products.
- (17) To carry on any other trade, business or activity whatsoever and do anything of any nature which can, in the opinion of the Directors of the Company, be advantageously or conveniently carried on by the Company in connection with, as an extension to, as ancillary to or independently of its businesses before enumerated or the general or existing businesses of the Company for the time being.
- (18) To purchase, take on lease or in exchange, hire or otherwise acquire any movable or immovable property of any kind or any interest therein and any rights or privileges which the Directors of the Company may think necessary or convenient for the purposes of or in connection with the Company's businesses or which may enhance the value of any other property of the Company.
- (19) To build, construct, alter, improve, enlarge, repair, maintain, develop, pull down, remove or replace and to work, manage, carry out or control works of all descriptions including buildings, offices, factories, mills, warehouses, shops, stores, garages, roads, bridges and any other works and conveniences which may seem likely, directly or indirectly, to advance the Company's interests.
- (20) To improve, manage, develop, turn to account, grant rights or privileges in respect of or otherwise deal with any of the property, rights and privileges of the Company.
- (21) To subscribe for, take or otherwise acquire and hold shares, stocks, debentures or other

securities of any other company and to invest and deal with the moneys of the Company in any manner.

- (22) To vest any movable or immovable property, rights, privileges or interest acquired by or belonging to the Company in any person or company on behalf of or for the benefit of the Company and with or without any declared trust in favour of the Company.
- (23) To apply for, purchase or otherwise acquire and protect and renew in any part of the world any patents, patent right, brevets d'invention, copy-rights, trade marks, designs, formulas, licences, concessions and the like conferring any exclusive or non-exclusive or limited right to their use or any secret or other information as to any invention which may seem capable of being used for any of the purposes of the Company or the acquisition of which may seem likely, directly or indirectly, to benefit the Company and to use, exercise, develop or grant licences in respect of or otherwise turn to account the property, rights or information so acquired and to expend money in experimenting upon, testing or improving any such patents, inventions or rights.
- (24) To acquire and undertake the whole or any part of the business, property and liabilities of any person or company carrying on or proposing to carry on any business which the Company is authorised to carry on or possessed of property suitable for the purposes of the Company or which can be carried on in conjunction therewith or which is capable of being conducted so as, directly or indirectly, to benefit the Company.
- (25) To enter into any arrangements with any government or authority, supreme, municipal, local or otherwise or any person or company that may seem to the Directors of the Company to be conducive to the attainment of the objects of the Company or any of them and to obtain from any such government, authority, person or company any rights, privileges, charters, contracts, licences and concessions which the Directors of the Company may think it desirable to obtain and to carry out, exercise and comply therewith.
- (26) To lend and advance money or give credit to any person or company with or without security; to guarantee and give guarantees or indemnities for the payment of money or the performance of contracts or obligations by any person or company; to secure or undertake in any way the repayment of money lent or advanced to or the liabilities incurred by any

person or company and otherwise to assist any person or company.

- (27) To receive money on deposit or loan and borrow or raise or secure the payment of money in such manner as the Directors of the Company may think fit and to secure the same or the repayment or performance of debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Company in any way and in particular by the issue of debentures or debenture stock (perpetual or otherwise) or legal and equitable mortgages or charges 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.
- (28) To open and operate a banking account or banking accounts and to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange bills of lading, warrants, drafts, cheques, bonds, debentures and other negotiable or transferable instruments.
- (29) To apply for, promote and obtain any act, decree, order of court, regulation or other authorisation or enactment which may seem likely, directly or indirectly to benefit the Company and to oppose any bills, proceedings or application which may seem likely directly or indirectly, to prejudice the interests of the Company.
- (30) To apply for, secure, acquire by grant, legislative enactment, assignment, transfer, purchase or otherwise and to exercise, carry out and enjoy any charter, licence, power, authority, franchise, concession, right or privilege which any government or authority, supreme, municipal, local or otherwise or any corporation or other public body may be empowered to grant and to pay for, aid in and contribute towards carrying the same into effect and to appropriate any of the Company=s shares, stock, debentures or other securities and assets to defray the necessary cost, charges and expenses thereof.
- (31) To pay out of the funds of the Company all expenses which the Company may lawfully pay with respect to the formation and registration of the Company or the issue of its capital, including brokerage and commission for obtaining applications for or taking, placing or underwriting or procuring the underwriting of shares, stock, debentures or other securities of the Company.
- (32) To pay for any rights or property acquired by the Company and to remunerate any person or

company whether by a cash payment or by the allotment of shares, stock, debentures or other securities of the Company credited as paid up in full or in part or otherwise.

- (33) To establish and maintain or procure the establishment and maintenance of any non-contributory or contributory pension, provident or superannuation funds for the benefit of and to give or procure the giving of donations, gratuities, pensions, allowances, benefits and emoluments to any persons who are or were at any time in the employment or service of the Company or of any company which is the holding company of the Company or which is a subsidiary of the Company or which is allied to or associated with the Company or with any such holding or subsidiary company or who are or were at any time Directors or Officers of the Company or of any such other company as aforesaid or any persons in whose welfare, the Company or any such other company as aforesaid is or has been at any time interested and to the wives, widows, families and dependants of any such persons; to establish and subsidise or subscribe to any institutions, associations, clubs or funds calculated to be for the benefit of or to advance the interests and well-being of the Company or of any such other company as aforesaid or of any such persons as aforesaid; to make payments for or towards the insurance of any such persons as aforesaid; to subscribe or guarantee money for charitable or benevolent objects or for any exhibition, or for any public, general or useful object and to do any of the matters aforesaid either alone or in conjunction with any such other company as aforesaid.
- (34) To adopt such means of making known the businesses, activities, products and goods of and articles dealt in and sold by the Company as may seem expedient.
- (35) To amalgamate, enter into partnership or into any arrangement for sharing profits, union of interests, co-operation, joint adventure, reciprocal concession, limiting competition or otherwise with any person or company carrying on or engaged in or about to carry on or engage in any business or transaction which the Company is authorised to carry on or engage in or which can be carried on in conjunction therewith or which is capable of being conducted so as, directly or indirectly, to benefit the Company.
- (36) To establish or promote or concur in establishing or promoting any company, association, syndicate or partnership of any kind for the purpose of its acquiring and taking over all or any

- part of the undertaking, property, assets and liabilities of the Company or for any other purpose which may, in the opinion of the Directors of the Company, seem likely, directly or indirectly, to benefit the Company and to place or guarantee the placing of, underwrite, subscribe for, conditionally or un-conditionally, issue on commission or otherwise acquire all or any part of the shares, stock, debentures or other securities of any such other company.
- (37) To sell, exchange, lease, mortgage, charge or otherwise dispose of the property, assets or undertaking of the Company or any part thereof for such consideration as the Company may think fit and, in particular, for shares, stock, debentures or other securities of any other company whether or not having objects altogether or in part similar to those of the Company.
- (38) To distribute among the Members in specie or in kind any property of the Company or any proceeds of sale or disposal of any property of the Company but so that no distribution amounting to a reduction of capital shall be made except with the sanction (if any) for the time being required by law.
- (39) To undertake and execute any trust which may, in the opinion of the Directors of the Company, be conducive to any of the objects of the Company.
- (40) To act as agents, brokers or trustees for any person or company and to act as secretary, manager, consultant, adviser, bookkeeper and registrar of or transfer agent for any other company.
- (41) To do all or any of the above things in any part of the world and either as principals, agents, trustees, contractors or otherwise and either alone or jointly with others, and either by or through agents, trustees, sub-contractors or otherwise.
- (42) To procure the Company to be registered or recognised in any place outside the Republic of Kenya.
- (43) To do all such other things as are or may be deemed incidental or conducive to the attainment of any of the objects and the exercise of any of the powers of the Company.

It is hereby declared that the word "company" in this Clause, except where used in reference to the Company, shall be deemed to include any partnership or other body of persons whether incorporated or not incorporated and whether domiciled in the Republic of Kenya or elsewhere and that the objects.

specified in each of the paragraphs of this Clause shall be regarded as independent objects and accordingly shall in no way be limited or restricted (except where otherwise expressed in such paragraphs) by reference to or inference from the terms of any other paragraph or the name of the Company but may be carried out in as full and ample a manner and construed in as wide a sense as if each of the said paragraphs defined the objects of a separate and distinct Company. The meaning of any general word or words in any paragraph of this Clause shall not be restricted by being construed ejusdem generis with any particular word or words in the same paragraph.

4. The liability of the Members is limited.

5. The capital of the Company is Kenya Shillings Two <sup>Billion</sup> ~~Hundred Million~~ (Kshs. <sup>2,000,000,000</sup> ~~200,000,000/=~~) divided into <sup>300 million shares</sup> ~~40 million~~ shares of Kenya Shillings Five (Kshs.5/=) each with power for the Company to increase or reduce such capital and to divide any shares in the capital of the Company for the time being into several classes and to attach thereto respectively any preferential, deferred, qualified or other rights, privileges, restrictions or conditions and to issue all or any part of such original, increased or reduced capital with or subject to such preferential, deferred, qualified or other rights, privileges, restrictions or conditions. <sup>and 25 million preference shares of 2</sup>

We, the several persons whose names, addresses and occupations 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, Postal Addresses and Occupations of Subscribers	Number of Shares taken by each Subscriber	Signatures of Subscribers
JAMES MWANGI WANYEKI P.O. Box 30587 NAIROBI. ADMINISTRATOR	TWO	J. M. WANYEKI (Signed)
NIGEL RALPH PAVITT P.O. BOX 40550 NAIROBI. EXECUTIVE	TWO	N. R. PAVITT (signed)
Total shares taken	FOUR	

Dated the 17th day of December, 1975.

WITNESS to the above signatures:-

Fred O. O. N. Ojiambo  
 P.O. Box 40111,  
 NAIROBI.

ADVOCATE

17u4622

THE COMPANIES ACT (CAP. 486)

COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

OF

UCHUMI SUPERMARKETS LIMITED

(Adopted by a Special Resolution on 19<sup>th</sup> December, 2003 to replace the previous Articles of the Company)

PRELIMINARY

1. In these Articles, unless the context otherwise requires, expressions defined in the Companies Act (Cap.486) or any statutory modification thereof in force at the date at which these Articles become binding on the Company, shall have the meanings so defined and the words standing in the first column of the table next hereinafter contained shall bear the meanings set opposite to them respectively in the second column thereof namely:

<u>Words</u>	<u>Meanings</u>
The Act	The Companies Act (Cap. 486).
The Statutes	The Act, and every statutory modification thereof for the time being in force and every other act for the time being in force affecting the Company.
These Articles	These Articles of Association as now framed or as from time to time altered by special resolution.
The Office	The Registered Office for the time being of the Company.
The Seal	The Common Seal of the Company.
The Directors	The Directors of the Company or the Directors present at a duly convened meeting of Directors at which a quorum is present.
The Board	The Directors or a quorum of them acting as the Board of the Company.
Member	Member of the Company.
The Register	The Register of Members of the Company.
Paid Up	Paid Up or credited as paid up.
Dividend	Dividend or bonus.
Year	Year from the 1st July to the 30th June inclusive.
Month	Calendar month.
In writing	Written or produced by any substitute for writing, or Partly written and partly so produced.

I Certify that this is a true  
Copy of the Original  
PAULINE WAMUYU KIMOTI  
ADVOCATE  
P.O. Box 3065 - 00506, NAIROBI.

Words importing the singular number only shall include the plural number and vice versa, and  
Words importing the masculine gender only shall include the feminine gender, and  
Words importing persons shall include corporations, and the expressions "debenture" and "debenture holder" shall include debenture stock and debenture stockholder and the expression "Secretary" shall include a temporary or assistant Secretary and any person appointed by the Directors to perform any of the duties of the Secretary.

Reference herein to any provisions of the Act shall, where the context so admits, be construed as a reference to such provision as modified by any statute for the time being in force.

2. The Regulations in Table "A" in the First Schedule to the Companies Act (Cap.486) shall not apply to the Company.

#### BUSINESS

3. The Directors shall have regard to the restrictions on the commencement of business imposed by the Act, if, and so far as, these restrictions shall be binding on the Company.

#### UNDERWRITING

4. The Company may exercise the powers of paying commissions conferred by the Statutes; provided that the commission paid or agreed to be paid shall not exceed ten per cent (10%) of the price at which the shares in respect of which the commission is paid, are issued and shall be disclosed in the manner required by the Statutes. Such commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in one way and partly in another. The Company may also on any issue of shares pay such brokerage as may be lawful.

#### SHARE CAPITAL

5. The share capital of the Company is Kenya Shillings Two Hundred Million (K.Shs 200,000,000/-) divided into <sup>300</sup> 40 Million <sup>ordinary</sup> shares of Kenya Shillings Five (K.Shs. 5/-) each and 25 million preference shares of 20/- each.

#### SHARES

6. Except as required by law, no person shall be recognised by the Company as holding any share upon any trust, and the Company shall not be bound by or be compelled in any way to recognise (even when having notice thereof) 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 Articles or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder.

7. Without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares, any share in the Company may be issued with such preferred, deferred or other special rights or such restrictions, whether in regard to dividend, voting, return of capital or otherwise as the Company may from time to time by ordinary resolution determine.
8. The Company may by special resolution create and sanction the issue of Preference shares which are, or at the option of the Company are to be, liable to be redeemed, subject to and in accordance with the provisions of the Statutes. The special resolution sanctioning any such issue shall also specify by way of an addition to these Articles the terms in which and the manner in which any such Preference shares shall be redeemed.
9. If, at any time, the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, whether or not the Company is being wound up, be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of a special resolution passed after a separate general meeting of the holders of the shares of that class. To every such separate general meeting the provisions of these Articles relating to general meetings shall *mutatis mutandis* apply, but so that the necessary quorum shall be Two persons at least holding or representing by proxy one-third of the issued shares of the class and that any holder of shares of the class present in person or by proxy may demand a poll and if at any adjourned meeting of such holders a quorum is not present, the holders present shall form a quorum.
10. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking *pari passu* therewith.

- 10A. The Company may by special resolution create and sanction the issue of preference shares which are, or at the opinion of the Company are to be, liable to be redeemed, subject to and in accordance with the provisions of the statutes. The special resolution sanctioning any such issue shall also specify by way of an addition to these Articles, the terms in which and the manner in which, any such preference shares shall be redeemed. *deleted.*

#### CERTIFICATES

11. Every person whose name is entered as a Member in the Register shall be entitled without payment to receive within Two months after allotment or lodgment of transfer (or within such other period as the conditions of issue shall provide) one certificate in respect of each class of shares held by him, or, upon payment of such sum (if any) not exceeding Kenya Shillings 10/- for every certificate after the first as the Directors shall from time to time determine, to several certificates, each for one or more of his shares, except that shares of different classes may not be included with the same certificate. Every certificate shall be under the Seal and shall specify the shares to which it relates and the amount paid up thereon: Provided that in respect of a share or shares held jointly by several persons, the Company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.
- 11A. The provisions of the Central Depositories Act 2000 as amended or modified from time to time shall apply to the Company to the extent that any securities of the Company are in part or in whole immobilized or dematerialized or are required by the regulations or rules issued under the Central Depositories Act to be immobilized or dematerialized in part or in whole, as the case may be. Any provisions of these Articles that are inconsistent with the Central Depositories Act or any regulations or rules issued or made pursuant thereto shall be deemed to be modified to the extent of such inconsistencies in their application to such securities. For the purposes of these Articles of Association, immobilization and dematerialization shall be construed in the same way as they are construed in the Central Depositories Act.
- 11B. Where any securities of the Company are forfeited pursuant to these Articles of Association after being immobilized or dematerialized, the Company shall be entitled to transfer such securities to a securities account designated by the Directors for this purpose.

12. Where a Member has sold some of the shares registered in his name, he shall be entitled to a certificate for the balance without charge.
13. If a share certificate is worn out, defaced, lost or destroyed it may be renewed on payment of such fee, if any, not exceeding Kenya Shillings 10/- and on such terms, if any, as to evidence and indemnity as the Directors think fit.

#### PURCHASE OF SHARES

14. No part of the funds of the Company shall be employed in the purchase of, or in loans upon the security of, the Company's shares, but nothing in this Article shall prohibit transactions permitted under the Statutes.

#### LIEN ON SHARES

15. The Company shall have a first and paramount lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the Company shall also have a first and paramount lien on all shares (including fully paid shares) standing registered in the name of any person for all moneys presently payable by him or his estate to the Company; but the Directors may at any time declare any share to be wholly or in part exempt from the provisions of this article. The Company's lien, if any, on a share shall extend to all dividends payable thereon.
16. The Company may sell, in such manner as the Directors think fit, any shares on which the Company has a lien, but no sale shall be made unless a sum in respect of which the lien exists is presently payable, nor until the expiration of Fourteen days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled thereto by reason of his death or bankruptcy.
17. To give effect to any such sale the Directors may authorise some person to transfer the shares sold to the purchaser thereof. The purchaser shall be registered as the holder of the shares comprised in any such transfer, and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

18. The proceeds of the sale shall be received by the Company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable and the residue, if any, shall (subject to a like lien for sums not presently payable as existed upon the shares before the sale) be paid to the person entitled to the shares at the date of the sale.

#### CALLS ON SHARES

19. The Directors may from time to time make calls upon the Members in respect of any monies 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 so specified the amount called on his shares. A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed.
20. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.
21. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of Twelve per cent (12%) per annum from the day appointed for the payment thereof to the time of the actual payment, but the Directors shall be at liberty to waive payment of such interest wholly or in part.
22. The provisions of these Articles as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.
23. The Directors may, on the issue of shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.
24. The Directors may, if they think fit, receive from any Member willing to advance the same, all or any part of the moneys uncalled and unpaid upon any shares held by him, and upon all or any of the moneys so advanced may (until the same would, but for such advance, become payable) pay interest at such rate not exceeding (unless the Company in general meeting shall otherwise direct) Twelve per cent (12%) per annum, as may be agreed upon between the Directors and the Member paying such sum in advance.

### TRANSFER OF SHARES

25. Subject to the provisions hereinafter contained, shares in the Company shall be transferable by written instrument in any common form executed by or, on behalf of the transferor and the transferee; provided that the Directors may dispense with execution by the transferee in any case in which they think fit to do so. The transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the Register in respect thereof.
- 25A. Every instrument of transfer shall be left at the transfer office of the Company at which it is presented for registration accompanied by the Certificate of the share to be transferred or such other evidence as the Company may require to move the title of the transferor or his right to transfer the share. All authorities to sign Transfer Deeds granted by a Member for the purpose of transferring shares which may be lodged, produced or exhibited with or to the Company at any of its proper offices shall as between the Company and the grantor of such authorities be taken and deemed to continue and remain in full force and effect and the Company may allow the same to be acted upon until such time as express notice in writing of the revocation of the same shall have been given and lodged at the Company's transfer offices at which the authority was lodged, produced or exhibited. Even after the giving and lodging of such notices, the Company shall be entitled to give effect to any instruments signed under the authority to sign and certified by any officer of the Company as being in order before the giving and lodging of such notice.
26. The Board may decline to register the transfer of a share on which the Company has a lien.
27. The Directors may refuse to register any instrument of transfer of shares, if:-
- (a) the registration fee of Kenya Shillings 10/- (or such lesser fee (if any) as the Directors may from time to time prescribe as the registration fee) is not paid to the Company in respect thereof; or
  - (b) it is not accompanied by the Certificate for the shares to which it relates, and such other evidence as the Directors may reasonably require to show the rights of the transferor to make the transfer; or

- (c) it is of shares of more than one class; or
- (d) the transferee named therein is:-
  - (i) an infant person; or
  - (ii) a person incapable by reason of mental disorder of managing and administering his property and affairs; or
  - (iii) a partnership in its partnership name; or
- (e) in the case of a transfer to joint holders, they exceed Four in number.

28. If the Directors refuse to register a transfer 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.
29. The registration of transfers may be suspended at such times and for such periods as the Directors may from time to time determine provided always that such registration shall not be suspended for more than Thirty days in any year.
30. The Company shall be entitled to charge a fee not exceeding Kenya Shillings 50/- on the registration of every probate, letters of administration, certificate of death or marriage, power of attorney, or other instrument.
- 30A. Nothing in these Articles shall preclude the Directors from recognising a renunciation of the allotment of any share by the allottee in favour of some other person.

#### TRANSMISSION OF SHARES

31. In case of the death of a Member, the survivor or survivors where the deceased was a joint holder, and the legal personal representatives of the deceased where he was a sole holder, shall be the only persons recognised by the Company as having any title to his interest in the shares; but nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.
32. Any person becoming entitled to a share in consequence of the death or bankruptcy of a Member may,

upon such evidence being produced as may from time, to time properly be required by the Directors and subject as hereinafter provided, elect either to be registered himself as holder of the share or to have some person nominated by him registered as the transferee thereof, but the Directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by that Member before his death or bankruptcy, as the case may be.

33. If the person so becoming entitled shall elect to be registered himself, he shall deliver or send to the Company, a notice in writing signed by him stating that he so elects. If he shall elect to have another person registered, he shall testify his election by executing to that person a transfer of the share. All the limitations, restrictions and provisions of these Articles relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or bankruptcy of the Member had not occurred and the notice or transfer were a transfer signed by that Member.

34. A person becoming entitled to a share by reason of the death or bankruptcy of the holder, shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a Member in respect of the share, be entitled in respect of it to exercise any right conferred by Membership in relation to meetings of the Company:

Provided always that the Directors may at any time give notice requiring any such person to elect either to be registered himself or to transfer 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 complied with.

#### FORFEITURE OF SHARES

35. 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 the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid,

together with any interest which may have accrued.

36. The notice shall name a further day (not earlier than the expiration of Fourteen days from the date of service of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed, the shares in respect of which the call was made will be liable to be forfeited.
37. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Directors to that effect.
- 37A. When any share has been forfeited, notice of the forfeiture shall forthwith be given to the holder of the share or to a person entitled to the share by reason of the death or bankruptcy of the holder as the case may be, but no forfeiture shall be invalidated by any inadvertent omission or neglect to give such notice aforesaid.
38. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Directors think fit.
39. A person whose shares have been forfeited shall cease to be a Member in respect of the forfeited shares but shall, notwithstanding, remain liable to pay to the Company all moneys which, at the date of forfeiture, were payable by him to the Company in respect of the shares, but his liability shall cease if and when the Company shall have received payment in full of all such moneys in respect of the shares.
40. A statutory declaration in writing that the declarant is a Director or the Secretary of the Company, and that a share in the Company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the

share. The Company may receive the consideration, if any, given for the share on any sale or disposition thereof and may execute or authorise any person to execute a transfer of the share in favour of the person to whom the share is sold or disposed of and the transferee named therein shall thereupon be registered as the holder of the share, and he shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

41. The provisions of these Articles as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

#### CONVERSION OF SHARES INTO STOCK

42. The Company may by ordinary resolution convert any paid-up shares into stock, and reconvert any stock into paid-up shares of any denomination.
43. The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations, as and subject to which the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; and the Directors may from time to time fix the minimum amount of stock transferable but so that such minimum shall not exceed the nominal amount of the shares from which the stock arose.
44. The holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the Company and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the Company and in the assets on winding up) shall be conferred by an amount of stock which would not, if existing in shares, have conferred that privilege or advantage.
45. All the provisions of these Articles applicable to fully paid up shares shall apply to stock, and the words

"Share", "Shareholder" and "Member" shall be construed accordingly.

#### ALTERATION OF CAPITAL

46. The Company may from time to time, by ordinary resolution, increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall direct, or, in default of such direction, as the Directors shall determine.
47. Subject to any direction to the contrary that may be given by the resolution sanctioning the increase of capital, all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the Company of general meetings in proportion as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the Directors may dispose of the same in such manner as they think most beneficial to the Company. The Directors may likewise so dispose of any new shares which, by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares, cannot in the opinion of the Directors, be conveniently offered under this Article.
- 47A → 48. Any new shares may be offered at par, at a premium or (subject to the provisions of the Act) at a discount as the Directors may decide.
49. The new shares shall be subject to the same provisions with reference to the payment of calls, liens, transfer, transmission, forfeiture and otherwise as the shares in the original share capital.
50. The Company may, by ordinary resolution:
- (a) Consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
  - (b) sub-divide its existing shares, or any of them, into shares of smaller amount than is fixed by the Memorandum of Association subject, nevertheless, to the provisions of the Act;
  - (c) Cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any persons;

47A: Notwithstanding the provisions of articles 8 and 47 the unissued shares of the Company shall be at the disposal of the Board of Directors and by their direction may allot grant options

And may, by special resolution:

- (d) Reduce its share capital, any capital redemption reserve fund and any share premium account in any manner and with, and subject to, any incident authorised, and consent required, by law.

#### GENERAL MEETINGS

51. The Company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the matter as such in the notices calling it. Not more than Fifteen months shall elapse between the date of one annual general meeting of the Company and that of the next: Provided that if the first annual general meeting is held within Eighteen months of the date of incorporation of the Company, it need not be held in the year of incorporation nor in the next following year. Annual and extraordinary general meetings shall be held at such times and places within Kenya as the Directors shall from time to time appoint.
52. All general meetings other than annual general meetings shall be called extraordinary general meetings.
53. The Directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists, as provided by the Act. If at any time there are not within Kenya sufficient Directors capable of acting to form a quorum, any Director or any two Members of the Company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the Directors.

#### NOTICE OF GENERAL MEETINGS

54. An annual general meeting and a meeting called for the passing of a special resolution shall be called by Twenty-one days' notice in writing at the least, and a meeting of the Company other than an annual general meeting or a meeting for the passing of a special resolution shall also be called by Twenty-one days' notice in writing at the least. The notice shall be exclusive of the day of which it is served or deemed to be served and of the day for which it is given and shall specify the place, the day and the hour of meeting and, in case of special business, the general nature of that business, and shall be given, in manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the

Note  
\*

Company in general meeting, to such persons as are, under the regulations of the Company, entitled to receive such notices from the Company, including the Nairobi Stock Exchange and the Capital Markets Authority.

Provided that a meeting of the Company shall notwithstanding that it is called by shorter notice than that specified in this Article be deemed to have been duly called if it is so agreed:-

- (a) in the case of a meeting called as the annual general meeting, by all Members entitled to attend and vote thereat; and
- (b) in the case of any other meeting, by a majority in number of the Members having a right to attend and vote at the meeting, being a majority together holding not less than Ninety-five per cent (95%) in nominal value of the shares giving that right.

55. In every notice calling a meeting of the Company, there shall appear with reasonable prominence, a statement that a Member entitled to attend and vote is entitled to appoint one or more proxies to attend and vote in his stead and that a proxy need not be a Member.

56. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

#### PROCEEDINGS AT GENERAL MEETINGS

57. All business shall be deemed special that is transacted at an extraordinary general meeting, and also all business that is transacted at an annual general meeting, with the exception of declaring a dividend, the consideration of the accounts, balance sheets and the reports of the Directors and Auditors, the election of Directors in the place of those retiring (if any), and the appointment and the fixing of the remuneration of the Auditors and the remuneration of Directors.

NOTE  
Special  
Business

58. No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business; save as herein otherwise provided. Two Members

I Certify that this is a true  
Copy of the Original  
PAULINE WAMUYU KIMOTHO  
ADVOCATE  
P. O. Box 3065 - 00506, NAIROBI.

- personally present shall be a quorum.
59. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the Directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Members present shall be a quorum.
60. The Chairman, if any, of the Board of Directors (or in his absence the Deputy-Chairman, if any) shall preside as Chairman at every general meeting of the Company.
61. If there is no such Chairman (or Deputy-Chairman) or if at any meeting he is not present within Fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as Chairman, the Directors present shall choose one of their number to be Chairman. If no Director is willing to act as Chairman or no Director is present within Fifteen minutes after the time appointed for holding the meeting, the Members present shall choose one of their number to be Chairman of the meeting.
62. The Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
63. 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:-
- (a) by the Chairman; or
  - (b) by any Member or Members present in person or by proxy and representing not less than one-

~~tenth of the total voting rights of all the Members having the right to vote at the meeting.~~

Unless a poll be 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 and an entry to that effect in the book containing the minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn.

64. Except as provided in Article 66, if a poll is duly demanded it shall be taken in such manner as the Chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
65. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.
- 65A. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded and the demand may be withdrawn at any time. On a poll, votes may be given personally or by proxy or attorney or by a representative of a corporation appointed in accordance with Article 78.
66. A poll demanded on the election of Chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the Chairman of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll.

### VOTES OF MEMBERS

67. Subject to any rights or restrictions for the time being attached to any class or classes of shares, on a show of hands, every Member present in person shall have one vote, and on a poll, every Member present in person or by proxy shall have one vote for each share of which he is the holder.
68. In the case of joint holders, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose, seniority shall be determined by the order in which the names stand in the Register.
69. A Member incapable by reason of mental disorder of managing and administering his property and affairs may vote, whether on a show of hands or on a poll, by his receiver, or other person authorised by any court of competent jurisdiction to act on his behalf, and such person may on a poll vote by proxy.
70. No Member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the Company have been paid.
71. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairman of the meeting, whose decision shall be final and conclusive.
72. On a poll, votes may be given either personally or by proxy.
73. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing, or, if the appointor is a Corporation, either under Seal, or under the hand of an officer or attorney duly authorised. A proxy need not be a Member of the Company.
74. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of the power or authority shall be deposited at the Office or at such other place within Kenya as is specified for that purpose in the notice convening the meeting, not less than Forty-eight hours before the time for holding the meeting or adjourned meeting, at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than Twenty-

four hours before the time appointed for the taking of the poll, and in default, the instrument of proxy shall not be treated as valid.

75. An instrument appointing a proxy shall be in the following form, or in any other form of which the Directors shall approve:-

"UCHUMI SUPERMARKETS LIMITED

I/We, \_\_\_\_\_, of \_\_\_\_\_, being a Member/Members of the above-named Company, hereby appoint \_\_\_\_\_, of \_\_\_\_\_, or failing him \_\_\_\_\_, of \_\_\_\_\_, as my/our proxy to vote for me/us on my/our behalf at the Annual (or Extraordinary, as the case may be) General Meeting of the Company to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 20..., and at any adjournment thereof.

As witness my/our hand/s this \_\_\_\_\_ day of \_\_\_\_\_ 20...

This Form is to be used \*in favour of/against the resolution.

Unless otherwise instructed, the proxy will vote as he thinks fit.

\*Strike out whichever is not desired."

76. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
77. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or incapacity of the principal, revocation of the proxy, of the authority under which the proxy was executed or the transfer of the share in respect of which the proxy is given, provided that no intimation in writing of such death, incapacity, revocation or transfer as aforesaid shall have been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the proxy is used.

#### CORPORATIONS

78. Any Corporation which is a Member of the Company may, by resolution of its Directors or other governing body, appoint such persons as it thinks fit to act as its representative at any meeting of the

Company or of any class of Members of the Company. The production at a meeting of a copy resolution certified by a Director (other than the appointee if he himself shall be a Director) and the Secretary, if any, of such Corporation to be a true copy of the resolution, shall be accepted by the Company as sufficient evidence of the validity of his appointment. The person so appointed shall be entitled to exercise the same powers on behalf of such Corporation as it could exercise if it were an individual Member of the Company.

#### DIRECTORS

79. ~~Unless and until otherwise from time to time determined by an ordinary resolution of the Company, the number of the Directors (excluding Alternates) shall not be less than Five nor more than Ten in number. The first Directors shall be appointed by the subscribers to the Memorandum of Association, or a majority thereof, by notice in writing. If at any time the number of Directors falls below the minimum number fixed by or in accordance with these Articles, the remaining Directors may act for the purpose of convening a general meeting or for the purpose of bringing the number of Directors to such minimum, and for no other purpose.~~
80. The Board shall cause to be kept a register of the Directors' holdings of shares and debentures of the Company and of its subsidiaries or holding Company (if any) as required by the Act, and shall cause the same to be available for inspection during the period and by the persons prescribed, and shall produce the same at every annual general meeting as required by the Act.
81. The Directors (other than those Directors whose remuneration is determined by agreement between the Company and such Directors) shall be paid out of the funds of the Company by way of remuneration for their services, such sums as the Company may from time to time by ordinary resolution determine and such remuneration shall be divided among them in such proportion and manner as the Directors may determine and, in default of such determination within a reasonable period, equally. Subject as aforesaid, a Director holding office for part only of a year shall be entitled to a proportionate part of a full year's remuneration. The Directors shall also be entitled to be repaid

by the Company, all such reasonable travelling (including hotel and incidental) expenses as they may incur in attending meetings of the Board, or of committees of the Board, or general meetings, or which they may otherwise properly incur in or about the business of the Company.

82. Any Director who by request performs special services or goes or resides abroad for any purposes of the Company, may be paid such extra remuneration by way of salary, percentage of profits or otherwise as the Board may determine.
83. Directors shall not be required to hold any share qualification but shall be entitled to receive notice of and to attend and speak at all General Meetings of the Company.

#### ALTERNATE DIRECTORS

84. Any Director may with the consent of the Board (such consent not to be unreasonably withheld), appoint any person to be an alternate Director of the Company, and may at any time remove any Alternate Director so appointed by him from office. An Alternate Director so appointed, shall not be entitled to appoint an alternate to himself and shall not as such be entitled to receive any remuneration from the Company. Every person acting as an Alternate Director shall be an officer of the Company, and he shall not be deemed to be the agent of the Director by whom he was appointed.
85. An Alternate Director shall be entitled to receive notices of all meetings of the Board and to attend and vote as a Director at any such meeting at which the Director appointing him is not personally present, and generally to perform all the functions of his appointor as a Director in his absence, including that of being counted as part of a quorum at any such meeting.
86. An Alternate Director shall ipso facto cease to be an Alternate Director if his appointor ceases for any reason to be a Director or if of his own volition, he resigns.

86A. The remuneration of an Alternate Director shall be payable out of the remuneration of his appointor and shall be such proportion thereof as shall be agreed between them.

87. Every appointment and removal of an Alternate Director shall be effected by notice in writing to the Company under the hand of the Director making or revoking such appointment.

88. ~~A Director or any other person duly appointed as an Alternate Director may act to represent more than One Director, and a Director appointed as an Alternate Director shall be entitled at Board meetings to One vote for every Director whom he represents in addition to his own vote (if any) as a Director.~~

#### POWERS AND DUTIES OF DIRECTORS

89. The Business of the Company shall be managed by the Directors who may pay all expenses incurred in promoting and registering the Company, and may exercise all such powers of the Company as are not, by the Act or by these Articles, required to be exercised by the Company in general meetings and the exercise of the said powers shall be subject also to the control and regulation of any general meeting of the Company, but no resolution of the Company in general meeting shall invalidate any prior act of the Directors which would have been valid if such resolution had not been passed.

90. CHIEF EXECUTIVE, MANAGING DIRECTOR OR EXECUTIVE DIRECTOR

(1) The Directors may from time to time appoint a person (or persons) of such qualification as the Directors may from time to time determine, whether such is a Director of the Company or not, to the office of the Chief Executive or the Managing Director or the Executive Director (by whatever name called) for such period and on such terms and with such powers as they may think fit and subject to the terms of any agreement entered into in any particular case, may revoke any such appointment.

- (2) Where the person so appointed is not otherwise a Director, he shall be entitled to attend and speak at board and general meetings and subject to these Articles, shall be entitled to vote thereat.
- (3) A Director so appointed shall not, whilst holding that office be subject to retirement by rotation or be taken into account in determining the rotation or retirement of the Directors but shall cease to be a Director of the Company if he ceases to be the Chief Executive or the Managing Director or the Executive Director for any reason or cause.
- (4) The Chief Executive or a Managing Director or the Executive Director shall receive such remuneration (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the Directors may determine.
- (5) The Directors may entrust to and confer upon a Chief Executive or Managing Director or an Executive Director, any of the powers exercisable by them upon such terms and conditions and with such restrictions as they may think fit, and either collaterally with or to the exclusion of their own powers and may from time to time revoke, withdraw, alter or vary all or any powers.
91. The Directors may exercise all the powers of the Company to borrow or raise money and to mortgage or charge its undertaking, property and uncalled capital and to issue debentures, debenture stock, legal and equitable mortgages and charges and other securities whether outright or as security (principal or collateral) for any debt, liability or obligation of the Company or any third party.
92. The Directors shall duly comply with the provisions of the Statutes, and in particular with the provisions in regard to the registration of the particulars of mortgages and charges affecting the property of the Company, or created by it, and to keeping a register of the Directors and Secretaries, and to sending to the Registrar of Companies an annual list of Members, and a summary of particulars relating thereto, and notice of any consolidation or increase of share capital, or conversion of shares into

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stock, and copies of special resolutions, and a copy of the register of Directors and notifications of any changes therein.

93. The Directors may from time to time and at any time by power of attorney appoint any company, firm or person or body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under these Articles) and for such period and subject to such conditions as they may think fit, and any such powers 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 delegate all or any of the powers, authorities and discretions vested in him.
94. The Company may exercise the powers conferred by the Act with regard to having an official Seal for use abroad, and such powers shall be vested in the Directors.

#### DIRECTORS CONTRACTS

95. (1) A Director who is in any way, whether directly or indirectly interested in a contract or proposed contract with the Company shall declare the nature of his interest at a meeting of the Directors in accordance with Section 200 of the Act.
- (2) A Director may hold any other office or place of profit under the Company (other than the office of Auditor) in conjunction with his office of Director for such period and on such terms (as to remuneration and otherwise) as the Directors may determine and no Director shall be disqualified by his office from contracting with the Company either as vendor, purchaser, or otherwise, or from being interested whether directly or indirectly in any contract or arrangement proposed to be entered into or in fact entered into by or on behalf of the Company; nor shall any such contract or arrangement in which any Director shall be so interested be avoided, nor shall any Director so contracting, or being interested, be liable to account to the Company for any profit realised by him from such contract or arrangement in

which he shall be so interested by reason of such Director holding that office or the fiduciary relation thereby established.

- (3) A Director shall not vote in respect of any contract or arrangement in which he is interested, and if he shall do so, his vote shall not be counted, nor shall he be counted in the quorum present at the meeting, but neither of these prohibitions shall apply to:-
- (a) any arrangement for giving any Director any security or indemnity in respect of money lent by him or obligations undertaken by him for the benefit of the Company; or
  - (b) any arrangement for the giving by the Company of any security to a third party in respect of a debt obligation of the Company for which the Director himself has assumed responsibility in whole or in part under a guarantee or indemnity or by deposit of a security; or
  - (c) any contract by a Director to subscribe for or underwrite shares or debentures of the Company; or
  - (d) any contract or arrangement with any other company in which he is interested only as an Officer of the Company or as a holder of minority shares or other securities.
- (4) A Director, notwithstanding his interest, may be counted in the quorum present at any meeting whereat he or any other Director is appointed to hold any such office or place of profit under the Company or whereat the terms of any such appointment are arranged and he may vote on any such appointment or arrangement other than his own appointment or the arrangement of the terms thereof.
- (5) Any 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 professional services as if he were not a

Director; provided that nothing herein contained shall authorise a Director or his firm to act as Auditor to the Company.

(6) A general notice given to the Directors by any Director to the effect that he is a Member of any specified Company or firm and is to be regarded as interested in any contract which may thereafter be made with that Company or firm shall be deemed a sufficient declaration of interest in regard to any contract so made but no such notice shall be of effect unless either is given at a meeting of the Directors or the Director takes reasonable steps to secure that it is brought up and read at the next meeting of the Directors after it is given.

96. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Directors shall from time to time by resolution determine.
97. The Directors shall cause minutes to be made, in books provided for the purpose, recording in respect of every meeting of the Company, of the Directors and of Committees of Directors, the names of all persons present and all resolutions and proceedings at such meeting. The minutes of every such Meeting shall be read at the next Meeting of the Company, of the Directors or of the Committee of directors, as the case may be, and, after being amended or corrected if necessary, approved by the meeting, shall be signed by the Chairman of the meeting and, once so signed, shall be prima facie evidence of the matters stated therein.
98. The Directors may grant retirement pensions or annuities or other gratuities or allowances, including allowances on death, to any person or to the widow or dependants of any person in respect of services rendered by him to the Company whether as Managing Director or in any other office or employment under the Company or indirectly as an officer or employee of any subsidiary company or the Company, notwithstanding that he may be or may have been a Director of the Company and

may make payments towards insurances or trusts for such purposes in respect of such persons and may include rights in respect of such pensions, annuities and allowances in the terms of engagement of any such person.

#### DISQUALIFICATION OF DIRECTORS

99. The office of Director shall be vacated if the Director:-

- (a) ceases to be or is prohibited from being a Director by virtue of any provision of the Act; or
- (b) becomes bankrupt; or
- (c) becomes incapable by reason of mental disorder of exercising his functions as Director; or
- (d) resigns his office by notice in writing to the Company; or
- (e) is absent, without the previous sanction of the Directors, for a period of more than Six months from meetings of the Directors held during such period and the Directors resolve that his office be vacated accordingly.

#### ROTATION OF DIRECTORS

100. At the Annual General Meeting to be held in the year, 1992/93 and at every succeeding Annual General Meeting, one third of the Directors or, if their number is not a multiple of three, the number nearest to but not exceeding one third shall subject to the provisions of Article 99 hereof, retire from office, those retiring in every year being those who have been longest in office since their last election or appointment but as between persons who become Directors on the same day, those to retire shall unless they otherwise agree among themselves, be determined by lot. A retiring Director shall be eligible for re-election and shall act as a Director throughout the meeting at which he is retiring.

100A.

No person, other than a Director retiring at the meeting, shall unless recommended by the Directors, be eligible for election to the office of a Director at any General Meeting unless, not less than three or more than twenty one days before the date appointed for the meeting, there shall have been left at the office, notice in writing signed by a Member duly qualified to attend and vote at the meeting for which such notice is given of his intention to propose such person for election, and also notice in writing signed by that person of his willingness to be elected.

101. The Company at the meeting at which a Director retires in the manner aforesaid, may fill the vacated office by electing a person thereto and, in default, the retiring Director shall if offering himself for re-election, be deemed to have been re-elected unless, at such meeting, it is expressly resolved not to fill such vacated office or a resolution for the re-election of such Director shall have been put to the meeting and lost.
102. The Directors shall have power at any time, and from time to time, to appoint a person as an additional Director either to fill a casual vacancy or as an addition to the existing Directors but so that the total number of Directors shall not exceed the maximum authorised by these Articles; but any person so appointed shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the Company at that meeting as an additional Director.
103. The Company may from time to time by ordinary resolution increase or reduce the number of Directors and may also determine in what rotation the increased or reduced number is to go out of office.
104. The Company may by ordinary resolution, of which special notice has been given in accordance with the Act, remove any Director before the expiration of his period of office, and, without prejudice to the powers of the Directors under Article 101 hereof, may by an ordinary resolution appoint another person in his stead; the person so appointed shall be subject to retirement at the same time as if he had become a Director on the day on which the Director in whose place he is appointed was last elected a Director. Such power of removal may be exercised notwithstanding anything in these Articles or in any agreement between the Company and such Director but without prejudice to any claim, such Director may have for damages for breach of contract of service between him and the Company.

## PROCEEDINGS OF DIRECTORS

105. The Directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the Chairman shall have a second or casting vote. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Directors. It shall be necessary to give notice of a meeting of Directors to any Director for the time being absent from Kenya.
106. 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.
107. The continuing Directors may act notwithstanding any vacancy in their body but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the Company as the necessary quorum of Directors, the continuing Directors or Director may act for the purpose of increasing the number of Directors to that number, or of summoning a general meeting of the Company, but for no other purpose.
108. The Directors may elect a Chairman and Deputy-Chairman for their meetings and determine the period for which they are each to hold office, but if no such Chairman or Deputy-Chairman is elected, or if at any meeting neither the Chairman nor the Deputy-Chairman is present within Five minutes after the time appointed for holding the same, the Directors present may choose one of their number to be Chairman of the meeting.
109. The Directors may delegate any of their powers to committees consisting of such Member or Members of their body as they think fit; any such committee shall conform to any regulation that may be imposed on it by the Directors.
110. A committee may elect a Chairman of its meetings; if no such Chairman is elected, or if at any meeting the Chairman is not present within Five minutes after the time appointed for holding the same, the Members present may choose one of their number to be Chairman of the meeting.

111. The meetings and proceedings of any committee consisting of two or more persons shall be governed by the provisions herein contained for regulating the meetings and proceedings of the Directors so far as the same are applicable and are not superseded by any regulations imposed by the Directors under Article 109.
112. All acts done by any meeting of the Directors or of a committee of Directors or by any person acting as a Director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.
113. A resolution in writing signed by a majority of the Directors, or of all the Members of a committee, shall be as valid and effectual as if it had been passed at a meeting of the Directors or of the committee (as the case may be) duly convened and held.

SECRETARY

114. The Secretary shall be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think fit; and any Secretary so appointed may be removed by them.
115. No person shall be appointed or hold office as Secretary who is
- (a) the sole Director of the Company; or
  - (b) a corporation, the sole Director of which is the sole Director of the Company; or
  - (c) the sole Director of a corporation which is the sole Director of the Company; or
  - (c) is not the holder of the qualification required by law for that office.
116. A provision of the Act or these Articles requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in place of, the Secretary.

### THE SEAL

117. (i) The Directors shall provide for the safe custody of the Seal which shall only be used by the authority of the Directors or a committee of Directors authorised by the Directors in that behalf.
- (ii) Subject to the provisions of this Article, two Directors or one Director and the Secretary shall sign autographically every instrument to which the Seal shall be affixed and in favour of any purchaser or person bona fide dealing with the Company such signature shall be conclusive evidence of the fact that the Seal has been properly affixed.
- (iii) Notwithstanding the foregoing provisions, any certificate of shares or debenture or loan stock (except where the trust deed constituting any debenture stock or loan stock provides to the contrary) or representing any other form of security of which the Seal is required to be affixed may, if the Directors by resolution so determine, either generally or in a particular case, have the signature of any Director or the Secretary stamped, printed or otherwise made thereon by some mechanical means.

### DIVIDENDS AND RESERVES

118. The Company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Directors.
119. The Directors may from time to time pay to the Members such interim dividends (including therein the fixed dividends payable upon any preference or other shares at stated times) as appear to the Directors to be justified by the profits of the Company.

120. No dividend shall be paid otherwise than out of profits.
121. 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 or credited as paid on the shares, but if and so long as nothing is paid up on any of the shares in the Company, dividends may be declared and paid according to the amounts of the shares. No amount paid or credited as paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this regulation as paid on the share. All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the share during any portion or portions of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank for dividend as from a particular date, such share shall rank for dividend accordingly.
122. 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 or reserves which shall, at the discretion of the Directors, be applicable for any purpose to which the profits of the Company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the Company or be invested in such investments (other than shares of the Company) as the Directors may from time to time think fit. The Directors may also without placing the same to reserve, carry forward any profits which they may think prudent not to divide.
123. Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to the persons entitled to share therein.
124. The Directors may deduct from any dividend payable to any Member, all sums of money (if any) presently payable by him to the Company on account of calls or otherwise in relation to the shares of the Company.
- 124A. The Directors may retain any dividend or other money payable on or in respect of a share on which the Company has lien and may apply the same in or towards satisfaction of the debts, liabilities or engagements in respect of which the lien exists.
125. Any general meeting declaring a dividend or bonus may direct payment of such dividend or bonus wholly or partly by the distribution of specific assets and in particular of paid up shares, debentures or debenture stock of any other Company or in any one or more of such ways and the Directors shall

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PAULINE WANGUYU KIMONDO  
ADVOCATE  
P. O. Box 3065 - 00506, NAIROBI.

give effect to such resolution, and where any difficulty arises in regard to such distribution, the Directors may settle the same as they think expedient, and in particular may issue fractional certificates and fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any Member upon the footing of the value so fixed in order to adjust the rights of all parties, and may vest any such specific assets in trustees as may seem expedient to the Directors.

126. Any dividend, interest or other moneys payable in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the Register or to such person and to such address as the holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. Any one of two or more joint holders may give effectual receipts for any dividends, bonuses or other moneys payable in respect of the shares held by them as joint holders.

127. No dividends shall bear interest against the Company.

128. Any dividend unclaimed for a period of more than Twelve years from the date of the declaration thereof may at any time thereafter be forfeited by resolution of the Directors.

#### ACCOUNTS

129. The Directors shall cause proper books of account to be kept with respect to:

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

Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of Company's affairs and to explain its transactions.

130. The books of account shall be kept at the Office, or, subject to the Act, at such other place or places as the Directors think fit, and shall always be open to the inspection of the Directors.

131. The Directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations, the accounts and books of the Company or any of

them shall be opened 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 or by the Company in general meeting.

132. The Directors shall from time to time, in accordance with the Act, cause to be prepared and to be laid before the Company in general meeting, such profit and loss accounts, balance sheets, group accounts (if any) and reports as are required by the Act.

133. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the Company in general meeting, together with a copy of the Auditors' report, shall not less than Twenty-one days before the date of the meeting, be sent to every Member of, and every holder of debentures of, the Company and to every person registered under Article 32 but this Article shall not require a copy of these documents to be sent to any person of whose address the Company is not aware, nor to more than One of the joint holders of any shares or debentures.

#### CAPITALISATION OF PROFITS

134. The Company in general meeting may upon the recommendation of the Directors resolve that it is desirable to capitalise any part of the amount for the time being standing to the credit of any of the Company's reserve accounts or to the credit of the profit and loss account or otherwise available for distribution, and accordingly that such sum be set free for distribution amongst the Members, who would have been entitled thereto if distributed by way of dividend and in the same proportions on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any shares held by such Members respectively, or paying up in full unissued shares or debentures of the Company to be allotted and distributed credited as fully paid up to and amongst such Members in the proportion aforesaid, or partly in the one way and partly in the other, and the Directors shall give effect to such resolution: Provided that a share premium account and a capital redemption reserve fund may for the purposes of this Article, only be applied in the paying up of unissued shares to be issued to Members of the Company as fully paid bonus shares.

135. Whenever such a resolution as aforesaid shall have been passed, the Directors shall make all appropriations and applications of the undivided profits resolved to be capitalised thereby, and all allotments and issues of fully paid shares or debentures, if any, and generally shall do all acts and

things required to give effect thereto, with full power to the Directors to make such provision by the issue of fractional certificates or by payment in cash or otherwise as they think fit for any shares or debentures becoming distributable in fractions, and also to authorise any person to enter on behalf of all the Members entitled thereto into an agreement with the Company providing for the allotment to them respectively, credited as fully paid up, of any further shares or debentures to which they may be entitled upon such capitalisation, or (as the case may require) for the payment up by the Company on their behalf, by the application thereto of their respective proportions of the profits resolved to be capitalised, of the amounts or any part of the amounts remaining unpaid on their existing shares, and any agreement made under such authority shall be effective and binding on all such Members.

#### AUDIT

136. Auditors shall be appointed and their duties regulated in accordance with the Act.
137. Any notice or other document may be served by the Company on any Member or Director either personally or by sending it through the post in a prepaid cover addressed to such Member or Director at his registered address as appearing in the Register or the Company's other records whether such address shall be within or outside Kenya by telegram or telefax addressed as aforesaid.
138. A notice may be given by the Company to the joint holders of a share by giving notice to the joint holder first named in the Register of Members in respect of the share and such notice shall be sufficient to all joint holders.
139. Any Member whose registered address is not within Kenya may by notice in writing, require the Company to register an address in Kenya, which for the purpose of the service of notices, shall be deemed to be his registered address. A Member who has no registered address within Kenya, and who has not given notice as aforesaid shall be entitled to receive notices from the Company at his address outside Kenya.

139A. Where a notice or other document is sent by post, it shall be deemed to have been served on the third day after the day of which it was posted if addressed outside Kenya and in the latter case, any such notice or other document shall be dispatched by air mail. In providing such service or sending, it shall be sufficient to prove that the cover containing the notice or document was properly addressed and put in the post office as a prepaid letter or airmail letter. Where notice is sent by telegram, telex or telefax, it shall be deemed to have been served on the day after the one which it was sent. For the purposes of this Article, "day" means a working day, excluding Saturdays, Sundays and public holidays.


140. A notice may be given by the Company to the person entitled to a share in consequence of the death or bankruptcy of a Member by sending it through the post in a prepaid letter addressed to him by name, or by the title of representative of the deceased, or trustee of the bankrupt, or by any like description, at the registered address of the person claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

#### WINDING UP

141. If the Company shall be wound up, the liquidator may, with the sanction of a special resolution of the Company and any other sanction required by the Act, divide amongst the Members in specie or kind, the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and may, for such purpose set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the Members or different classes of Members. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories as the liquidator, with the like sanction, shall think fit, but so that no Member shall be compelled to accept any shares or other securities whereon there is any liability.

INDEMNITY

142. Every Director, Managing Director, Auditor, Secretary, other officer and agent for the time being of the Company shall be indemnified out of the assets of the Company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application under Section 402 of the Act in which relief is granted to him by the Court.

I Certify that this is a true  
Copy of the Original   
.....  
PAULINE WAMUYU KIMOTHO  
ADVOCATE  
P. O. Box 3065 - 00506, NAIROBI.

Names, Postal Addresses and Occupations of Subscribers	Signatures of Subscribers
<p>JAMES MWANGI WANYEKI P.O. Box 30587 NAIROBI ADMINISTRATOR</p>	<p>J. M. WANYEKI (Signed)</p>
<p>NIGEL RALPH PAVITT P.O. BOX 40550 NAIROBI EXECUTIVE</p>	<p>N. R. PAVITT (signed)</p>

DATED the 17th day of December 1975

WITNESS to the above signatures:-

Certified this Document is produced by the process of Xerography.

Fred O. O. N. Ojiambo  
P.O. Box 40111,  
NAIROBI.  
ADVOCATE (Signed)

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I Certify that this is a true  
Copy of the Original  
.....  
PAULINE WAMUYU KIMOTI  
ADVOCATE  
P. O. Box 3065 - 00506, NAIROBI.