

C O P Y

2 0 0 4

DECEMBER 1<sup>ST</sup>

DEED OF DEPOSIT

OF THE DRAFT

CONSTITUTION

O F

"THE UNITED BASALT PRODUCTS LIMITED"

-----

**BEFORE Mr. MARIE FRANÇOIS IGNACE JEAN HUGUES MAIGROT** undersigned, a Notary Public of the City of Port Louis, in the Island of Mauritius, by lawful authority duly commissioned and practising in the said Island of Mauritius and whose office is situate on First Floor, "Labama House", 35, Sir William Newton Street.

**PERSONALLY CAME AND APPEARED**

Mr. **THIERRY PIERRE JOSEPH MARIE LAGESSE**, of age, born on the Twenty Third day of June One Thousand Nine Hundred and Fifty Three (Act of Birth bearing No. 1354 of 1953 - Plaines Wilhems), of Cap Malheureux, Royal Road, a Company Director.

**HEREACTING** in the name, for, on behalf and as Chairman of the Limited Liability Public Company duly incorporated in Mauritius under the name of "**UNITED BASALT PRODUCTS LIMITED**" and having its registered office in Trianon, Quatre Bornes.

**WHO THE SAID APPEARER** in his aforesaid capacity has, by these presents, deposited with the undersigned Notary and has requested him to place amongst his Minutes at today's date, so that any interested party namely the shareholders of "**UNITED BASALT PRODUCTS LIMITED**" may take cognizance thereof and that all excerpts, extracts therefrom and/or certified copies thereof be delivered as need be,

A document which is the Draft Constitution of "**UNITED BASALT PRODUCTS LIMITED**".

**WHICH DOCUMENT** containing a statement dated the First day of December Two Thousand and Four signed by the Appearer in his aforesaid capacity, is herewith annexed after due mention of its annexure by the undersigned Notary and will be registered together with these presents.

**WHEREOF THE PRESENT DEED IS WITNESS**

**THUS DONE, MADE and EXECUTED IN MINUTE** at Port Louis, Mauritius, in the office of the appearer.

**IN THE YEAR OF OUR LORD** Two Thousand and Four.

**ON THE** First day of December.

**AND** after the reading thereof, the appearer in his aforesaid capacity, on being requested so to do by the undersigned Notary, has hereunto set and affixed his hand and signature together with the said Notary and in his presence.-

**(Sd) T. LAGESSE.**

**IN CONFORMITY** with the provisions of paragraph (f) of Section 34 (1) of THE NOTARIES ACT REVISED LAWS OF MAURITIUS - 2000, the Notary hereby records that the provisions of paragraphs (a) to (e) of the said Section 34 (1) of the said ACT have been duly complied with and he has then signed the present deed.

**(Sd) HUGUES MAIGROT.**

-----

**REGISTERED AT MAURITIUS ON THE SECOND DAY OF DECEMBER TWO THOUSAND AND FOUR REG. A 672 NO. 2762 RECEIVED RUPEES SIXTY FIVE AT FIXED DUTY + STAMPS.**

-----

**ANNEXURE**  
**CONSTITUTION**  
**OF**  
**"THE UNITED BASALT PRODUCTS LIMITED"**  
**PURSUANT TO THE COMPANIES ACT 2001**

**A Public Company Limited by Shares**

**TABLE OF CONTENTS**

<b>1. DEFINITIONS.....</b>	<b>6</b>
1.1. DEFINITION IN THIS CONSTITUTION .....	6
1.2. RULES OF INTERPRETATION .....	14
<b>2. NAME OF COMPANY .....</b>	<b>15</b>
<b>3. REGISTERED OFFICE.....</b>	<b>15</b>
<b>4. ACCOUNTING PERIOD.....</b>	<b>15</b>
<b>5. TYPE OF COMPANY .....</b>	<b>16</b>
THE COMPANY IS A PUBLIC COMPANY LIMITED BY SHARES. ....	16
<b>6. DURATION .....</b>	<b>16</b>
<b>7. CAPACITY .....</b>	<b>16</b>
<b>8. SHARES.....</b>	<b>16</b>
8.1. EXISTING SHARES .....	16
8.2. RIGHTS OF EXISTING SHARES .....	17
8.3. VARIATION OF CLASS RIGHTS .....	17
8.4. SHARE REGISTERS .....	18
8.5. TRUST NOT TO BE REGISTERED OR RECOGNISED .....	18
<b>9. REDEEMABLE SHARES.....</b>	<b>18</b>
<b>10. ISSUING OF FURTHER SHARES .....</b>	<b>19</b>
10.1. BOARD MAY ISSUE SHARES.....	19
10.2. CONSIDERATION FOR ISSUE OF SHARES.....	20

10.3.	DIRECTORS' CERTIFICATE ON CONSIDERATION FOR ISSUE OF SHARES NOT PAID FOR IN CASH.....	21
10.4.	AMOUNT OWING ON ISSUE OF SHARES.....	21
10.5.	FRACTIONAL SHARES .....	22
<b>11.</b>	<b>CALLS ON SHARES.....</b>	<b>22</b>
11.1.	BOARD MAY MAKE CALLS .....	22
11.2.	TIMING OF CALLS .....	22
11.3.	LIABILITY OF JOINT HOLDERS .....	23
11.4.	INTEREST .....	23
11.5.	INSTALMENTS .....	23
11.6.	DIFFERENTIATION AS TO AMOUNTS.....	24
<b>12.</b>	<b>FORFEITURE OF SHARES .....</b>	<b>24</b>
12.1.	NOTICE OF DEFAULT .....	24
12.2.	FINAL PAYMENT DATE .....	24
12.3.	FORFEITURE .....	25
12.4.	SALE OF FORFEITED SHARES.....	25
12.5.	CESSATION OF SHAREHOLDING .....	26
12.6.	EVIDENCE OF FORFEITURE.....	26
12.7.	VALIDITY OF SALE .....	26
<b>13.</b>	<b>SHARE CERTIFICATES.....</b>	<b>27</b>
13.1.	COMPANY TO ISSUE SHARE CERTIFICATE .....	27
13.2.	TRANSFER TO BE ACCOMPANIED BY SHARE CERTIFICATE .....	27
13.3.	SURRENDERED SHARE CERTIFICATE .....	28
13.4.	LOSS OR DESTRUCTION OF SHARE CERTIFICATE .....	28
<b>14.</b>	<b>TRANSFER AND TRANSMISSION OF SHARES.....</b>	<b>29</b>
14.1.	FREEDOM TO TRANSFER IS UNLIMITED.....	29
14.2.	EXECUTION OF TRANSFER .....	29
14.3.	FORM OF TRANSFER .....	30
14.4.	TRANSMISSION .....	31
14.5.	TRANSFER OF SHARES IN PLEDGE.....	32
14.6.	REGISTRATION OF TRANSFER.....	32
<b>15.</b>	<b>REFUSAL TO REGISTER TRANSFERS.....</b>	<b>33</b>
<b>16.</b>	<b>DISTRIBUTIONS .....</b>	<b>34</b>
16.1.	SOLVENCY TEST.....	34
16.2.	DIVIDENDS PAYABLE PARI PASSU.....	35
16.3.	SHARES IN LIEU OF DIVIDENDS.....	36
<b>17.</b>	<b>DIVIDENDS.....</b>	<b>37</b>
17.1.	DEDUCTION OF UNPAID CALLS .....	37
17.2.	PAYMENT BY CHEQUE OR WARRANT.....	37
17.3.	NO INTEREST.....	38

17.4.	UNCLAIMED DIVIDENDS .....	38
17.5.	DIVIDENDS ON SHARES NOT FULLY PAID UP TO BE PAID PRO RATA .....	38
<b>18.</b>	<b>ACQUISITION OF COMPANY'S OWN SHARES .....</b>	<b>39</b>
<b>19.</b>	<b>REDUCTION OF STATED CAPITAL .....</b>	<b>39</b>
<b>20.</b>	<b>ISSUE OF STATEMENT OF RIGHTS TO SHAREHOLDER .....</b>	<b>39</b>
<b>21.</b>	<b>EXERCICE OF POWERS RESERVED TO SHAREHOLDERS .....</b>	<b>41</b>
21.1.	POWERS RESERVED TO SHAREHOLDERS .....	41
21.2.	SPECIAL RESOLUTIONS .....	41
21.3.	MANAGEMENT REVIEW BY SHAREHOLDERS .....	42
21.4.	DISSENTING SHAREHOLDER MAY REQUIRE COMPANY TO PURCHASE SHARES .....	43
<b>22.</b>	<b>GENERAL MEETINGS .....</b>	<b>45</b>
22.1.	ANNUAL MEETINGS .....	45
22.2.	SPECIAL MEETINGS .....	46
22.3.	RESOLUTION IN LIEU OF MEETING .....	46
22.4.	CHAIRPERSON .....	47
22.5.	NOTICE OF GENERAL MEETINGS .....	47
22.6.	METHODS OF HOLDING GENERAL MEETINGS .....	49
22.7.	QUORUM .....	50
22.8.	VOTING .....	51
22.9.	PROXIES .....	54
22.10.	POSTAL VOTES .....	56
22.11.	MINUTES .....	59
22.12.	SHAREHOLDER PROPOSALS .....	59
22.13.	CORPORATIONS MAY ACT BY REPRESENTATIVE .....	61
22.14.	VOTES OF JOINT HOLDERS .....	62
22.15.	NO VOTING RIGHT WHERE CALLS UNPAID .....	62
22.16.	OTHER PROCEEDINGS .....	62
<b>23.</b>	<b>APPOINTMENT AND REMOVAL OF DIRECTORS .....</b>	<b>62</b>
23.1.	NUMBER OF DIRECTORS .....	62
23.2.	CURRENT DIRECTORS .....	63
23.3.	APPOINTMENT OF DIRECTORS BY NOTICE .....	63
23.4.	APPOINTMENT OF DIRECTORS BY RESOLUTION .....	64
23.5.	DIRECTORS MAY FILL UP CASUAL VACANCY .....	65
23.6.	DISQUALIFICATION AND REMOVAL OF DIRECTORS .....	65
23.7.	SHAREHOLDING QUALIFICATION .....	66
23.8.	ALTERNATE DIRECTORS .....	66
<b>24.</b>	<b>POWERS AND DUTIES OF THE BOARD .....</b>	<b>68</b>
24.1.	POWERS OF THE BOARD .....	68
24.2.	DELEGATION BY BOARD .....	69
24.3.	DIRECTORS TO ACT IN GOOD FAITH AND IN BEST INTERESTS OF COMPANY .....	71

24.4.	MAJOR TRANSACTIONS AND OTHER TRANSACTIONS UNDER SECTION 130 OF THE ACT	75
<b>25.</b>	<b>PROCEEDINGS OF THE BOARD</b>	<b>75</b>
25.1.	CHAIRPERSON	75
25.2.	NOTICE OF MEETING	76
25.3.	METHOD OF HOLDING MEETINGS	77
25.4.	QUORUM	77
25.5.	VOTING	78
25.6.	MINUTES	78
25.7.	RESOLUTION IN WRITING	78
<b>26.</b>	<b>REMUNERATION AND OTHER INTERESTS OF DIRECTORS</b>	<b>79</b>
26.1.	AUTHORITY TO REMUNERATE DIRECTORS	79
26.2.	OTHER OFFICES WITH COMPANY HELD BY DIRECTOR	80
26.3.	NOTICE OF INTEREST TO BE GIVEN	81
26.4.	INTERESTED DIRECTOR NOT TO VOTE	82
26.5.	ADJUDICATION OF INTEREST	85
26.6.	RESTRICTION ON DIRECTOR'S PURCHASE AND SUBSCRIPTION	85
<b>27.</b>	<b>MANAGING DIRECTORS</b>	<b>86</b>
<b>28.</b>	<b>INDEMNITY AND INSURANCE</b>	<b>87</b>
28.1.	INDEMNITY OF DIRECTORS AND EMPLOYEES	87
28.2.	INSURANCE OF DIRECTORS AND EMPLOYEES	88
28.3.	DEFINITIONS	89
<b>29.</b>	<b>SECRETARY</b>	<b>89</b>
29.1.	COMPANY TO HAVE A SECRETARY	89
29.2.	QUALIFICATIONS	89
29.3.	VACANCY	90
29.4.	REMOVAL FROM OFFICE	90
<b>30.</b>	<b>WINDING UP</b>	<b>90</b>
30.1.	DISTRIBUTION OF SURPLUS ASSETS	90
30.2.	DIVISION IN KIND	91
<b>31.</b>	<b>COMMON SEAL, AUTHENTICATION OF DEEDS AND DOCUMENTS</b>	<b>91</b>
31.1.	INSTRUMENT TO BE BINDING	94
<b>32.</b>	<b>ACTIONS OF PROCEEDINGS</b>	<b>94</b>
<b>33.</b>	<b>COMPANY RECORDS</b>	<b>94</b>
<b>34.</b>	<b>NOTICES</b>	<b>96</b>
34.1.	SERVICE	96
34.2.	TIME OF SERVICE	96

34.3.	PROOF OF SERVICE.....	97
34.4.	SERVICE ON JOINT HOLDERS.....	97
34.5.	SERVICE ON REPRESENTATIVES .....	97
<b>35.</b>	<b>ACCOUNTS .....</b>	<b>97</b>
<b>36.</b>	<b>AUDIT.....</b>	<b>98</b>
<b>37.</b>	<b>SERVICE OF DOCUMENTS.....</b>	<b>98</b>
<b>38.</b>	<b>REMOVAL FROM THE MAURITIUS REGISTER .....</b>	<b>98</b>
<b>39.</b>	<b>ALTERATION OF CONSTITUTION .....</b>	<b>99</b>

**CONSTITUTION OF  
"THE UNITED BASALT PRODUCTS LIMITED"  
PURSUANT TO THE COMPANIES ACT 2001**

**1. DEFINITIONS**

**1.1. Definition in this Constitution**

In this Constitution, unless the context otherwise requires, the following words and expressions have the meanings given to them in this clause:

<b>Act</b>	means the Companies Act 2001.
<b>Alternate Director</b>	means a Director appointed pursuant to clause 23.8
<b>Amalgamation</b>	means the completed act of the Company and one or more other companies amalgamating pursuant to Sections 244 to 252 of the Act and continuing as one Company, which may be one of the amalgamating companies or a new company.
<b>Annual Meeting</b>	means a meeting of Shareholders held pursuant to Section 115 of the Act.
<b>Associate</b>	means in relation to a Director or a company the meaning set out in the Listing Rules of the



Stock Exchange of Mauritius Limited.

<b>Balance Sheet Date</b>	means the date adopted by the Company as the end of its financial year for the purpose of its annual financial statements.
<b>Board</b>	means the Directors numbering not less than the required quorum acting together as the Board of Directors of the Company.
<b>Call</b>	means a resolution of the Board under clause 11 requiring Shareholders to pay all or part of the unpaid amount of the issue price of any Shares and, where the context requires, means the obligation of a Shareholder to meet the amount due pursuant to such a resolution.
<b>Class and Class of Shares</b>	Means a Class of Shares having attached to them identical rights, privileges, limitations, and conditions.
<b>Chairperson</b>	Means the Chairperson of the Board, elected under clause 22.4.
<b>Company</b>	means " <b>THE UNITED BASALT PRODUCTS LIMITED</b> "
<b>Constitution</b>	means this Constitution of the Company and all amendments to it made from time to time.

- Director** means, subject to Section 128 of the Act, a person appointed and continuing in office for the time being, in accordance with this Constitution, as a Director of the Company.
- Distribution** in relation to Shares held by a Shareholder, means the direct or indirect transfer of money or property, other than Shares, by the Company, to or for the benefit of that Shareholder; or the incurring of a debt by the Company to or for the benefit of a Shareholder, whether by means of a purchase of property, the redemption or other acquisition of Shares, a Distribution of indebtedness or by some other means.
- Dividend** means a Distribution by the Company other than a Distribution to which section 68 (acquisition of Company's own Shares) or section 81 (financial assistance in acquisition of company's shares) of the Act applies.
- General Meeting** means any meeting of Shareholders, other than an Interest Group meeting.
- Interest Group** in relation to any action or proposal affecting rights attached to Shares, means a group of Shareholders whose affected rights are identical; and whose rights are affected by the action or proposal in the same way; and who

comprises the holders of one or more Classes of Shares.

For the purposes of this definition one or more Interest Groups may exist in relation to any action or proposal; and if action is taken in relation to some holders of Shares in a Class and not others; or a proposal expressly distinguishes between some holders of Shares in a Class and other holders of Shares of that Class, holders of Shares in the same Class may fall into two (2) or more Interest Groups.

**Interests Register** means a register kept by the Company at its registered office as required by section 190(2)(c) of the Act.

**International Accounting Standards** means the International Accounting Standards issued by the International Accounting Standards Board; and includes the Interpretations of the Standing Interpretations Board issued by the International Accounting Standards Board; and any other entity to which the responsibility for setting accounting standards has been assigned by the International Accounting Standards Board.

**International Standards on Auditing** means the International Standards on Auditing issued by the International Federation of Accountants.

**Listing Rules** means the Listing Rules issued by the Stock Exchange of Mauritius Limited.

**Major Transaction** in relation to the Company, means, subject to Sections 130(5) and 130(6) of the Act:

- (a) the acquisition of, or an agreement to acquire, whether contingent or not, assets the value of which is more than seventy five per cent (75%) of the value of the Company's assets before the acquisition; or
- (b) the disposition of; or an agreement to dispose of, assets of the Company the value of which is more than seventy five per cent (75%) of the value of the Company's assets before the disposition; or
- (c) a transaction that has or is likely to have the effect of the Company acquiring rights or interests or incurring obligations or liabilities, the value of which is more than seventy five per cent (75%) of the value of the Company's assets before the transaction.

**Managing** means a Director who is appointed under

- Director** clause 27 as an employee of the Company, with the responsibility for the management of the Company.
- Month** means a calendar month.
- Ordinary Resolution** means a resolution approved by a simple majority of the votes of those Shareholders entitled to vote and voting on the matter which is the subject of the resolution.
- Ordinary Share** means a share which confers on the holder:
- (a) the right to vote at meetings of Shareholders and on a poll to cast one vote for each share held;
  - (b) subject to the rights of any other Class of Shares, the right to an equal share in Dividends and other Distributions made by the Company; and
  - (c) subject to the rights of any other Class of Shares, the right to an equal share in the Distribution of the surplus assets of the Company on its liquidation.
- Register of Debenture Holders** means the Register of Debenture Holders required to be kept by section 124 of the Act.
- Registrar** means the Registrar of Companies appointed

under section 10 of the Act.

**Share** means a share in the share capital of the Company.

**Shareholder** means a person:

- (a) whose name is entered in the Share Register as the holder for the time being of one or more Shares; or
- (b) until the person's name is entered in the Share Register , a person named as a Shareholder in the application for registration of the Company at the time of incorporation of the Company; or
- (c) until the person's name is entered in the Share Register, a person who is entitled to have his name entered in the Share Register under a registered Amalgamation proposal, as a shareholder in an amalgamated company.

**Share Register** means the register of Shares required to be maintained by clause 8.4 of this Constitution and section 91 of the Act.

**Signed** (a) means subscribed by a person under his hand with his signature; and

(b) includes the signature of the person given electronically where it carries that person's personal encryption

**Solvency Test** has the meaning as set out in section 6 of the Act

**Special Meeting** means any meeting (other than an Annual Meeting) of the Shareholders entitled to vote on an issue, called at any time by the Board, or by any other person who is authorised by this Constitution or by the Act to call Special Meetings of Shareholders.

**Special Resolution** means a resolution of Shareholders approved by a majority of seventy five per cent (75 %) of the votes of those Shareholders entitled to vote and voting on the question.

**Unanimous Resolution** means a resolution which has the assent of every Shareholder entitled to vote on the matter which is the subject of the resolution in accordance with section 106 of the Act.

**Unanimous Shareholders' Agreement** means an agreement whereby all Shareholders agree to or concur in any action which has been taken or is to be taken by the Company.

**Writing** includes the recording of words in a permanent

or legible form and the display of words by any form of electronic or other means of communication in a manner that enables the word to be readily stored in a permanent form and, with or without the aid of any equipment, to be retrieved and read.

## **1.2. Rules of interpretation**

- (a) Words importing the singular include the plural and vice versa.
- (b) A reference to a person includes any firm, company or group of persons, whether corporate or unincorporate.
- (c) Words importing one gender include the other genders.
- (d) Subject to this clause 1, expressions contained in this Constitution bear the same meaning as specified in the Act at the date on which this Constitution becomes binding on the Company.
- (e) A reference to a clause means a clause of this Constitution.
- (f) The clause headings are included for convenience only and do not affect the construction of this Constitution.



## **2. NAME OF COMPANY**

The name of the Company is **"THE UNITED BASALT PRODUCTS LIMITED"**.

An application to change the name of the Company may be made by a Director of the Company only if the change has been approved by Special Resolution of the shareholders.

The Company shall ensure that its name is clearly stated in every written communication sent by, or on behalf of, the Company; and on every document issued or signed by, or on behalf of, the Company and which evidences or creates a legal obligation to the Company.

## **3. REGISTERED OFFICE**

The registered office of the Company is situated at Trianon, Quatre Bornes or in such other place as the Board may, from time to time, determine.

## **4. ACCOUNTING PERIOD**

The Accounting Period begins on the First day of each year and ends on the Thirtieth day of June of the next year or shall begin and end on such dates as the Board shall determine from time to time.

## 5. TYPE OF COMPANY

The Company is a public company limited by shares.

## 6. DURATION

The duration of the Company is unlimited.

## 7. CAPACITY

Subject to The Act and any other enactment and the general law The Company shall have full capacity to carry on and/or undertake any business or activity, to do any act or enter into any transaction both within and outside the Republic of Mauritius.

And, for those purposes, the Company shall have full rights, powers and privileges.

## 8. SHARES

### 8.1. Existing Shares

The Company has on issue **Twenty Two Million Ninety One Thousand Seven Hundred and Two (22,091,702)** Ordinary Shares, as at the date of adoption of this Constitution, having the rights set out in paragraph 8.2. below.-

## **8.2. Rights of existing Shares**

**8.2.1** Each share in paragraph 8.1. above will confer upon its holder the rights set out in Section 46(2) of The Act together with any other rights conferred by this Constitution.

**8.2.2** The rights conferred by Section 46(2) of The Act are the following:-

**8.2.2.1.** the right to one vote on a poll at a meeting of The Company on any resolution;

**8.2.2.2.** the right to an equal share in dividends authorised by The Board; and

**8.2.2.3.** the right to an equal share in the distribution of surplus assets of The Company.-

## **8.3. Variation of class rights**

If at any time the share capital of The Company is divided into different Classes of Shares, The Company, conformably to the provisions of Section 114 of The Act, shall not take any action which varies the rights attached to a Class of Shares unless that variation is approved by a Special Resolution, passed at a separate meeting of the Shareholders of that class, or by consent in Writing of the holders of seventy-five per cent (75%) of the Shares of the said Class. To any such meeting, all the provisions of this Constitution relative to General Meetings shall apply "mutadis mutandis".

#### **8.4. Share registers**

The Company shall maintain:-

- (a) a Share Register in accordance with section 91 of The Act, which shall record all the Shares issued by The Company and which shall state that there are no restrictions or limitations on their transfer; and
- (b) a register of substantial Shareholders in accordance with section 91(2) of The Act,

The said registers shall moreover state the particulars specified in section 91(3) of The Act in respect of every share held by a Shareholder or in which directly or indirectly he has an interest.-

#### **8.5. Trust not to be registered or recognised**

No notice of a trust, whether express, implied, or constructive, may be entered on the Share Register.

### **9. REDEEMABLE SHARES**

Where the issue has been approved by an Ordinary Resolution of the Shareholders, The Board may issue Shares which are redeemable -

- (a) at the option of The Company; or

- (b) at the option of the holder of the share; or
- (c) at a specified date;

for a consideration that is-

- (d) specified; or
- (e) to be calculated by reference to a formula; or
- (f) required to be fixed by a suitably qualified person who is not associated with or interested in The Company

## **10. ISSUING OF FURTHER SHARES**

### **10.1. Board may issue Shares**

- (a) Subject to the Act, this Constitution, the approval of an Ordinary Resolution and the terms of issue of any existing Shares, the Board may issue Shares (and rights or options to acquire Shares) of any Class at any time, to any person and in such numbers as the Board thinks fit.
- (b) Notwithstanding Section 55 of the Act and unless the terms of issue of any Class of Shares specifically provide otherwise, the Board may, if approved by the Shareholders by Ordinary Resolution, issue Shares that rank (as to voting, Distribution or otherwise) equally with or in priority to, or in subordination to the existing Shares without any requirement that the Shares be first offered to existing Shareholders.
- (c) If the Board issues Shares which do not carry voting rights the words "non-voting" shall appear in the designation of

such shares, and if the Board issue Shares with different voting rights, the designation of each Class of Shares, other than those with most favorable voting rights, shall include the words "restricted voting" or "limited voting".

## **10.2. Consideration for issue of Shares**

- (a) Subject to clause 10.2 (b), before the Board issues Shares it must:
  - (i) determine the amount of the consideration for which the Shares will be issued and the terms on which they will be issued;
  - (ii) if the Shares are to be issued for consideration other than cash, determine the reasonable present cash value of the consideration for the issue and ensure that the present cash value of that consideration is fair and reasonable to the Company and is not less than the amount to be credited in respect of the Shares; and
  - (iii) resolve that, in its opinion, the consideration for the Shares and their terms of issue are fair and reasonable to the Company and to all existing Shareholders.
- (b) Clause 10.2 (a) shall not apply to the issue of Shares on the conversion of any convertible securities; or the

exercise of any option to acquire Shares in the Company.

**10.3. Directors' Certificate on consideration for issue of Shares not paid for in cash**

- (a) When issuing Shares for consideration other than cash, any one of the Directors or his agent authorised in writing shall sign a certificate:
- (i) stating the present cash value of the consideration and the basis for assessing it;
  - (ii) that the present cash value of the consideration is fair and reasonable to the Company and to all existing Shareholders; and
  - (iii) that the present cash value of the consideration is not less than the amount to be credited in respect of the Shares.

A copy of the certificate given under clause 10.3 (a) shall be filed with the Registrar within fourteen (14) days of its signature.

**10.4. Amount owing on issue of Shares**

Where money or other consideration is due at a fixed time to the Company on Shares in accordance with their terms of issue, that amount shall not be treated as a Call and no notice shall be required to be given to the Shareholder (or other person liable

under the terms of issue) before the Company may enforce payment of the amount due.

### **10.5. Fractional shares**

The Board may, with the approval of an Ordinary Resolution, issue fractions of Shares which shall have corresponding fractional liabilities, limitations, preferences, privileges qualifications, restrictions, rights and other attributes as those which relate to the whole Share of the same Class or series of shares.

## **11. CALLS ON SHARES**

### **11.1. Board may make calls**

The Board may from time to time make such Calls as it thinks fit upon the Shareholders in respect of any moneys unpaid on their shares and, by the conditions of issue thereof, not made payable at a fixed time or times, and each Shareholder shall, subject to receiving at least fourteen (14) days' written notice specifying the time or times and place of payment, pay to The Company at the time or times and place so specified the amount called. A Call may be revoked or postponed as The Board may determine.

### **11.2. Timing of calls**

A Call may be made payable at such times and in such amount as The Board may decide.



### **11.3. Liability of joint holders**

The joint holders of a Share shall be jointly and severally liable to pay all Calls in respect thereof.

### **11.4. Interest**

If a sum called in respect of a Share is not paid before or on the time appointed for payment thereof, the person from whom the sum is due shall pay interest on that sum from the time appointed for payment thereof to the time of actual payment at such rate not exceeding ten percent (10%) per annum as The Board may determine, but The Board shall be at liberty to waive payment of that interest wholly or in part.

### **11.5. Instalments**

Any sum which by the terms of issue of a share becomes payable on issue or at any fixed time shall for all purposes be deemed to be a Call duly made and payable at the time at which by the terms of

issue the same becomes payable, and in case of non-payment all the relevant provisions hereof relating to payment of interest and expenses, forfeiture or otherwise shall apply as if the sum had become payable by virtue of a Call duly made and notified.

#### **11.6. Differentiation as to amounts**

The Board may, on the issue of Shares, differentiate between the holders as to the amount of Calls to be paid and the times of payment.

### **12. FORFEITURE OF SHARES**

#### **12.1. Notice of default**

If any person liable therefore fails to pay any call or any instalment thereof at the time appointed for payment thereof, The Board may at any time thereafter serve notice on such person requiring payment of the moneys unpaid together with any interest which may have accrued.

#### **12.2. Final payment date**

The notice under clause 12.1 shall name a further day not earlier than the expiry of fourteen (14) 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 on or before the time appointed, the Shares in respect of which the money was owing are liable to be forfeited.

### **12.3. Forfeiture**

If the requirements of any such notice are not complied with, any Share in respect of which the notice has been given may be forfeited, at any time before the required payment has been made, by a resolution of The Board to that effect. Any forfeiture under this clause shall include all dividends and bonuses declared in respect of the forfeited Share and not actually paid before the forfeiture.

### **12.4. Sale of forfeited shares**

A forfeited Share may be sold or otherwise disposed of on such terms and in such manner as The Board in its sole discretion thinks fit and, at any time before a sale or disposition, the forfeiture may be cancelled on such terms as The Board thinks fit. If any forfeited Share shall be sold within twelve (12) months of the date of forfeiture, the residue, if any, of the proceeds of sale after payment of all costs and expenses of such sale or any attempted sale and all moneys owing in respect of the forfeited Share and interest thereon as aforesaid shall be paid to the person whose Share has been forfeited or to such person's executors, administrators or assigns.

### **12.5. Cessation of shareholding**

A person whose Share has been forfeited shall cease to be a Shareholder in respect of the forfeited Share, but shall, nevertheless, remain liable to pay to The Company all money which, at the time of forfeiture, was payable by such person to The Company in respect of the Share, but that liability shall cease if and when The Company receives payment in full of all such money in respect of the Share.

### **12.6. Evidence of forfeiture**

A statutory declaration in writing declaring that the declarant is a Director 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.

### **12.7. Validity of sale**

The Company may receive the consideration, if any, given for a forfeited Share on any sale or disposition thereof and may execute a transfer of the Share in favour of the person to whom the Share is sold or disposed of, and such person shall thereupon be registered as the holder of the Share and shall not be bound to see to the application of the purchase money, if any, nor shall such person's

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.

### **13. SHARE CERTIFICATES**

#### **13.1. Company to issue Share certificate**

The Company shall, unless its shares have been deposited under a system conducted by a central depository and settlement company approved under the Securities (Central Depository, Clearing and Settlement) Act 1996, within twenty-eight (28) days after the issue or registration of a transfer of Shares in The Company, as the case may be, send a Share certificate to every holder of those shares stating:

- (a) the name of The Company;
- (b) the Class of Shares held by the Shareholder; and
- (c) the number of Shares held by the Shareholder.

#### **13.2. Transfer to be accompanied by Share certificate**

Notwithstanding clause 14 of this Constitution and section 88 of the Act, and unless the Shares have been deposited under a system

conducted by a central depository and settlement company approved under the Securities (Central Depository, Clearing and Settlement) Act, a transfer of the Shares to which it relates shall not be registered by the Company unless the form of transfer is accompanied by the Share certificate relating to the Shares (or by evidence as to its loss or destruction and, if required in accordance with clause 13.4(c), an indemnity in a form required by the Board).

### **13.3. Surrendered Share certificate**

Where Shares to which a Share certificate relates are transferred, and the Share certificate has been sent to the Company to enable registration of the transfer, the Share certificate will be cancelled and no further Share certificate will be issued except at the request of the transferee.

### **13.4. Loss or destruction of Share certificate**

- (a) Subject to clauses 13.2 (b) and (c), where a certificate relating to a share or debenture is lost or destroyed, The Company shall, on application being made by the owner and on payment of the prescribed fee specified in item 1 of the Third Schedule of the Act, issue a duplicate certificate or document to the owner.
- (b) The application shall be accompanied by a written undertaking that where the certificate or document is

found, or received by the owner, it shall be returned to The Company.

- (c) Where the value of the Shares or debentures represented by the certificate or document is greater than ten thousand rupees (Rs 10,000), the Directors shall, before accepting an application for the issue of a duplicate certificate or document, require the applicant to furnish such indemnity as the Directors consider to be adequate against any loss following the production of the original certificate or document.

## **14. TRANSFER AND TRANSMISSION OF SHARES**

### **14.1. Freedom to transfer is unlimited**

There shall be no restrictions on the transfer of fully paid up Shares in The Company and transfers and other documents relating to or affecting the title to any Shares shall be registered with The Company without payment of any fee.

### **14.2. Execution of Transfer**

- (a) The instrument of transfer of any Share or debenture shall be executed by or on behalf of the transferor and the transferee and the transferor shall be deemed to remain

the holder of the Share or debenture (as the case may be) until the transferee is entered in the register in respect thereof.

- (b) A transfer of the Share, debenture or other interest of a deceased Shareholder made by his heir or by the curator appointed under the Curatelle Act shall, subject to any enactment relating to stamp duty or registration dues, be as valid as if he had been such a Shareholder at the time of the execution of the instrument of transfer, even if the heir or the curator is not himself a Shareholder.
- (c) Before entering a transfer made under clause 14.2 (b) in the Share Register or the Register of Debenture Holders, the Directors of the Company may require production of proper evidence of the title of the heir or, in the case of the curator, of the vesting order.

### **14.3. Form of Transfer**

- (a) A Shareholder may transfer all or any of his Shares by executing an instrument in writing drawn up in the form required by clause 14.2(a) and section 24 of the Registration Duty Act.
- (b) Nothing in clause 14.2(a) shall prejudice any power to



register as a Shareholder a person to whom a right to any Share has been transmitted by operation of law.

#### **14.4. Transmission**

- 14.4.1.** Shares of The Company depending from the estate of a deceased shareholder shall be transferred by The Board to the said shareholder's heirs, legatees, widow or widower, as the case may be, on The Board being satisfied that the party applying for the transfer is entitled thereto; likewise, shares of The Company depending from the bankruptcy or insolvency of a shareholder, or from its winding up, or from a reduction of its share capital, if such shareholder is a company or a partnership, shall be transferred to such persons who shall satisfy The Board of their right to have such transfer in their names.
- 14.4.2.** Pending the division of shares of The Company depending from the estate and succession of a deceased shareholder, or from the bankruptcy, or insolvency, or winding up or reduction of capital of a shareholder, and the registration thereof in the share register in the name of the party or in the names of the parties respectively entitled thereto, such party or parties shall have to appoint an agent for the purpose of receiving all dividends declared on such shares and of acting as their representative at all meetings of The Company.

## **14.5. Transfer of shares in pledge**

**14.5.1.** Any Share or debenture may be given in pledge in all civil and commercial transactions in accordance with the Code Civil Mauricien;

**14.5.2.** The Company shall keep a register in which –

**14.5.2.1.** the transfer of shares or debentures given in pledge may be inscribed;

**14.5.2.2.** it shall be stated that the pledgee holds the share or debenture not as owner but in pledge of a debt the amount of which shall, in the case of a civil pledge, be mentioned.

**14.5.3.** A pledge shall be sufficiently proved by a transfer inscribed in the register.

**14.5.4.** The transfer shall be signed by the pledger and by the pledgee and by the secretary of The Company.

## **14.6. Registration of Transfer**

Subject to clauses 14.1 and 14.2, on receipt of a duly completed and registered form of transfer the Company shall enter the name

of the transferee on the Share Register as holder of the Shares transferred, unless the Board has resolved in accordance with clause 15 to refuse or delay the registration of the transfer of the Shares.

## **15. REFUSAL TO REGISTER TRANSFERS**

Subject to compliance with the provisions of The Act, The Board may, in its absolute discretion and without assigning any reason therefor, decline:-

(a) to register the transfer of a share on which The Company has a lien;

(b) to recognise any instrument of transfer unless:-

### **Deposit of transfer**

- (1) The instrument of transfer is deposited at the office of The Company accompanied by the certificate of the shares to which it relates, and such other evidence as The Board may reasonably require to show the right of the transferor to make the transfer (and if the instrument of transfer is executed by some other person on his behalf, the authority of that person so to do),

- (2) All instruments of transfer which are registered may be retained by The Company.-

### **Central Depository System**

- (3) It is required or authorised to do so under the provisions of the securities (Central Depository, Clearing and Settlement) Act 1996 or any amendment thereof:-

### **Partly paid shares**

- (4) In the case of partly paid shares, any amount already called thereon has been settled and the transfer document contains an undertaking by the transferee to pay on due date any amount payable in terms of the issue of the share so transferred.

Notice of the decision of the Board refusing or delaying a transfer of any Share, stating the reasons for the refusal, shall be sent to the transferor and the transferee within twenty-eight (28) days of the date on which such transfer was delivered to the Board.

## **16. DISTRIBUTIONS**

### **16.1. Solvency Test**

- (a) Notwithstanding section 61(1)(b) of the Act, but subject

to clause 16.2, the Board may, if it is satisfied on reasonable grounds that the Company will satisfy the Solvency Test immediately after the Distribution, authorise a Distribution by the Company to Shareholders of any amount and to any Shareholders as it thinks fit.

- (b) The Directors who vote in favour of a Distribution shall sign a certificate stating that, in their opinion, the Company will satisfy the Solvency Test immediately after the Distribution.

#### **16.2. Dividends payable pari passu**

The Board may not authorise a Dividend in respect of some but not all the Shares in a Class; or of a greater amount in respect of some Shares in a Class than other Shares in that Class except where:

- (a) the amount of the Dividend is reduced in proportion to any liability attached to the Shares under this Constitution;
- (b) a Shareholder has agreed in Writing to receive no dividend, or a lesser dividend than would otherwise be payable;

unless it is paid out of retained earnings, after having made good any accumulated losses at the beginning of the Accounting Period.

### **16.3. Shares in lieu of dividends**

The Board may issue Shares to any Shareholders who have agreed to accept the issue of Shares, wholly or partly, in lieu of a proposed dividend or proposed future dividends provided that –

- (a) the right to receive Shares, wholly or partly, in lieu of the proposed dividend or proposed future dividends has been offered to all Shareholders of the same Class on the same terms;
- (b) where all Shareholders elected to receive the Shares in lieu of the proposed dividend, relative voting or distribution rights, or both, would be maintained;
- (c) the Shareholders to whom the right is offered are afforded a reasonable opportunity of accepting it;
- (d) the Shares issued to each Shareholder are issued on the same terms and subject to the same rights as the Shares issued to all Shareholders in that Class who agree to receive the Shares; and

- (e) the provisions of section 56 of the Act are complied with by the Board.

## **17. DIVIDENDS**

### **17.1. Deduction of unpaid calls**

The Board may deduct from any dividend payable to any shareholder any sums of money, if any, presently payable by such shareholder to The Company on account of calls or otherwise in relation to the shares on which such dividends are payable.

### **17.2. Payment by cheque or warrant**

Any dividend, interest or other money payable in cash in respect of shares may be paid by crossed 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 in the share 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 money payable in respect of the shares held by them as joint holders

.

**17.3. No interest**

No dividend shall bear interest against The Company.

**17.4. Unclaimed dividends**

All dividends unclaimed for one year after having been authorised may be invested or otherwise made use of by The Board for the benefit of The Company until claimed, and all dividends unclaimed for five years after having been declared may be forfeited by The Board for the benefit of The Company. The Board may, however, annul any such forfeiture and agree to pay a claimant who produces evidence of entitlement to The Board's satisfaction of the amount of its dividends forfeited unless in the opinion of The Board such payment would embarrass The Company.

**17.5. Dividends on shares not fully paid up to be paid pro rata**

Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends on shares not fully paid up shall be authorised and paid in proportion to the amount paid to The Company in satisfaction of the liability of the shareholder to The Company in respect of the shares either under this constitution of The Company or pursuant to the terms of issue of the shares. No amount paid or credited as paid on a share in advance of calls shall be treated for these purposes as paid on the share. All



dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any 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 that share shall rank for dividend accordingly.

#### **18. ACQUISITION OF COMPANY'S OWN SHARES**

The Company is hereby expressly authorised to purchase or otherwise acquire its Shares in accordance with, and subject to, sections 68 to 74, 106 and 108 to 110 of the Act, and may hold the acquired Shares in accordance with Section 72 of the Act.

#### **19. REDUCTION OF STATED CAPITAL**

The Company may, to the extent provided by the provisions of Section 62 of The Act, by Special Resolution, reduce its stated capital to such amount as it thinks fit.

#### **20. ISSUE OF STATEMENT OF RIGHTS TO SHAREHOLDER**

- (a) The Company shall issue to any Shareholder on request, a statement that sets out:
  - (i) the Class of Shares held by the Shareholder, the total number of Shares of that Class issued by the

Company, and the number of Shares of that Class held by the Shareholder;

- (ii) the rights, privileges, conditions, and limitations, including restrictions on transfer, attaching to the Shares held by the Shareholder; and
  - (iii) the rights, privileges, conditions, and limitations attaching to the Classes of Shares other than those held by the Shareholder.
- (b) The Company shall not be obliged to provide a Shareholder with a statement under clause 20(a), if:
- (i) a statement that complies with clause 20(a)(i) to (iii) has been provided within the previous six (6) months;
  - (ii) the Shareholder has not acquired or disposed of Shares since the previous statement was provided;
  - (iii) the rights attached to the Shares have not been altered since the previous statement was provided; and
  - (iv) there are no special circumstances which would

make it unreasonable for the Company to refuse the request.

- (c) A statement issued pursuant to clause 20(a) shall state in a prominent place that it is not evidence of title to the Shares or of the matters set out in it.

## **21. EXERCICE OF POWERS RESERVED TO SHAREHOLDERS**

### **21.1. Powers reserved to Shareholders**

- (a) Powers reserved to Shareholders of the Company by the Act or by this Constitution may be exercised:
  - (i) at a General Meeting; or
  - (ii) by a resolution in lieu of a meeting pursuant to clause 22.3.
  - (iii) by a Unanimous Resolution.
- (b) Unless otherwise specified in the Act or this Constitution, a power reserved to Shareholders may be exercised by an Ordinary Resolution.

### **21.2. Special Resolutions**

When Shareholders exercise a power to approve any of the

following, that power may only be exercised by a Special Resolution:

- (a) an alteration to or revocation of this Constitution or the adoption of a new Constitution;
- (b) a Major Transaction;
- (c) an Amalgamation;
- (d) the liquidation of the Company.

Any decision made by Special Resolution pursuant to this clause may be rescinded only by a Special Resolution, provided that a resolution to put the Company into liquidation cannot be rescinded.

### **21.3. Management review by Shareholders**

- (a) The Chairperson of any General Meeting shall give the Shareholders a reasonable opportunity to discuss and comment on the management of the Company.
- (b) A General Meeting may pass a resolution which makes recommendations to the Board on matters affecting the management of the Company.
- (c) A resolution relating to the management of the Company passed at a General Meeting (in accordance

with clause 21.3(b)) is not binding on the Board, unless it is carried as a Special Resolution.

**21.4. Dissenting Shareholder may require Company to purchase Shares**

- (a) A Shareholder may require the Company to purchase his Shares where:
- (i) a Special Resolution is passed under clause 21.2(a) for the purposes of altering the Constitution of the Company with a view to imposing or removing a restriction on the business or activities of the Company, or clause 21.2(b) or (c); and
  - (ii) the Shareholder casts all the votes attached to Shares registered in his name and for which he is the beneficial owner against the resolution; or
  - (iii) the resolution to exercise the power was passed under section 117 of the Act, the Shareholder did not sign the resolution.
- (b) A request under clause 21.4(a) shall be addressed to the Company by the dissenting Shareholder by notice in Writing within fourteen (14) days of either the passing of the resolution at a General Meeting or the date on

which notice of the passing of the written resolution is given to him.

- (c) Upon receiving a notice from a dissenting Shareholder given under clause 21.4 (b), the Board shall:
  - (i) agree to the purchase of the Shares by the Company from the Shareholder giving the notice; or
  - (ii) arrange for some other person to agree to buy the Shares; or
  - (iii) apply to the Court under section 112 or section 113 of the Act for an order exempting the Company from the obligation to purchase the Shares; or
  - (iv) arrange, before taking the action concerned, for the Special Resolution entitling the Shareholder to give the notice, to be rescinded by a Special Resolution, or decide in the appropriate manner not to take the action concerned; and
- (d) The Board shall within twenty-eight (28) days of receipt of the notice under clause 21.4 (b) give written notice to the dissenting Shareholder of its decision under clause 21.4 (c).

- (e) Where the Board agrees to the Company purchasing the Shares, pursuant to clause 21.4(c)(i), it shall do so in accordance with section 110 of the Act.

## **22. GENERAL MEETINGS**

### **22.1. Annual Meetings**

- (a) The Board shall call an Annual Meeting of Shareholders to be held:
  - (i) not more than once in each year;
  - (ii) not later than six (6) months after the Balance Sheet Date of the Company; and
  - (iii) not later than fifteen (15) months after the previous Annual Meeting.
- (b) The business to be transacted at an Annual Meeting shall, unless already dealt with by the Company, include:
  - (i) the consideration and approval of the financial statements;
  - (ii) the receiving of any auditor's report;

- (iii) the consideration of the annual report;
- (iv) the appointment of any Directors including those whose annual appointment is required by the Act;
- (v) the appointment of any auditor pursuant to Section 195 of The Act; and
- (vi) the remuneration of any Director and of the auditor.

## **22.2. Special Meetings**

A Special Meeting may be called at any time by the Board and shall be so called on the written request of Shareholders holding Shares carrying together not less than five per cent (5%) of the voting rights entitled to be exercised on the issue.

## **22.3. Resolution in lieu of meeting**

Anything that may be done by the Company in General Meeting (other than an Annual Meeting) under the Act or this Constitution may be done by a resolution in lieu of meeting in the manner provided for by section 117 of the Act.



#### **22.4. Chairperson**

- (a) Where the Directors have elected a Chairperson of the Board, and the Chairperson of the Board is present at a General Meeting, he shall chair the General Meeting.
- (b) Where no Chairperson of the Board has been elected or if, at any General Meeting, the Chairperson of the Board is not present within fifteen (15) minutes of the time appointed for the commencement of the General Meeting, the Directors present shall elect one of their number to be Chairperson of the General Meeting.
- (c) Where no Director is willing to act as Chairperson, or where no Director is present within fifteen (15) minutes of the time appointed for holding the General Meeting, the Shareholders present may choose one of their number to be Chairperson of the General Meeting.

#### **22.5. Notice of General Meetings**

- (a) Written notice of the time and place of a General Meeting shall be sent to every Shareholder entitled to receive notice of the General Meeting and to every Director, secretary and auditor of the Company not less than fourteen (14) days before the General Meeting.

- (b) The notice shall state:
  - (i) the nature of the business to be transacted at the General Meeting in sufficient detail to enable a Shareholder to form a reasoned judgment in relation to it; and
  - (ii) the text of any Special Resolution to be submitted to the General Meeting.
- (c) Any irregularity in a notice of a General Meeting shall be waived where all the Shareholders entitled to attend and vote at the General Meeting attend the General Meeting without protest as to the irregularity, or where all such Shareholders agree to the waiver.
- (d) Any accidental omission to give notice of a General Meeting to, or the failure to receive notice of a General Meeting by, a Shareholder shall not invalidate the proceedings at that General Meeting.
- (e) The Chairperson may, or where directed by the General Meeting, shall, adjourn the General Meeting from time to time and from place to place, but no business shall be transacted at any adjourned General Meeting other than the business left unfinished at the General Meeting from which the adjournment took place.

- (f) When a General Meeting is adjourned for thirty (30) days or more, notice of the adjourned General Meeting shall be given as in the case of an original General Meeting.
- (g) Notwithstanding clauses 22.5 (a), (b) and (c), it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned General Meeting.

#### **22.6. Methods of holding General Meetings**

- (a) A General Meeting shall be held either:
  - (i) by a number of Shareholders who constitute a quorum, being assembled together at the place, date, and time appointed for the General Meeting; or
  - (ii) by means of audio, or audio and visual, communication by which all Shareholders participating and constituting a quorum, can simultaneously hear each other throughout the General Meeting.
- (b) Anything that may be done by the Company in General Meeting under the Act or this Constitution may

be done by a resolution in lieu of meeting in the manner provided for by section 117 of the Act.

## 22.7. Quorum

- (a) Where a quorum is not present, no business shall, subject to clause 22.7 (c), be transacted at a General Meeting.
- (b) There shall be a quorum for holding a General Meeting where **Six (6)** Shareholders holding at least **Thirty Five Per Cent (35%)** of the share capital are present or represented or have cast postal votes.
- (c) Where a quorum is not present within thirty (30) minutes after the time appointed for the General Meeting:
  - (i) in the case of a General Meeting called under section 118(1)(b) of the Act, the General Meeting shall be dissolved;
  - (ii) in the case of any other General Meeting, the General Meeting shall be adjourned to the same day in the following week at the same time and place, or to such other date, time and place as the Directors may appoint; and
  - (iii) where, at the adjourned General Meeting, a

quorum is not present within thirty (30) minutes after the time appointed for the General Meeting, the Shareholders or their proxies present shall be a quorum.

## **22.8. Voting**

- (a) Where a General Meeting is held under clause 22.6(a)(i), unless a poll is demanded, voting at the General Meeting shall be by whichever of the following methods is decided by the Chairperson of the General Meeting:
  - (i) voting by voice; or
  - (ii) voting by show of hands.
- (b) Where a General Meeting is held under clause 22.6(a)(ii), unless a poll is demanded, voting at the General Meeting shall be by the Shareholders signifying individually their assent or dissent by voice.
- (c) A declaration by the Chairperson of the General Meeting that a resolution is carried by the requisite majority shall be conclusive evidence of that fact unless a poll is demanded in accordance with clause 22.8(d).
- (d) At a General Meeting , a poll may be demanded by :

- (i) not less than five (5) Shareholders having the right to vote at the General Meeting;
  - (ii) a Shareholder or Shareholders representing not less than ten percent (10%) of the total voting rights of all Shareholders having the right to vote at the General Meeting;
  - (iii) by a Shareholder or Shareholders holding Shares in the Company that confer a right to vote at the General Meeting and on which the aggregate amount paid up is not less than ten percent (10%) of the total amount paid up on all Shares that confer that right; or
  - (iv) the Chairperson of the General Meeting.
- (e)
- (i) A poll shall be demanded either before or after the vote is taken on a resolution
  - (ii) Where a poll is taken, votes shall be counted according to the votes attached to the Shares of each Shareholder present in person or by proxy and voting.
  - (iii) The demand for a poll may be withdrawn.
  - (iv) Where a poll is duly demanded, it shall, subject to

this clause 22.8 (e), be taken in such manner as the Chairperson directs, and the result of the poll shall be deemed to be the resolution of the General Meeting at which the poll is demanded.

- (v) A poll demanded on the election of a Chairperson or on a question of adjournment, shall be taken immediately. On any other question, if a poll is demanded, it shall be taken at such time and place as the General Meeting directs. And any business other than that on which a poll is demanded may be proceeded with pending the taking of the poll.
  
- (f) The Chairperson of a General Meeting shall be entitled to a casting vote.
  
- (g) (i) For the purposes of clause 22.8, the instrument appointing a proxy to vote at a General Meeting shall confer authority to demand or join in demanding a poll and a demand by a person as proxy for a Shareholder shall have the same effect as a demand by the Shareholder.
  
- (ii) Subject to any rights or restrictions for the time being attached to any Class of Shares, every Shareholder present in person or by proxy and

voting by voice or by show of hands and every Shareholder voting by postal vote (where this is permitted) shall have one vote.

- (iii) The Chairperson may demand a poll on a resolution either before or after a vote thereon by voice or by show of hands.
  
- (h) In case of Shares conferring the right to vote burdened with an usufruct, the bare owner thereof shall be the only person entitled to vote.
  
- (i) Any power which the Act or this Constitution requires to be exercised by an Ordinary Resolution or a Special Resolution may be exercised by way of a Unanimous Resolution.

## **22.9. Proxies**

- (a) A Shareholder shall exercise the right to vote either by being present in person or by proxy.
  
- (b) A proxy for a Shareholder may attend and be heard at a General Meeting as if the proxy were the Shareholder.
  
- (c) A proxy shall be appointed by notice in Writing signed by the Shareholder and the notice shall state whether the



appointment is for a particular General Meeting or a specified term.

- (d) No proxy shall be effective in relation to a General Meeting unless a copy of the notice of appointment is produced not less than twenty-four (24) hours before the start of the General Meeting.
- (e) Any power of attorney or other authority under which the proxy is signed or a notarially certified copy shall also be produced.
- (f) A proxy form shall be sent with each notice calling a General Meeting of the Company.
- (g) The instrument appointing a proxy shall be in Writing under the hand of the appointer or of his agent duly authorised in Writing or in the case of a corporation under the hand of an officer or of an agent duly authorised.
- (h) The instrument appointing a proxy shall be in the following form –

**"THE UNITED BASALT PRODUCTS LIMITED"**

I/we ..... of .....  
being a shareholder of the above named Company

hereby appoint ..... of  
 ..... or failing him/her,  
 ..... of  
 ..... or the Chairperson as  
 my/our proxy to vote for me/us at the .....  
 Annual/Special Meeting of the Company to be held  
 at ..... on ..... and at any  
 adjournment thereof. I/We direct my/our proxy to  
 vote in the following manner:

Vote with a Tick

Resolutions:	For	Against	Abstain
1.[.....]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. [.....]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If this form is signed and returned without any indication as to how the proxy shall vote, he will exercise his discretion both as to how he votes and whether or not he abstains from voting

Signed this ..... day of .....

(Usual Signature/s)

## 22.10. Postal votes

- (a) A Shareholder may, when the Board shall have resolved

that the notice convening the General Meeting shall expressly provide for voting by way of postal votes, exercise the right to vote at a General Meeting by casting a postal vote in accordance with this clause.

- (b) The notice of a General Meeting at which Shareholders are entitled to cast a postal vote shall state the name of the person authorised by the Board to receive and count postal votes at that General Meeting.
- (c) Where no person has been authorised to receive and count postal votes at a General Meeting, or where no person is named as being so authorised in the notice of the General Meeting, every Director shall be deemed to be so authorised.
- (d) A Shareholder may, subject to clause 22.10(a), cast a postal vote on all or any of the matters to be voted on at the General Meeting by sending a notice of the manner in which his Shares are to be voted to a person authorised to receive and count postal votes at that General Meeting. The notice shall reach that person not less than forty-eight (48) hours before the start of the General Meeting.
- (e) A person authorised to receive and count postal votes at a General Meeting shall:

- (i) collect together all postal votes received by him or by the Company;
  - (ii) in relation to each resolution to be voted on at the General Meeting, count the number of Shareholders voting in favour of the resolution, the number of votes cast by each Shareholder in favour of the resolution, the number of Shareholders voting against the resolution, and the number of votes cast by each Shareholder against the resolution;
  - (iii) sign a certificate that he has carried out the duties set out in clauses 22.10(e)(i) and (ii) which sets out the results of the counting required by clause 22.10(e)(ii); and
  - (iv) ensure that the certificate required by clause 22.10(e)(iii) is presented to the Chairperson of the General Meeting.
- (f) Where a vote is taken at a General Meeting on a resolution on which postal votes have been cast, the Chairperson of the General Meeting shall:
- (i) on a vote by show of hands, count each Shareholder who has submitted a postal vote for or against the resolution;

- (ii) on a poll, count the votes cast by each Shareholder who has submitted a postal vote for or against the resolution.
- (g) The Chairperson of a General Meeting shall call for a poll on a resolution on which he holds sufficient postal votes that he believes that, where a poll is taken, the result may differ from that obtained on a show of hands.
- (h) The Chairperson of a General Meeting shall ensure that a certificate of postal votes held by him is annexed to the minutes of the General Meeting.

#### **22.11. Minutes**

- (a) The Board shall ensure that minutes are kept of all proceedings at General Meetings.
- (b) Minutes which have been certified correct and signed by the Chairperson of the General Meeting shall prima facie evidence of the proceedings.

#### **22.12. Shareholder proposals**

- (a) A Shareholder may give written notice to the Board of a matter the Shareholder proposes to raise for discussion

or resolution at the next General Meeting at which the Shareholder is entitled to vote.

- (b) Where the notice is received by the Board not less than twenty eight (28) days before the last day on which notice of the relevant General Meeting is required to be given by the Board, the Board shall, at the expense of the Company, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the General Meeting.
- (c) Where the notice is received by the Board not less than seven (7) days and not more than twenty eight (28) days before the last day on which notice of the relevant General Meeting is required to be given by the Board, the Board shall, at the expense of the Shareholder, give notice of the Shareholder's proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the General Meeting.
- (d) Where the notice is received by the Board less than seven (7) days before the last day on which notice of the relevant General Meeting is required to be given by the Board, the Board may, where practicable, and at the expense of the Shareholder, give notice of the Shareholder's proposal and the text of any proposed

resolution to all Shareholders entitled to receive notice of the General Meeting.

- (e) Where the Directors intend that Shareholders may vote on the proposal by proxy or by postal vote, they shall give the proposing Shareholder the right to include in or with the notice given by the Board a statement of not more than one thousand (1000) words prepared by the proposing Shareholder in support of the proposal, together with the name and address of the proposing Shareholder.
- (f) The Board shall not be required to include in or with the notice given by the Board a statement prepared by a Shareholder which the Directors consider to be defamatory, frivolous, or vexatious.
- (g) Where the costs of giving notice of the Shareholder's proposal and the text of any proposed resolution are required to be met by the proposing Shareholder, the proposing Shareholder shall, on giving notice to the Board, deposit with the Company or tender to the Company a sum sufficient to meet those costs.

### **22.13. Corporations may act by representative**

A body corporate which is a Shareholder may appoint a

representative to attend a General Meeting on its behalf in the same manner as that in which it could appoint a proxy.

#### **22.14. Votes of joint holders**

Where two (2) or more persons are registered as the holder of a Share, the vote of the person named first in the Share Register and voting on a matter shall be accepted to the exclusion of the votes of the other joint holders.

#### **22.15. No voting right where Calls unpaid**

Where a sum due to the Company in respect of a Share has not been paid, that Share shall not confer a right to vote at a shareholder's meeting other than a meeting of an interest group.

#### **22.16. Other proceedings**

Unless otherwise expressly provided in this Constitution, a General Meeting may regulate its own procedure.

### **23. APPOINTMENT AND REMOVAL OF DIRECTORS**

#### **23.1. Number of Directors**

The Board shall consist of not less than **Seven (7)** or more than **Fifteen (15)** Directors.



### 23.2. Current Directors

The Directors of the Company as at the date of adoption of this Constitution are:

1. **Mr. THIERRY PIERRE JOSEPH MARIE LAGESSE**, of Royal Road, Cap Malheureux, a Company Director.
  2. **Mr. RAYMOND MARCEL RENE LAGESSE**, of Colonel Deane Street, Black River, a Company Director.
  3. **Mr. MARIE JOSEPH JEAN GIRAUD**, of 61, Route de Passy, 75016 Paris, France, a Company Director.
  4. **Mr. MARIE JOSEPH CYRIL LAGESSE**, of Haute Rive, Rivière du Rempart, a Company Director.
  5. **Mr. HENRI FRANCOIS JEAN RAYMOND HAREL**, of La Ruche, Royal Road, Cap Malheureux, a Company Director.
  6. **Mr. PIERRE BERNARD ARNAUD DALAIS**, of Chemin Campement Floreal, a Company Director.
  7. **Mr. JEAN PAUL ADAM**, of Crown Court, Queen Mary Avenue, Floreal, a Company Director.
  8. **Mr. FRANCOIS BOULLE**, of 10 Avenue des Platanes, 263 Georges Guibert Street, Floreal, a Company Director.
  9. **Mr. LOUIS JEAN MICHEL GIRAUD**, of Ilot Fortier, Petite Rivière Noire, a Company Director
- And 10. **Mr. EVENOR JEAN MAMET**, of Queen Mary Avenue, Floreal, a Company Director.

### 23.3. Appointment of Directors by notice

- (a) Subject to clauses 23.2, 23.4 and 23.5, the Directors shall be the persons appointed from time to time as Directors

by a notice in Writing signed by the holders of the majority of the Ordinary Shares and who have not resigned or been removed or disqualified from office under this Constitution.

- (b) A notice given under clause 23.3(a) shall take effect upon receipt of it at the registered office of the Company (including the receipt of a facsimile copy) unless the notice specifies a later time at which the notice will take effect. The notice may comprise one or more similar documents separately signed by the Shareholders giving the notice
- (c) A Director shall hold office until his resignation, disqualification or removal in accordance with this Constitution.

#### **23.4. Appointment of Directors by resolution**

- (a) In addition to the appointment of Directors under clauses 23.3 and 23.5, a Director may be appointed by an Ordinary Resolution.
- (b) A resolution to appoint two or more Directors may be voted on one resolution without each appointment being voted individually.

### **23.5. Directors may fill up Casual Vacancy**

- (a) Notwithstanding Clauses 23.2, 23.3 and 23.4, the Directors shall have power at any time, and from time to time, to appoint any person to be a 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 at any time exceed the number fixed in accordance with this Constitution. The Director appointed to fill up a casual vacancy or as a addition to the existing Directors shall hold office only until the next following annual General Meeting and shall then be eligible for re-election.
  
- (b) The continuing Directors shall act notwithstanding any vacancy on the Board. If their number is reduced below the number fixed by, or pursuant to, this Constitution as the minimum number of Directors, the continuing Directors will act only for the purpose of summoning a General Meeting of the Company.

### **23.6. Disqualification and removal of Directors**

A person will be disqualified from holding the office of Director if he:

- (a) is removed by Ordinary Resolution passed at a General Meeting called for that purpose; or

- (b) resigns in Writing and is not reappointed in accordance with this Constitution; or
- (c) becomes disqualified from being a Director pursuant to section 133 of the Act; or
- (d) is (or, would, but for the repeal of section 117 of the companies act 1984, be) prohibited from being a Director or promoter of or being concerned with or taking part in the management of a Company under section 337 or 338 of the Act; or
- (e) dies; or
- (f) attains or is over the age of seventy (70) years (but subject always to section 138 of the Act); or
- (g) is under eighteen (18) years of age; or
- (h) is an undischarged bankrupt.

### **23.7. Shareholding qualification**

A Director shall not be required to hold Shares.

### **23.8. Alternate Directors**

- (a) Every Director may, by notice given in Writing to the Company, appoint any person (including any other Director) who is approved by the majority of the Directors or Alternate Directors, to act as an Alternate Director in the Director's place, either generally, or in respect of a specified meeting or meetings at which the Director is not present.
- (b) The appointing Director may, at his discretion, by notice in Writing to the Company, remove his Alternate Director.
- (c) An Alternate Director may, while acting in the place of the appointing Director, represent, exercise and discharge all the powers, rights, duties and privileges (but not including the right of acting as Chairperson) of the appointing Director. The Alternate Director shall be subject, in all respects, to the same terms and provisions as those regarding the appointment of his appointing Director, except as regards remuneration and the power to appoint an Alternate Director under this Constitution.
- (d) A Director who is also an Alternate Director shall be entitled, in addition to his own vote, to a separate vote on behalf of the Director he is representing.
- (e) An Alternate Director's shall lapse upon his appointing Director ceasing to be a Director.

- (f) The notice of appointment of an Alternate Director shall include an address for service of notice of meetings of the Board. Failure to give an address will not invalidate the appointment, but notice of meetings of the Board need not be given to the Alternate Director until an address is provided to the Company.
- (g) An Alternate Director shall not be the agent of his appointor, and shall exercise his duties as a Director independently of his appointor.

## **24. POWERS AND DUTIES OF THE BOARD**

### **24.1. Powers of the Board**

- (a) Subject to any restrictions in the Act or this Constitution, the business and affairs of the Company shall be managed by or under the direction or supervision of the Board.
- (b) The Board shall have all the powers necessary for managing, and for directing and supervising the management of, the business and affairs of the Company except to the extent that this Constitution or the Act expressly requires those powers to be exercised by the Shareholders or any other person.
- (c) The Board shall moreover have all the powers of the Company as expressed in section 27 of the Act and

clause 7 of this Constitution, including, but not limited to, the power to purchase and sell property, to borrow money and to mortgage, pledge or create charges on its assets and to issue debentures and other securities, whether outright or as security for any debt, liability, or obligation of the Company or of any third party.

#### **24.2. Delegation by Board**

- (a) The Board may delegate to a committee of Directors, a Director, an employee of the Company, or any other person, any one or more of its powers, other than the powers provided for under any of the following sections which are listed in the Seventh Schedule to the Act:
  - (i) section 52 (Issue of other shares);
  - (i) Section 56 (Consideration for issue of shares);

- (iii) section 57(3) (Shares not paid for in cash);
  - (iv) section 61 (Board may authorise Distribution);
  - (v) section 64 (Shares in lieu of Dividend);
  - (vi) section 65 (Shareholder discount);
  - (vii) section 69 (Purchase of own shares);
  - (viii) section 78 (Redemption at option of Company);
  - (ix) section 81 (Restrictions on giving financial assistance);
  - (x) section 188 (Change of registered office);
  - (xi) section 246 (Approval of Amalgamation proposal);
  - (xii) section 247 (Short form Amalgamation).
- (b) The Board shall be responsible for the exercise of a power by any delegate (where that power is delegated under this clause 24.2 as if the power had been exercised by the Board, unless the Board:
- (i) believed on reasonable grounds at all times



before the exercise of the power that the delegate would exercise the power in conformity with the duties imposed on the Directors by the Act and this Constitution; and

- (ii) has monitored, by means of reasonable methods properly used, the exercise of the power by the delegate.

**24.3. Directors to act in good faith and in best interests of Company**

- (a) Subject to this clause 24.3, the Directors of the Company shall:
  - (i) exercise their powers in accordance with the Act and with the limits and subject to the conditions and restrictions established by this Constitution;
  - (ii) obtain the authorisation of a General Meeting before doing any act or entering into any transaction for which the authorisation or consent of such Meeting is required by the Act or this Constitution;
  - (iii) exercise their powers honestly, in good faith, in the best interests of the Company and for the

respective purposes for which such powers are explicitly or impliedly conferred;

- (iv) exercise the degree of care, diligence and skill required by the Act;
- (v) not agree to the Company incurring any obligation unless the Directors believe at that time, on reasonable grounds, that the Company shall be able to perform the obligation when it is required to do so;
- (vi) account to the Company for any monetary gain, or the value of any other gain or advantage, obtained by them in connection with the exercise of their powers, or by reason of their position as Directors of the Company, except remuneration, pensions provisions and compensation for loss of office in respect of their directorships of any company which are dealt with in accordance with the Act;
- (vii) not make use of, or disclose, any confidential information received by them on behalf of the Company as Directors otherwise than as permitted and in accordance with the Act;
- (viii) not compete with the Company or become a

Director or officer of a competing company, unless it is approved by the Company;

- (ix) where Directors are interested in a transaction to which the Company is a party, disclose such interest;
- (x) not use any assets of the Company for any illegal purpose or purpose in breach of subclauses (a) and (c), and not do, or knowingly allow to be done, anything by which the Company's assets may be damaged or lost, otherwise than in the ordinary course of carrying on its business;
- (xi) transfer forthwith to the Company all cash or assets acquired on its behalf, whether before or after its incorporation, or as the result of employing its cash or assets, and until such transfer is effected to hold such cash or assets on behalf of the Company and to use it only for the purposes of the Company;
- (xii) attend meetings of the Directors with reasonable regularity, unless prevented from so doing by illness or other reasonable excuse; and
- (xiii) keep proper accounting records in accordance

with the Act and make such records available for inspection in accordance with of the Act.

- (b) If the Company is a wholly-owned subsidiary, a Director (when exercising powers or performing duties as a Director), may act in a manner which he believes is in the best interests of the Company's holding Company even though it may not be in the best interests of the Company.
- (c) If the Company is a subsidiary (but not a wholly-owned subsidiary), a Director may, when exercising powers or performing duties as a Director, with the prior agreement of the Shareholders (other than its holding Company), act in a manner which he believes is in the best interests of the Company's holding Company even though it may not be in the best interests of the Company.
- (d) If the Company is incorporated to carry out a joint venture between its Shareholders, the Director may, when exercising powers or performing duties as a Director in connection with the carrying out of the joint venture, act in a manner which he believes is in the best interests of a Shareholder or Shareholders, even though it may not be in the best interests of the Company.

- (e) Nothing in this clause 24.3 shall limit the power of a Director to make provision for the benefit of employees of the Company (as the terms “employees” and “Company” are defined in section 144 of the Act) in connection with the Company ceasing to carry on the whole or part of its business.

#### **24.4. Major Transactions and other transactions under Section 130 of the Act**

- (a) The Board shall not procure or permit the Company to enter into a Major Transaction unless the transaction is approved by a Special Resolution or contingent on approval by Special Resolution.
- (b) The Board shall not procure or permit the Company to enter into a transaction of the kind contemplated by section 130(3) of the Act unless the transaction is approved by an Ordinary Resolution or contingent on approval by Ordinary Resolution.

### **25. PROCEEDINGS OF THE BOARD**

#### **25.1. Chairperson**

- (a) The Directors shall elect one of their number as

Chairperson of the Board and determine the period for which he is to hold office.

- (b) Where no Chairperson is elected, or where at a meeting of the Board the Chairperson is not present within fifteen (15) minutes after the time appointed for the commencement of the meeting, the Directors present shall choose one of their number to be Chairperson of the meeting.

## **25.2. Notice of meeting**

- (a) A Director or, if requested by a Director to do so, an employee of the Company, may convene a meeting of the Board by giving notice in accordance with this clause 25.2.
- (b) A notice of a meeting of the Board shall be sent to every Director, and the notice shall include the date, time, and place of the meeting and the matters to be discussed.
- (c) An irregularity in the notice of a meeting shall be waived where all Directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or where all Directors entitled to receive notice of the meeting agree to the waiver.

### 25.3. Method of holding meetings

A meeting of the Board shall be held either:

- (a) by a number of the Directors who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or
- (b) by means of audio, or audio and visual, communication by which all Directors participating and constituting a quorum can simultaneously hear each other throughout the meeting.

### 25.4. Quorum

- (a) Subject to Clause 26.4, a quorum for a meeting of the Board shall be as follows:

- (i). **FOUR (4) DIRECTORS** when the Board shall consist of **SEVEN (7) MEMBERS.**

- And (ii). **FIVE (5) DIRECTORS** when the Board shall consist of **MORE THAN SEVEN (7) MEMBERS.**

- (b) No business shall be transacted at a meeting of Directors if a quorum is not present.
- (c) If within fifteen (15) minutes past the time appointed for

any meeting of Board, the quorum is not present, such meeting shall stand adjourned to the next day at the same time and place provided such day is a working day and otherwise to the next following working day; if at such adjourned meeting a quorum is not present, the Directors present not being less than two (2) shall form a quorum and may transact the business standing to the order of the day.

### **25.5. Voting**

- (a) Every Director shall have one vote.
- (b) The Chairperson shall have a casting vote.
- (c) A resolution of the Board shall be passed if it is agreed to by a majority of the Directors present.

### **25.6. Minutes**

The Board shall ensure that minutes are kept of all proceedings at meetings of the Board.

### **25.7. Resolution in Writing**

- (a) A resolution in Writing, signed or assented to, by all the Directors then entitled to receive notice of a Board



meeting, shall be as valid and effective as if it had been passed at a meeting of the Board duly convened and held.

- (b) Any such resolution may consist of several documents in like form each signed or assented to by one or more Directors.
- (c) A copy of any such resolution shall be entered in the minute book of Board proceedings.

## **26. REMUNERATION AND OTHER INTERESTS OF DIRECTORS**

### **26.1. Authority to remunerate Directors**

- (a) The Shareholders by Ordinary Resolution, or the Board if it is satisfied that to do so is fair to the Company, shall approve:
  - (i) the payment of remuneration (or the provision of other benefits) by the Company to a Director for his services as a Director, or the payment of compensation for loss of office; and
  - (ii) the making of loans and the giving of guarantees by the Company to a Director in accordance with section 159 (6) of the Act.

- (b) The Board shall ensure that, forthwith after authorising any payment under clause 26.1(a), particulars of such payment are entered in the Interests Register, where there is one.
  
- (c) Notwithstanding the provisions of this clause, the Shareholders of the Company may, by Unanimous Resolution or by Unanimous Shareholder's Agreement, approve any payment, provision, benefit, assistance or other distribution referred to in section 159 of the Act provided that there are reasonable grounds to believe that, after the distribution, the Company is likely to satisfy the Solvency Test.

## **26.2. Other offices with Company held by Director**

- (a) Any Director may act by himself, or his firm in a professional capacity for the Company; and the Director or the Director's firm will be entitled to remuneration for professional services as if the Director were not a Director. Nothing in this clause shall authorise a Director or a Director's firm to act as auditor for the Company.
  
- (b) A Director may hold any other office in the Company (other than the office of auditor), for such period and on such terms (as to remuneration and otherwise) as the Board shall determine.

- (c) Other than as provided in clause 26.3 a Director shall not be disqualified by virtue of his office from entering into any transaction with the Company. Any such transaction will be valid and enforceable to the same extent as if he was not a Director and not in a fiduciary relationship with the Company. No such Director shall be liable to account to the Company for any profit realised by the transaction by reason of the Director holding that office or of the fiduciary relationship thereby established.

### **26.3. Notice of interest to be given**

- (a) A Director shall, forthwith after becoming aware of the fact that he is interested in a transaction or proposed transaction with the Company, cause to be entered in the Interests Register, where it has one, and, where the Company has more than one Director, disclose to the Board of the Company:
  - (i) where the monetary value of the Director's interest is able to be quantified, the nature and monetary value of that interest; or
  - (ii) where the monetary value of the Director's interest cannot be quantified, the nature and extent of that interest.

- (b) A Director shall not be required to comply with Clause 26.3(a) where:
- (i) the transaction or proposed transaction is between the Director and the Company; and
  - (ii) the transaction or proposed transaction is or is to be entered into the ordinary course of the Company's business and on usual terms and conditions.
- (c) For the purposes of clause 26.3(a), a general notice entered in the Interests Register, where there is one, or disclosed to the Board to the effect that a Director is a Shareholder, Director, officer or trustee of another company or other person and is to be regarded as interested in any transaction which may, after the date of the entry or disclosure, be entered into with that Company or person, is a sufficient disclosure of interest in relation to that transaction.
- (d) A failure by a Director to comply with Clause 26.3(a) shall not affect the validity of a transaction entered into by the Company or the Director.

#### **26.4. Interested Director not to vote**

- (a) Subject to Clause 26.4(b) to (g), a Director shall not vote

on any contract or arrangement or any other proposal in which he or his associate is interested nor shall he be counted in the quorum present at the meeting.

- (b) The giving of any security or indemnity either:
  - (i) to the Director in respect of money lent or obligations incurred or undertaken by him at the request of or for the benefit of the Company or any of its subsidiaries; or
  - (ii) to a third party in respect of a debt or obligation of the Company or any of its subsidiaries for which the Director has himself assumed responsibility in whole or in part and whether alone or jointly under a guarantee or indemnity or by the giving of security;
- (c) Any proposal concerning an offer of shares or debentures or other securities of or by the Company or any other company which the Company may promote or be interested in for subscription or purchase where the Director is or is to be interested as a participant in the underwriting or sub-underwriting of the offer;
- (d) Any proposal concerning any other company in which the Director is interested only, whether directly or

indirectly, as an officer or executive or Shareholder or in which the Director is beneficially interested in shares of that company, provided that he, together with any of his Associates, is not beneficially interested in five per cent (5%) or more of the issued Shares of any Class of such company (or of any third company through which his interest is derived) or of the voting rights;

- (e) Any proposal or arrangement concerning the benefit of employees of the Company or its subsidiaries including:
  - (i) the adoption, modification or operation of any employees' share scheme or any share incentive or share option scheme under which he may benefit; or
  - (ii) the adoption, modification or operation of a pension fund or retirement, death or disability benefits scheme which relates both to Directors and employees of the Company or any of its subsidiaries and does not provide in respect of any Director as such any privilege or advantage not generally accorded to the class of persons to which such scheme or fund relates; and
- (f) Any contract or arrangement in which the Director is interested in the same manner as other holders of Shares or debentures or other securities of the Company

by virtue only of his interest in Shares or debentures or other securities of the Company.

- (g) Any Contract or arrangement in which the Director is interested by the sole fact that he is a Director of a company (or its subsidiary or holding) party to the transaction, when such interest has been declared in the Interest Register.

#### **26.5. Adjudication of Interest**

If any question shall arise at any meeting as to the materiality of a Director's interest or as to the entitlement of any Director to vote and such question is not resolved by the Director voluntarily agreeing to abstain from voting, such question shall be referred to the Chairman of the meeting and his ruling in relation to any such Director shall be final and conclusive except in a case where the nature or extent of the interest of the Director concerned have not been fairly disclosed.

#### **26.6. Restriction on Director's purchase and subscription**

Directors of the Company and their Associates may only subscribe for or purchase any Shares, whether in their own name or through nominees, as long as no Shares are offered to them on a

preferential basis and no preferential treatment is given to them in the application of the Shares.

## **27. MANAGING DIRECTORS**

- (a) The Directors may appoint one or more members of the Board to the office of Managing Director for such period and on such terms as they think fit and, subject to the terms of any agreement entered into in any particular case, may revoke that appointment.
- (b) Where a Managing Director ceases to be a Director for any reason whatsoever, his appointment as Managing Director shall automatically lapse.
- (c) A Managing Director shall, subject to the terms of any agreement entered into in any particular case, receive such remuneration, whether by way of salary, commission or participation in profits, as the Directors may determine.
- (d) The Directors may entrust to and confer upon the Managing Director any of the powers exercisable by them with such restrictions as they think fit, and either generally or, to the exclusion of their own powers, subject to section 131 of the Act, and the directors may revoke, alter, or vary, all or any of these powers.



## **28. INDEMNITY AND INSURANCE**

### **28.1. Indemnity of Directors and employees**

- (a) The Board shall cause the Company to indemnify a Director or employee of the Company or a related company for costs incurred by him in any proceedings:
  - (i) that relates to liability for any act or omission in his or her capacity as a Director or employee; and
  - (ii) in which judgment is given in his favour or in which he is acquitted or which is discontinued.
  
- (b) The Board shall cause the Company to indemnify a Director or an employee of the Company or a related company in respect of:
  - (i) liability to any person other than the Company or a related company for any act or omission in his capacity as a Director or employee; or
  - (ii) costs incurred by the Director or employee in defending or settling any claim or proceedings relating to any liability under clause 28.1(a) above; not being criminal liability or liability for the breach of section 131 of the Act.

## **28.2. Insurance of Directors and employees**

- (a) The Board may cause the Company to effect insurance for Directors and employees of the Company or a related company in respect of:
  - (i) liability not being criminal liability for any act or omission in his capacity as a Director or employee; or
  - (ii) costs incurred by such Directors or employees in defending or settling any claim or proceedings relating to any such liability; or
  - (iii) costs incurred by a Director or employee in defending any criminal proceedings that have been brought against the Director or employee in relation to any act or omission in that person's capacity as Director or employee, in which he is acquitted or in relation to which a nolle prosequi is entered.
  
- (b) The Directors who vote in favour of a decision to effect insurance under clause 28.2(a) shall sign a certificate stating that, in their opinion, the cost of effecting the insurance is fair to the Company.

- (c) The Board shall ensure that particulars of any indemnity given to, or insurance effected for, any Director or employee of the Company or related Company are forthwith entered in the Interests Register.

### **28.3. Definitions**

For the purpose of this clause 28, "Director" includes a former Director and "employee" includes a former employee.

## **29. SECRETARY**

### **29.1. Company to have a secretary**

**29.1.1.** The Company shall have one or more secretaries (referred to as "The Secretary" in this constitution) to be appointed by The Board from time to time in accordance with sections 163 and 164 of the Act, for such term, at such remuneration and upon such conditions as they may think fit.

**29.1.2.** The Secretary shall also be as of right the secretary of The Board.

### **29.2. Qualifications**

No person shall be appointed as Secretary of The Company unless:-

- (a) he is a natural person of full age and capacity ordinarily resident in Mauritius;

- (b) he holds the necessary qualifications specified under Section 165 of the Act; or
- (c) in the case of a firm or corporation, approval has first been obtained from the Registrar for such firm or corporation to act as Secretary of The Company or of companies in general, conformably to the provisions of Section 164 of the Act.

### **29.3. Vacancy**

**29.3.1.** The office of Secretary shall not be left vacant for more than three consecutive months at any time.

**29.3.2.** If the office of Secretary is vacant for more than three consecutive months, anything required or authorised to be done by or in relation to a Secretary may be done by any officer of The Company authorised generally or specifically for the purpose by The Board.

### **29.4. Removal from office**

The Board may, subject to the provisions of Section 167 of The Act, remove, from time to time, The Secretary from office.

## **30. WINDING UP**

### **30.1. Distribution of surplus assets**

Subject to the terms of issue of any Shares, upon the liquidation of the Company, any assets of the Company remaining after payment of the debts and liabilities of the Company and the costs of

liquidation shall be distributed among the holders of Shares in proportion to their shareholding, provided however that a holder of Shares not fully paid up shall receive only a proportionate share of his entitlement being an amount which is in proportion to the amount paid to the Company in satisfaction of the liability of the Shareholder to the Company in respect of the Shares.

### **30.2. Division in kind**

- (a) When assets are distributed, the liquidator may, with the sanction of a Special Resolution, divide in kind amongst the Shareholders the assets of the Company, whether they consist of property of the same kind or not, and may for that purpose set such value as he shall deem fair upon any property to be divided and may determine how the division shall be carried out as between the Shareholders or different Classes of Shareholders.
- (b) The liquidator may, with the like sanction, vest any such assets in such persons for the benefit of contributories as the liquidator, with the like sanction, shall think fit.
- (c) Nothing in this clause shall require a Shareholder to accept any share or other security on which there is any liability.

## **31. COMMON SEAL, AUTHENTICATION OF DEEDS AND DOCUMENTS**

- (a) The Company may have a seal, known as the common seal, which shall contain the name of the Company and which shall not be affixed to any instrument without the authority of the Board.
  
- (b) The common seal may be affixed to any instrument, including a deed, and if not so affixed, the validity of the execution of the instrument will be determined in accordance with section 181 of the Act.
  
- (c) All instruments, deeds, acts and documents executed on behalf of the Company may be in such form and contain such powers, provisos, conditions, covenants, clauses and agreements as the Board shall think fit, and shall be signed either by two Directors or by one Director and one of the secretaries or by such other

person or persons as the Board may from time to time appoint.

- (d) All bills of exchange, promissory notes or other negotiable instruments shall be accepted, made, drawn or endorsed for and on behalf of the Company and all cheques or orders for payment shall be signed either by two Directors or by one Director and one of the secretaries or by such other person or persons as the Board may from time to time appoint.
- (e) Cheques or other negotiable instruments paid to the Company's bankers for collection and requiring the endorsement of the Company, shall be endorsed on its behalf by one of the Directors or by one of the secretaries or by such other officer as the Board may from time to time appoint.
- (f) All moneys belonging to the Company shall be paid to such bankers as the Directors shall from time to time appoint and all receipts for money paid to the Company shall be signed by one of the Directors or by one of the secretaries or by such other officer as the Board may from time to time appoint and such receipt shall be an effectual discharge for the money therein stated to be received.

### **31.1. Instrument to be binding**

Every instrument to which the seal of The Company is so affixed and which is so signed shall be binding on The Company.

## **32. ACTIONS OF PROCEEDINGS**

The Company may sue and be sued in its corporate name acting by and through The Board or The Secretary provided that the power to sue shall only be exercised by The Secretary after he has been duly authorised thereto by The Board and service of all summonses, process notices and the like shall be valid and effectual if served at the Registered Office of The Company.

## **33. COMPANY RECORDS**

The Company shall keep at its registered office the following records–

- (a) The Constitution of The Company;
- (b) minutes of all meetings and resolutions of Shareholders for the last seven (7) years;
- (c) an interests register;



- (d) minutes of all meetings and resolutions of Directors and Directors' committees for the last seven (7) years;
- (e) certificates given by Directors under The Act for the last seven (7) years;
- (f) the full names and addresses of the current Directors;
- (g) copies of all written communications to all Shareholders or all holders of the same class of shares during the last seven (7) years, including annual reports made under section 218 of The Act;
- (h) copies of all financial statements and group financial statements required to be completed by section 210 of The Act for the last seven (7) completed accounting periods of The Company;
- (i) the accounting records required by section 193 of The Act for the current accounting period and for the last seven (7) completed accounting periods of The Company;
- (j) the share register required to be kept under paragraph 8.4. of this Constitution; and

- (k) the copies of instruments creating or evidencing charges required to be registered under section 127 of The Act.

## **34. NOTICES**

### **34.1. Service**

A notice may be served by The Company upon any director or shareholder either personally or by posting it by fast post in a prepaid envelope or package addressed to such director or shareholder at such person's last known address.

### **34.2. Time of service**

A notice shall be deemed to have been served:

- (a) in the case of a person whose last known address is in Mauritius, at the expiration of forty-eight hours after the envelope containing the same was duly posted in Mauritius; and
- (b) in the case of a person whose last known address is outside Mauritius, at the expiration of seven days after the envelope containing the same was duly posted by fast post in Mauritius.

**34.3. Proof of service**

In proving service it shall be sufficient to prove that the envelope containing the notice was properly addressed and posted with all attached postal charges paid.

**34.4. Service on joint holders**

A notice may be given by The Company to the joint holders of a share by giving the notice to the joint holder first named in the share register in respect of the share.

**34.5. Service on representatives**

A notice may be given by The Company to the person or persons entitled to a share in consequence of the death or bankruptcy of a shareholder by addressing it to such person or persons by name or by title or by any appropriate description, at the address, if any, within Mauritius supplied for the purpose by the person or persons 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.

**35. ACCOUNTS**

The Board shall cause proper accounting and other records to be

kept as required by the Act, and shall make available such accounting and other records for inspection in accordance with sections 225 to 228 of the Act.

### **36. AUDIT**

Auditors shall be appointed and removed and their duties and remuneration regulated in accordance with Sections 195 to 209 of the Act.

### **37. SERVICE OF DOCUMENTS**

The service of documents on or by the Company shall be regulated in accordance with sections 323 to 328 of the Act.

### **38. REMOVAL FROM THE MAURITIUS REGISTER**

In the event that:

- (a) The Company has ceased to carry on business, has discharged in full its liabilities to all its known creditors, and has distributed its surplus assets in accordance with this constitution and The Act; or
- (b) The Company has no surplus assets after paying its debts in full or in part, and no creditor has applied to the Court under Section 312 of The Act for an order putting The Company into liquidation;

The Board may in the prescribed form request the Registrar to remove The Company from the Register.

### **39. ALTERATION OF CONSTITUTION**

The Company in General Meeting shall have power to alter this Constitution within the limits and under the conditions imposed by the Act and, if and so long as it shall be listed on the official list of the Stock Exchange of Mauritius, with the prior approval of the latter.

The foregoing document is the Draft Constitution of "**THE UNITED BASALT PRODUCTS LIMITED**" which will be submitted to the General Meeting of the shareholders of the said Company to be approved.

PORT LOUIS, this First day of December Two Thousand and Four.

**(Sd) T. LAGESSE.**

**CHAIRMAN**

The foregoing document has been annexed to a deed witnessing the deposit thereof drawn up by the undersigned Notary this day (December 1<sup>st</sup> 2004).-

**(Sd) HUGUES MAIGROT.**

**NOTARY**

-----

**REGISTERED AT MAURITIUS ON THE SECOND DAY OF  
DECEMBER TWO THOUSAND AND FOUR REG. B 163 NO.  
713 RECEIVED RUPEES EIGHT HUNDRED AND FIFTEEN AT  
FIXED DUTY + STAMPS.**

**A TRUE COPY.**

After collation signed and delivered by Mr. Notary **JOSEPH PAUL  
HUGUES DIDIER MAIGROT** of Port Louis, substituting Mr. Notary **MARIE  
FRANCOIS IGNACE JEAN HUGUES MAIGROT**, his colleague,  
momentarily impeded.