

2002

On the 15<sup>th</sup>. day of May

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**DRAFT**

**NEW CONSTITUTION**

**OF THE COMPANY**

**"TROPICAL PARADISE CO. LTD."**

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**BEFORE Mr. MARIE JOSEPH JEAN PIERRE MONTOCCHIO**, undersigned, a notary public in the Republic of Mauritius, by lawful authority duly commissioned and practicing in the said Republic of Mauritius and whose office is situated at 4<sup>th</sup> Floor, Labama House, 35, Sir William Newton Street, Port Louis;

**PERSONALLY CAME AND APPEARED:-**

**Mr. MARIE EDOUARD GILBERT ESPITALIER NOEL**, of age, born on the eighth day of February one thousand nine hundred and sixty four, Act of Birth bearing No. 111 of 1964 of Moka, Company Director, residing at Moka, Royal Road.-

HEREACTING in his capacity of one of the Directors of the Company incorporated in this Island under the name of **"TROPICAL PARADISE CO. LTD."** for and in the name of the said Company.

WHO, the said appearer in his aforesaid capacity does hereby acknowledge and declare that the Directors of **"TROPICAL PARADISE CO. LTD."** having decided to convene a Special Meeting of the Company and to submit thereto, a Special Resolution for the purpose of adopting a new Constitution to set out the rules of the Company, has requested the undersigned Notary to draw the present draft deed which embodies the proposed New Constitution of the said Company.

The said draft deed will be submitted to the shareholders of the said Company **"TROPICAL PARADISE CO. LTD."** who will decide whether the New Constitution herein contained together with any amendment which may be made thereto at the Meeting should be



adopted as the New Constitution of the Company in lieu and stead of the Memorandum and Articles of Association at present in force.

And for the purpose of identification the present deed has been signed by the appearer.

## **INTERPRETATION**

In this constitution:-

- (i) Words importing the singular include the plural and vice versa;
- (ii) A reference to a person includes any firm, company or other body corporate; and
- (iii) Words importing one gender include the other genders.

## **Article 1 - CONSTITUTION AND THE COMPANIES ACT**

The provisions of the Companies Act 2001 (hereinafter referred to as "The Act") are restricted, limited, modified, adopted and extended by this constitution as hereinafter provided.-

## **Article 2 - NAME**

### **2.1. - Name of company**

The name of the company (hereinafter referred to as "The Company") is "TROPICAL PARADISE CO. LTD."

### **2.2. - Change of name**

An application to change the name of The Company may be made by a director of The Company only if the application has been approved by special resolution of the shareholders.

## **Article 3 - TYPE, DURATION CAPACITY AND OBJECTS OF COMPANY**

### **3.1. - Type**

The Company shall be a **public company** limited by shares.

### **3.2. - Duration**

The duration of The Company is unlimited.-

### **3.3. - Capacity and objects**

The Objects of the Company are:-

3.3.1. To set up and manage hotels, restaurants, shops, casinos and other activities which can be carried on in connection therewith.

3.3.2. To carry on the business of tour operators and as such to provide for tourists and travellers or promote the provision of facilities of every description and in particular, providing guides, inquiry bureaux and baggage transport.

3.3.3. To lease or hire for any period, ships and boats with or without fishing equipment, cars, buses and other vehicles.

3.3.4. To carry on the business of property developers namely by building accomodation and flats and by selling or renting them.

To do such other things as are incidental to, or connected with any of the above objects, or conducive to the attainment thereof or otherwise likely in any respect to be advantageous to the Company.

#### **3.4. - Rights, powers and privileges**

For the purposes of paragraph 3.3. above and subject to The Act and any other enactment, The Company shall have full rights, powers and privileges.-

### **Article 4 - POWERS OF SHAREHOLDERS**

#### **4.1. - Ordinary Resolution**

Except as required by The Act or by this constitution, all powers reserved to shareholders may be exercised by an ordinary resolution.

#### **4.2. - Special Resolution**

The majority required for a special resolution shall be seventy-five percent (75%) of the votes of those shareholders entitled to vote and voting on the question.

### **Article 5 - SHARES**

#### **5.1. - Existing shares**

The Company has on issue as at the date of adoption of this Constitution as the Constitution of the Company **TEN MILLION (10,000,000)** ordinary shares of the nominal value of **TEN RUPEES** each and **SEVEN HUNDRED AND FIFTY THOUSAND (750,000)** preference shares of the nominal value of **ONE HUNDRED RUPEES** each, having the rights set out in paragraph 5.2. below .-

## 5.2. - Rights of existing shares

5.2.1. Each of the ordinary shares in paragraph 5.1. above will confer upon its holders the rights set out in Section 46(2) of The Act together with any other rights conferred by this constitution.

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

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

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

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

5.2.3. The rights attached to the existing Preference Shares are hereinafter literally transcribed:-

“ *As from the day on which the Company will start its operations, the right:-*

“ *(a) To a fixed preferential cumulative dividend at the rate of eight per cent per annum on the capital for the time being paid up thereon payable as regards each financial year out of the profits of the Company resolved to be distributed in respect of that year.*

“ *(b) To a fixed preferential non cumulative dividend at the rate of eight per cent per annum on the capital for the time being paid up thereon payable as regards each financial year out of the profits of the Company resolved to be distributed in respect of that year.*

“ *For the first year of operations the said cumulative and non cumulative preferential dividend shall be calculated pro rata as from the day on which the Company will start its operations up to the thirtieth day of June following.*

“ *(c) In a winding up, to payment off of capital in priority to the Ordinary Shares and of arrears of the cumulative dividends, under paragraph (a) above, whether earned or declared or not, down to the commencement of the winding up.*

“ *The said Preference Shares shall have no right to any further participation in the profits and/or assets of the Company, even in the case of a winding up.*

*“ The said Preference Shares shall not entitle the holders thereof to receive notice  
“of, or attend or vote at, the General Meetings of the Company. “*

### **5.3. - Variation of class rights**

If at any time the capital is divided into different classes of shares, The Company, in compliance with the provisions of Section 114 of The Act, shall not take any action which varies the rights attached to a class of shares unless the 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 meetings of shareholders shall apply “mutadis mutandis” provided however that the necessary quorum shall be the holders of at least one third of the issued shares of the class concerned (but so that if, at any adjourned meeting of such holders, a quorum is not present, those shareholders who are present shall constitute a quorum).-

### **5.4. - Share registers**

The Company shall maintain:-

(a) a share register which shall record the shares issued by The Company and which shall state that there are, under this constitution, no restrictions on their transfer; and

(b) a register of substantial shareholders,

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.-

### **5.5. - Trust not to be registered or recognised**

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

## **Article 6 - 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

## **Article 7 - ISSUING OF FURTHER SHARES**

### **7.1. - Issuing of shares**

The Board shall not issue further shares in The Company unless such issue has been approved by an ordinary resolution of the shareholders.

### **7.2. - 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.

## **Article 8 - PRE-EMPTIVE RIGHTS**

### **8.1. - Pre-emptive rights on issue of shares**

Shares issued or proposed to be issued by The Company that rank or would rank as to voting or distribution rights, or both, equally with or prior to shares already issued by The Company shall, unless otherwise provided in the resolution approving the issue under paragraph 7.1. above, be offered, by notice in writing conformably to the provisions of Article 31 hereunder, to the holders of shares already issued in a manner which, if the offer were accepted, will maintain the relative voting and distribution rights of those shareholders in accordance with the provisions of Section 55(1) of The Act.

### **8.2. - Time limit for acceptance**

An offer under paragraph 8.1. shall remain open for acceptance for a reasonable time, which shall not be less than fourteen days.

### **8.3. - Disposal of unwanted new shares**

New shares offered to shareholders pursuant to paragraph 8.1. above and not accepted within the prescribed time or in respect of which an intimation is received from the person to whom the offer is made declining such offer may be disposed of by The Board in such manner as it thinks most beneficial to The Company.

## **Article 9 - CALLS ON SHARES**

### **9.1. - 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 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.

### **9.2. - Timing of calls**

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

### **9.3. - Liability of joint holders**

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

### **9.4. - Interest**


If a sum called in respect of a share is not paid before or at 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 fourteen percent (14%) per annum, as The Board may determine. The Board may waive payment of such interest wholly or in part.

### **9.5. - 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 of this Constitution 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.

### **9.6. - 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.



## **Article 10 - LIEN AND FORFEITURE**

### **10.1. - Lien in favour of company**

Notwithstanding any other enactment, The Company shall be entitled to a privilege or lien, independently of and without the necessity for inscription, in priority to any other claim, over every issued share or the proceeds of the sale thereof, not being a fully paid up share, and over any dividend payable on the share, for all money due by the holder of that share to The Company whether by way of money called or payable at a fixed time in respect of that share.

### **10.2. - Sale on exercise of lien**

10.2.1. Subject to this paragraph, The Company may sell, in such manner as The Board thinks fit, any shares on which The Company has a lien. No sale may be made until:-

10.2.1.1. a sum in respect of which the lien exists is due and payable;

10.2.1.2. a notice in writing stating and demanding payment of the amount due and payable (in respect of which the lien exists) has been given to the current registered holder of the share (or the person entitled to that share by reason of the registered holder's death or bankruptcy); and

10.2.1.3. fourteen (14) days have expired since the giving of that notice.

10.2.2. The net proceeds of the sale of any shares sold for the purpose of enforcing a lien shall be applied in or towards satisfaction of any unpaid calls, instalments or any other money in respect of which the lien existed. The residue, if any, shall be paid to the former holder of the shares.

10.2.3. For giving effect to any sale enforcing a lien in purported exercise of the powers given in this constitution, The Board may authorise some person to transfer the shares sold to the purchaser. The purchaser will be registered as the holder of the shares comprised in the transfer and will not be bound to see to the application of the purchase money, nor will the purchaser's title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale. The remedy of any person aggrieved by the sale will be in damages only, and against The Company exclusively. If the certificate for the shares is not delivered up to The Company, The Board may issue a new certificate distinguishing it as The Board thinks fit from the certificate not delivered up.

### **10.3. - Notice of default**

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



#### **10.4. - Final payment date**

The notice shall fix a further day (not earlier than the expiry of fourteen days from the date of service of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment, on or before the time appointed, the shares in respect of which the money is due will be liable to be forfeited.

#### **10.5. - Forfeiture**

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

#### **10.6. - Sale of forfeited shares**

A forfeited share may be sold or otherwise disposed of on such terms and in such manner as The Board thinks fit and, at any time before a sale or disposition, the forfeiture may be cancelled on such terms as The Board thinks fit, at any time before a sale or disposition. If any forfeited share is sold within twelve 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 of all moneys owing in respect of the forfeited share and interest thereon shall be paid to the owner of the forfeited share or to his executors, administrators or assigns.

#### **10.7. - 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 The Company for any money which, at the time of forfeiture, was payable him to The Company in respect of the share, until such time as The Company receives payment in full in respect of the share.

#### **10.8. - Evidence of forfeiture**

A statutory declaration signed by a director of The Company 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 against all persons claiming to be entitled to the share.

#### **10.9. - 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 it is sold or disposed of. 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. His title



to the share shall not be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

## **Article 11 - SHARE CERTIFICATES**

### **11.1. - Company to issue 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 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 that person; and
- (c) the number of shares held by that person.

A share certificate shall bear the seal of The Company which shall be affixed as provided in Article 27.

### **11.2. - Loss or destruction of certificate**

Where a certificate relating to a share or debenture is lost or destroyed, The Company shall, on application made by the owner and on payment of the prescribed fee, issue a duplicate thereof in accordance with the provisions of Section 98 of The Act.-

## **Article 12 - TRANSFER AND TRANSMISSION OF SHARES**

### **12.1. - 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.

### **12.2. - Transmission**

12.2.1. Shares of The Company depending from the estate of a deceased shareholder may 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 such persons are entitled thereto. 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, may, where the shareholder is a company or a partnership, be transferred to such persons who satisfy The Board of their right to have such transfer in their names.

12.2.2. Pending the division of shares of The Company depending from the estate and succession of a deceased shareholder, or from the bankruptcy, insolvency, 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 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.

### **12.3. - Transfer of shares in pledge**

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

12.3.2. The Company shall keep a register in which –

12.3.2.1. the transfer of shares or debentures given in pledge shall be inscribed;

12.3.2.2. 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.

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

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

### **Article 13 - REFUSAL TO REGISTER TRANSFERS**

Subject to 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 recognize 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),

#### **Central Depository System**

- (2) The Company is required or authorised to do so under the provisions of the securities (Central Depository, Clearing and Settlement) Act 1996 or any enactment replacing same,

### **Partly paid shares**

- (3) 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.

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

## **Article 14 - DISTRIBUTIONS**

### **14.1. - Authorising of distributions**

Subject to the provisions of section 61 of The Act and the other requirements thereof, The Board shall not authorise a distribution by The Company unless the distribution has been approved by an ordinary resolution of the shareholders.

### **14.2. - Shares in lieu of dividends**

Subject to the provisions of The Act, The Board may issue shares wholly or partly in lieu of a proposed dividend or proposed future dividends upon such terms as may have been approved by an ordinary resolution of the shareholders.

## **Article 15 - DIVIDENDS**

### **15.1. - Deduction of unpaid calls**

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

### **15.2. - Payment by cheque or warrant**

Any dividend, interest or other money payable in respect of shares may be so paid by crossed cheque or warrant sent through the post 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.

### **15.3. - No interest**

No dividend shall bear interest against The Company.

#### **15.4. - 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 to 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.

#### **15.5. - 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 portion 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.

### **Article 16 - ACQUISITION OF COMPANY'S OWN SHARES**

In accordance with the provisions of Section 69 of The Act, The Company is expressly authorised to purchase or otherwise acquire shares issued by it.

### **Article 17 - REDUCTION OF STATED CAPITAL**

The Company may, subject to the provisions of Section 62 of The Act, by special resolution, reduce its stated capital to such amount as it thinks fit.

### **Article 18 - GENERAL MEETINGS**

#### **18.1. - Annual Meetings**

18.1.1. The Board shall call an annual meeting of shareholders which shall be held –

18.1.1.1. not more than once in every year;

18.1.1.2. not later than six months after the balance sheet date of The Company;

and



18.1.1.3. not later than fifteen months after the previous annual meeting.

## **18.2. - Business to be transacted**

The business to be transacted at an annual meeting shall, unless already dealt with by The Company, include –

- (a) the consideration and approval of the financial statements;
- (b) the receiving of the auditor's report;
- (c) the consideration of the annual report;
- (d) the appointment of any directors including those whose annual appointment is required by The Act;
- (e) the appointment of an auditor pursuant to section 200 of The Act; and
- (f) the remuneration of the auditor.

## **18.3. - Special Meetings**

A special meeting of shareholders entitled to vote on an issue 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.

# **Article 19 - PROCEEDINGS AT MEETINGS OF SHAREHOLDERS**

## **19.1. - Fifth Schedule**

The provisions of the Fifth Schedule to The Act as hereinafter modified or limited in paragraphs 19.2. to 19.15. shall govern the proceedings at meetings of shareholders of The Company.-

## **19.2. - Chairperson**

19.2.1. Where the directors have elected a chairperson of The Board, and the chairperson of The Board is present at a meeting of shareholders, he shall chair the meeting.

19.2.2. Where no chairperson of The Board has been elected or if, at any meeting of shareholders, the chairperson of The Board is not present within fifteen minutes of the time appointed for the commencement of the meeting, the directors present shall elect one of their number to be chairperson of the meeting.

19.2.3. Where no director is willing to act as chairperson, or where no director is present within fifteen minutes of the time appointed for holding the meeting, the shareholders present may choose one of their number to be chairperson of the meeting.

### **19.3. - Secretary**

If, at the time of any meeting, The Company has no secretary or if, within fifteen minutes from the time appointed for the meeting, The Secretary is not present thereat, or, if although present he is unable or unwilling to act as secretary, or if, after having acted as such, he retires, the meeting shall choose any director or shareholder present at the meeting to act as secretary "ad hoc".

### **19.4. - Notice of meetings**

19.4.1. Written notice of the time and place of a meeting of shareholders shall be sent to every shareholder entitled to receive notice of the meeting and to every director, secretary and auditor of The Company not less than fourteen days before the meeting.

19.4.2. The notice shall:-

19.4.2.1. state the nature of the business to be transacted at the meeting in sufficient detail to enable a shareholder to form a reasoned judgment in relation to it;

19.4.2.2. include the text of any special resolution to be submitted to the meeting; and

19.4.2.3. in the case of an annual meeting, include a printed copy of the financial statements and annual report referred to in paragraphs (a) and (b) of paragraph 18.2. above.

19.4.3. Any irregularity in a notice of a meeting shall be waived where all the shareholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or where all such shareholders agree to the waiver.

19.4.4. Any accidental omission to give notice of a meeting to, or the failure to receive notice of a meeting by, a shareholder shall not invalidate the proceedings at that meeting.


19.4.5. The chairperson may, or where directed by the meeting, shall, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

19.4.6. When a meeting of shareholders is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

19.4.7. Notwithstanding paragraphs 19.4.1. to 19.4.3., it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

### **19.5. - Methods of holding meetings**

A meeting of shareholders may be held either:-



- (a) by a number of shareholders 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 shareholders participating and constituting a quorum, can simultaneously hear each other throughout the meeting.

#### **19.6. - Quorum and adjournment of meetings**

19.6.1. Where a quorum is not present, no business shall be transacted at a meeting of shareholders.

19.6.1.1. A quorum for a meeting of shareholders shall be present where two shareholders holding at least thirty per cent (30%) per cent of the shares of The Company carrying voting rights at the meeting are present and/or represented and/or participating as provided by paragraph 19.5.(b) above.

19.6.2. Where a quorum is not present within thirty minutes after the time appointed for the meeting –

- 19.6.2.1. in the case of a meeting called under Section 118(1)(b) of The Act, the meeting shall be dissolved;
- 19.6.2.2. in the case of any other meeting, the 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 Board may decide; and
- 19.6.2.3. where, at the adjourned meeting, a quorum is not present within thirty minutes after the time appointed for the meeting, the shareholders or their proxies present shall be a quorum and may transact the business for which the meeting was called.

#### **19.7. - Voting**

19.7.1. Where a meeting of shareholders is held under paragraph 19.5.(a), unless a poll is demanded, voting at the meeting shall be by whichever of the following methods is determined by the chairperson of the meeting –

- 19.7.4.1. by voice; or
- 19.7.4.2. by show of hands.

19.7.2. Where a meeting of shareholders is held under paragraph 19.5.(b), unless a poll is demanded, voting at the meeting shall be by the shareholders signifying individually their assent or dissent by voice.



19.7.3. A declaration by the chairperson of the 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 paragraph 19.7.4.

19.7.4. At a meeting of shareholders, a poll may be demanded by –

19.7.4.1. not less than five shareholders having the right to vote at the meeting;

or

19.7.4.2. 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 meeting; or

19.7.4.3. by a shareholder or shareholders holding shares in The Company that confer a right to vote at the 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

19.7.4.4. the chairperson of the meeting.

19.7.5. A poll may be demanded either before or after the vote is taken on a resolution.

19.7.6. Where a poll is taken, votes shall be counted according to the number of votes attached to the shares of each shareholder present in person or by proxy and voting.

19.7.7. In case of an equality of votes, the Chairperson of a shareholders' meeting shall be entitled to a casting vote.

19.7.8. For the purposes of this paragraph 19.7., the instrument appointing a proxy to vote at a meeting of a company 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.

19.7.9. 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 shall have one vote.

19.7.10. The chairperson may demand a poll on a resolution either before or after a vote thereon by voice or by show of hands.

19.7.11. The demand for a poll may be withdrawn.

19.7.12. Where a poll is duly demanded, it shall, subject to paragraph 19.7.6., be taken in such manner as the chairperson directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll is demanded.

19.7.13. A poll demanded –

19.7.13.1. on the election of a chairperson or on a question of adjournment, shall be taken immediately;

19.7.13.2. on any other question, shall be taken at such time and place as the meeting directs,

19.7.14. Any business other than that on which a poll is demanded may be proceeded with pending the taking of the poll.

#### 19.8. - Proxies

19.8.1. A shareholder may exercise the right to vote either by being present in person or by proxy.

19.8.2. A proxy for a shareholder may attend and be heard at a meeting of shareholders as if the proxy were the shareholder.

19.8.3. A proxy shall be appointed either by notice in writing signed by the shareholder and stating whether the appointment is for a particular meeting or a specified term or by a general power of attorney to attend meetings of companies in general and to vote thereat.

19.8.4. No proxy shall be effective in relation to a meeting unless a copy of the notice of appointment is produced before the start of the meeting.

*refer to meeting*

19.8.5. Any power of attorney or other authority under which the proxy is signed or a notarially certified copy shall also be produced.

19.8.6. A proxy form shall be sent with each notice calling a meeting of The Company.

19.8.7. 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.

19.8.8. Except in the case of a general power of attorney, the instrument appointing a proxy shall be in the following form –

#### INSTRUMENT APPOINTING A PROXY

##### “TROPICAL PARADISE CO. LTD.”

I/We .....

of .....

being a shareholder of ..... Limited hereby appoint (*print name of proxy*)

..... of ..... or failing him/her

..... of ..... as my/our

proxy to vote for me/us on my/our behalf at the [###th Annual] [Special] Meeting of The Company to be held at ..... on the ..... day of ..... two thousand and ..... commencing at ... [am/pm] and at any adjournment thereof.

I/We direct my/our proxy to vote in the following manner.

Vote with a Tick

Resolutions	For	Against
1.	.....	.....
2.	.....	.....
3.	.....	.....

Signed this .....day of ..... 20....

(Usual Signature/s)

19.8.9. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the appointor or revocation of the proxy or revocation of the authority under which the proxy was executed, or the transfer of any share in respect of which the proxy is given, if no intimation in writing of such death, insanity, revocation or transfer as aforesaid has been received by The Company before the start of the meeting or adjourned meeting at which the proxy is used.

19.8.10. The instrument appointing a proxy and a power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of The Company or at such other place within Mauritius as is specified for that purpose in the notice convening the meeting not less than twenty-four hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, failing which the instrument of proxy shall be treated as invalid. // 24 hr

### 19.9. - Votes of Minors etc.

The legal administrator or guardian of a minor shareholder, the guardian of a lunatic shareholder or of an interdicted shareholder and all other legal representatives of a shareholder, holding shares conferring the right to vote and who, according to law, is not entitled to act personally, may vote at any meeting of shareholders either personally or by proxy in respect of the share or shares belonging to the minor or to the lunatic or interdicted shareholder or other incapacitated shareholder he represents as aforesaid in the same manner as if he were the registered holder of the share or shares provided that twenty-four hours at least before the time of holding the meeting at which he proposes to vote, he shall have

satisfied The Board that he is such legal administrator or guardian or legal representative or that The Board has previously admitted his right to vote in respect of those shares.

#### **19.10. - Postal votes**

The right to vote at a meeting by casting a postal vote is hereby prohibited.

#### **19.11. - Minutes**

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

19.11.2. Minutes which have been signed correct by the chairperson of the meeting at which they are read and approved shall be *prima facie* evidence of the proceedings. Any copies or extracts of any minutes shall be delivered under the signature of The Secretary.

#### **19.12. - Shareholder proposals**

19.12.1. A shareholder may give written notice to The Board of a matter he proposes to raise for discussion or resolution at the next meeting of shareholders at which the shareholder is entitled to vote.

19.12.2. Where the notice is received by The Board not less than twenty-eight days before the last day on which notice of the relevant meeting of shareholders is required to be given, The Board shall, at the expense of The Company, give notice of the shareholder's proposal and the text of any proposed resolution to all shareholder's entitled to receive notice of the meeting.

19.12.3. Where the notice is received by The Board not less than seven days and not more than twenty-eight days before the last day on which notice of the relevant meeting of shareholders is required to be given, 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 meeting.

19.12.4. Where the notice is received by The Board less than seven days before the last day on which notice of the relevant meeting of shareholders is required to be given, 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 meeting.

19.12.5. Where The Board intends that shareholders may vote on the proposal by proxy, The Board shall give the proposing shareholder the right to include in or with the notice to be given by The Board a statement of not more than one thousand words prepared by the proposing shareholder in support of the proposal, together with the name and address of the proposing shareholder.

19.12.6. The Board shall not be required to include in or with the notice given by it a statement prepared by a shareholder which The Board considers to be defamatory, frivolous, or vexatious.

19.12.7. 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.

#### **19.13. - Corporations may act by representative**

A body corporate which is a shareholder may appoint a representative to attend a meeting of shareholders on its behalf in the same manner as that in which it could appoint a proxy.

#### **19.14. - Votes of joint holders**

Where two 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.

#### **19.15. - 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.

### **Article 20 - MANAGEMENT OF COMPANY**

#### **20.1. - Management**


The business and affairs of The Company shall be managed by, or be under the direction or supervision of a board of directors (referred to as "The Board" in this constitution).

#### **20.2. - Powers**

The Board shall have all the powers necessary for managing, directing and supervising the management of the business and affairs of The Company.

#### **20.3. - Limitations**

Paragraphs 20.1. and 20.2. shall be subject to any modifications, adaptations, exceptions, or limitations contained in The Act or in this constitution.



#### **20.4. - Resolutions binding**

Resolutions of shareholders which make recommendations to The Board on matters affecting the management of The Company as provided for by Section 107(2) of The Act shall be binding on The Board only if carried as special resolutions.

### **Article 21 - APPOINTMENT AND REMOVAL OF DIRECTORS**

#### **21.1. - Number of directors**

The minimum number of directors shall be three and the maximum number shall be twelve.

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

Messrs. PIERRE ELYSEE MICHEL DOGER DE SPEVILLE C.B.E., Company Director, residing at Beauvoir, Sorèze;

MARIE FRANCOIS PIERRE YVES POUGET, Company Director, residing at Quatre Bornes, Farquhar Avenue;

MARIE EDOUARD GILBERT ESPITALIER NOEL, Company Director, residing at Moka, Royal Road; and

JEAN MARIE RENE LECLEZIO, Company Director, residing at Pointe d'Azur, Pereybère;

BASHIRALLY ABDULLA CURRIMJEE, Companies' Director, residing at Floréal, 14, Forest Lane;

MARIE MAXIME HECTOR ESPITALIER NOEL, Company Director, residing at Moka, Royal Road;

ALEXANDRE VOON CHONG FON SING, C.B.E., Company Director, residing at Beau Bassin, 62, Réverend Lebrun Street;

ARMAND MAUDAVE, Company Director, residing at Gris Gris, Souillac;

JOSEPH ROGER MAURICE TOSTEE, Company Director, residing at Grand Bay, Royal Road; and

Sir DEWOONARAIN DOOKUN, Company Director, residing at Floréal, Queen Mary Avenue;

## 21.2. - Tenure of office

Every director shall hold office until:-

- (a) removal in accordance with this constitution; or
- (b) vacation of office pursuant to Section 139 of The Act; or
- (c) an arrangement or composition with creditors made by him; or
- (d) vacation of office resulting ipso facto from being absent without permission of The Board from six consecutive meetings of The Board.

W/R. - J.P. Montee  
val/bb = act/03  
obs

## 21.3. - Appointment and removal

Sections 135, 137 and 138 of The Act are qualified as follows:

(a). The directors of The Company shall be such person or persons as may from time to time be appointed either by the shareholders by ordinary resolution or by notice in writing to The Company signed by the holder or holders of a majority of the shares in the capital of The Company but so that the total number of directors shall not at any time exceed the maximum number provided by paragraph 21.1. Every director shall hold office subject to the provisions of this constitution and may at any time be removed from office by ordinary resolution of the shareholders or by notice in writing to The Company signed as aforesaid without prejudice to the removed director's right to claim damages under any contract. Directors may be appointed individually or together unless the shareholders by ordinary resolution require any director's appointment to be voted on individually.

(b). The Board shall have power at any time and from time to time to appoint any person to be a director to fill a casual vacancy. Any director so appointed shall hold office only until the next following annual meeting and shall then retire but shall be eligible for appointment at that meeting.

## 21.4. - Managing director

The directors may from time to time appoint one or more of their number to be managing director or managing directors of The Company either for a fixed term or otherwise and may fix his or their remuneration either by way of salary or commission or by giving a right to participate in the profits of The Company or by a combination of two or more of these modes and the directors may from time to time remove or dismiss any managing director or directors and appoint another or others in his place or their places.

## 21.5. - Managing director subject to similar provisions

A managing director shall be subject to the same provisions as regards resignation, removal and disqualification as the other directors of The Company and if he or she shall

cease to hold the office of director from any cause he or she shall "ipso facto" immediately cease to be managing director.-

## **Article 22 - SPECIAL PROVISIONS RELATING TO DIRECTORS**

### **22.1. - Delegation**

The Board may delegate all its powers other than those set out in the seventh Schedule to The Act.

### **22.2. - Cross directorships**

A director of The Company may be or become a director or other officer of, or otherwise interested in, any company promoted by The Company or in which The Company may be interested as shareholder or otherwise, and no such director shall be accountable to The Company for any remuneration or other benefits received by him or her as a director or officer of, or from his or her interests in, any such other company unless The Company otherwise directs or the law requires.

### **22.3. - Directors acting as Professionals**

Any director may act by himself or herself or his or her firm in a professional capacity for The Company, and a director or firm shall be entitled to remuneration for professional services as if he or she were not a director provided that nothing herein contained shall authorise a director or his or her firm to act as auditor to The Company.

### **22.4. - Alternate directors**

Any Director may, from time to time, appoint any person who is approved by the majority of the Directors to be an Alternate Director to act in his place at any Meeting of the Directors at which he is unable to be present. The appointee, while he holds office as an Alternate Director, shall be entitled to notice of Meetings of the Directors, and to attend and vote thereat as a Director at any such Meeting at which the Director appointing him is not present and generally in the absence of his appointor to perform all the functions of his appointor as a Director, but he shall not be entitled to receive any remuneration from the Company otherwise than out of the remuneration of the Director appointing him. A Director who is also an Alternate Director of a Director shall be entitled, in addition to his own vote, to a separate vote on behalf of the Director he is representing. Any appointment so made may be revoked at any time by the appointor. The Alternate of the Director shall "ipso facto" cease to be an Alternate Director, if the Director ceases for any reason to be a Director. All



appointments, revocations and removals of an Alternate Director made by the Director in pursuance of the provisions of this Article shall be in writing under the hand of the Director making the same and left at the Office or addressed thereto.

#### **22.5. - Interests of holding company (wholly owned subsidiary)**

If The Company is a wholly owned subsidiary then for the purposes of Section 143(2) of The Act, each director of The Company is hereby expressly permitted to act in a manner which he or she 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.

#### **22.6. - Interests of holding company (subsidiary not wholly owned)**

If The Company is a subsidiary (but not a wholly owned subsidiary) then, subject to the prior agreement of the shareholders other than the holding company and for the purposes of Section 143(3) of The Act each director of The Company is hereby expressly permitted to act in a manner which he or she 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.

### **Article 23 - INTERESTED DIRECTORS**

#### **23.1. – General Rule**

Subject to complying with the provisions of Section 148 of The Act and notwithstanding the provisions of Section 152 of The Act there are no restrictions on a director of The Company who is interested in a transaction entered into or to be entered into by The Company voting on a matter relating to the transaction, attending a meeting of directors at which a matter relating to the transaction arises and being included among the directors present at the meeting for the purpose of a quorum, signing a document relating to the transaction on behalf of The Company and doing any other thing in his or her capacity as a director in relation to the transaction as if the director were not interested in the transaction.

#### **23.2. – Company on Stock Exchange**

Should the company at any time be listed on the official market operated by the Stock Exchange of Mauritius, then a director who is interested in a transaction entered into or to be entered into by The Company may still attend a meeting of directors at which a matter

relating to the transaction arises but shall neither be included among the directors present at the meeting for the purpose of a quorum nor be allowed to vote on that matter and, if he does vote, his vote shall not be counted.

Nothing in the above paragraph shall prevent an interested director as above from signing a document relating to the transaction on behalf of The Company and doing any other thing in his capacity as a director in relation to the transaction as if the director were not interested in the transaction.

## **Article 24 - PROCEEDINGS OF DIRECTORS**

### **24.1. - Eighth Schedule**

The provisions of the Eighth Schedule of The Act as hereinafter modified or limited in paragraphs 24.2. to 24.10. hereunder shall govern the proceedings of The Board of The Company.

### **24.2. - Chairperson**

24.2.1. The directors may elect one of their number as chairperson of The Board and determine the period for which he is to hold office.

24.2.2. Where no chairperson is elected, or where at a meeting of The Board the chairperson is not present within fifteen minutes after the time appointed for the commencement of the meeting, the directors present may choose one of their number to be chairperson of the meeting.

### **24.3. - Secretary**

If, at the time of any meeting, The Company has no secretary or if, within fifteen minutes from the time appointed for the meeting, The Secretary is not present thereat, or, if although present thereat he is unable or unwilling to act as secretary, or if, after having acted as such, he retires, the meeting shall choose any director present at the meeting to act as secretary "ad hoc".

### **24.4. - Notice of meeting**

24.4.1. 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 paragraph.

24.4.2. A notice of a meeting of The Board shall be sent to every director who is in Mauritius, and, subject to paragraph 22.4, his alternate, and the notice shall include the date, time, and place of the meeting and the matters to be discussed.

24.4.3. An irregularity in the notice of a meeting is 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.

#### **24.5. - Methods of holding meetings**

A meeting of The Board may 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.

#### **24.6. - Quorum and Adjournment**

24.6.1. A quorum for a meeting of The Board shall be fixed by The Board and if not so fixed shall be a minimum of forty per cent of the number of Directors in office.

24.6.2. No business may be transacted at a meeting of The Board if a quorum is not present.

24.6.3. If within a quarter of an hour past the time appointed for any board meeting, the quorum is not present, such board meeting shall stand adjourned to the next day but one at the same time and place provided such day is a working day and otherwise to the next following working day.

24.6.4. If at such adjourned meeting a quorum is not present, the directors present, not being less than thirty per cent of the number of Directors in office, shall form a quorum, and may transact the business standing to the order of the day.

#### **24.7. - Vacancies**

The continuing directors may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the number necessary for a quorum, the continuing directors or director may act only for the purpose of increasing the number of directors to the number necessary for a quorum or for the purpose of summoning a special meeting of The Company.

#### **24.8. - Voting**

24.8.1. Every director has one vote.

24.8.2. In case of equality of votes, the chairperson shall have a casting vote.

24.8.3. A resolution of The Board is passed if it is agreed to by all directors present without dissent or if a majority of the votes cast on it are in favour of it.

24.8.4. A director present at a meeting of The Board shall be presumed to have agreed to, and to have voted in favour of a resolution of The Board unless he expressly dissents from or votes against the resolution at the meeting.

#### **24.9. - Minutes**

The Board shall ensure that minutes are kept of all proceedings at meetings of The Board. Minutes which have been signed correct by the chairperson of the meeting at which they are read and approved shall be *prima facie* evidence of the proceedings. Any copies or extracts of any minutes shall be delivered under the signature of The Secretary.

#### **24.10. - Resolution in writing**

24.10.1. A resolution in writing, signed or assented to by all 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.

24.10.2. Any such resolution may consist of several documents (including facsimile or other similar means of communication) in like form each signed or assented to by one or more directors.

24.10.3. A copy of any such resolution shall be entered in the minute book of proceedings of The Board.

### **Article 25 - DIRECTORS' INDEMNITY AND REMUNERATION**

#### **25.1. - Indemnity authorised**

The Company is hereby expressly authorised to indemnify and/or insure any director or employee against liability for acts or omissions and/or costs incurred in connection with claims relating thereto of the type specifically contemplated by subsections (3), (4) and (6) of Section 161 of The Act to the maximum extent permitted by those subsections.

#### **25.2. - Directors' remuneration**

Subject to Section 159(5) to (10) of The Act The Board may, where it considers that it is fair to the company, approve:-

- (a) the payment of remuneration or the provision of other benefits by The Company to a director for services as a director or in any other capacity;
- (b) the payment by The Company to a director or former director of compensation for loss of office; and

- (c) the entering into of a contract to do any of the things set out in paragraphs (a) and (b) above.

### **25.3. - Director's gratuities**

25.3.1. Subject to the provisions of Section 159 of The Act, The Board on behalf of The Company may:

25.3.1.1. pay a gratuity or pension or allowance on retirement to any director of The Company or in the case of a director's death to his or her spouse or dependants; and

25.3.1.2. make contributions to any fund and pay premiums for the purchase or provision of any such retirement benefit.

25.3.2. The amount so paid or used as a base for calculating any such benefit shall not, without the sanction of an ordinary resolution of shareholders, exceed the total remuneration paid by The Company to such director as a director in respect of any three financial years selected by The Board during which he or she was a director. All such benefits paid or payable shall be in addition to normal amounts or benefits paid or payable to any such director from any superannuation scheme established by The Company or any of its subsidiaries.

## **Article 26 - THE SECRETARY**

### **26.1. - Company to have a secretary**

26.1.1. 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.

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

### **26.2. - 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, in terms of the provisions of Section 164 of the Act.

### **26.3. - Vacancy**

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

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

#### **26.4. - 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.

### **Article 27 - SEAL**

#### **27.1. - Company to have a seal**

The Company shall have a seal which shall be deposited at the office of The Company and shall be affixed to any document only by the authority of a resolution of The Board or of a committee of directors, authorised by The Board on that behalf. Every instrument to which the seal of The Company is so affixed shall be signed either by two Directors or by one Director and the Secretary or by such other persons as The Board may appoint from time to time for that purpose.

#### **27.2. - 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.

### **Article 28 - AUTHENTICATION OF DEEDS AND DOCUMENTS**

(a) All deeds, acts and documents executed on behalf of The Company shall be in such form and contain such powers, provisoes, conditions, covenants, clauses and agreements as The Board shall think fit, and shall be signed either by two Directors, or by one Director and the Secretary, or by such other person or persons as The Board may from time to time appoint.

(b) 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 the Secretary or by such other person or persons as aforesaid.

(c) Cheques or other negotiable instruments paid to The Company's Bankers for collection and requiring the endorsement of The Company, may be endorsed on its behalf by one of the directors or by the Secretary or by such other officer as The Board may from time to time appoint.

(d) All moneys belonging to The Company shall be paid to such bankers as The Board shall from time to time in writing or by resolution appoint and all receipts for money paid to The Company shall be signed by one of the directors or by the Secretary or such other Officer as aforesaid and such receipt shall be an effectual discharge for the money therein stated to have been received.

#### **Article 29 - ACTIONS AND 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.

#### **Article 30 - COMPANY RECORDS**

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

- (a) this constitution;
- (b) minutes of all meetings and resolutions of shareholders for the last seven years;
- (c) an interests register;
- (d) minutes of all meetings and resolutions of The Board and directors' committees for the last seven years;
- (e) certificates given by directors under The Act for the last seven 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 years, including annual reports;
- (h) copies of all financial statements and group financial statements for the last seven 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 completed accounting periods of The Company;
- (j) the share register required to be kept under paragraph 5.4. of this constitution; and
- (k) the copies of instruments creating or evidencing charges required to be registered under section 127 of The Act.

The abovementioned company records may be kept at any other location in Mauritius. However when The Company changes the location of the said records, the Registrar of



Companies shall be notified of the place at which the records are kept within fourteen days of the date of the change.

## **Article 31 - NOTICES**

### **31.1. - 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.

### **31.2. - Time of service**

A notice shall be deemed to have been served at the expiration of seven days after the envelope containing the same was duly posted.

### **31.3. - 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.

### **31.4. - 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.

### **31.5. - 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.

## **Article 32 - LIQUIDATION**

### **32.1. - Distribution of surplus assets**

Subject to the terms of issue of any shares in The Company and to paragraph 32.2., upon the liquidation of The Company the assets, if any, remaining after payment of the debts and liabilities of The Company and the costs of winding-up ("the surplus assets") shall be distributed among the shareholders in proportion to their shareholding provided however that the holders of shares not fully paid up shall only receive a proportionate share of their 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 either under this constitution of The Company or pursuant to the terms of issue of the shares.

### **32.2. - Distribution in specie**

Upon liquidation of The Company, the liquidator, with the sanction of an ordinary resolution of shareholders and any other sanction required by law, may divide amongst the shareholders in kind the whole or any part of 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 the liquidator deems fair upon any property to be divided as aforesaid and may determine how the division shall be carried out as between the shareholders or different classes of shareholders. The liquidator may, with a like sanction, vest the whole or any part of any such assets in trustees upon such trusts for the benefit of the shareholders as the liquidator thinks fit, but so that no shareholder shall be compelled to accept any shares or other securities whereon there is any liability.

## **Article 33 - 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.

## **Article 34 - ALTERATION OF CONSTITUTION**

Subject to the prior written approval of the Stock Exchange of Mauritius if and so long as The Company shall be listed on the Official List of the said Stock Exchange, The Company in general meeting may alter this constitution within the limits and under the conditions imposed by law.-

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**WHEREOF THIS DEED IS WITNESS.-**

Done and made in minute in Mauritius, in Port Louis, in the Office of the undersigned Notary.

IN THE YEAR OF OUR LORD TWO THOUSAND AND TWO.

On the fifteenth day of May.

The undersigned notary has read over the present deed to the appearer and, after having ascertained that he is sufficiently conversant with the english language to understand the contents of the said deed, he has caused him to sign it and initial.-

(s) Gilbert Espitalier Noel.

The undersigned Notary hereby declares that he has fulfilled all the formalities prescribed by Section 34 (1) paragraphs (a) to (e) of "The Notaries' Act - Revised Laws of Mauritius 1981" and he has signed these presents.-

(s) J.P. Montocchio.

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Registered at Mauritius on the sixteenth day of May two thousand and two. Reg: A 637



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**A TRUE COPY**