

## **Board Structure and Matters Reserved for the Board**

**March 2018**

### **Introduction**

It is necessary for Gem Diamonds Limited (the "**Company**") as a listed company, to have certain committees in place in order to satisfy corporate governance requirements. In addition, certain matters ("**Reserved Matters**") must be decided by the Board of Directors of the Company (the "**Board**").

The Reserved Matters should be read with the terms of reference of each of the committees which it is necessary for the Company to implement: The Audit Committee; the Nominations Committee; the Remuneration Committee; and the Health, Safety, Social and Environment Committee. The terms of reference detail how each of the committees will operate. These terms of reference are also available via the Company's website [www.gemdiamonds.com](http://www.gemdiamonds.com).

### **Board Structure**

The structure below enables the Board to concentrate its efforts on strategy, management and governance and control issues. It facilitates the routine business of the Company through appropriate committees and is designed to assist compliance with the Listing Rules and the UK Corporate Governance Code.

### **Matters Reserved for the Board**

#### **Terms of Reference:**

Key:

References to "Board committees" shall mean the Audit, Nominations, Remuneration and Health, Safety, Social and Environment committees.

References to "Audit", "Nominations", "Remuneration" or "Health and Safety" refer to the Board committee which will consider the item and make recommendations to the Board for its final decision.

"CGC" refers to the UK Corporate Governance Code as amended April 2016

"LR" refers to the FCA's Listing Rules

"PR" refers to the FCA's Prospectus Rules

"DTR" refers to the FCA's Disclosure Guidance and Transparency Rules

"CA" refers to the Companies Act 2006

"GBE" refers to the FRC Guidance on Board Effectiveness

"AD" refers to the Accounting Directive

Items marked \* are often considered by the whole Board but with the formal decision being delegated to a committee (set up solely for that purpose). This allows time for any changes requested at the Board meeting to be incorporated in the final document before publication.

## **1 Strategy and management**

- 1.1** Responsibility for the overall leadership of the Company and setting the company's values and standards. *(CGC: A.1)*
- 1.2** Approval of the Group's strategic aims and objectives and commercial strategy. *(CGC: A.1)*
- 1.3** Approval of the annual operating and capital expenditure budgets and any material changes to them.
- 1.4** Oversight of the Group's operations ensuring (CGC: C.2):
  - 1.4.1** competent and prudent management;
  - 1.4.2** sound planning;
  - 1.4.3** maintenance of sound management internal control;
  - 1.4.4** adequate accounting and other records; and
  - 1.4.5** compliance with statutory and regulatory obligations.
- 1.5** Review of performance in the light of the Group's strategy, objectives, business plans and budgets and ensuring that any necessary corrective action is taken. *(CGC A.1)*
- 1.6** Extension of the Group's activities into new business or geographic areas.
- 1.7** Any decision to cease to operate all or any material part of the Group's business.

## **2 Structure and capital**

- 2.1** Changes relating to the Group's capital structure including reduction of capital, share issues (except under employee share plans), share buybacks including the use of treasury shares.
- 2.2** Major changes to the group's corporate structure, including, but not limited to acquisitions and disposals of shares which are material relative to the size of the group in question (taking into account initial and deferred consideration).
- 2.3** Changes to the Group's management and control structure.
- 2.4** Any changes to the Company's listing or its status as a public limited company.

## **3 Financial reporting and controls**

- 3.1** \*Approval of half year report, trading updates and preliminary announcements final results. *(CGC: C.1, DTR 4.1 - 4.4)*
- 3.2** \*Approval of the annual report and accounts, including the corporate governance statement and remuneration report. *(CGC: C.1; CA 414; 415; DTR 4; LR 9.8)*

- 3.3** \*Approval of the dividend policy.
- 3.4** \*Declaration of the interim dividend and recommendation of the final dividend. *(LR 9.7; CGC: A.2, DTR 6.1.13)*
- 3.5** \*Approval of any significant changes in accounting policies or practices. *(CGC: C1 – 3)*
- 3.6** Approval of treasury policies, including foreign currency exposure and the use of financial derivatives.
- 3.7** Approval of material unbudgeted capital or operating expenditures (outside pre-determined tolerances).
- 3.8** Approve an annual report of payments of US\$ 116,000 or more (within a financial year) made to governments in the countries in which the Company operates.

#### **4 Internal controls and risk management**

- 4.1** Ensuring maintenance of a sound system of internal control and risk management including: *(CGC: C2; C2.3; UK Bribery Act 2010)*
  - 4.1.1** receiving reports on, and reviewing the effectiveness of, the Group's risk and control processes to support its strategy and objectives;
  - 4.1.2** Approving the company/group's risk appetite statements and carrying out a robust assessment of the principal risks;
  - 4.1.3** Approving procedures for the detection of fraud and the prevention of bribery;
  - 4.1.4** undertaking an annual assessment of these processes; and
  - 4.1.5** approving an appropriate statement for inclusion in the Annual Report.  
*(CGC C.2, C.2.3, Audit)*
  - 4.1.6** Approving the assessment of viability over a specified period.

#### **5 Loans, Bank Facilities and Hedging Instruments**

- 5.1.1** Approving loans and bank facilities above US\$ 5 million
- 5.1.2** Approving foreign currency hedging transactions above US\$ 5 million
  - 5.1.3** Approval of treasury policies, regular review of entry into banking facilities, foreign currency exposure and the use of financial derivatives.

#### **6 Contracts**

- 6.1** Approval of individual contracts for either capital or operational costs above US\$ 10m.

- 6.2** Contracts which are material strategically or by reason of size, entered into by the Company or any subsidiary in the ordinary course of business, for example contacts for the provision of services or outsource with an annual or total contract value above US\$ 10 million.
- 6.3** Contracts of the Company or any subsidiary not in the ordinary course of business, for example major acquisitions or disposals above US\$ 10 million.
- 6.4** Any investments including the acquisition or disposal of any interest in the voting shares of any company or the making of any takeover offer of more than US\$ 10 million (DTR 5)

## **7 Communication**

- 7.1** Ensuring a satisfactory dialogue with shareholders based on the mutual understanding of objectives (*CGC: E.1.1*).
- 7.2** Approval of resolutions and corresponding documentation to be put forward to shareholders at a general meeting. (*LR 13*).
- 7.3** \*Approval of all circulars and listing particulars (*LR13; PR 5.5*) (approval of routine documents such as periodic circulars about scrip dividend procedures or exercise of conversion rights may be delegated to a committee).
- 7.4** \*Approval of press releases concerning matters decided by the Board.

## **8 Board membership and other appointments**

- 8.1** \*Changes to the structure, size and composition of the Board, following recommendations from the nominations committee. (*Nominations, CGC: B.1*).
- 8.2** \*Ensuring adequate succession planning for the Board and senior management so as to maintain an appropriate balance of skills and experience within the company and on the board. (*CGC. B.2*)
- 8.3** \*Appointments to the Board, following recommendations by the nominations committee. (*Nominations, CGC: B.2.1*)
- 8.4** \*Selection of the Chairman of the Board and the Chief Executive. (*Nominations, GBE 1.4 – 1.8, 1.12 – 1.17, 4.1 – 4.7*)
- 8.5** \*Appointment of the Senior Independent Director to provide a sounding board for the chairman and to serve as intermediary for the other directors when necessary. (*CGC A.4.1, Nominations*)
- 8.6** \*Membership and Chairmanship of Board committees following recommendations from the nomination committee. (*Nominations*)
- 8.7** \*Continuation in office of directors at the end of their term of office, when they are due to be re-elected by shareholders at the AGM and otherwise as appropriate. (*Nominations*)

- 8.8** \*Continuation in office of any director at any time, including the suspension or termination of service of an executive director as an employee of the Company, subject to the law and their service contract. (*Nominations*)
- 8.9** \*Appointment or removal of the Company Secretary. (*CGC: B.5.2*).
- 8.10** \*Appointment, re-appointment or removal of the external auditor to be put to shareholders for approval, following the recommendation of the audit committee. (*CGC: C.3.7*).
- 8.11** Appointments to boards of subsidiaries.

## **9 Remuneration**

- 9.1** \*Determining the remuneration policy for the Directors, Company Secretary and other senior executives. (*Remuneration CGC: D.2.2*)
- 9.2** Determining the remuneration of the non-executive directors, subject to the articles of association and shareholder approval as appropriate. (*CGC: D.2.3*)
- 9.3** \*The introduction of new share incentive plans or major changes to existing plans, to be put to shareholders for approval. (*Remuneration, CGC D.2.4*)

## **10 Delegation of authority**

- 10.1** \*The division of responsibilities between the Chairman and the Chief Executive (to the extent appropriate), which should be in writing and agreed by the Board. (*CGC: A.2.1*)
- 10.2** Approval of the delegated levels of authority, including the Chief Executive's authority limits (which must be in writing).
- 10.3** \*Approval of Terms of Reference of Board committees. (*CGC: B.2.1, C.3.1 D.2.1*)
- 10.4** \*Receiving reports from Board committees on their activities.

## **11 Corporate governance matters**

- 11.1** \*Undertaking a formal and rigorous review annually of its own performance, that of its committees and individual directors. (*CGC: B.6*)
- 11.2** \*Determining the independence of non-executive directors in light of their character, judgment and relationships. (*CGC: B.1.1*)
- 11.3** \*Considering the balance of interests between shareholders, employees, customers and the community. (*CA S 172*)
- 11.4** Review of the Group's overall corporate governance arrangements.
- 11.5** \*Receiving reports on the views of the Company's shareholders to ensure that they are communicated to the Board as a whole. (*CGC: E.1.1*)

**11.6** Authorising conflicts of interest where permitted by the Company's articles of association.

## **12 Policies and statements**

Approval of policies, including (CGC: A.1):

- 12.1.1** Code of Conduct
- 12.1.2** Bribery prevention policy
- 12.1.3** Whistleblowing policy
- 12.1.4** Share dealing code
- 12.1.5** Health and safety policy
- 12.1.6** Environmental Sustainability policy
- 12.1.7** Communications policy including procedures for the release of price-sensitive information
- 12.1.8** Corporate social responsibility policy
- 12.1.9** Charitable donations policy
- 12.1.10** Human resources policy
- 12.1.11** Anti-slavery and human trafficking statement
- 12.1.12** Disclosure policy manual

## **13 Other**

- 13.1** The making of political donations.
- 13.2** Approval of the appointment of the Group's principal professional advisers.
- 13.3** Prosecution, commencement, defence or settlement of litigation involving above US\$500,000 or being otherwise material to the interests of the Group.
- 13.4** Approval of the overall levels of insurance for the Group including Directors' & Officers' liability insurance and indemnification of directors. (CGC: A.1.3)
- 13.5** Major changes to the rules of any company's pension scheme, or changes of trustees or when this is subject to the approval of the company changes in the fund management arrangements. Where there is a liability for a defined benefit pension scheme within the group however arising, for example as a result of an acquisition, the board will ensure that appropriate

controls are in place which accord with Corporate Governance best practice, including overseeing the appointment of the scheme trustee.

- 13.6** Any decision likely to have a material impact on the company or group from any perspective, including, but not limited to, financial, operational, strategic or reputational.
- 13.7** Matters which the Board considers suitable for delegation are contained in the Terms of Reference of its Committees.
- 13.8** In addition, the Board will receive reports and recommendations from time to time on any matter which it considers significant to the Group.