



Western Coal

CORPORATE GOVERNANCE, NOMINATING & COMPENSATION COMMITTEE

TERMS OF REFERENCE

A. PURPOSE

The purposes of the Corporate Governance, Nominating and Compensation Committee (the "Committee") are:

- (i) to propose new members to the Board of Directors of the Company (the "Board"), establish criteria for Board membership, recommend composition of the Board and its committees and assess Directors' performance on an ongoing basis;
- (ii) to provide a focus on corporate governance that will enhance corporate performance and to ensure on behalf of the Board and shareholders of the Company that the Company's corporate governance system is effective in the discharge of its obligations to the Company's stakeholders; and
- (iii) assist the Board in fulfilling its oversight responsibilities with respect to (a) key compensation and human resources policies; (b) compensation for senior executives, including the Chief Executive Officer; and (c) succession and development of senior executives, including the Chief Executive Officer.

B. COMPOSITION, PROCEDURES AND ORGANIZATION

1. The Board, at its organizational meeting held in conjunction with each annual general meeting of the shareholders, shall appoint the members of the Committee and the Chair for the ensuing year. The Board may at any time remove or replace any member of the Committee and may fill any vacancy in the Committee.
2. The Committee shall consist of at least three members of the Board, all of whom shall be independent as defined by applicable securities laws, rules and regulations. The Chair of the Board shall be an ex-officio member of the Committee.
3. If the Chair is not present at any meeting of the Committee, one of the other members of the Committee present at the meeting shall be chosen by the Committee to preside at the meeting.
4. The Secretary of the Company shall be the Secretary of the Committee, unless otherwise determined by the Committee.
5. The Committee shall meet regularly each year on such dates and at such locations as the Chair of the Committee shall determine and may also meet at any other time or times on the call of the Chair of the Committee or any two of the other members.

6. The quorum for meetings shall be a majority of the members of the Company, present in person or by telephone or other telecommunication device that permits all persons participating in the meeting to speak and to hear each other. The Committee may also act by unanimous written consent of its members.
7. The Chief Executive Officer shall be available to advise the Committee, shall receive notice of all meetings of the Committee and may attend meetings at the invitation of the Chair of the Committee.
8. Notice of the time and place of every meeting shall be given in writing or by e-mail or facsimile communication to each member of the Committee at least 24 hours prior to the time fixed for such meeting; provided, however, that a member may in any manner waive a notice of a meeting and attendance of a member at a meeting is a waiver of notice of the meeting, except where a member attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.
9. The Chair shall develop and set the Committee's agenda, in consultation with other members of the Committee, the Board and management. The agenda and information concerning the business to be conducted at each Committee meeting shall, to the extent practical, be communicated to the members of the Committee sufficiently in advance of each meeting to permit meaningful review.
10. The Committee shall have the power to delegate its authority and duties to subcommittees or individual members of the Committee as it considers appropriate.
11. In discharging its responsibilities, the Committee shall have full access to all books, records, facilities and personnel of the Company.
12. At the invitation of the Chair, one or more officers or employees of the Company may, and if required by the Committee shall, attend a meeting of the Committee.
13. The Committee shall fix its own procedure at meetings, keep records of its proceedings and report to the Board when the Committee may deem appropriate (but not later than the next meeting of the Board).

C. OUTSIDE CONSULTANTS AND ADVISORS

The Committee, when it considers it necessary or advisable, may retain, at the Company's expense, outside consultants or advisors to assist or advise the Committee independently on any matter within its mandate. The Committee shall have the sole authority to retain and terminate any such consultants or advisors or any search firm to be used to identify director candidates, including sole authority to approve the fees and other retention terms for such persons.

In particular, the Committee shall approve the retention of any consultant engaged by the Company for the purposes of reviewing executive compensation and shall have responsibility for approving any comparator group to be used for benchmarking executive compensation. Such authority and responsibility may be delegated by the Committee to the Chair if considered appropriate but may not be delegated to management.

D. DUTIES AND RESPONSIBILITIES – CORPORATE GOVERNANCE AND NOMINATING

The governance and nominating duties and responsibilities of the Committee shall be as follows:

Corporate Governance Duties

1. to develop and monitor the Company's overall approach to corporate governance issues and, subject to approval by the Board, to implement and administer a corporate governance system with emphasis on superior corporate governance practices;
2. to report annually to the Company's shareholders on the Company's approach to corporate governance;
3. to advise the Board or any of the committees of the Board of any corporate governance issues which the Committee determines ought to be considered by the Board or any such committee;
4. to review, on a regular basis but not less than annually, the role of the Board, the terms of reference of each of the committees of the Board and the methods and processes by which the Board fulfills its duties and responsibilities, including without limitation:
 - (a) the number and content of meetings;
 - (b) the annual schedule of issues to be presented to the Board at its meetings or those of its committees;
 - (c) material which is to be provided to the Directors generally and with respect to meetings of the Board or its committees;
 - (d) resources available to Directors;
 - (e) the communication process between the Board and management;
 - (f) Director orientation and education; and
 - (g) the contents of the Board manual;
5. to approve position descriptions for the Chair, the Committee Chairs, individual Directors and the Chief Executive Officer for the purpose of assessing their performance;
6. to oversee the development and implementation of a director orientation and ongoing education program;

7. to establish and administer a process for assessing the effectiveness of the Board as a whole, the committees of the Board, the Chair of the Board, the Committee Chairs and individual Directors;
8. to receive a report from management on any issues arising from the Code of Business Ethics and consider any required waivers;
9. to review compliance with and consider any changes required or recommended to the Company's governance policies, including without limitation, the Code of Business Ethics, the Insider Trading and Reporting Policy, the Disclosure and Confidentiality Policy and the Conflict of Interest Policy, on an annual basis;
10. to review the share ownership policy for directors and management and recommend any changes to the Board; and
11. to receive a report, at least annually, from management on the Company's community investment programs and political and charitable donations.

Nominating Duties

1. to recommend to the Board, annually, the members proposed for re-election to the Board and identify and recommend new nominees for the Board;
2. to recommend to the Board, annually, the assignment of members to the committees of the Board and the Chair for each committee;
3. in consultation with the Board to consider the competencies and skills the Board should have, the competencies and skills that the existing Directors have and the competencies and skills required for nominees to the Board and to establish criteria for Board membership and recommend Board composition; and
4. to develop and oversee a process for director succession, including reviewing and assessing new candidates for appointment or nomination to the Board.

E. DUTIES AND RESPONSIBILITIES – HUMAN RESOURCES AND COMPENSATION

The human resources and compensation duties and responsibilities of the Committee shall be as follows:

1. to ensure that the Company has in place programs to attract and develop management of the highest calibre and a process to provide for the orderly succession of senior executives including the annual receipt of the Chief Executive Officer's current recommendations;
3. to develop and maintain a position description for the Chief Executive Officer and to assess the performance of the Chief Executive Officer against such position description and the Chief Executive Officer's goals and objectives;
4. to review and recommend for approval by the Board the annual salary, bonus and other benefits, direct and indirect, including targets tied to corporate goals and objectives, of the Chief Executive Officer;

5. to approve compensation, incentive plans and equity-based plans for all other key executive officers of the Company after considering the recommendations of the Chief Executive Officer, all within the compensation policies and guidelines approved by the Board;
5. to recommend to the Board compensation policies and guidelines to the Company and to oversee the implementation and administration of compensation policies and programs concerning the following:
 - (a) executive compensation, contracts, stock plans or other incentive plans; and
 - (b) proposed personnel changes involving officers reporting to the Chief Executive Officer;
6. to receive from the Chief Executive Officer recommendations concerning annual compensation policies and budgets for all non-union employees;
7. to review the Company's policies and programs on compensation for all employees, including those relating to pensions and benefits;
8. to review the Company's overall labour relations strategy for organized employees and at least annually and otherwise as considered necessary, to review the labour relations environment for the Company and report to the Board with respect to any issues arising therefrom.
9. to periodically review the adequacy and form of the compensation of Directors and to ensure that the compensation realistically reflects the responsibilities and risks involved in being an effective Director, and to report and make recommendations to the Board accordingly;
10. to review the executive compensation disclosure, including the Compensation Discussion and Analysis, to be contained in the Management Information Circular for any meeting of the shareholders and recommend its approval by the Board of Directors;
11. to receive reports regarding the Company's pension, retirement and savings plans and to consider and recommend to the Board approval of any changes in the Company's pension, retirement and savings plans, as such changes relate to compensation and benefits;
12. to report regularly to the Board on all of the Committee's activities and findings during that year; and
13. to review these terms of reference and the calendar of activities, attached as Appendix A, and to submit any recommended changes thereto for approval by the Board of Directors.

APPENDIX A

CORPORATE GOVERNANCE, NOMINATING AND COMPENSATION COMMITTEE

CALENDAR OF ACTIVITIES

DESCRIPTION OF ACTIVITY	FEBRUARY	JUNE	JULY/AUGUST
Approve minutes of last meeting	X	X	
GOVERNANCE AND NOMINATING			
Evaluate performance of the Board, Committees, the Board Chair, Committee Chairs and Individual Directors	X		
Review of corporate governance practices, including the role of the Board, the Terms of Reference of the Board, each Committee, the Chair, the Committee Chairs and the CEO and the methods and processes by which the Board fulfills its duties and responsibilities, including: <ul style="list-style-type: none"> (a) Number and Content of Meetings (b) Annual Schedule of Issues to be Presented to the Board at its Meetings and Committee Meetings (c) Material which is to be Provided to the Directors generally and with respect to Meetings of the Board and its Committees (d) Resources Available to Directors (e) Communication Process between the Board and Management (f) Director Orientation and Education (g) Board Manual 	X		
Review Board composition and succession planning, including director independence and required competencies and skills	X		
Review compliance with and any recommended changes to the Code of Business	X		

Ethics, Communications Policy, Insider Trading Policy and Conflicts of Interest Policy			
Receive report on community investment programs and political and charitable donations	X		
Approve report on statement of corporate governance for management information circular			X
Recommend director nominees to the Board			X
Recommend to the Board the assignment of Committee members and Chairs			X
Review Director and officers' share ownership			X
HUMAN RESOURCES AND COMPENSATION			
Review compensation policies, guidelines and programs, including those relating to pensions and benefits, and compensation issues and trends	X		
Report on compensation policies and budgets for non-bargaining unit employees	X		
Review of issues with bargaining unit employees	X		
Review report on pension and savings plans and review recommended changes	X		
CEO report on succession planning	X		
Performance review of CEO		X	
Review and approve compensation for senior executives, including incentive, benefit and pension plans		X	
Approval of Short Term Incentive Plan awards		X	

Approval of Long Term Incentive Plan awards/stock options		X	
Receipt of objectives of CEO and Senior Officers		X	
Review of Directors' Compensation		X	
Approve executive compensation disclosure, including Compensation Discussion and Analysis, for management information circular			X