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| <b>GraceKennedy Limited Policy</b> |  |
| Policy                             | <b>TERMS OF REFERENCE FOR DIRECTORS<br/>GRACEKENNEDY LIMITED</b> |

**1. Applicability of Terms of Reference**

These Terms of Reference shall apply to the Directors of GraceKennedy Limited (the Company) and, where appropriate, may be adopted in similar form, by subsidiary companies of GraceKennedy Limited. It is the duty of the board of a company to make the relevant adjustments before adoption. Where applicable the provisions of law in the local territory will supersede the provisions of these Terms of Reference

**2. Board Independence**

All directors should bring an independent judgment to bear on all issues which are for the Board's consideration.

There should be a procedure agreed by the Board for individual directors in the furtherance of their duties, to take independent professional advice if necessary, at the Company's expense.

**3. Directors Training**

Every director should receive appropriate training on the first occasion that the Director is appointed to the Board and thereafter at least annually.

**4. Board Meetings & Quorum**

- 4.1 The Board should meet regularly and have in place a formal schedule of matters specifically reserved to it for decision.
- 4.2 The Quorum for meetings shall be forty percent (40%) of the Board members and shall include a minimum of two (2) independent non-executive directors.

**5. Board Committees**

The Board may establish Board committees to carry out any of its functions as it may deem fit and shall review and approve the Terms of Reference of such Committees. Committees established by GraceKennedy Limited include the Corporate Governance & Nomination Committee (CGNC) and the Audit Committee. All non-executive directors shall be members of the CGNC and be appointed as members at the same time that they are appointed to the Board. It is recommended that all publicly listed companies and/or regulated entities within the Group establish their own Audit Committees. The GraceKennedy Audit Committee will cover audit matters for companies within the Group who do not have their own audit committees and have general oversight of audit matters for companies with their own audit committees.

**6. Board Attendance and Participation**

Directors are required to attend board and assigned board committee meetings regularly and to prepare for and participate actively in meetings. In order to facilitate Directors' preparation for and participating in meetings, management has an obligation to provide the

Board with appropriate and timely information, but information volunteered by management is unlikely to be enough in all circumstances and directors should make further enquiries where necessary.

## **7. GraceKennedy Code of Ethics & Guidelines for Business Conduct**

Directors within the Group are provided with the GraceKennedy Code of Ethics & Guidelines for Business Conduct (“the GraceKennedy Code of Ethics”) on appointment and are required to observe the principles established in this code.

Directors are required to confirm compliance with the GraceKennedy Code of Ethics once per year in the prescribed manner.

## **8. Conflicts of Interest**

8.1 Directors are required to observe the provisions of the GraceKennedy Code of Ethics and the Group Disclosure of Interests Policy in relation to conflicts of interest. On appointment and annually as at the 1<sup>st</sup> of each year Directors are required to disclose to the Board other Board directorships and business interests in the prescribed manner. Directors are required to update their disclosure of Interests from time to time during the year where there are changes that are required to be disclosed. Directors should notify the Board Chair prior to the change /appointment taking effect. Notwithstanding such notification the Director must submit an updated disclosure of interests in the prescribed manner.

8.2 Directors shall avoid circumstances which, whether directly or indirectly, constitute a conflict with the Director’s interests and the interests of the Company. A Director who is directly or indirectly interested in a matter which may constitute a conflict of interest with the Director’s interests and the interests of the Company:

- (i) shall disclose the nature of the Director’s interest at a meeting of the directors;
- (ii) shall not take part in any deliberations at the meeting of the directors in respect of that matter.

The duty under this section 8.2 applies in particular to the exploitation of any property, information or opportunity (and it is immaterial whether the Company could take advantage of the property, information or opportunity).

8.3 A Director of the Company shall not accept a benefit from a third party conferred by reason of:

- (i) the person being a director; or
- (ii) the person doing or not doing an act as a director, unless the acceptance of the benefit cannot reasonably be regarded as likely to give rise to a conflict of interest.

8.4 In this section 8:

- (i) a “conflict of interest” includes, a conflict of interest and duty and a conflict of duties; and
- (ii) “third party” means a person other than the Company, its holding company or subsidiary company or any person acting on behalf of the Company, its holding company or subsidiary company.

Directors shall be absent from consideration of and refrain from voting on contracts or proposed contracts between:

- (i) the director and the Company
- (ii) the Company and any entity in which the director holds an interest or is a director or an officer; or
- (iii) the Company and an associate<sup>1</sup> of the director<sup>2</sup>

## **9. Contracts with the Company**

9.1 Directors are required to disclose to the Board:

- (i) Any contracts or proposed contracts with the Company,
- (ii) Any interest which such Director has in any company or other entity or body that is a party to a contract or proposed contract with the Company,
- (iii) Any interest which an associate of the Director may have in a contract or proposed contract with the Company and shall indicate to the board the nature and extent of the Director's interest.

9.2 Such disclosures are to be made:

- (i) At the meeting of the Board when the proposed contract is first considered or,
- (ii) If the Director was not then interested in a proposed contract, at the first meeting after the Director becomes so interested, or
- (iii) If a person who is interested in a contract later becomes a director of the Company, at the first meeting after the person becomes a director.<sup>3</sup>

## **10. Insider Trading**

Directors are required to observe insider trading restrictions provided for by law and avoid trading in the securities of GraceKennedy Limited or other publicly listed company within the Group when in possession of unpublished price sensitive information.<sup>4</sup> Directors are subject to criminal prosecution for breaches of insider trading provisions.<sup>5</sup>

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<sup>1</sup> associate" in relation to any person means—

*(a) a company or body corporate of which that person beneficially owns or controls, directly or indirectly, shares or debentures convertible into shares, that carry more than 20 percent of the voting rights—*

*(i) under all circumstances;*

*(ii) by reason of the occurrence of an event that is continuing; or*

*(iii) by reason of a currently exercisable option or right to purchase those shares or those convertible debentures; (b) a partner of that person acting on behalf of the partnership of which they are partners; (c) a trust or estate in which that person has a substantial beneficial interest or in respect of which he serves as a trustee or in a similar capacity; (d) a spouse of that person; (e) a child, step-child or adopted child of that person; (f) an immediate relative of that person or of his spouse;*

<sup>2</sup> See for example Article 97 of the GraceKennedy Limited Articles of Incorporation.

<sup>3</sup> The Companies Act of Jamaica, Section 193

<sup>4</sup> Under Section 51 of the Securities Act directors and others are prohibited from dealing with the securities of a publicly listed company when in possession of information which is not generally known to the public and if generally known would affect the price of the security ("unpublished price sensitive information"). This obligation remains for a period of 12 months following the date of termination of the *director's association with the listed company*. See also the *GraceKennedy Code of Ethics Guidelines for Business Conduct and the provisions of the GraceKennedy Group Insider Trading Policy*.

<sup>5</sup> Example, under the provisions of Section 52 of the Securities Act of Jamaica persons in breach of the insider trading laws may be liable to a fine or to imprisonment of up to ten years.

## **11. Directors Duties and Responsibilities**

### **11.1 Fiduciary Duty**

All Directors of the Company, in exercising their powers and discharging their duties, are required to act ***honestly and in good faith and in the best interests of the Company.***<sup>6</sup>

### **11.2 Duty of Care and Skill**

11.2.1 Directors are required to exercise due care, diligence and skill and in so doing to ***exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances, including but not limited to the general knowledge, skill and experience of the particular Director.***

11.2.2 A Director of the Company shall not be in breach of their duties if the Director exercised due care, diligence and skill in the performance of the duty or believed in the existence of facts that, if true, would render the Director's conduct reasonably prudent.<sup>7</sup>

11.2.3 A Director will be deemed to have acted with due care, diligence and skill where, in the absence of fraud or bad faith, the Director reasonably relied in good faith on documents relating to the Company's affairs, including financial statements, reports of experts or on information presented by other Directors or, when appropriate, other officers and professionals.<sup>8</sup>

11.2.4 In determining what are the best interests of the Company, a Director may have regard to the interests of the Company's shareholders and employees and the community in which the Company operates.

11.2.5 The duties imposed on Directors are owed to the Company alone (and not to individual shareholders).

11.2.6 Directors carrying out management functions under a contract of service may by virtue of their contracts be required to observe a higher standard of care than set out in paragraphs 11.1 and 11.2.1.

## **12. Confidentiality**

Directors have a duty of confidentiality regarding the Company's affairs.<sup>9</sup>

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<sup>6</sup> See for example Section 174 (1) (a) of the Companies Act of Jamaica.

<sup>7</sup> See Section 174 (2) of the Companies Act of Jamaica

<sup>8</sup> See Section 174 (3) of the Companies Act of Jamaica

<sup>9</sup> Note that under the Banking Services Act of Jamaica, Directors of a Bank are also specifically to maintain the confidentiality of customer information.

**13. Role of the Secretary**

All Directors should have access to the impartial advice and services of the Company Secretary who is responsible to the Board for ensuring that Board procedures are followed, and that applicable rules and regulations are complied with. Under the direction of the Chairman the Company Secretary's responsibilities include facilitating induction and professional development, ensuring good information flows within the Board, its committees and between non-executive directors and senior management.

**14. Board Evaluation**

The Board is required to conduct an evaluation of its performance annually .

**15. Review of Terms of Reference**

The Terms of Reference of the Board shall be reviewed annually.