

CHAPTER 285.

DIAMOND CORPORATIONS AGREEMENT (1959) (RATIFICATION).

¹⁷ of 1959. **An Ordinance to Ratify and Confirm an Agreement for the Export and Marketing of Alluvial Diamonds.**

[3RD SEPTEMBER, 1959.]

WHEREAS an Agreement was made on the 13th day of June, 1959, between the Governor of Sierra Leone of the first part, the Diamond Corporation Limited of the second part and the Diamond Corporation Sierra Leone Limited of the third part, which Agreement is set out in the Schedule to this Ordinance:

AND WHEREAS it is desirable that the aforesaid Agreement should be ratified and confirmed.

Short title.

1. This Ordinance may be cited as the Diamond Corporations Agreement (1959) (Ratification) Ordinance.

Confirmation of Agreement and conferment of powers.

2. The aforesaid Agreement is hereby ratified and confirmed, and all rights and obligations purported to be conferred or imposed thereby are hereby declared valid any law to the contrary notwithstanding and notwithstanding anything in any law contained the Governor or any other person shall have power to do on behalf of the Government of Sierra Leone any act which the said Agreement may require or allow in the name of the Governor or of the Government.

Incorporation and powers of Government Diamond Office.

3. (1) The Government Diamond Office established under the aforesaid Agreement shall be a body corporate with perpetual succession and a common seal and with power to sue and be sued in its corporate name.

(2) The Government Diamond Office shall have the power to acquire and to hold, manage and dispose of property whether real or personal, whether by investment or otherwise, and may enter into any contract necessary for the discharge of its functions under the said Agreement:

Provided that the Government Diamond Office shall not alienate, mortgage, charge or demise any of its immovable property without the prior consent of the Minister for the time being responsible for the subject of mining.

(3) The Government Diamond Office, with the prior consent of the Governor in Council, may from time to time raise or borrow such sums of money for or in connection with the purposes of this Ordinance as it may think fit.

(4) The common seal of the Government Diamond Office shall not be used or affixed to any document save in pursuance of a resolution in that behalf passed at a duly constituted meeting of the Executive Board of the Government Diamond Office, which resolution shall be recorded in the minutes of such meeting.

(5) The provisions of the Interpretation Ordinance shall apply to the appointment of Members of the Executive Board of the Government Diamond Office and, subject thereto, such Members shall hold office for two years from the dates of their respective appointments and shall be eligible for re-appointment for one or more like terms. Cap. 1

(6) The Executive Board of the Government Diamond Office may make rules to regulate its proceedings and to provide for the conduct of the business of the Government Diamond Office.

SCHEDULE.

THIS AGREEMENT made the Thirteenth day of June One thousand nine hundred and fifty-nine BETWEEN THE GOVERNOR OF SIERRA LEONE acting for and on behalf of the Government of Sierra Leone (hereinafter called "the Government") of the first part THE DIAMOND CORPORATION, LIMITED a Company incorporated in the Union of South Africa and having its registered office at Consolidated Buildings Stockdale Street Kimberley South Africa (hereinafter called "the Corporation") of the second part and THE DIAMOND CORPORATION SIERRA LEONE LIMITED a Company incorporated in Sierra Leone having its registered office at 7 Walpole Street Freetown Sierra Leone (hereinafter called "Dicosil") of the third part, WITNESSETH—

WHEREAS:

- (i) Sierra Leone is one of the principal diamond producing countries of the world and in the interests of the country and of its inhabitants it is the purpose of the Government of Sierra Leone to promote the orderly prosperity of the diamond industry in general and in particular to maintain the stability of that industry by ensuring the payment of prices not less than a guaranteed minimum price to Sierra Leone diamond producers;
- (ii) Large quantities of diamonds are produced by African miners and native firms of Sierra Leone licensed under the provisions of the Alluvial Diamond Mining Ordinance, 1956, as from time to time amended hereinafter referred to as "the Ordinance";
- (iii) Dicosil is a wholly-owned subsidiary of the Corporation and was formed *inter alia* for the purpose of purchasing under the provisions of an agreement between Dicosil and the Government the diamond production of all licensed African miners and native firms of Sierra Leone;
- (iv) The Government is satisfied and has determined that it is in the best interests of the diamond mining industry of Sierra Leone that a Government Diamond Office shall be established in Sierra Leone and that with effect from the first day of August one thousand nine hundred and fifty-nine all diamonds produced in Sierra Leone in accordance with the provisions of the Ordinance should be exported and marketed solely and only through and by the Government Diamond Office;
- (v) The Corporation is willing if so appointed (a) to manage the Government Diamond Office when the same has been established as aforesaid (b) to buy in accordance with the provisions of this Agreement all diamonds to be exported and marketed through and by the Government Diamond Office and (c) to train citizens of Sierra Leone in the highly skilled art of sorting and valuation of diamonds.

NOW THEREFORE IT IS HEREBY AGREED by and between the parties hereto as follows—

1. IN this Agreement unless the Context otherwise requires "Government Diamond Office" means the Government Diamond Office established under Clause 3 of this Agreement and "producer" means an Alluvial Diamond Miner and includes an Alluvial Diamond Dealer licensed under and a Native Firm as defined in the Ordinance. "Sample Parcel" means the Sierra Leone Sample Parcel which was inspected and agreed by Messrs. Triefus & Co., Limited on behalf of the Government of Sierra Leone on the Seventh day of September One thousand nine hundred and fifty-five.

2. THE Government will introduce and use its best endeavours to cause to be passed any legislation which may be necessary to ratify this Agreement and implement the terms thereof.

3. (i) The Government shall establish a Government Diamond Office which shall function through and be controlled by an Executive Board;

(ii) The Executive Board shall consist of five members of whom three shall be appointed by the Governor and two shall be appointed by the Corporation. The Governor shall appoint one of their number as Chairman;

(iii) The Quorum for meetings of the Executive Board shall be three of whom one shall be a member appointed by the Corporation in terms of Sub-clause (ii) of this Clause.

4. THE Executive Board shall have the right *inter alia* to delegate and assign to the managers such powers privileges or functions of the Board as the Board may in its discretion deem appropriate.

5. THE Government shall appoint an independent firm of valuators of acceptable qualifications or when practicable a diamond valuator who shall be a person of Sierra Leone origin. Such firm or person shall be paid by the Government to advise the Government Diamond Office on all matters affecting the valuation of diamonds the subject of this Agreement and to make separate and independent valuations as may be required in order to ensure that such diamonds have been valued in accordance with the Sample Parcel.

6. THE Government Diamond Office shall be the sole and exclusive Alluvial Diamond Exporter licensed in that behalf under the provisions of the Ordinance.

7. THE Government hereby appoints the Corporation to act as Managers of the Government Diamond Office and the Corporation hereby agrees to act in such capacity during the currency of this Agreement or any renewal or extension thereof upon the terms and conditions herein set out.

8. THE Agreement shall commence on the First day of August One thousand nine hundred and fifty-nine and shall continue for a period of 5 (five) years terminating on the Thirty-first day of July One thousand nine hundred and sixty-four. Unless either the Government or the Corporation shall not later than the Thirty-first day of July One thousand nine hundred and sixty-three have given to the other of them notice in writing of its intention to determine the Agreement on the Thirty-first day of July One thousand nine hundred and sixty-four the Agreement shall continue in force thereafter indefinitely until either the Government or the Corporation shall give to the other not less than 12 (twelve) calendar months' notice in writing of its intention to determine the same such notice to expire on the Thirty-first day of July in any subsequent year.

9. IN pursuance of its duties as managers aforesaid the Corporation will establish an office for the Government Diamond Office at Kenema or at such other place in Sierra Leone as may be mutually agreed between the Government and the Corporation and the Corporation undertakes to engage and provide (and insofar as may be practicable recruit from citizens of Sierra Leone) such complete and competent staff as may be necessary for the due administration and control of such office and further and in particular the Corporation will utilise and make available its technical experience and knowledge in pursuance of its management in the active and detailed training

of citizens of Sierra Leone in the sorting and valuation of diamonds in all the branches and phases of this skilled function of the diamond industry.

10. ALL costs and expenses reasonably incurred in the establishment administration and control of the Government Diamond Office shall be borne by the Corporation.

11. (a) The Corporation warrants that it will sort and value all diamonds rendered to the Government Diamond Office for export and marketing in accordance with the agreed Sample Parcel. Provided that the prices attributable to the constituent lots which make up the sample parcel may from time to time be varied by agreement between the Executive Board and the Corporation and in case of disagreement the matter shall be referred to the Government Valuator whose decision shall be final.

(b) The prices which during the currency of this Agreement will be payable to producers shall be diminished by 1% (one per centum) thereof or by 6% (six per centum) in accordance with Sub-clause (h) of this Clause.

(c) The Government warrants that the Government Diamond Office will offer to the Corporation and the Corporation will undertake for a period of 5 (five) years from the First day of August One thousand nine hundred and fifty-nine to buy all diamonds produced in Sierra Leone (except as hereinafter mentioned) delivered to the Government Diamond Office for export and marketing which diamonds shall be offered to the Corporation by the Government Diamond Office on behalf of the producers according to the assortment and prices arrived at in terms and provisions of Sub-Clauses (a) and (b) of this Clause and the Corporation will purchase such diamonds from the Government Diamond Office on behalf of the producers at those prices.

(d) Should the producer of any diamonds brought to the Government Diamond Office for the purpose of export and marketing which may be valued in accordance with the provisions of Sub-clause (a) of this Clause at £5,000 (Five thousand pounds) or more or such other amount as may be determined from time to time by the Executive Board of the Government Diamond Office not wish to accept the price payable therefor by the Government Diamond Office in accordance with the foregoing sub-clauses the Government Diamond Office shall at the request of such producer ship such diamonds from time to time to London where the Corporation will arrange for them to be offered for sale by tender to any of the buyers on the accredited lists of the Central Selling Organisation, The Diamond Trading Company or to any person or persons recommended by the Government. The Government Diamond Office may defer the shipment for offer for sale by tender of any diamonds covered by this sub-clause until the total value thereof shall be not less than £50,000 (Fifty thousand pounds) or such other amount as may be decided from time to time by the Executive Board or until a shipment under Sub-clause (e) is made whichever is the earlier. The nett receipts for any sales made in the manner aforesaid shall be distributed by the Government Diamond Office amongst the producers concerned in proportion to the respective valuations of their diamonds made in accordance with the provisions of Sub-clauses (a) and (b) of this Clause.

(e) Individual parcels valued at £10,000 (Ten thousand pounds) or above or such other amounts as may be determined from time to time by the Executive Board shall at the request of the producer be shipped to London and put out to tender and the proceeds after the deduction of commission and taxes paid to the producer by the Government Diamond Office. In such cases the producer may appoint by arrangement with the Executive Board a



representative agreeable to both parties to be present while the parcel is offered for sale.

(f) No producer of diamonds having once delivered the same to the Government Diamond Office for tendering shall be entitled to withdraw or obtain re-delivery to him of the said diamonds.

(g) The Government Diamond Office will arrange to advance by way of loan to any producer whose diamonds are being dealt with in accordance with Sub-clauses (d) and (e) of this Clause and who desires such loan not more than 75% (Seventy-five per centum) of the valuation of the diamonds in question made in terms of Sub-clauses (a) and (b) of this Clause. The first £75,000 (Seventy-five thousand pounds) of such loan shall be free of interest and thereafter a rate of interest of 2% (two per centum) above British Bank Rate for the time being shall be payable.

(h) There shall be deductible from the proceeds of the sale of diamonds sold at tender in terms of Sub-clauses (d) and (e) of this Clause a commission payable in London to the Company effecting the sale equal to 6% (six per centum) of such sale price.

(i) The proceeds after the deduction of the 1% (one per centum) or 6% (six per centum) as specified in Sub-clauses (b) and (h) of this Clause (subject to the provisions of Sub-clause (g) of this Clause) of all sales effected in accordance with Sub-paragraphs (c) or (d) and (e) of this Clause shall be subject to the deductions to be made by the Government Diamond Office in respect of Export Duty Alluvial Diamond Tax or any other Tax from time to time in force relating thereto which said taxes shall be borne by the producers of diamonds so sold. Such proceeds shall be paid to the Government Diamond Office as agents for the respective sellers and the Government Diamond Office shall after making such deductions aforesaid distribute the nett proceeds to the sellers concerned within one calendar month after the date of Shipment from Sierra Leone.

12. NOTWITHSTANDING the provisions of Clauses 8 and 11 (c) hereof should the Corporation at any time hold unsold in its hands a stock of diamonds bought through the Government Diamond Office in terms of this Agreement of the value of £3,000,000 (Three million pounds) or more the Corporation shall be entitled to approach the Government to secure such changes in this Agreement as may seem desirable in the circumstances and failing Agreement between the Government and the Corporation in regard to such changes either party shall be at liberty to determine this Agreement but not before this Agreement has been in operation for three years. The Corporation however undertakes to procure that in each six-monthly period from January to June and from July to December of each year covered by this Agreement the sales of Sierra Leone gem diamonds purchased by it through the Government Diamond Office shall not be in lesser proportion to such purchases than the proportion of total sales of gem diamonds by the Corporation to total purchases of gem diamonds by the Corporation during each of the periods referred to and this shall apply likewise to industrial diamonds. The Corporation shall inform the Government when total stocks reach the figures of £1,000,000 (One million pounds), £2,000,000 (Two million pounds) and £2½ million (Two and a half million pounds).

13. NOTWITHSTANDING the provisions of Clauses 8 and 11 (c) should the Government consider that the Agreement is not functioning satisfactorily then it shall be entitled to approach the Corporation to secure such changes in this Agreement as may seem desirable in the circumstances and failing

Agreement between the Corporation and the Government in regard to such changes the Government shall be at liberty to determine this Agreement but not before the Agreement has been in operation for three years.

14. THE existing Agreements between the Government and Dicosil dated the Twentieth day of January One thousand nine hundred and fifty-six shall be cancelled by mutual consent and in lieu thereof the Government shall secure the grant to Dicosil for each year during the currency of this Agreement of such Alluvial Diamond Dealer's Licence or Alluvial Diamond Dealers' Licences without deposit or fee as may be necessary to the conduct of that Company's business.

15. THE Corporation will use its best endeavours to make available to Dicosil at all times during the currency of this Agreement the benefit of the Corporation's associated companies' technical experience and knowledge in the engineering metallurgical chemical and geological fields and the benefit of their respective researches and developments in mineralogy and allied sciences in order that the benefits so to be made available to Dicosil will assist Dicosil not only in its present operations but also insofar as the same may embrace the future exploration development and proper exploitation of any of the mineral resources of Sierra Leone.

16. THIS Agreement is to be construed and carried into effect according to the law of Sierra Leone.

17. NEITHER The Governor nor any Officer of the Government shall be in any way personally bound or liable for the acts or obligations of the Government under this Agreement or be answerable for any default or omission in the observance or performance of any of the acts obligations matters or things therein contained.

18. If at any time during the life of this Agreement any question or dispute shall arise between the parties regarding this Agreement or any matter or thing connected therewith or the powers duties or liabilities of the parties hereunder or the amount or payment of any sum required to be paid pursuant to any provision hereof and the parties to the dispute shall be unable to resolve the same amicably then and in all such cases the matter in dispute shall be submitted to arbitration in accordance with the provisions of the Arbitration Ordinance of Sierra Leone or any Ordinance or law amending or replacing the same for the time being in force.

IN WITNESS whereof the parties hereto have executed this Agreement as of the day and year first above written.

FOR THE GOVERNMENT OF SIERRA LEONE.

MAURICE H. DORMAN.

SIGNED SEALED AND DELIVERED
by the said MAURICE HENRY
DORMAN, Governor of Sierra Leone,
in the presence of—

L.S.

A. MACLEOD SMITH

SIGNED under the Power of Attorney,
this Thirteenth day of June, 1959 for
and on behalf of THE DIAMOND
CORPORATION LIMITED

PHILIP OPPENHEIMER

Attorney.

THE COMMON SEAL of THE
DIAMOND CORPORATION SIERRA
LEONE LIMITED was hereunto affixed
in the presence of—

L.S.

PHILIP OPPENHEIMER, *Director.*

ROBERT JONES, *Secretary.*