

*Mining (State Participation)**GN No.574 (Contd)*

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THE MINING ACT,
(CAP. 123)**REGULATIONS***(Made under sections 10(4) and 129)*

THE MINING (STATE PARTICIPATION) REGULATIONS, 2022

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THE MINING ACT,
(CAP. 123)

REGULATIONS

(Made under sections 10(4) and 129)

THE MINING (STATE PARTICIPATION) REGULATIONS, 2022

PART I
PRELIMINARY PROVISIONS

Citation	1. These Regulations may be cited as the Mining (State Participation) Regulations, 2022.
Application	2. -(1) These Regulations shall apply to every mining company or person holding Mining Licence or Special Mining Licence. (2) The contents of the Forms prescribed in the Schedules to these Regulations shall apply to all arrangements concluded under these Regulations. (3) Without prejudice to the generality of sub-regulation (2), parties to the arrangements may, subject to negotiation, vary the contents of the Forms provided that such variations shall not substantially affect the provisions under Parts III, IV and V.
Interpretation	3. In these Regulations, unless the context otherwise requires-
Cap. 123	“Act” means the Mining Act; “Commission” means the Mining Commission established under section 21 of the Act;
Cap. 212	“company” means a company incorporated under the Companies Act; “free carried interest” means equity interest granted to the Government by any person holding a Mining Licence or Special Mining Licence pursuant to the provisions of section 10 of the Act;
Cap. 370	“investment” has the same meaning ascribed to it under the Treasury Registrar (Powers and Functions) Act;
Cap. 1	“Government” has the same meaning ascribed to it under the Interpretation of Laws Act; “Government Shareholder” means the Treasury Registrar or a company established or designated as such to hold Government shares in accordance with these Regulations; “Mineral rights” means prospecting licences, retention licences,

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	mining licence and special mining licence;
	“Mineral resource estimation” means quantification of grades and tonnes of mineral deposits present in a given area;
	“Minister” means the Minister responsible for mining affairs;
	“mining company” means the company that is holding a mining licence or special mining licence issued under the Act;
	“mining interest” means any entity carrying on mining activities under a mining licence or special mining licence;
	“mining joint venture arrangement” means a joint venture arrangement between the Government and a mining company or investor for carrying out any mining activity or mineral refining or processing;
	“level of investment” means the investment level determined by the Mining Commission pursuant to the provisions of regulation 10;
	“prospecting licence” has the same meaning ascribed to it by the Act;
	“public infrastructure” means infrastructure facilities, systems, and structures that are developed, owned, and operated by the Government, including all infrastructure facilities that are open to the general public use;
GN No. 1 of 2018	“retention licence” means a licence that ceased to exist by operation of regulation 21 of the Mining (Mineral Rights) Regulations;
	“reversionary mineral rights” means mineral right which revert to the Government upon cessation by operation of law and includes Prospecting Licence, Retention Licence, Mining Licence or Special Mining Licence;
	“reversionary certificate” means certificate granted under regulation 4(2) to the Government Shareholder in respect of reversionary mineral rights;
Cap. 212	“shares” has the same meaning ascribed to it under the Companies Act;
	“surrender value” means the value of reversionary mineral rights to be determined pursuant to these Regulations for the purpose of determination of the Government’s equity contribution to a mining joint venture arrangement or any other arrangement;
	“top executive management” means top management officials responsible for executive matters relating to management of company’s affairs;
Cap. 370	“Treasury Registrar” has the meaning ascribed to it under the Treasury Registrar (Powers and Functions) Act.

PART II REVERSIONARY MINERAL RIGHTS

Reversionary mineral rights	4.-(1) Mineral rights which cease to exist by operation of law and which revert to the Government shall, subject to determination of the surrender value and upon advice on mineral
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resource estimation provided by Geological Survey of Tanzania or any other company commissioned by the Government, convert into reversionary mineral rights issuable to the Government Shareholder.

(2) In determining the mineral rights to be reverted to the Government pursuant to sub-regulation (1), the Mining Commission shall take into consideration the economic benefits and geological advice provided by the Geological Survey of Tanzania or any other company commissioned by the Government.

(3) Where upon determination, the Mining Commission is of the opinion that a licence which has ceased to exist is not economically worthy reverting to the Government, shall submit its findings to the Minister.

(4) Subject to sub-regulation (1), the Mining Commission shall, immediately upon reversion of the previous mineral rights to the Government, issue to the Government shareholder reversionary certificate, to be prescribed by the Mining Commission, to replace each of the reverted mineral right and vest unto the Government rights over the respective mineral right areas

(5) The Minister may, notwithstanding the findings of the Mining Commission and within thirty days, direct that the mineral right be reverted to the Government and a reversionary certificate be issued accordingly.

(6) Reversionary certificate shall be issued for a period of ten years and shall have rights similar to the rights granted to a prospecting licence, but shall not be subjected to any fee.

(7) Where-

(a) the period of ten years has expired; or

(b) a licence was granted but for any reason the licence owner has surrendered the licence under the provisions of the Act,

such area shall, unless the Minister has, subject to the provisions of the Act, directed otherwise, fall vacant.

(8) The provisions of this regulation shall not apply to mineral rights whose operations ceased due to mine closure.

Surrender
value and
conversion
of
reversionar
y mineral
rights

5.-(1) Each reversionary mineral right shall have surrender value for the purpose of quantification of Government contribution to equity capital in any mining joint venture arrangement.

(2) Reversionary mineral rights shall, for purposes of carrying on mining joint venture activities, be convertible to a mining licence or special mining licence.

(3) In determining surrender value for the purpose of

determination of quantification of Government contribution, the Geological Survey of Tanzania shall examine feasibility study and exploration reports submitted by the prospective mining company.

(4) Where the area of the land which becomes the subject of reversionary mineral rights is not yet explored, the prospective mining company shall have the right to enter into the land upon executing a Deed of Preliminary Undertakings satisfying preliminary conditions for carrying out a feasibility study and exploration.

PART III STATE PARTICIPATION IN MINING

Acquisition
of equity
interest in
existing
entities and
notice to
negotiate

6.-(1) The Government shall, in a manner stipulated in these Regulations, participate in mining activities through holding direct equity interests in any mining venture including mineral beneficiation.

(2) Any person holding a mining licence or special mining licence shall, within ninety days from the date of publication of these Regulations, give notice to the Mining Commission to initiate negotiations for the joint venture arrangement to enable the Government acquire shareholding in the venture.

(3) The joint venture arrangement shall be governed by a Framework Agreement substantially in the form set out in the First Schedule to these Regulations, to be negotiated and executed by the holder of the mineral right and the Government.

(4) The Government equity interest shall comprise of any or a combination of the following:

- (a) statutory allocation of shares by every mining interest in the form of undilutable free carried interest as prescribed by the Act and described in Part IV of these Regulations;
- (b) shares acquired by the government through contributing its reversionary mineral rights to the joint venture, which shall reflect the surrender value of such rights;
- (c) shares acquired through quantification of tax expenditures enjoyed by the mining entity during its establishment, provided that the total government shares in such entity shall not exceed fifty percent thereof; and
- (d) shares mutually negotiated and agreed upon between the Government and the mining company.

(5) Except for the free carried interest shares which shall be undilutable, all other types of shares shall be held as ordinary

shares.

PART IV
FREE CARRIED INTEREST SHARES

Free carried
interest
shares and
rights
attached

7.-(1) The Government shall be entitled to not less than 16 percent non-dilutable free carried interest shares in the equity capital of any mining interest.

(2) In negotiating the percentage of free carried interest shares to be issued to the Government over and above 16 percent, the parties to the joint venture arrangement shall take into consideration the extent of Government development of the public infrastructure servicing the mining venture, or any specific infrastructure put in place by the Government which is intended to make the particular venture feasible.

(3) The free carried interest shall form part of the economic benefits sharing arrangement in the joint venture arrangement.

(4) the Government Shareholder shall, by virtue of holding free carried interest shares-

- (a) have the right to appoint two suitable persons, with pertinent qualifications as independent members to the Board of Directors of the company;
- (b) have right to, subject to the structure of the company and qualifications set out by the company, approve at least two suitable persons to the Top Executive Management of the company as may be agreed in the shareholders agreement: provided that any other management positions created by the Company shall be shared with the Government Shareholder on a ratio of 3:1;
- (c) be entitled to participate in assets distribution on winding up;
- (d) be entitled to receive distributions made by the company, including loan notes in respect of qualifying shareholder loans;
- (5) For avoidance of doubt-
 - (a) no financial contribution shall be required from the Government on account of its shares, even in the case of an increase in share capital; and
 - (b) free carried interest shares shall not be diluted even when shareholders increase or on account of the borrower;

Loan notes

8. For the purpose of determining the right of the Government to receive loan notes the following rules shall apply:

- (a) any shareholder loan which does not bear interest can be made without any obligation to issue loan note to the Government;
- (b) any shareholder loan which bears interest shall be subject to the obligation to issue loan notes to the Government representing a percentage of free carried interest shares therein;
- (c) any shareholder loan raised from an external third party for the purpose of on-lending the funds to the mining company shall be subject to the obligation to issue loan notes to the Government representing a percentage of free carried interest shares therein ; and
- (d) any shareholder loan agreed by the parties which bears reasonable interest rate that is advantageous to the company, shall not be subject to the obligation to issue loan notes to the Government.

Preferential
shares

9.-(1) Free carried interest shall be treated as preferred shares and be entitled to preferred dividend immediately a distributable profit is recognised by the company.

(2) For the purpose of payment of preferred dividend the following rules shall apply:

- (a) a distributable profit is the profit for the year less prior losses and withdrawals for constitution of legal reserves, payment of corporate income tax and increased by retained earnings; and
- (b) paid at the rate equal to the percentage of free carried interest issued to the Government; and to be paid prior to any other allocation of the distributable profit.

Determinati
on of level
of
investment

10.-(1) For the purposes of acquisition of shares under these Regulations, the Commission in consultation with the Government Shareholder and Tanzania Revenue Authority shall from time to time determine the types of minerals or level of investment made by a holder of special mining licence or mining licence on which the Government shall be entitled to acquire the 16 percent non-dilutable free carried interest shares or more.

(2) In determining the level of investment, the Mining Commission shall take into consideration the following:

- (a) capital invested;
- (b) mining technology involved;
- (c) profit; and
- (d) total value of tax expenditures enjoyed by the mining company.

PART V
PRINCIPLES OF MINING JOINT VENTURE ARRANGEMENTS

Underlying
principles
of joint
venture

11.-(1) The following shall be the underlying principles for any mining joint venture arrangement with the Government:

- (a) incorporation of a joint venture company with the Government Shareholder;
- (b) application of the equitable economic benefits sharing principle shall be on the life of the mine;
- (c) having a jointly agreed financial model to guide the management and operations of the joint venture company substantially in the form set out in the Fourth Schedule to these Regulations;
- (d) jointly managing the joint venture company pursuant to the Shareholders Agreement substantially in the form set out in the Second Schedule to these Regulations;
- (e) agreeing on the fiscal assumptions underlying the economic benefits sharing principle;
- (f) joint venture company to hold all proceeds from sale of mineral products in local and foreign currency bank accounts in Tanzania;
- (g) issuing a Mining Licence or Special Mining Licence to the joint venture company;
- (h) preference of Tanzanians for appointment to management positions subject to the provisions of regulation 7(4)(b); and
- (i) agreeing on modalities of in-country beneficiation of minerals.

(3) Where the Government opts for another modality of state participation in any mining joint venture, the following conditions shall apply:

- (a) special request shall be submitted to the Cabinet giving details of the modality proposed;
- (b) articulation of the most economic benefits to be acquired; and
- (c) detailed reasons on why such most economic benefits cannot be achieved through principles stipulated under sub-regulation (1).

PART VI
MANAGEMENT OF MINING JOINT VENTURE ENTITIES

Shareholder
s
Agreement

12.-(1) The Shareholders Agreement, substantially in the form set out in the Second Schedule, shall provide for the management of the joint venture entity.

(2) The day to day running of the joint venture entity shall

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be governed by the Articles of Association, substantially in the form set out in the Third Schedule to these Regulations.

Revocation
of
GN. No
939 2020

13. The Mining (State Participation) Regulations 2020 are hereby revoked

FIRST SCHEDULE

(Made under regulation 6(3))

FORM OF FRAMEWORK AGREEMENT

FRAMEWORK AGREEMENT

THIS AGREEMENT is made as on _____ (DATE).

BETWEEN:

The Government of the United Republic of Tanzania, represented by the Minister for Minerals of P.O. Box 422, Government City-Mtumba, Madini Street, 40474 Dodoma Tanzania (hereinafter the “**Government**”);

- and -

PARENT COMPANY, a public limited liability company incorporated and organised under the laws of _____, domiciled in _____ and listed on the _____ Stock Exchange (hereafter called “**PCO**”),

- and -

TANZANIA SUBSIDIARY COMPANY, a private limited liability company incorporated and organised under the Laws of Tanzania, having its principal place of business at _____, Tanzania (hereafter called “**TZSCO**”), and being a wholly owned subsidiary of **Parent Company**. (hereafter called “**PCO**”),

RECITALS:

WHEREAS,

- A. The **Government**, **PCO** and **TZSCO** (jointly referred to as the “**Parties**”) have agreed through negotiations to establish a Joint Venture Company to jointly establish (Name of Mineral) mining operations at the Mining Project located at _____ (hereafter called “**the Mining Project**”).

WHEREAS,

- B. The Parties have agreed on the Key Principles which are intended to underlie their joint venture relationship going forward, and guide the further development of **the Mining Project** for the mutual benefit of the Parties in line with Tanzania’s development vision.

WHEREAS,

- C. The Parties have agreed to set up a Joint Venture Company (JVC) in which the Government shall hold not less than 16 percent of the capital of the JVC as undilutable shares and PCO shall through TZSCO hold not more than 84

percent ordinary shares in the capital of the JVC.

WHEREAS,

- D. the Parties have agreed on the Key Principles which are intended to underline and guide the development of **the Mining Project** and the Future Mining Operations for the mutual benefit of the Parties in line with the economic benefits sharing Principle and Tanzania's development vision.

AND WHEREAS,

- E. The Parties have entered into this Agreement to record their agreement as to the manner in which the Key Principles shall be implemented.

THEREFORE, the Parties agree as follows:

ARTICLE 1

DEFINITIONS AND PRINCIPLES OF INTERPRETATION

1.1 Definitions

Whenever used in this Agreement, the following terms shall have the meanings set out below:

"Act" means the Mining Act, Cap. 123.

"Affiliate" with respect to a Party, any other person directly or indirectly controlling, controlled by or under common control with such Party, with control for such purpose meaning the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities or voting interests, by contract or otherwise.

"Agreement" means this Framework Agreement, including the Recitals, Schedules, and amendments or restatements as permitted, and references to "Article" or "Section" mean the specified Article or Section of this Agreement.

"Aggregate Basis" means the sum of the Economic Benefits received by the Government on the one hand and PCO through TZSCO on the other hand, from the JVC.

"Amended Article of Association" means the Amended Articles of Association of TZSCO to be registered in order to implement the agreed new relationship of the Parties pursuant to this Agreement and which is substantially in the form of Schedule 3.

"Beneficiation" means processing and separation of ore into marketable (Name of minerals) in discrete or combined form, prior to export.

"Board" means the board of directors of the JVC constituted in accordance with the Shareholders Agreement.

"Business Day" means any day, other than a Saturday or Sunday, on which commercial banks in Tanzania are open for commercial banking business during normal banking hours.

"Capital" means the share capital of the JVC to give effect to this Agreement.

"Completion Date" means the date when the Parties have performed their respective obligations under this Agreement and which signify that the Agreement is fully operational.

"Control" means:

- (a) in relation to a corporation, the beneficial ownership at the relevant time of shares of such corporation carrying more than 50 percent of the voting rights ordinarily exercisable at meetings of shareholders of the corporation where such voting rights are sufficient to elect a majority of the directors of the corporation; and
- (b) in relation to a Person that is a partnership, limited partnership,

limited liability company or joint venture, the beneficial ownership at the relevant time of more than 50 percent of the ownership or voting interests of the partnership, limited partnership, limited liability company or joint venture in circumstances where it can reasonably be expected that the Person can direct the affairs of the partnership, limited liability company or joint venture;

and the words “**Controlled by**”, “**Controlling**” and similar words have corresponding meanings; the Person who Controls a Person shall be deemed to Control a corporation, partnership, limited liability company, joint venture or trust which is Controlled by such Person, and so on.

“**Director**” means a member of the Board.

“**Economic Benefits**” means the economic benefits from the Mine, which accrue to each party in accordance with the allocation in Article 3 of this Agreement.

“**Future Mine**” means any (Name of Mineral) mining operation established by the Parties under this Agreement.

“**Key Principles**” means the key principles established in connection with the Mine and Future Mines, as set out in Article 2.2.

“**Mining Licence**” means a Mining Licence or Special Mining Licence granted in accordance with the Act.

“**Parties**” means, collectively, the Parties to this Agreement and “**Party**” means any one of them.

“**Person**” means any individual or juridical person.

“**Related Agreements**” means the Shareholders Agreement and any other agreement which is referred to in this Agreement.

“**Shareholders Agreement**” means the shareholders agreement relating to the JVC, to be concluded as one of the Suspensive Conditions substantially in the form of Schedule 2.

“**Strategic Infrastructure**” means, for the purpose of enforcement or execution of an arbitral award in Article 13.4(c), communication and transportation infrastructure, power generation infrastructure, energy installations, defence and security equipment and the Central Bank of Tanzania assets and foreign reserves.

1.2 Certain Rules of Interpretation

In this Agreement:

- (a) Time - Time is of the essence in the performance of the Parties’ respective obligations.
- (b) Currency - Unless otherwise specified, all references to money amounts are to the lawful currency of Tanzania.
- (c) Headings - Headings of Articles and Sections are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- (d) Consent - Whenever a provision of this Agreement requires an approval or consent and such approval or consent is not delivered within the applicable Time Period, then, unless otherwise specified, the Party whose consent or approval is required shall be conclusively deemed to have withheld its consent or approval.
- (e) Time Periods - Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the

period commences and including the day which the period ends and by extending the period to the next Business Day if the last day of the period is not a Business Day.

- (f) Business Day - Whenever any payment to be made or action to be taken under this Agreement is required to be made or taken on a day other than a Business Day, such payment shall be made or action taken on the next Business Day.
- (g) Governing Law - This Agreement is a contract made under and shall be governed by and construed in accordance with the Laws of Tanzania.
- (h) Including - Where the word “including” or “includes” is used in this Agreement, it means “including (or includes) without limitation”.
- (i) No Strict Construction - The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.
- (j) Number and Gender - Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.
- (k) Severability - If, in any jurisdiction, any provision of this Agreement or its application to any Party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such jurisdiction, be ineffective only to the extent of such restriction, prohibition or unenforceability without invalidating the remaining provisions of this Agreement and without affecting the validity or enforceability of such provision in any other jurisdiction or without affecting its application to other Parties or circumstances.
- (l) Statutory References - A reference to a statute includes all subsidiary legislation made pursuant to such statute and, unless otherwise specified, the provisions of any statute or subsidiary legislation that amends, supplements or supersedes, or is the successor of, any such statute or any such subsidiary legislation.

1.3 Recitals and Schedules

The Recitals and Schedules to this Agreement as listed below, are an integral part of this Agreement:

Schedule 1 - Basic Undertakings of the Parties

Schedule 2 - Draft JVC Shareholders Agreement

Schedule 3 - Draft Memorandum and Articles of Association of the JVC

Schedule 4 - Joint Financial Model

ARTICLE 2

IMPLEMENTATION OF THE KEY PRINCIPLES

2.1 Effective Date

The “**Effective Date**” of this Agreement shall be the date when it is duly executed by each of the Parties.

2.2 Key Principles

The following are the Key Principles underlying the relationship of the Parties pursuant to this Agreement:

- (a) Application of the Economic Benefits sharing principle shall be on the life of mine of the Mining Project and Future Mining

- Operations (if any);
 - (b) Having a jointly agreed financial model to guide the management and operations of the JVC, which Joint Financial Model may be updated as circumstances change and by agreement between the Parties;
 - (c) Jointly managing the JVC pursuant to the Shareholders Agreement prescribed in Schedule 2 of this Agreement and the Related Agreements;
 - (d) Agreeing on the fiscal assumptions underlying the Economic Benefits sharing principle;
 - (e) JVC to hold all proceeds from sale of mineral products in a US dollar-denominated bank account(s) in Tanzania;
 - (f) Issuing the Special Mining Licence to the JVC following the date of this Agreement; and
 - (g) Establishing (Name of Mineral) beneficiation facilities in Tanzania.
- 2.3 Action to be Taken on or Prior to the Effective Date**
- (a) Each of the Parties shall have on or prior to the Effective Date performed all its basic undertakings or obligations as detailed in Schedule 1 to this Agreement.
 - (b) Each of the Parties shall use reasonable endeavours to perform the basic undertakings on or before _____ or such other date as may be agreed between the Parties in writing.
- 2.4 Future Projects**
- The Parties agree and acknowledge that the arrangement under this agreement may extend to contemplated Future Projects of mining operations as shall be determined by the Parties from time to time.

ARTICLE 3

SHARING OF ECONOMIC BENEFITS

- 3.1 In accordance with and subject to the terms of this Agreement and the Related Agreements, the Parties have agreed to, with effect from the Completion Date, equitably share (on an Aggregate Basis) the Economic Benefits derived from the Mining Project and such Future Mining Operations in accordance with the Joint Financial Model. The fiscal assumptions (as set out in Article 6) allow such economic benefits to be shared in accordance with the Equitable Sharing Principle, based on the life of mine of the Mining Project and such Future Mining Operations.
- 3.2 The Government shall receive its share of the Economic Benefits through the payment by the JVC of taxes, royalties, fees and other fiscal levies as described in the fiscal assumptions and through the Government's not less than 16 percent Free Carried Interest shares in the JVC.
- 3.3 The Economic Benefits to the Government through payment of taxes shall cover only taxes directly payable by the JVC to the Government. More specifically, taxes constituting the Government share shall be limited to local government levies, petroleum and fuel levies, import duties, skills development levy, royalties, inspection fees, corporate income tax, withholding tax on dividends, as well as any other fiscal levies imposed by any agency of the Government. Other taxes not directly receivable from the JVC's income such as withholding tax on services, workers' compensation fund contributions, social security contributions, income tax payable by company employees and value added tax (to the extent refunded or offset) shall not be construed as forming part of the Government share of Economic

Benefits.

- 3.4 The fiscal regime governing the mining and beneficiation operations of the JVC shall comprise a royalty, inspection fee, service levy, non-deductibility of royalty for the calculation of corporate income tax, corporate income tax of 30 percent, indefinite carry forward of losses but with the ability to offset against taxable income in any given tax year subject to a cap of 70 percent of the taxable income in a given tax year.
- 3.5 PCO shall receive Economic Benefits through TZSCO from the payment of their not more than 84 percent share of dividends and returns of capital to shareholders of the JVC, and proportionate repayment of the shareholder loans referred to in Articles 5.2(b) and 5.4 less any withholding taxes withheld in respect of any of the foregoing.
- 3.6 The Parties acknowledge that the application of the terms of this Agreement may be affected if circumstances after the Completion Date result in one or more of the assumptions made by the Parties not being realised. The Parties therefore agree that the sharing of Economic Benefits between the Government and PCO will be reviewed and amended as necessary in conformity with the Economic Equilibrium Principle prescribed by Section 100E of the Mining Act, Cap. 123 in order to restore the Equitable Sharing Principle based on the life of mine then in effect.

ARTICLE 4

STRUCTURE OF THE JVC

- 4.1 The JVC to be established by the Parties will be structured to implement the key principles of this Agreement and in particular the ownership and management of the JVC as set out in the Draft Shareholders Agreement (Schedule 2) and will have Memorandum and Articles of Association essentially as set out in Schedule 3.
- 4.2 The JVC shall manage the operations of the Mining Project and such other Future Mining Operations.
- 4.3 On or prior to the Completion Date, the applicable Government Shareholder shall be issued with:
- (a) undilutable Free Carried Interest Class B shares representing 16 percent of the issued share capital of the JVC.
 - (b) Shares obtained through development by the Government of the public infrastructure servicing the mining venture, or any specific infrastructure put in place by the Government which is intended to make the venture feasible.
 - (c) such other proportion of ordinary shares to be agreed by the Parties as a reflection of the value of the mineral rights surrendered by the Government to the JVC in respect of any additional mining rights that may be conveyed by the Government.
- 4.4 Management of the JVC shall be in accordance with the Shareholders Agreement.
- 4.5 Where in the course of mining operations, the JVC discovers any mineral deposit of economic value other than licenced minerals, it shall give notice to the licensing authority of the said discovery and such discovery shall be subject to negotiation to increase the Government Free Carried Interest shares provided that the negotiation shall only involve new discoveries of minerals other than the licensed minerals.
- 4.6 The Parties agree and shall procure that the management of the JVC's operations shall be carried out in Tanzania, with a focus on engaging local

talent to maximize employment of Tanzanians, including:

- (a) all records in relation to the business operations of the JVC be held in Tanzania;
- (b) preference for Tanzanian nationals to be appointed to management positions within the JVC; and
- (c) implementing a local procurement plan that emphasizes spending in Tanzania, except where goods or supplies are not available in Tanzania (or on commercially viable or competitive terms in Tanzania) or supplies are permitted to be procured from sources outside Tanzania as provided for under the laws.

ARTICLE 5 OWNERSHIP

- 5.1 The Government agrees and undertakes that any increase in ownership or economic participation rights by the Government in the JVC in addition to the 16 percent Free Carried Interest shares in the JVC shall be by agreement between the Parties, and that the Government shall not unilaterally seek to increase such ownership or economic participation rights.
- 5.2 Where, at any time, the Government interest in the JVC is increased beyond the 16 percent Free Carried Interest shares, the Government agrees to make, at the time such changes come into effect and following discussion with and having obtained the consent of the other Party, all necessary adjustments to the fiscal assumptions so as to restore the Equitable Sharing Principle based on the life of mine then in effect.

ARTICLE 6 FISCAL ASSUMPTIONS

Confirmation of Fiscal Assumptions

- 6.1 The Government acknowledges that the following assumptions are fundamental to the implementation of the Equitable Sharing Principle and agrees and undertakes that:
 - (a) taxes, royalties, duties, fees, levies or tax liabilities shall be imposed and payable by the JVC in accordance with applicable law, save that where any changes in law after the date hereof (including the clarification of the application thereof or modification of the interpretation thereof) are likely to erode the Equitable Sharing Principle (on an Aggregate basis) to the detriment of the JVC and PCO/TZSCO and undermine the Equitable Sharing Principle, the Government agrees to make, at the time such changes come into effect, all necessary adjustments to the fiscal assumptions so as to restore the Equitable Sharing Principle based on the life of mine then in effect;
 - (b) The PCO shall use reasonable commercial endeavours to ensure that the financial requirements of the JVC are met as far as practical in the following order:
 - (i) the Company's own resources;
 - (ii) borrowings from banks and other third party resources on the most favourable commercial terms reasonably obtainable as to interest, repayments and security;
 - (iii) shareholder loans as shall be agreed by the

- Parties; or
 - (iv) such other mechanisms that the Parties may determine.
 - (c) any shareholder loan used to fund the Project shall be verified by the Tanzania Revenue Authority, and registered with the Bank of Tanzania in accordance with the law, whereupon it can be repaid in accordance with its terms, provided that the Government on repayment of the loan receives its pro rata share of cash distributions made to service such loans, other than loans made in accordance with Article 6(d), (e) and (f);
 - (d) any Shareholder Loan to the JVC shall be made without obligation to issue loan notes to the Government representing a 16 percent interest therein;
 - (e) any Shareholder Loan to the JVC, which bears interest, shall be subject to the obligation to issue loan notes to the Government representing a 16 percent interest therein;
 - (f) where Shareholder Loan is made for the purpose of on-lending funds raised through external third party financing to the JVC, shall be subject to the obligation to issue loan notes to the Government representing a 16 percent interest therein.
- 6.2 For the purpose of this Article, the Government hereby agrees to any pledge over, or related transfer of, any shares held by PCO/TZSCO in the JVC to any bank or financial institution to secure any third party financing for the purpose of the mining operations as provided for under Section 9(3) of the Mining Act, Cap. 123.

ARTICLE 7

BASIC UNDERTAKINGS OF PARTIES

7.1 General Undertakings

- (a) The Government shall be responsible for doing all such acts, deeds and things as are necessary to perform the fundamental undertakings with respect to the Government (the “**Government Undertakings**”) as soon as practicable following the date hereof.
- (b) PCO shall be responsible for doing all such acts, deeds and things as are necessary to perform the fundamental undertakings with respect to the PCO (the “**PCO Undertakings**”) as soon as practicable following the date hereof.
- (c) TZSCO shall be responsible for doing all such acts, deeds and things as are necessary to perform the fundamental undertakings with respect to the TZSCO (the “**TZSCO Undertakings**”) as soon as practicable following the date hereof.
- (d) The Parties shall be responsible for doing all such acts, deeds and things as are necessary to perform all the undertakings with respect to the Parties (the “**Parties Undertakings**”) as soon as practicable following the date hereof.

7.2 Government Undertakings

- (a) Obtain all requisite approvals for purposes of entering into this Agreement and the Related Agreements.
- (b) Execute the Related Agreements.
- (c) Procure the approval of the JVC as the local company to which

mineral rights over the Mining Project and such other Future Mining Operations shall be issued.

- (d) Procure the issuance of a Special Mining Licence (SML) or Mining Licence (ML) over the Mining Project and such other Future Mining Operations to the JVC.
- (e) Collaborate with PCO/TZSCO to establish the JVC.
- (f) Procure that the JVC may not be obligated to list its shares in the Dar es Salaam Stock Exchange.
- (g) Upon commission of the Mining Project and commencing of mineral production, the JVC shall be entitled to repay shareholder loans or pay dividends or returns of capital to the Government, TZSCO and to offshore shareholders and Affiliates of JVC into their respective accounts outside Tanzania.
- (h) The Government agrees to procure that the bank accounts of the JVC opened in Tanzania shall not be subject to administrative attachment orders for purposes of enforcement of taxes, except where a court decree is issued to that effect after final completion of judicial proceedings.
- (i) The Government agrees that none of the transactions or steps involved in the entry into force and implementation of this Agreement and the Related Agreements including the issue, distribution or transfer to the Government of the Free Carried Interest shares or its proposed interest in the Shareholder Loans, shall at any time be subject to any tax in Tanzania.

7.3 PCO Undertakings

- (a) Obtain all requisite approvals for purposes of entering into this Agreement and the Related Agreements with the Government.
- (b) Execute the Related Agreements.
- (c) Collaborate with the Government to establish the JVC.

7.4 TZSCO Undertakings

- (a) Obtain all requisite approvals for purposes of entering into this Agreement and the Related Agreements with the Government.
- (b) Execute the Related Agreements.
- (c) Collaborate with the Government to establish the JVC.

7.5 Parties Undertakings

The Parties agree to ensure that on or prior to the Completion Date:

- (a) In respect of the JVC, the Government and TZSCO will be allocated shares as follows:
 - (i) not less than 16 percent of the shares in the JVC will be issued to the Government as undilutable Free Carried Interest in the capital of the JVC and registered as Class B shares in the name of the designated Government entity;
 - (ii) not more than 84 percent of the shares in the JVC will be issued to TZSCO and registered as Class A Ordinary Shares in the name of TZSCO;
 - (iii) the JVC will deliver to each Party certificates representing each Party's shares and such other documents as may be required to give good title to such shares; and

- (b) As part of the basic undertakings of the Parties, work together to develop a joint financial model to confirm the basis of the Equitable Sharing Principle and which shall form part of this Agreement as Schedule 4.

Where any undertaking in this Agreement remains unfulfilled by the prescribed date, the Parties shall mutually agree, by exchange of Notices to that effect, to extend the due date for fulfilment of such undertaking.

ARTICLE 8

WARRANTIES AND AUTHORITY

- 8.1 Each Party warrants and represents to the others with respect to itself that it has full legal capacity, right, power and authority to enter into and perform this Agreement and the Related Agreements to which it is a party in accordance with and subject to their respective terms, and that this Agreement and the Related Agreements to which it is a party have been duly authorised, executed and delivered by it and, assuming due execution by the other Parties hereto and thereto, are legal, valid, binding and enforceable agreements of it (and in the case of the Government, all organs and agencies of the Government of the United Republic of Tanzania) in accordance with and subject to their respective terms.

ARTICLE 9

DISCLOSURE

- 9.1 The Parties and their respective Affiliates may disclose the existence and the terms of this Agreement:
 - (a) to their legal advisers and auditors and to their financiers (including in accordance with the terms of any debt finance facility documentation);
 - (b) in the event that disclosure is required by law, by a direction of a court or tribunal or governmental agency or regulatory body;
 - (c) for the purpose of any claim in respect of, or breach of, this Agreement;
 - (d) in the event that disclosure is necessary to enable or facilitate compliance with this Agreement or a Related Agreement;
 - (e) in the event that disclosure is necessary to comply with audit, tax or regulatory requirements; and
 - (f) in the case of the Government, to all organs and agencies of the Government to ensure their compliance with the terms of this Agreement.
- 9.2 The Parties acknowledge that this Agreement and the Related Agreements will need to be and may be disclosed by the Parties and their respective Affiliates in accordance with stock exchange regulations.

ARTICLE 10

GENERAL

- 10.1 An amendment, supplementation, variation or modification of this Agreement shall not be effective unless it is in writing and signed by the Parties.
- 10.2 If any provision of this Agreement is determined to be invalid, illegal or unenforceable in any respect, all other provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any

manner materially adverse to any Party. To the extent that any provision is found to be invalid, illegal or unenforceable, the Parties shall act in good faith to substitute for such provision, to the extent possible, a new provision with content and purpose as close as possible to the provision so determined to be invalid, illegal or unenforceable.

- 10.3 This Agreement is for the benefit of the Parties and their successors and assignees. The Parties and their successors and assignees are bound by this Agreement. Save in connection with an assignment or transfer of any Mining Licence or mineral rights in accordance with the Act, a Party may not assign or deal with or purport to assign or deal with its rights under this Agreement without the prior written consent of the other Parties.
- 10.4 This Agreement may be entered into in any number of counterparts and by the Parties to it on separate counterparts, and each of the executed counterparts, when duly exchanged or delivered, shall be deemed to be an original, but taken together, they shall constitute one and the same instrument.
- 10.5 Each Party acknowledges and agrees that:
- (a) this Agreement and the other documents referred to in this Agreement constitute the entire agreement between the parties and, supersede any previous agreement, understanding, representation, undertaking, negotiation or arrangement relating thereto. In the event of any inconsistency between the provisions of this Agreement and those of a Related Agreement, the provisions of this Agreement prevail to the extent of that inconsistency;
 - (b) this Agreement does not rely on any statement, representation, assurance or warranty of any person (whether a party to this Agreement or not and whether made in writing or not) other than as expressly set out in this Agreement.

ARTICLE 11 NOTICES

- 11.1 All notices or other communications to be given or made hereunder shall be in English and in writing, shall be addressed for the attention of the persons indicated below and shall be delivered personally or sent by ordinary prepaid post, courier or e-mail. The addresses of the Parties shall be:

If to the Government:

For the attention of: THE TREASURY REGISTRAR

Address:

OFFICE OF THE TREASURY REGISTRAR
P.O. Box 3193,
33 Samora Machel Avenue/Mirambo 50 ,
11104 **DAR ES SALAAM.**

Tel No.: +255-22-212 1334

Email: tr@tro.go.tz

If to TZSCO:

For the attention of: The Directors

Address:

If to **PCO**:

For the attention of: The Directors

Address:

- 11.2 Except as otherwise expressly provided in this Agreement, all notices shall be deemed to have been delivered
- (a) when delivered by hand or by overnight courier, or ordinary prepaid post;
 - (b) if received during business hours on a business day for the receiving Party, when transmitted by e-mail to the receiving Party's e-mail address and, if received after business hours or on a day that is not a business day for the receiving Party, on the receiving Party's first business day following the date transmitted by e-mail to the receiving Party's e-mail address. Any notice given by e-mail shall be confirmed in writing, delivered personally or sent by ordinary prepaid post or courier, but the failure to so confirm shall not void or invalidate the original notice if no transmission error report was produced at the time the sending Party transmitted that original e-mail notice.
- 11.3 Any Party may, by notice in writing to the other Party, change the physical address and/or e-mail address to which such notices and communications are to be delivered, mailed or sent.

ARTICLE 12 GOVERNING LAW

This Agreement shall be governed by, and construed in accordance with, the Laws of Tanzania.

ARTICLE 13 DISPUTE RESOLUTION

13.1 Negotiation

The Parties agree that, they shall in the first instance seek to resolve all disputes arising out of or in connection with this Agreement (a "**Dispute**") through negotiations between the Parties.

13.2 Conciliation

- (a) In the event that any Dispute is not resolved through negotiations within 30 days (the "**Negotiation Period**") of one Party notifying the other Party or Parties in writing of the Dispute (the "**Dispute Notice**"), the parties to the Dispute may, refer the Dispute to conciliation in accordance with the UNCITRAL Conciliation Rules.

- (b) The conciliator shall be a lawyer of at least 15 years' post qualification practising experience and shall be accredited or certified by an internationally recognized organization. The conciliator shall be independent of the Parties. If the conciliator is not appointed within 14 days of the acceptance of a request for conciliation, the President of the East African Court of Justice shall appoint the conciliator.
- (c) Any conciliation shall be completed within 60 days of the appointment of a conciliator (unless extended by agreement in writing between the parties to the Dispute).
- (d) If the parties to the Dispute have not resolved the Dispute within 75 days of the expiry of the Negotiation Period (or such longer period agreed in writing by the parties to the Dispute), any Party shall have the right to refer the Dispute to arbitration pursuant to Article 13.3 below.

13.3 Arbitration

- (a) The Parties irrevocably agree that any Dispute not resolved under Articles 13.1 and 13.2 above shall be finally resolved by arbitration in accordance with the UNCITRAL Arbitration Rules (the “Rules”).
- (b) Upon issuance of a notice of arbitration commencing the arbitration, the Parties shall seek to mutually agree on the arbitral seat or legal place of arbitration. In determining the arbitral seat, the parties agree that the selection shall be made on the basis that the seat should be in a jurisdiction which is internationally recognized and experience in handling complex international commercial arbitration (not being the united Republic of Tanzania, or a state which is a member of the East African Community, or a country affiliated to the investor [names]), and which is a party to the New York Arbitration Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 in effect on the date of this Agreement (the “New York Convention”), notwithstanding that the governing law of the contract is Tanzanian law.
- (c) The Parties shall endeavour to agree on a mutually acceptable, secure and accessible venue in Africa as the venue for the arbitration hearings, with a view to minimizing the cost and logistical complications of the arbitration. If the Parties are unable to agree on a venue within 30 days from the date of commencement of the arbitration as determined in accordance with Article 13.3 (b) any Party may apply to the President of the East African Court of Justice to determine the venue of the arbitration hearings, on the basis that the Parties agree that this should be in a jurisdiction which is internationally recognized and has appropriate facilities and infrastructure to support international arbitration hearings and that the seat and venue of the arbitration hearings need not be the same.
- (d) The law applicable to the arbitration and to this arbitration agreement, including any dispute or difference relating to the interpretation of this arbitration agreement or the Rules, shall be the law of the arbitral seat, with consideration to the governing law of the contract being the Laws of Tanzania.

- (e) The language of the arbitration shall be English.
- (f) The appointment of arbitrators shall be in accordance with the Rules. The number of arbitrators shall be three. All arbitrators must be independent of the Parties, and shall observe strictly and faithfully their duties of independence throughout the arbitral process. The three arbitrators shall make up the arbitral tribunal (the “**Tribunal**”).
- (g) The Parties may agree to consolidate two or more arbitrations into a single arbitration, including where:
 - (i) all of the claims in the arbitrations are made under the same arbitration agreement; or
 - (ii) where the claims in the arbitrations are made under more than one arbitration agreement, the arbitrations are pursuant to the arbitration agreements in any of the Related Agreements, or are between the same parties (being any of the Parties on the one hand and any of the Government Parties on the other hand), the disputes in the arbitrations arise in connection with the same legal relationship, and the arbitration agreements are compatible.
- (h) If multiple arbitral proceedings are consolidated into a single consolidated proceeding, the Tribunal appointed in the first proceeding to be commenced shall preside over the consolidated proceedings.

13.4 Arbitral Award

- (a) The arbitration award shall, in the absence of manifest error, be final and binding on all the Parties, and the Parties undertake to satisfy and comply with any award without delay. Judgment upon the award may be entered by any court having jurisdiction of the award or having jurisdiction over the relevant party or its assets.
- (b) To the extent permitted by the law of the arbitral seat, the Parties hereby irrevocably agree to waive any rights to appeal or challenge any award (whether interim or final) based on grounds other than those set out in the New York Convention.
- (c) Each Party agrees to waive all and any rights to claim immunity it may have in relation to any proceedings, whether before an arbitral tribunal or any courts of competent jurisdiction, and the right to claim immunity with respect to enforcement of any arbitral award or judgment enforcing any arbitral award (whether interim or final), and including the right to claim immunity in respect of service of process, jurisdiction, attachment, execution and/or enforcement of any award or judgment against any assets, property or revenue of any nature except the Government’s Strategic Infrastructure.

13.5 Confirmation to be Bound by Arbitration Agreement

The Parties confirm that they shall not resort to any other dispute settlement mechanism other than the procedure under this Article 13, except where there occurs any failure to enforce this arbitration agreement or an arbitral award on account of acts and actions by the Government.

**ARTICLE 14
CONFIDENTIALITY**

- 14.1 All Confidential Information shall be treated by the Parties as confidential during the term of this Agreement and at all times thereafter and shall not be disclosed by the receiving Party to any other person other than in accordance with Article 14.2 or in circumstances where the Party has an obligation to disclose such information by applicable law, rule, legal requirement or official request of any regulatory or governmental authority or stock exchange to which the receiving Party is subject.
- 14.2 Each Party acknowledges and agrees that the other Party may disclose Confidential Information to:
- (a) its directors, officers and employees (and the directors, officers and employees of its Affiliates);
 - (b) its and its Affiliates' financial, accounting, legal and professional advisors, as well as its and its Affiliates' lenders, underwriters and investment bankers, and each of their respective directors, officers, partners or employees;
 - (c) members of Government with a need to know such Confidential Information;
 - (d) a court or tribunal or governmental agency or regulatory body in the event that disclosure is required by law or by direction;
 - (e) any contractors and subcontractors of the Party; and
 - (f) any actual or prospective bona fide purchaser of the Shareholder's rights, benefits or obligations under this Agreement or the Shareholder's right or title in or to the Projects,
- in each case, whether direct or indirect (collectively, "**Representatives**"), and in each such case provided that (X) each of such Representatives to whom Confidential Information is disclosed is advised of the confidentiality of such information and is directed to abide by the terms and conditions of this Article 14.1, and (Y) the disclosing Party shall be liable for any breach of this Article 14.1 by its Representatives.
- 14.3 The provisions of this Article 14 shall continue in force in accordance with their terms notwithstanding the termination of this Agreement for any reason.

IN WITNESS OF WHICH the Parties have duly executed this Agreement.

SEALED with the Common Seal of the said and **DELIVERED** in the presence of us, this day of 2021

SIGNATURE:
NAME:
P.O. BOX:
QUALIFICATION:

SIGNATURE:
NAME:
P.O. BOX:
QUALIFICATION:

SEALED with the Common Seal of the said and **DELIVERED** in the

GN No.574 (Contd)

presence of us, this day of 2021

SIGNATURE:
NAME:
P.O. BOX:
QUALIFICATION:

SIGNATURE:
NAME:
P.O. BOX:
QUALIFICATION:

SECOND SCHEDULE

(Made under regulation 11(d))

FORM OF SHAREHOLDERS AGREEMENT

SHAREHOLDERS AGREEMENT

THIS AGREEMENT made as of the ____ day of _____,

BETWEEN:

The Government of the United Republic of Tanzania, represented by the Treasury Registrar, P.O. Box 3193, 33 Samora Machel Avenue/Mirambo 50, 11104 Dar es Salaam, Tanzania (hereafter “the **Government**”);

AND

PARENT COMPANY, a public limited liability company incorporated and organised under the laws of _____, domiciled in _____ and listed on the _____ Stock Exchange (hereafter called “the **Investor**”),

AND

TANZANIA SUBSIDIARY CO., a private limited liability company incorporated and organised under the Laws of Tanzania, having its principal place of business at _____, Tanzania and being a wholly owned subsidiary of Parent Company (hereafter called “the **Company**”).

in respect of

_____, a joint venture company incorporated by the Government and the Investor under the Laws of Tanzania as a private limited liability company (hereinafter referred to as the **Company**).

WHEREAS the Investor, TZSCO and the Government have established a shared ownership structure for the Company pursuant to which the Investor through TZSCO holds not more than 84 percent of the outstanding Equity Shares (as defined below) of the Company through its ownership of 100 percent of the Class A Shares and the Government Shareholder, on behalf of the Government, owns not less than 16 percent of the outstanding Equity Shares, through its ownership of 100 percent of the Class B Shares;

AND WHEREAS the Parties are entering into this Agreement to set out

GN No.574 (Contd)

the manner in which the Company shall be governed, and to provide for certain restrictions on the issuance and transfer of shares and certain other matters concerning the Shareholders' relationship as shareholders of the Company;

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the respective covenants and agreements of the Parties hereinafter contained and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each Party (as defined below)), the Parties agree as follows:

ARTICLE 1 **INTERPRETATION**

1.1 Defined Terms

In this Agreement, the following terms shall have the respective meanings set out below, unless the context requires otherwise, and grammatical variations of such terms shall have the corresponding meanings:

"**Acceptance Notice**" has the meaning set out in Article 5.4(b);

"**Acceptance Period**" has the meaning set out in Article 5.4(b);

"**Act**" means the Mining Act, Cap. 123;

"**Affiliate**" means, (i) with respect to the Government Shareholder, any person directly controlling the Government Shareholder and (ii) with respect to any person other than the Government Shareholder, any other person directly or indirectly controlling, controlled by or under common control with such person, with "**control**" for such purpose meaning the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities or voting interests, by contract or otherwise;

"**Articles**" means the Memorandum and Articles of Association of the Company;

"**Board**" means the Board of Directors of the Company;

"**Business Day**" means any day other than a Saturday, Sunday or statutory holiday on which banks are open for general business in Dodoma and

"**Cause**" means, with respect to an Executive:

- (a) the Executive acting dishonestly or fraudulently, or the wilful misconduct of the Executive, in the course of his employment, in each case resulting in adverse consequences to the Company or to any of its Affiliates;
- (b) if the Executive or any member of his family makes any personal profit arising out of or in connection with any transaction to which the Company is a party or with which the Company is associated without making disclosure to and obtaining the prior written consent of the Board;
- (c) the conviction of the Executive for, or a guilty plea by the Executive to, any criminal offence punishable by imprisonment that may reasonably be considered to be likely to adversely affect the Company or any of its Affiliates or the suitability of the Executive to perform his duties hereunder, including any offence involving fraud, theft, embezzlement, forgery, wilful misappropriation of funds or property, or other fraudulent or dishonest acts; or
- (d) any other act, event or circumstance which would constitute

just cause at law for termination of the Executive's employment hereunder.

"**CEO**" means the Chief Executive Officer of the Company;

"**CFO**" means the Chief Financial Officer of the Company;

"**COO**" means the Chief Operations Officer of the Company;

"**Chairman**" means the chairman of the Board;

"**Class A Shares**" means the A ordinary shares in the capital of the Company, the terms of which are set out in the Articles;

"**Class B Shares**" means the B ordinary shares in the capital of the Company, the terms of which are set out in the Articles;

"**Confidential Information**" means the terms of this Agreement, all technical data and any other information and intellectual property concerning any matters affecting or relating to the Projects and the business, operations, assets, results or prospects of the Company, including information regarding plans, budgets, costs, processes, results of exploration, development, power and mining and other data, except to the extent that:

- (a) such information has already been publicly released by a Party as allowed herein; or
- (b) a Party can demonstrate that the information was previously disclosed to it, or publicly disclosed, by a person who did not do so in violation or contravention of any duty or agreement;

"**Consideration Value**" has the meaning set out in Article 5.4(a)(iii);

"**Deadlock Matter**" has the meaning set out in Article 3.11;

"**Dispute**" has the meaning set out in Article 8.1;

"**Dispute Notice**" has the meaning set out in Article 8.2;

"**Distributable Profits**" means the excess cash in the accounts of the Company available for distribution after providing for any operating expenditure requirements, sustaining or investment capital, working capital, debt service requirements and/or provisions or reserves created or maintained by applicable law, and after deduction of all amounts required, in the opinion of the Board, to be transferred to any reserves required to maintain the long term financial viability of TZSCO;

"**Distributions**" means cash distributions in the form of dividends, repayments of existing Shareholder Loans reflected in the attached Schedule, or returns of capital;

"**Equity Shares**" means the shares holding voting and economic rights in the Company being collectively, the Class A Shares and the Class B Shares;

"**Executive**" means any of the CEO, CFO or COO of the Company;

"**Expert Calculation**" has the meaning set out in Article 5.5(b);

"**Framework Agreement**" means the Framework Agreement concluded between the Parties dated _____;

"**Free Carried Interest**" means not less than 16 percent undilutable free carried equity interest in the capital of the Company as contemplated by Section 10 of the Act;

"**Future Mine**" means any (Name of Mineral) mining operations established by the Parties under this Agreement;

"**Government**" means the Government of the United Republic of Tanzania;

"**Government Shareholder**" means such entity designated by the Government to hold shares in TZSCO;

"**Initial CEO**" means the first CEO of the Company;

"**Initiating Party**" has the meaning set out in Article 3.11(b)(ii);

"**Mining Licence**" means a Mining Licence or Special Mining Licence granted in

accordance with the Act.

"**Negotiation Period**" has the meaning set out in Article 8.2;

"**Offered Interest**" has the meaning set out in Article 5.4(a);

"**Offeror**" has the meaning set out in Article 5.4(a);

"**Operational Information**" means Confidential Information that includes geological surveys, test work, samples, assays, models, production or prospects or other information relating to the results of exploration or mining activities;

"**Party**" means a party to this Agreement and "**Parties**" shall be construed accordingly;

"**Party Calculation**" has the meaning set out in Article 5.5(b);

"**Project**" means the (Name of Mining Project) and any such Future Project;

"**Proportionate Interest**" has the meaning set out in Article 2.3(a);

"**Related Transferee**" has the meaning set out in Article 5.3(a);

"**Representatives**" has the meaning set out in Article 9.1(b);

"**ROFR Notice**" has the meaning set out in Article 5.4(a);

"**Rules**" has the meaning set out in Article 8.3;

"**Shareholder**" means a holder of Equity Shares, from time to time;

"**Shareholder Loans**" means loans in the nature of loan capital between the Company (as borrower) and any of its shareholders or Affiliates (as lender), other than: any indebtedness incurred by the Company in the ordinary course of business (including fees, costs and expenses incurred in connection with goods and services provided to the Company);

"**Shares**" means, collectively, the Equity Shares and any other shares in the capital of the Company;

"**Strategic Infrastructure**" means for the purpose of enforcement or execution of an arbitral award in Article 8.4 communication and transportation infrastructure, power generation infrastructure, energy installations, defence and security equipment and the Central Bank of Tanzania assets and foreign reserves.

"**Third Party Offer**" has the meaning set out in Article 5.4(a);

"**Third Party Transferee**" has the meaning set out in Article 5.2(a);

"**Transfer**" of any Share or other security means any sale, exchange, transfer, assignment, gift, pledge, creation of an encumbrance, hypothecation, alienation or other transaction, by which the legal or beneficial ownership of, or any security interest or other interest in, such security passes from one person to another person or to the same person in a different capacity, whether or not for value;

"**Tribunal**" has the meaning set out in Article 8.3(f);

"**Valuation Expert**" has the meaning set out in Article 5.5.

1.2 Interpretation

Save where the context requires otherwise:

- (a) references to the Government include all organs and agencies of the Tanzanian Government;
- (c) references to any Article or Annex without further designation shall be construed as a reference to the article or annex to or of this Agreement so numbered;
- (b) reference to gender shall include all genders and reference to the singular shall include the plural and vice versa;
- (c) references to a person shall include any individual, firm, body corporate (wherever incorporated), government, state or agency of a state or any joint venture, association, partnership, workers' council or employee representative body (whether or not having a separate legal personality);

- (d) the terms "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". Where a word or phrase is defined, its other grammatical forms have a corresponding meaning. The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular section or other subdivision; and
- (e) any reference to
 - (i) 'writing', or 'any cognate expression', includes a reference to any communication effected by telex, e-mail transmission or similar means; and
 - (ii) a statute or a provision of a statute is a reference to that statute or a provision as amended or re-enacted at the relevant time.

ARTICLE 2

SHAREHOLDER INTERESTS

2.1 Purpose of the Agreement

- (a) In addition to the other matters set forth herein, the Parties have entered into this Agreement to establish:
 - (i) the terms for the governance of the Company and the ownership of Shares; and
 - (ii) the rules applicable to any Transfer of Shares by a Shareholder.
- (b) The Parties agree that in the event of inconsistencies between this Agreement and the Articles, the provisions of this Agreement shall prevail.

2.2 No Partnership or Agency and Ability to Pursue Business Interests

- (a) Nothing in this Agreement will be deemed to constitute any Party as the partner, agent or legal representative of any other or to create any fiduciary relationship between them. It is not the intention of the Parties to create, nor shall this Agreement be construed to create, any mining, commercial or other partnership.
- (b) Except as expressly provided in this Agreement or any subsequent agreement in writing executed by the Parties, each Shareholder will have the right to independently engage in and receive full benefits from other business activities, whether or not competitive with any other Shareholder's or the Company's activities or the operations of the Projects, without consulting the other Shareholders or the Company. Notwithstanding any other provision of this Agreement, each Party will be free to acquire for its own account, free of any liability, duty or obligation to any other Parties arising out of this Agreement, any mineral rights, assets or properties located outside the properties comprising the Projects, without regard to any doctrine of "corporate opportunity" or "business opportunity", and regardless of whether any Confidential Information (other than Operational Information) is used.

2.3 Proportionate Interests

- (a) The interest of each Shareholder in the Company

- ("Proportionate Interest") shall be equal to the number of Equity Shares held by such Shareholder divided by the total number of issued and outstanding Equity Shares of the Company.
- (b) On the date hereof, the Proportionate Interests of the Shareholders are as follows:
- (i) The Investor – not more than 84 percent (held in the form of Class A Shares);
 - (ii) The Government – not less than 16 percent undilutable Free Carried Interest (held in the form of Class B Shares).
- (c) Without prejudice to any decision by the Board to seek external third party financing, only the holder(s) of Class A Shares shall be responsible, if so agreed by the holders of the Class A Shares, for making cash contributions to, and otherwise funding, the Company in proportion to their respective percentage holding(s) of Class A Shares. The Government's Free Carried Interest is non-transferable (directly or indirectly) and shall not be subject to dilution or reduction unless otherwise agreed in writing by the Government.
- (d) Holders of Class A Shares that do not make cash contributions by way of equity on the basis contemplated in Article 2.3 (c) in proportion to their respective percentage holdings of Class A shares will be subject to dilution of their percentage shareholding determined with reference to:
- (i) the total amount of the cash contribution; and
 - (ii) the value of the Company.
- In the event of there being any dispute as to the value of the Company, the matter will be referred to a partner in an audit firm of international repute with at least 15 years of relevant industry experience, whose decision shall take into account best international practice and be binding upon the Parties.
- (e) To the extent new Class A or other Shares are issued by the Company, the Government's holding of Class B Shares will preserve its Free Carried Interest without there being any requirement on the Government's part to make any contributions to the Company;
- (f) The Parties agree that the Shareholder Loans are reflected in Schedule 5.

2.4 Obligations of the Company and the Shareholders

- (a) The Company undertakes with each of the Parties to, and the Parties acknowledge and agree that the Company shall, refrain from taking any steps to issue or register transfers of Shares except subject to, and shall in any event comply in all respects with, the provisions of this Agreement, and in particular the Share Transfer provisions set out in Article 5.
- (b) Where any provision of this Agreement applies expressly or by implication to the Company, the Shareholders shall, so far as they are respectively able, procure that the Company complies with such provision.

ARTICLE 3
GOVERNANCE OF THE COMPANY

3.1 Management of the Company and Exercise of Voting Rights

Subject as hereinafter provided, the Shareholders agree to exercise any and all voting rights attaching to the Shares owned by them and to otherwise exercise their influence so that, unless the Shareholders otherwise expressly agree in writing, at all times while this Agreement is in effect, the following provisions shall apply:

- (a) The Board shall consist of five (5) directors and a corresponding number of alternates in accordance with the Articles. Each director may appoint his or her alternate by providing notice of the same to the Company.
- (b) A designated alternate may act in place of the applicable director at any meeting of the Board at which such director is not present or in connection with any actions to be taken by the Board or by any director individually in the absence of such director.
- (c) Directors shall be nominated by the Shareholders in proportion to their Proportionate Interests; provided, however, that the Government Shareholder shall at all times be entitled to appoint two directors for so long as it holds Equity Shares.
- (d) Each director may provide its appointing Shareholder with any information acquired in his or her capacity as an officer or director of the Company (such information to be maintained by the relevant Shareholder in accordance with Article 9.1).
- (e) The initial directors to the Board shall be:

S/No.	Name	Nominating
	Shareholder	
1.	Investor
2.	Investor
3.	Investor
4.	Government
5.	Government

- (f) A Shareholder may give notice to the other Shareholder that the notifying Shareholder wishes to change its nominee to the Board, or to fill a vacancy resulting from the death, resignation, retirement, disqualification or other removal of its nominee to such a board of directors. Upon the receipt of any such notice, the other Shareholder shall forthwith execute such resolutions or other documents and take all such other action as the Shareholder giving such notice may reasonably consider necessary to give effect to the change, election or appointment in question.
- (g) Notwithstanding the composition of the Board, at any meeting of the Board at which a quorum is present, the aggregate voting power of the directors of the Company nominated by a Shareholder and present at the meeting shall be equal to such Shareholder's Proportionate Interest, divided equally among such directors (or, if applicable, alternates).
- (h) The Board will meet at least quarterly and at such other times

as considered necessary or advisable. Any director nominated by a Shareholder holding at least a 15 percent Proportionate Interest can call a meeting of the Board on not less than 15 days' written notice given to all the other directors, which written notice shall set out the matters to be raised at the meeting, provided that all the directors may, by an instrument in writing delivered before or after the meeting or by participating at the meeting, waive notice of any meeting of directors, in which event any such meeting shall be considered to be duly constituted notwithstanding the absence of notice in respect thereof.

- (i) The quorum for Board meetings shall be three directors (provided that at least one director shall be the appointee of the Government Shareholder), present in person or by means of a conference telephone or other communications equipment as permits all persons participating in the meeting to communicate with each other simultaneously and instantaneously; provided, however, that if quorum is not present within 30 minutes following the time at which the meeting is scheduled to take place, the meeting may be adjourned to the same day in the immediately following week (or, if that day is not a Business Day, the next following Business Day) at the same time and place. The quorum requirements at any such adjourned meeting shall be the same as for the earlier meeting. Only those items included on the agenda for the original meeting may be acted upon at such a rescheduled meeting, but any matters may be considered with the consent of all directors at an adjourned Board meeting.
- (j) Unless otherwise unanimously agreed by the Board, Board meetings shall be held in Tanzania.
- (k) Except as otherwise provided in this Agreement, all questions proposed for consideration by the directors at a meeting of the Board shall be determined, and all resolutions, in order to be effective, shall be passed, by directors nominated by Shareholders holding at least a majority of the issued and outstanding Equity Shares.
- (l) A resolution of the Board may be passed in the absence of a meeting by resolution in writing signed by all the directors.

3.2 Chairman of the Board

- (a) The Chairman of the Board shall, subject to Article 3.2 (b), be appointed by the Investor and shall be chosen from among the directors nominated by the Investor. The Chairman shall not have a second or casting vote.
- (b) Class Investor shall recommend to the Government Shareholder from amongst the Directors of the Company a chairman of the Board and on receipt of the recommendation the Government Shareholder shall upon satisfaction and without unreasonable delay approve the appointment provided that the Government Shareholder shall not unreasonably withhold approval and where the Government Shareholder fails to approve the appointment of the Chairman within 30 Business Days and, if

the approval process takes more than 30 days, the Government Shareholder shall provide reasons thereof.

- (c) The Chairman shall be the chairman of any meeting of the Board or Shareholders, if present; in his absence, the chairman of the meeting of the Board or Shareholders shall be the person chosen by those directors or Shareholders, as applicable, who are present at the meeting in accordance with their respective voting rights.
- (d) The Company Secretary shall prepare minutes of all Board meetings and shall distribute a copy of such minutes to the directors within 20 days after the meeting. The minutes must be signed by the Chairman and the Company Secretary. The minutes, when approved by the directors in attendance at the meeting, shall be the true record of the decisions made by the Board. The minutes of a Board meeting shall be deemed to have been approved by a director unless such director objects in writing within 10 days after being provided with such minutes. Approval of the minutes shall not be a condition to the effectiveness of actions properly taken by the Board.

3.3 Meetings of Shareholders

- (a) Shareholders will meet at least once per annum to elect directors, receive financial statements, appoint auditors or conduct such other business as is deemed necessary or advisable. Any meeting of the Shareholders may be called by resolution of the Board or by any Shareholder who owns not less than 15 percent of the outstanding Equity Shares entitled to vote at such meeting, on not less than 21 days' written notice given to all the Shareholders, which notice shall set out the matters to be raised at such meeting, provided that all the Shareholders may, by an instrument in writing delivered before or after the meeting or by participation at the meeting, waive notice of any meeting of the Shareholders, in which event any such meeting shall be considered to be duly constituted notwithstanding the absence of notice in respect thereof.
- (b) A quorum for meetings of the Shareholders shall be two persons present and representing, in person or by proxy, not less than 51 percent of the voting power represented by Equity Shares entitled to vote at such meeting; provided, however, that if quorum is not present within 30 minutes following the time at which the meeting is scheduled to take place, the meeting may be adjourned to the same day in the immediately following week (or, if that day is not a Business Day, the next following Business Day) at the same time and place. The quorum requirements at any such adjourned meeting shall be the same as for the earlier meeting. Only those items included on the agenda for the original meeting may be acted upon at such a rescheduled meeting, but any matters may be considered with the consent of all shareholders at an adjourned shareholders' meeting.
- (c) Except as otherwise provided in this Agreement, all questions proposed for consideration by the Shareholders at a meeting of

such Shareholders shall be determined, and all resolutions, in order to be effective, shall be passed, by Shareholders holding at least a majority of the issued and outstanding Equity Shares, which majority must include the approval of the Government Shareholder for so long as it holds the Free Carried Interest.

- (d) A resolution of the Shareholders may be passed in the absence of a meeting by resolution in writing signed by all Shareholders.

3.4 Audits

- (a) The Company shall be subject to annual audit by an independent accounting firm of international standing to be appointed by the Shareholders on the recommendation of the Board.
- (b) The fiscal year of the Company shall end on December 31 in each year.

3.5 Officers of the Company

- (a) The Initial CEO of the Company shall be appointed by the Investor. Any subsequent CEO shall be appointed by the Board. Any CEO must possess the qualifications reasonably expected of an executive of a mining company with producing mines.
- (b) The CEO shall, among other things:
 - (i) be responsible for overseeing the day to day operations of the business of the Company in accordance with the annual business plan;
 - (ii) report to the Board with such frequency and in such manner as may be required by the Board; and
 - (iii) comply and implement the decisions of the Board.
- (c) The management of the Company shall be composed of among others, the CEO, COO, CFO, CHRO and CPO who shall be appointed pursuant to this Agreement.
- (d) For the purpose of appointment of management members, management positions under Article 3.5(a) shall be categorised into two categories. Category I shall comprise of CEO, COO, CHRO; Category II shall comprise of CFO and CPO. The Government Shareholder shall be entitled to appoint one position from each category which shall be held by a Tanzanian, provided that such approval shall not be unreasonably withheld or delayed.
- (e) The Board may, subject to Article 3.9(e) remove the CEO, CFO, COO, CHRO and CPO for any reason, and may remove any of the foregoing for Cause without regard to Article 3.9(e).

3.6 Name, Offices and Services

- (a) The name of the Company shall be The business of the Company shall be as provided in the Articles, as amended from time to time.
- (b) The head office of the Company shall be located at, Tanzania.
- (c) The Company may establish such other offices in Tanzania as the Board may deem appropriate.
- (d) If a Shareholder (or an Affiliate thereof) provides personnel to

the Company, the terms of employment, including any determination as to whether such personnel are to be seconded to, or employed by the Company, shall be determined by and be subject to agreement with the Company on an arm's length basis. Provided that such agreement shall be in line with the Local Content Regulations.

- (e) The Company shall pay to the person supplying seconded personnel all employment costs during the period of secondment (including salary, pension, national insurance and the value of any fringe benefits or perquisites).

3.7 Remuneration of Directors

Each of the directors of the Company shall be remunerated by the Company in their capacities as directors of the Company.

3.8 Distributions

- (a) Subject to the provisions of the Companies Act, Cap. 212 and any other law in force in Tanzania, there shall be distributed by way of Distributions all of the Distributable Profits of the Company as determined by the Board for each fiscal year.
- (b) Distributions shall be distributed to Shareholders in proportion to their Proportionate Interest.

3.9 Reserved Matters

Subject to Article 3.10 and to applicable law, the Parties agree that in addition to any other approvals that may be required at law or pursuant to the Articles of the Company, the Company shall not take any of the following actions without the prior approval of Shareholders holding a majority of the Equity Shares, which majority must include the approval of the Government Shareholder for so long as it holds the Free Carried Interest (each such matter, a "**Reserved Matter**"):

- (a) subject to Article 2.2(b), any amendment to the Articles of the Company or the passing of any resolution inconsistent therewith;
- (b) the conduct of any business by the Company other than in connection with, related to, or reasonably ancillary to the matters set out in Article 2.1;
- (c) the issuance to any party (other than to Shareholders or their respective designees who must be Affiliates of such Shareholders) on a pro rata basis of any Shares in the capital of the Company or any securities, warrants, options, or rights convertible into, exchangeable for, or carrying the right to subscribe for, such Shares;
- (d) any merger, sale of all or substantially all assets, reorganization, joint venture, acquisition of more than 50 percent of the Equity Shares then in issue, whether in one time or staggered over time, by any person other than the Investor, or any Affiliate of the Investor, application to list any Shares on any recognized national or international stock exchange or public offer of securities, in each case, of the Company, or similar transaction in respect of the Company (except as contemplated herein);
- (e) the appointment or dismissal (other than for Cause) of the CEO, CFO or COO of the Company, with the exception of the Initial CEO;

- (f) except in respect of any Shareholder Loans existing as at date of signing of this Agreement as reflected in Schedule....., the approval of, or entering into, any contract, agreement or commitment (including any intercompany indebtedness or obligations) with any Shareholder or any Affiliate of any Shareholder or with any person who does not deal at arm's length with any Shareholder or Affiliate of any Shareholder, unless such contracts, agreements or commitments are on arm's length terms or on terms more favourable to the Company than arm's length terms;
- (g) other than in the ordinary course of business, the entering into by the Company into any partnership or profit-sharing arrangement with any other person;
- (h) the provision by the Company of any credit, the making of a loan or advance, or the granting of a guarantee, in each case other than in the ordinary course of the business; and
- (i) the voluntary winding-up or dissolution of the Company, or any similar voluntary amalgamation, arrangement, merger or reorganization (not constituting solely an internal reorganization) involving the Company and initiated by the Shareholders, other than, in each case, where required to satisfy applicable laws, legal requirements or directors' duties.

3.10 Future funding

Any future financial requirements of the Company over and above the Shareholder Loans reflected in the attached schedule, shall be determined by the Board through ordinary resolution. The Board shall use reasonable commercial endeavours to ensure that the future financial requirements of the Company are met as far as practical in the following order:

- (a) The Company's own resources;
- (b) Borrowings from banks and other third party resources on the most favourable commercial terms reasonably obtainable as to interest, repayments and security;
- (c) New shareholder loans as agreed by the Board; or
- (d) Such other mechanisms that the Board may determine, which may include any equity contributions contemplated in Article 2.3(d).

3.11 Deadlock

- (a) In the event of any deadlock in respect of any Reserved Matter (the "Deadlock Matter"), either Shareholder may refer the subject matter of the deadlock to the CEO of Investor and the Treasury Registrar, who will attempt in good faith to resolve the Deadlock Matter within 90 days of the Deadlock Matter being referred to them. Either Shareholder may during such 90-day period nominate an independent third party acceptable to the other Shareholder to help act as mediator to assist the Shareholders to resolve the Deadlock Matter.
- (b) If a mutually acceptable resolution is not reached by such individuals during such 90 days period, then:
 - (i) if the Deadlock Matter concerns any matter referred to in Articles 3.9(a) to (c), the status quo shall remain in effect; and

- (ii) if the Deadlock Matter concerns any other matter, any Shareholder may submit the dispute for decision to an expert (such party, the "**Initiating Party**") on the following terms:
 - A. The Initiating Party shall notify the other Shareholder in writing that it is initiating the deadlock resolution process in accordance with this Article 3.10;
 - B. The Shareholders undertake to cooperate in good faith to appoint a mutually acceptable expert to resolve the deadlock within 15 days following receipt of the notification referred to in A above. The expert must be:
 - (I) a professional of international repute with the skills and experience necessary to address the deadlock; and
 - (II) independent of the Shareholders. For the purposes of this provision an expert shall be deemed not to be independent if the expert has been employed in any capacity (including as an employee or contractor) by a Shareholder or an Affiliate thereof in the immediately preceding five-year period, or has been employed by a person who has, during the immediately preceding five-year period, been contracted to perform work for either Shareholder or an Affiliate thereof.
 - C. If the Shareholders fail to reach an agreement on an expert within the 15-day period referred to in B above, any Shareholder may apply to the Chairman of the Tanzania Chamber of Mines or to such other authority as the Shareholders may otherwise agree to appoint an expert that satisfies the requirements in B above.
 - D. The expert shall have access to all relevant documents of the Company, subject to the confidentiality provisions in Article 9.1.
 - E. The Shareholders shall be entitled to make written submissions to the expert within two Business Days of its appointment (with a copy to the other Shareholders) and the expert shall give due weight to any written representations put forward by a Shareholder within such time as he may determine in his sole discretion.
 - F. The expert shall make its determination as soon as practicable, and in any event within 30 days of his appointment and shall notify the Shareholders of his determination.
 - G. The expert will render its determination having regard to the best interests of the Company and generally accepted international mining practices.
 - H. The expert shall act as an expert and not as an

arbitrator and its decision shall be final and binding on all parties (in the absence of manifest error).

- I. The fees of the expert shall be borne equally by the Shareholders.

ARTICLE 4 **REPORTING**

4.1 Financial Reporting

- (a) The Company shall provide to each Shareholder:
- (i) within 45 days after the end of each fiscal quarter, unaudited financial statements of the Company (consisting of a balance sheet and statements of income, retained earnings and changes in financial position);
 - (ii) within 180 days after the end of each fiscal year, audited annual financial statements of the Company prepared in accordance with applicable International Financial Reporting Standards, and the report of the independent auditors thereon; and
 - (iii) any other Company information reasonably requested by a Shareholder.
- (b) The Company shall maintain its books and records in accordance with good corporate practice, applicable laws and such policies as are determined by the Company from time to time.

4.2 Technical and Other Reports

The CEO will, subject to any modifying instructions approved by the Board, prepare or cause to be prepared the following reports for provision to directors and Shareholders:

- (a) a monthly report by the fifteenth Business Day of each month, which contains with respect to the preceding month:
- (i) discussion and analysis of operating and financial results (including actual and budgeted operational and financial performance);
 - (ii) simplified financial statements (including statement of income, simplified statement of indirect cash flow and key balance sheet indicators); and
- (b) copies of such other reports as have been prepared in respect of operations as any Shareholder may reasonably request from time to time.

4.3 Inspection and Access

- (a) A Shareholder or its representatives, at its own risk and expense, shall be permitted to inspect the Company's books, records and data pertaining to the performance of operations and to the Company's assets, including all technical data upon reasonable advance notice to the CEO and at convenient times during normal working hours and to make copies thereof; provided, however, that neither a Shareholder nor any of its representatives shall at any time have access to or any right to inspect or copy or have an interest of any kind in or to proprietary information of the other Shareholder.
- (b) The rights granted to the Shareholders in this Article 4.3 shall be subject to the confidentiality provisions in Article 9.1.

ARTICLE 5
TRANSFER RESTRICTIONS

5.1 Restriction on Transfer

- (a) No Shareholder shall Transfer any Shares except in accordance with the provisions of this Article 5.
- (b) Any purported transfer in violation of this Agreement shall be invalid and void and shall not be registered in the books of the Company or otherwise recognized for any purpose (including for the purpose of determining voting rights or determining entitlements to dividends or other distributions). The Company shall not accept for registration in its relevant books of record any Transfer of Shares not made in accordance with the provisions of this Agreement.

5.2 Third Party Transfers

- (a) Subject to the Right of First Refusal described in Article 5.4 and the approval of the Government Shareholder, a Shareholder may freely Transfer all or any portion of its Shares (save for Class B Shares which are non-transferable) in the Company to a third party ("**Third Party Transferee**"), provided that:
 - (i) the Third Party Transferee must first enter into a deed of adherence (substantially in the form attached as Annex A) whereby it agrees to be bound by the terms of this Agreement as though an original party hereto, and to assume all future obligations and liabilities of the transferor in proportion to the interest being acquired; and
 - (ii) the other Parties would not become subject to any material restrictions of any governmental authority to which they were not subject prior to the proposed Transfer by reason of nationality, residence or identity of the Third Party Transferee.
- (b) Any sale of Class A Shares by a Shareholder shall require the sale of the Shareholder Loans (or relevant proportion of them) then held by the selling Shareholder to the purchaser of the Shareholder's Equity Shares.
- (c) The transferring Shareholder shall, on completion of a Transfer completed in accordance with the terms hereof, procure the resignation of such number of directors as are necessary to comply with Article 3.1(c).
- (d) Nothing in this Agreement shall prevent the acquisition of control of a direct or indirect holder of Shares located outside Tanzania (the "**Target**") by any person by way of a take-over bid, the sale by the Target of all or substantially all of its assets and business, or the acquisition, amalgamation, arrangement, merger or combination of the Target by, with or into any other person.

5.3 Permitted Transfers

Notwithstanding anything else contained herein, the following Transfers of Class A Shares shall not be subject to the right of first refusal set out in Article 5.4 but shall, in the case of Article 5.3(a) (but not Article 5.3(b)), be subject to the approval of the Government Shareholder:

- (a) a Transfer of Class A Shares to another body corporate that is an Affiliate of the transferor (a "**Related Transferee**"), provided that the Related Transferee

- (i) agrees in writing in favour of the other Parties (by executing a deed of adherence substantially in the form set out in Annex A) to be bound by the terms of this Agreement in the same manner and to the same extent as though the Related Transferee was an original party hereto, and
 - (ii) covenants that, prior to ceasing to be a Related Transferee, it will Transfer all of its direct and indirect interest in the transferred Shares back to the original transferor or another Related Transferee of such transferor; and
- (b) a Transfer of Class A Shares to a financial institution by way of pledge to secure a bona fide debt related to the business or assets of the Company or the Investor (and any subsequent Transfer in the event of realization of such pledge).

5.4 Right of First Refusal

- (a) Upon receipt of a bona fide third party offer to purchase all or part of a Shareholder's (such Shareholder, the "**Offeror**") Shares ("**Offered Interest**") in the Company (whether such proposal is unsolicited from the third party or arises as a result of an outbound inquiry or offer by a Shareholder) (in either case, a "**Third Party Offer**"), the Offeror shall provide other Shareholder (the "**Offeree Shareholder**") with a written notice (the "**ROFR Notice**") which shall contain:
 - (i) a summary of the Third Party Offer;
 - (ii) a copy of such Third Party Offer together with all related materials and information; and
 - (iii) if the Third Party Offer is not entirely a cash offer, an estimate of the value of the non-cash consideration ("**Consideration Value**").
- (b) The Offeree Shareholder shall have 30 days from the receipt of the ROFR Notice (the "**Acceptance Period**") to notify the Offeror that it intends to exercise its right to acquire the Offeror's Offered Interest on the same terms as the Third Party Offer (the "**Acceptance Notice**"); provided, however, that an offer by the Offeree Shareholder to pay the cash equivalent of any non-cash consideration shall nonetheless be considered to be on the same terms as the Third Party Offer if all other terms are substantially identical.
- (c) If the Offeree Shareholder disagrees with the Offeror's estimate of the Consideration Value, the Offeree Shareholder shall provide written notice ("**Objection Notice**") to the Offeror of such disagreement within 10 days from the receipt of the ROFR Notice, in which case the Acceptance Period shall be extended to the date that is 10 days from the date on which the value of the non-cash consideration is settled or agreed. A failure by the Offeree Shareholder to send an Objection Notice within the prescribed 10-day period shall constitute deemed acceptance of the Consideration Value. If the Offeree Shareholder and the Offeror do not agree on the Consideration Value within three Business Days of receipt of an Objection Notice, the Offeree Shareholder and the Offeror shall determine Consideration Value in the manner set out in Article 5.5. The sale of the Offered Interest to the Offeree Shareholder shall be completed as soon as practicable following receipt of the Acceptance

Notice.

- (d) If the Offeree Shareholder does not provide the Acceptance Notice within the Acceptance Period or notifies the Offeror in writing that it does not intend to exercise its right of first refusal prior to the end of the Acceptance Period, the Offeror may complete the sale and assignment of its Offered Interest to the third party on the terms of the Third Party Offer; provided that if such sale is not completed within 180 days from the end of the Acceptance Period, the requirements of this Article shall again apply and Offeror shall again be required to provide the Offeree Shareholder with a ROFR Notice with respect to any Third Party Offer.
- (e) The terms and conditions of Article 5.4 shall apply *mutatis mutandis* to any sale of an Offered Interest, whether to a third party or to the Offeree Shareholder.
- (f) For the avoidance of doubt, the rights conferred by this Article 5.4 shall not apply to Class B Shares which are non-transferable.

5.5 Determination of the Value of Non-Cash Consideration

- (a) Where there is disagreement on the Consideration Value which the Offeree Shareholder and the Offeror are unable to resolve by good faith negotiations within the timeframe in Article 5.4(c), the Offeree Shareholder and the Offeror shall appoint a mutually acceptable independent adjudicator who shall be a partner in an audit firm of international repute with at least 15 years of relevant industry experience to determine the Consideration Value (the "**Valuation Expert**").
- (b) Each of the Offeree Shareholder and the Offeror shall be entitled to make written submissions to the Valuation Expert within two Business Days of its appointment (with a copy to the other) which submissions shall include its estimate of the Consideration Value (the "**Party Calculation**"), and the Valuation Expert shall be instructed to complete its calculation as soon as reasonably practicable and, in any event, within five Business Days from the date of its appointment (the "**Expert Calculation**").
- (c) The Expert Calculation shall constitute the final and binding Consideration Value (provided that, if the Expert Calculation produces a Consideration Value greater than the higher Party Calculation or less than the lower Party Calculation, the Party Calculation that is closest to the Expert Calculation shall be the final and binding Consideration Value).
- (d) The fees and expenses of the Valuation Expert shall be borne equally by the Parties (provided that, if the Expert Calculation produces a Consideration Value greater than the higher Party Calculation or less than the lower Party Calculation, the Party whose Party Calculation is furthest from the Expert Calculation will bear the fees and expenses of the Valuation Expert).

ARTICLE 6 TERMINATION

6.1 Term

- (a) This Agreement shall commence on the date hereof and continue in full force and effect until the earlier of:

- (i) the date on which the Company has only one Shareholder;
 - (ii) the date on which this Agreement is terminated in writing by all of the Shareholders who continue to own Shares; or
 - (iii) the winding-up or dissolution of the Company.
- (b) A termination of all or part of this Agreement shall not affect or prejudice any rights or obligations which have accrued or arisen under this Agreement prior to the time of termination, including any liability, whether accruing before or after such termination, which arises out of activities or operations conducted prior to such termination, and such rights and obligations shall survive the termination of all or any part of this Agreement.

ARTICLE 7

GOVERNING LAW AND JURISDICTION

7.1 Governing Law

This Agreement shall be governed by, and construed in accordance with, the Laws of Tanzania.

ARTICLE 8

DISPUTE RESOLUTION

8.1 Negotiation

The Parties agree that, they shall in the first instance seek to resolve all disputes arising out of or in connection with this Agreement (a “**Dispute**”) through negotiations between the Parties.

8.2 Conciliation

- (a) In the event that any Dispute is not resolved through negotiations within 30 days (the “**Negotiation Period**”) of one Party notifying the other Party or Parties in writing of the Dispute (the “**Dispute Notice**”), the parties to the Dispute may, refer the Dispute to conciliation in accordance with the UNCITRAL Conciliation Rules.
- (b) The conciliator shall be a lawyer of at least 15 years’ post qualification practising experience and shall be accredited or certified by an internationally recognized organization. The conciliator shall be independent of the Parties. If the conciliator is not appointed within 14 days of the acceptance of a request for conciliation, the President of the East African Court of Justice shall appoint the conciliator.
- (c) Any conciliation shall be completed within 60 days of the appointment of a conciliator (unless extended by agreement in writing between the parties to the Dispute).
- (d) If the parties to the Dispute have not resolved the Dispute within 75 days of the expiry of the Negotiation Period (or such longer period agreed in writing by the parties to the Dispute), any Party shall have the right to refer the Dispute to arbitration pursuant to Article 8.3 below.

8.3 Arbitration

- (a) The Parties irrevocably agree that any Dispute not resolved under Articles 8.1 and 8.2 above shall be finally resolved by arbitration in accordance with the UNCITRAL Arbitration Rules (the “**Rules**”).
- (b) Upon issuance of a notice of arbitration commencing the arbitration, the Parties shall seek to mutually agree on the arbitral seat or legal place of arbitration. In determining the arbitral seat, the parties agree

that the selection shall be made on the basis that the seat should be in a jurisdiction which is internationally recognized and experience in handling complex international commercial arbitration (not being the united Republic of Tanzania, or a state which is a member of the East African Community, or a country affiliated to the investor [names]), and which is a party to the New York Arbitration Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 in effect on the date of this Agreement (the “New York Convention”), notwithstanding that the governing law of the contract is Tanzanian law.

- (c) The Parties shall endeavour to agree on a mutually acceptable, secure and accessible venue in Africa as the venue for the arbitration hearings, with a view to minimizing the cost and logistical complications of the arbitration. If the Parties are unable to agree on a venue within 30 days from the date of commencement of the arbitration as determined in accordance with Article 8.3(b) any Party may apply to the President of the East African Court of Justice to determine the venue of the arbitration hearings, on the basis that the Parties agree that this should be in a jurisdiction which is internationally recognized and has appropriate facilities and infrastructure to support international arbitration hearings and that the seat and venue of the arbitration hearings need not be the same.
- (d) The law applicable to the arbitration and to this arbitration agreement, including any dispute or difference relating to the interpretation of this arbitration agreement or the Rules, shall be the law of the arbitral seat, with consideration to the governing law of the contract being Tanzanian law.
- (e) The language of the arbitration shall be English.
- (f) The appointment of arbitrators shall be in accordance with the Rules. The number of arbitrators shall be three. All arbitrators must be independent of the Parties, and shall observe strictly and faithfully their duties of independence throughout the arbitral process. The three arbitrators shall make up the arbitral tribunal (the “**Tribunal**”).
- (g) The Parties may agree to consolidate two or more arbitrations into a single arbitration, including where:
 - (i) all of the claims in the arbitrations are made under the same arbitration agreement; or
 - (ii) where the claims in the arbitrations are made under more than one arbitration agreement, the arbitrations are pursuant to the arbitration agreements in any of the Related Agreements, or are between the same parties (being any of the Parties on the one hand and any of the Government Parties on the other hand), the disputes in the arbitrations arise in connection with the same legal relationship, and the arbitration agreements are compatible.
- (h) If multiple arbitral proceedings are consolidated into a single consolidated proceeding, the Tribunal appointed in the first proceeding to be commenced shall preside over the consolidated proceedings.

8.4 Arbitral Award

- (a) The arbitration award shall, in the absence of manifest error, be final and binding on all the Parties, and the Parties undertake to satisfy and

comply with any award without delay. Judgment upon the award may be entered by any court having jurisdiction of the award or having jurisdiction over the relevant party or its assets.

- (b) To the extent permitted by the law of the arbitral seat, the Parties hereby irrevocably agree to waive any rights to appeal or challenge any award (whether interim or final) based on grounds other than those set out in the New York Convention.
- (c) Each Party agrees to waive all and any rights to claim immunity it may have in relation to any proceedings, whether before an arbitral tribunal or any courts of competent jurisdiction, and the right to claim immunity with respect to enforcement of any arbitral award or judgment enforcing any arbitral award (whether interim or final), and including the right to claim immunity in respect of service of process, jurisdiction, attachment, execution and/or enforcement of any award or judgment against any assets, property or revenue of any nature except the Government's Strategic Infrastructure.

8.5 Confirmation to be Bound by Arbitration Agreement

The Parties confirm that they shall not resort to any other dispute settlement mechanism other than the procedure under this Article 8, except where there occurs any failure to enforce this arbitration agreement or an arbitral award on account of acts and actions by the Government.

ARTICLE 9 **OTHER MATTERS**

9.1 Confidentiality

- (a) All Confidential Information shall be treated by the Parties as confidential during the term of this Agreement and at all times thereafter and shall not be disclosed by the receiving Party to any other person other than in accordance with Article 9.1(b) or in circumstances where the Party has an obligation to disclose such information by applicable law, rule, legal requirement or official request of any regulatory or governmental authority or stock exchange to which the receiving Party is subject.
- (b) Each Party acknowledges and agrees that the other Party may disclose Confidential Information to:
 - (i) its directors, officers and employees (and the directors, officers and employees of its Affiliates);
 - (ii) its and its Affiliates' financial, accounting, legal and professional advisors, as well as its and its Affiliates' lenders, underwriters and investment bankers, and each of their respective directors, officers, partners or employees;
 - (iii) a court or tribunal or governmental agency or regulatory body in the event that disclosure is required by law or by direction.
 - (iv) members of Government with a need to know such Confidential Information;
 - (v) any contractors and subcontractors of the Party; and
 - (vi) any actual or prospective bona fide purchaser of the Shareholder's rights, benefits or obligations under this Agreement or the Shareholder's right or title in or to the Projects,in each case, whether direct or indirect (collectively,

"Representatives"), and in each such case provided that (X) each of such Representatives to whom Confidential Information is disclosed is advised of the confidentiality of such information and is directed to abide by the terms and conditions of this Article 9.1, and (Y) the disclosing Party shall be liable for any breach of this Article 9.1 by its Representatives.

- (c) The provisions of this Article 9.1 shall continue in force in accordance with their terms notwithstanding the termination of this Agreement for any reason.

9.2 Notices

- (a) All notices or other communications to be given or made hereunder shall be in English and in writing, shall be addressed for the attention of the persons indicated below and shall be delivered personally or sent by ordinary prepaid post, courier or e-mail. The addresses of the Parties shall be:

If to the Government Shareholder:

For the attention of: THE TREASURY REGISTRAR

Address:

OFFICE OF THE TREASURY REGISTRAR
P.O. Box 3193,
33 Samora Machel Avenue/Mirambo 50 ,
11104 DAR ES SALAAM

Tel No.: +255-22-212 1334

Email: tr@tro.go.tz

If to Investor:

For the attention of: The Directors

Address:

If to the Company:

For the attention of: The Directors

Address:

- (b) Except as otherwise expressly provided in this Agreement, all notices shall be deemed to have been delivered
- (i) when delivered by hand or by overnight courier, or ordinary prepaid post;

- (ii) if received during business hours on a business day for the receiving Party, when transmitted by e-mail to the receiving Party's e-mail address and, if received after business hours or on a day that is not a business day for the receiving Party, on the receiving Party's first business day following the date transmitted by e-mail to the receiving Party's e-mail address. Any notice given by e-mail shall be confirmed in writing, delivered personally or sent by ordinary prepaid post or courier, but the failure to so confirm shall not void or invalidate the original notice if no transmission error report was produced at the time the sending Party transmitted that original e-mail notice.
- (c) Any Party may, by notice in writing to the other Party, change the physical address and/or e-mail address to which such notices and communications are to be delivered, mailed or sent.

9.3 Severability

If any provision of this Agreement is determined to be invalid, illegal or unenforceable in any respect, all other provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. To the extent that any provision is found to be invalid, illegal or unenforceable, the Parties shall act in good faith to substitute for such provision, to the extent possible, a new provision with content and purpose as close as possible to the provision so determined to be invalid, illegal or unenforceable.

9.4 Further Assurances

Each of the Parties shall from time to time and at all times do all such further acts and execute and deliver all further deeds and documents as shall be reasonably required in order to fully perform and carry out the terms of this Agreement.

9.5 Entire Agreement

This Agreement constitutes the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, representations, undertakings, negotiations and discussions, whether written or oral. There are no terms, undertakings, conditions, covenants, agreements or other provisions, express or implied, collateral or otherwise, relating to the subject matter hereof except as expressly set forth herein. This Agreement may only be amended, varied, supplemented or otherwise modified by an instrument in writing signed by each Party.

9.6 No Waiver

No failure or delay by any Party in exercising any of its rights under this Agreement shall be deemed to be a waiver thereof and no waiver of a breach of any provision of this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

9.7 Counterparts

This Agreement may be executed in one or more counterparts and delivered by facsimile or email, each of which, once executed and delivered, shall be deemed an original and all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF the Parties have executed this Agreement.

Annex A

DEED OF ADHERENCE

THIS DEED made as of the ____ day of _____ by _____ a company incorporated under the laws of _____, (hereinafter "**New Shareholder**").

WHEREAS PARENT COMPANY, THE GOVERNMENT OF THE UNITED REPUBLIC OF TANZANIA and TANZANIA SUBSIDIARY CO. (the "**Existing Parties**") are Parties to a Shareholders Agreement dated _____ (the "**Shareholders Agreement**") with respect to TANZANIA SUBSIDIARY CO. (the "**Company**").

AND WHEREAS by an Agreement] dated _____ the New Shareholder [has agreed to] [intends to] [acquire] _____ shares in the Company and immediately on [completion of that acquisition], wishes to become a Party to the Shareholders Agreement by assuming all the rights and obligations of [insert name of transferring shareholder] (the "**Transferor**") as a Party to it.

**ARTICLE 1
INTERPRETATION**

Unless otherwise defined, terms used in this Deed shall have the meaning set out in the Shareholders Agreement.

**ARTICLE 2
ADHERENCE**

With effect from _____ (the "**Effective Date**"), and in accordance with Article 5.2, the New Shareholder covenants and undertakes to each of the Existing Parties and to any other person who from time to time becomes a party to the Shareholders Agreement, to be bound by and comply with the provisions of the Shareholders Agreement applicable to the Transferor (and to assume all future obligations and liabilities of the Transferor in proportion to the interest being acquired), as if it had with effect from the Effective Date been a party to the Shareholders Agreement [and references in the Shareholders Agreement to [insert name of transferring shareholder] shall be construed as references to the "**New Shareholder**"].

**ARTICLE 3
NOTICES**

For the purposes of Article 5.2 of the Shareholders Agreement, any notice or other communication to the New Shareholder shall be made to:

[Company]
[Address]
[Tel]
[Fax]
Attention: [_____]

**ARTICLE 4
GOVERNING LAW**

This Deed shall be governed by the Laws of Tanzania and the provisions of Article _____ of the Shareholders Agreement shall apply as if set out herein.

IN WITNESS WHEREOF THIS DEED OF ADHERENCE has been executed as a deed and it has been delivered on the date stated at the beginning.

[NEW SHAREHOLDER]

by

Name: xx
Title: xx

by

Name: xx
Title: xx

THIRD SCHEDULE

(Made under regulation 12(2))

**THE COMPANIES ACT
CAP. 212**

**MEMORANDUM OF ASSOCIATION
OF**

JVC LIMITED

1. The name of JOINT VENTURE COMPANY is **JVC LIMITED**
2. The registered offices of the JOINT VENTURE COMPANY will be situated in United Republic of Tanzania.
3. The objects for which the JOINT VENTURE COMPANY is established are:
 - 3.1 To acquire and take over the business now carried under the name and style of **JVC LIMITED** together with all its assets and liabilities
 - 3.2 To prospect for minerals, mining, including carrying out operations directly or indirectly necessary or incidental thereto, and processing of minerals in the United Republic of Tanzania;
 - 3.3 To cooperate with the shareholders in establishing world class facilities for mineral testing and processing, including the transfer of knowledge and technology to build the capacity of Tanzanians in the mining and mineral beneficiation sector;
 - 3.4 To carry promote the growth of the mining and gemstone beneficiation industry in the United Republic of Tanzania;
 - 3.5 To do all such other things as the JOINT VENTURE COMPANY may deem to be incidental to or conducive to the attainment of all or any of the above objects; and
 - 3.6 For the avoidance of doubt, the objects of this JOINT VENTURE COMPANY are construed independently and they are not ancillary to each other.

And it is hereby declared that the word "JOINT VENTURE COMPANY" in this clause, except where used in reference to the JOINT VENTURE COMPANY, shall be deemed to include any partnership or other body of persons, whether corporate or unincorporated, and whether domiciled in the United Republic of Tanzania or elsewhere, and the objects specified in each of the paragraphs of this clause shall be regarded as independent objects, and accordingly shall in no way be limited to or restricted (except where otherwise expressed in such paragraphs) by reference to or inference from the terms of any other paragraph or the name of the JOINT VENTURE COMPANY.
4. The liability of the Members is limited.
5. The share capital of the JOINT VENTURE COMPANY is Tanzania shillings (TZS), divided into (.....) shares of Tanzania shillings (TZS) each. The JOINT VENTURE COMPANY shall have power to divide the original or any increased capital into several and to attach thereto any preferential deferred, qualified or other special rights, privileges, restrictions or conditions.

The JOINT VENTURE COMPANY shall by a resolution of members have the power to amend or modify any of the conditions contained in this Memorandum of Association.

WE, the several persons whose names, addresses and descriptions are subscribed, are desirous of being formed into a JOINT VENTURE COMPANY in pursuance of this Memorandum of Association and we respectively agree to take the number of shares in the capital of the JOINT VENTURE COMPANY set opposite to our respective names.

Dated:

Name: _____

Signature: _____

Postal Address: _____

Qualification: Advocate/Notary Public/Commissioner for Oaths

**FORM OF ARTICLES OF ASSOCIATION
THE COMPANIES ACT, CAP. 212
COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION
OF
JVC LIMITED**

PRELIMINARIES

Preliminaries

1. The regulations in Table "A" in the First Schedule to the Act shall not apply to the Company.
2. In these Articles the following words have the following meanings:
 - “**Act**” means the Companies Act, Cap. 212.
 - “**Articles**” means these Articles of Association as amended from time to time.
 - “**Assets**” means the assets of the Company remaining after payment of liabilities.
 - “**Available Profits**” means profits available to the Company for distribution to its Members (whether in cash or otherwise).
 - “**Board**” means the board of Directors of the Company.
 - “**Business Day**” means any day other than a Saturday, Sunday or statutory holiday on which banks are open for general business in Dodoma and.....;
 - “**Class A Shares**” means A ordinary shares of TZS _____ each in the capital of the Company (as at the date of adoption of these Articles being _____ in number).
 - “**Class B Shares**” means B ordinary shares of TZS _____ each in the capital of the Company (as at the date of adoption of these Articles being _____ in number).
 - “**Company**” means JVC Limited.
 - “**Director**” means a director for the time being of the Company.
 - “**Equity Shares**” means the Class A Shares and Class B Shares.
 - “**Group**” means a company and its subsidiaries, subsidiary undertakings and holding companies and the subsidiaries and subsidiary undertakings of any such holding company from time to time (as such terms are defined in the Act).
 - “**Member**” means a holder of Equity Shares in the Company.
 - “**Office**” means the registered office of the Company.
 - “**Government Shareholder**” means Treasury Registrar or Tanzania Mineral Rights Holding Company being an entity nominated by the Government of the United Republic of Tanzania to hold **Class B Shares or, as the case may be Class A Shares** in the Company pursuant to Section 10 of the Mining Act, Cap. 123.
 - “**Paid Up**” means paid up or credited as paid up.
 - “**Proxy**” means a duly appointed proxy, including an attorney duly appointed under a power of attorney.
 - “**Proportionate Interest**” means not more than 84 percent in total in respect of all the Class A Shares and not less than 16 percent in total in respect of all the Class B Shares.
 - “**Secretary**” means any person appointed to perform the duties of the secretary of the Company and includes a temporary or assistant secretary.
 - “**Seal**” means the common seal of the Company.
 - “**Shareholders Agreement**” means any written agreement entered into between the Company and the holders of all shares of the Company establishing rights and restrictions over the governance and operations of the Company.
 - “**Tanzania**” means the United Republic of Tanzania.
 - “**TZS**” means Tanzania Shillings.
 - “**Writing**” means a written record, or a record by any other means including printing, lithography, electronic and any other mode of representing or reproducing words in visible form including facsimile messages, email messages,

telegrams and radiograms.

- (a) Save as aforesaid any words or expressions defined in the Act shall, if not inconsistent with the subject or context, bear the same meaning in these Articles.
- (b) The marginal notes are inserted for convenience only and shall not affect the construction of the Articles.
- (c) Words importing the singular number only shall include the plural and the converse shall also apply.

Words importing males shall include females.

PRIVATE COMPANY

Private Company

3. The Company is a private company and accordingly:
 - (a) the Members of the Company (exclusive of persons who are in the employment of the Company) are limited to fifty, PROVIDED THAT, where two or more persons hold one or more shares in the Company jointly, they shall, for the purpose of this Article, be treated as a single Member;
 - (b) any invitation to the public to subscribe for any shares or debentures of the company is prohibited; and
 - (c) the Company shall not have power to issue share warrants to bearer.

SHARE CAPITAL

Share Capital

4. Except as otherwise provided in these Articles, Class A Shares and Class B shares shall rank *pari passu* in all respects but shall constitute separate classes of shares.
5. The Class B Shares may only be issued to, held by or transferred to the Government Shareholder and regardless of the number of Class B Shares in issue, the Class B Shares shall at all times be deemed to represent not less than 16 percent of the Equity Shares.
6. Only an amendment to or removal of any of Articles 4 to 9 (including the creation or issue of a new class of shares), and 73 shall be deemed to be a variation, modification or abrogation of the rights attaching to the Class B Shares.

Variation of rights

DIVIDENDS AND DISTRIBUTIONS

Payment of dividends and distributions

7. The Company's Available Profits will be applied as decided by the Board in accordance with Article 8.
8. Any Available Profits which the Company may determine to distribute and pay will be distributed among and paid to the holders of the Equity Shares in accordance with their Proportionate Interest.

LIQUIDATION

Priority on liquidation or winding-up

9. On a distribution of assets on a winding-up or liquidation of the Company, the Assets shall be applied (to the extent that the Company is lawfully permitted to do so) in paying to each holder of the Class A Shares and Class B Shares the amount thereof in accordance with their respective Proportionate Interest.

LOANS BY THE COMPANY

Company's own shares not to be purchased

10. No part of the funds of the Company shall be employed in the purchase by the Company of, or in loans given by the Company upon the security of, the Company's shares. The Company shall not, except as authorised by the Act, give any financial assistance for the purpose of or in connection with any purchase of share in the Company.

RIGHTS OF SHARE HOLDERS

Issue of shares subject to special conditions

11. Without prejudice to any special rights previously conferred on the holders of any shares or class of shares already issued (which special rights shall not be varied,

modified or abrogated except with such consent or sanction as is provided in accordance with Articles 5 and 12), any share in the Company (whether forming part of the original capital or not) may be issued with such preferred, deferred or other special rights, or such restrictions, whether in regard to dividend, return of capital, voting or otherwise, as the Company may from time to time by ordinary resolution determine; and subject to the provisions of the Act and any Shareholders Agreement, the Company may issue preference shares which are, or which at the option of the Company are to be, liable to be redeemed.

Redeemable shares

MODIFICATION OF RIGHTS

12. Whenever the capital of the Company is divided into different classes of shares, the special rights attached to any class may, subject to the provisions of the Act, be varied, modified or abrogated, either with the consent in writing of the holders of three quarters of the issued shares of the class, or with the sanction of a special resolution passed at a separate general meeting of such holders (but not otherwise), and may be so varied, modified or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up. To every such separate general meeting all the provisions of these Articles relating to a general meeting of the Company or to the proceedings thereat, shall *mutatis mutandis* apply, except that the necessary quorum shall be one person at least holding or representing by Proxy one-half in nominal amount of the issued shares of the class (but so that if at any adjourned meeting of such holders a quorum as above defined is not present, any Member who is present shall be a quorum), and that the holders of shares of the class shall, on a poll, have one vote in respect of every shares of the class held by them respectively. For the avoidance of doubt, the rights conferred by this Article 12 shall not apply to Class B Shares.

How rights of shares may be modified

PRE-EMPTION RIGHTS ON NEW ISSUE

13. Unless otherwise agreed by special resolution of the holders of Class A Shares, if the Company proposes to allot any Class A Shares, those Class A Shares shall not be allotted to any person unless the Company has first offered them to all the holders of Class A Shares, on the same terms, and at the same price. For the avoidance of doubt, such offer shall not be made to any holder of Class B Shares. The offer:
- (a) shall be in writing and give details of the number and subscription price of the shares; and
 - (b) may stipulate that any Member who wishes to subscribe for a number of shares in excess of the proportion to which each is entitled shall, in its acceptance, state the number of excess relevant securities for which they wish to subscribe.
14. The Proportionate Interest of the holder(s) of Class B Shares shall not be affected by the allotment of further Class A Shares after the date of adoption of these Articles.

Pre-emption rights

POWER TO ALLOT

15. The Directors are authorised to exercise all powers of the Company to allot relevant securities, but only if the allotment otherwise conforms to the requirements of these Articles. The maximum nominal amount of relevant securities which may be allotted under this authority shall be the nominal amount of the unissued share capital at the date of adoption of these Articles or such other amount as may from time to time be authorised by the Company in a general meeting. The authority conferred on the Directors by this Article shall remain in force for a period of five years from the date of adoption of these Articles but may be revoked, varied or renewed from time to time by the Company in a general meeting in accordance with the Act.
16. The Company may exercise the powers of paying commissions conferred by

Power to allot shares

Power to pay

- Section 56 of the Act. Subject to the provisions of the Act, such commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in one way and partly in the other.
17. Except as required by law, no person shall be recognized by the Company as holding any share upon any trust, and the Company shall not be bound by or be compelled in any way to recognize (even when having notice thereof) any equitable, contingent, future or partial interest in any share or any interest in any fractional part of a share or (except as otherwise provided by the Articles or by law) any other rights or interests in respect of any share except an absolute right to the entirety thereof in the registered holder.

commission and
brokerage

Shares held on trust

CERTIFICATES

18. Every person whose name is entered as a member in the Register of Members shall be entitled without payment to receive within two months after allotment or lodgement of transfer (or within such other period as the conditions of issue shall provide) one certificate for all his shares of any one class or several certificates each for one or more of his shares upon payment of such sum or otherwise acquired, as the Directors shall from time to time determine. Every certificate shall be issued under the Seal. The certificate shall specify the shares or securities to which it relates and the amount Paid Up or otherwise acquired thereon. Provided that the Company shall not be bound to register more than three persons as the joint holders of any shares (except in the case of executors of trustees of a deceased Member), and, in case of a share or shares held jointly by several persons, the Company shall not be bound to issue more than one certificate therefore, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.
19. If a share certificate be worn out, defaced, lost or destroyed, it may be renewed on payment of such fee (if any) and on such terms (if any) as to evidence, indemnity and the payment of out-of-pocket expenses of the Company for investigating evidence, as the Directors think fit.

Issue of
Certificates

Renewal of
Certificates

LIEN

20. The Company shall have a first and paramount lien on every shares for all moneys (whether presently payable or not) called or payable at a fixed time in respect of such share; and the Company shall also have a first and paramount lien and charge on all shares (including fully paid shares) standing registered in the name of each Member (whether solely or jointly with others) for all the debts and liabilities of such Member or his estate to the Company and that whether the same shall have been incurred before or after notice to the Company of any equitable or other interest in any person other than such Member, and whether the period for the payment or discharge or the same shall have actually arrived or not and notwithstanding that the same are joint debts or liabilities of such Member or his estate and any other person, whether a Member of the Company or not. The Company's lien (if any) on a share shall extend to all dividends payable thereon but the Directors may at any time declare any share to be exempt wholly or partially from the provisions of this Article.
21. The Company may sell, in such manner as the Directors think fit, any share on which the Company has a lien, but no sale shall be made unless a sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of the sum presently payable, and giving notice of intention to sell in default, shall have been given to the holder for the time being of the share or the person entitled by reason of his death or bankruptcy to the shares. For giving effect to any such sale, the Directors may authorise some person to transfer the shares sold to the purchaser

Company's lien

Sale of shares
subject to lien

thereof. The purchaser shall be registered as the holder of the shares comprised in such transfer, and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

- | | | |
|-----|--|--------------------------------------|
| 22. | The net proceeds of such sale after payment of the costs of such sale shall be applied in or towards payment or satisfaction of the debt or liability in respect whereof the lien exists, so far as the same is presently payable and any residue shall (subject to a like lien for debts or liabilities not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the time of the sale. | Application of proceeds of such sale |
|-----|--|--------------------------------------|

CALLS ON SHARES

- | | | |
|-----|--|--|
| 23. | The Directors may from time to time make calls upon the Members that hold Class A Shares in respect of any moneys (whether on account of the amount of the shares or by way of premium) unpaid on their shares, provided that (except as otherwise fixed by the conditions of application or allotment) no call on any shares shall exceed one-fourth of the nominal amount of the share or be payable at less than fourteen days from the last call, and each Member shall (subject to receiving at least fourteen days' 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 on his shares. A call may be revoked or postponed as the Directors may determine. | Calls |
| 24. | A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed. A call may be made payable by instalments. | Time when made |
| 25. | The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof. | Liability of joint holders |
| 26. | If a sum called in respect of a share is not paid before or on the day appointed for payment, the person from whom the sum is due shall pay interest on the sum from the day appointed for payment to the time of actual payment at such rate not exceeding 10 percent per annum, as the Directors may determine, but the Directors shall be at liberty to waive payment of such interest wholly or in part. | Interest on calls |
| 27. | Any sum which by the terms of issue of a share becomes payable upon allotment or at any fixed date, whether on account of the amount of the shares or by way of premium, shall for all the purposes of these Articles be deemed to be a call duly made and payable on the date on which by the terms of issue the same becomes payable, and in case of non-payment all the relevant provisions of these Articles as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified. | Sums due on allotment to be treated as calls |
| 28. | The Directors may from time to time make arrangements on the issue of shares for a difference between the holders of such shares in the amount of calls to be paid and in the times of payment. | Power to differentiate |
| 29. | The Directors may, if they think fit, receive from any Member willing to advance the same, all or any part of the moneys unpaid upon the shares held by him beyond the sums actually called up thereon as a payment in advance of calls and such payment in advance of calls shall extinguish, so far as the same shall extend, the liability upon the shares in respect of which it is advanced, and upon the moneys so received, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which it has been received, | Payment of calls in advance |

the Company may pay interest at such rate as the Member paying such sum and the Directors agree upon.

RESTRICTIONS ON TRANSFERS

30. No share may be transferred unless the transfer is made in accordance with these Articles. The Class A Shares shall be freely transferable. No Class B Shares (or any interest in Class B Shares) may be transferred, sold, assigned, pledged, charged or otherwise disposed of.

DIRECTORS' RIGHT TO INFORMATION

31. The Directors may from time to time require any Member to provide the Company with such information and evidence relating to such Member's Equity Shares as they may reasonably require to ensure compliance with this Article. If a Member fails to provide information or evidence in respect of any shares registered in its name to the reasonable satisfaction of such Directors within 14 days of their request, such Directors may serve a notice on the Member stating that the Member shall not in relation to those shares held by that Member be entitled to be present or to vote in person or by Proxy at any general meeting of the Company or any meeting of the holders of shares of that class or to receive dividends or other distributions on the shares until such evidence or information has been provided to the Directors' satisfaction.

DIRECTORS' RIGHT TO REFUSE REGISTRATION

32. The Directors shall forthwith register any duly stamped transfer made in accordance with these Articles, but otherwise may in their absolute discretion and without assigning any reason therefore refuse to register any transfer of shares (not being fully-paid shares) which is not made in accordance with these Articles or is made to a person of whom they do not approve, or which is of a share on which the Company has a lien.

Refusal to register transfer

33. The Directors may, subject to compliance with the requirements of the Act as to advertisement, suspend the registration of transfers at such time and for such periods as they may from time to time determine, but such registration shall not be suspended for more than 30 days in any year.

Suspension of registration

34. All instruments of transfer which shall be registered shall be retained by the Company, but any instrument of transfer which the Directors may decline to register in accordance with Article 32 or 33 shall, on demand, be returned to the person depositing it with the Company.

35. The Directors may decline to recognise any instrument of transfer unless:
- (a) such reasonable fee, as the Directors may from time to time require, is paid to the Company in respect thereof; and
 - (b) the instrument of transfer is deposited at the Company's registered office or such other place as the Director may appoint, accompanied by the certificate of the shares to which it relates, and such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer.

Recognition of instrument of transfer

Notice requiring payment of Calls

Notice to state time and place for payment

FORFEITURE OF SHARES

36. If a Member holding Class A Shares fails to pay the whole or any part of any call or instalment of a call on the day appointed for payment thereof, the Directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued and

Forfeiture on non-compliance with notice

all expenses which may have been incurred by the Company by reason of such non-payment.

37. The notice shall name a further day (not being less than seven days from the date of the notice) on or before which and the place where the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time and at the place appointed, the shares in respect of which the call was made will be liable to be forfeited. Notice after forfeiture
38. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of all calls and interest and expenses due in respect thereof has been made, be forfeited by a resolution of the Directors to that effect. Such forfeiture shall include all dividends declared in respect of the forfeited shares and not actually paid before forfeiture. Sale of forfeited shares
39. When any share has been forfeited in accordance with these provisions, notice of the forfeiture shall forthwith be given to the holder of the share, or the person entitled to the share by transmission, as the case may be, and an entry of such notice having been given and of the forfeiture with the date thereof shall forthwith be made in the Register of Members opposite to the entry of the shares; but no forfeiture shall be in any manner invalidated by any accidental omission or neglect to give such notice or to make such entry as aforesaid. Rights and liabilities of Members whose shares have been forfeited
40. A forfeited share shall become the property of the Company and may be sold, re-allotted or otherwise disposed of, either to the person who was, before forfeiture, the holder thereof or entitled thereto, or to any other person, upon such terms and in such manner as the Directors shall think fit, and at any time before a sale, re-allotment or disposition, the forfeiture may be cancelled on such terms as the Directors think fit. The Directors may if necessary, authorise some person to transfer a forfeited share to any such other person as aforesaid. Title to forfeited shares
41. A person whose shares have been forfeited shall cease to be a Member in respect of the forfeited shares, but shall, notwithstanding the forfeiture, remain liable to pay to the Company all moneys which, at the date of the forfeiture, were payable by him to the Company in respect of the shares, with interest thereon as shall be determined by the Directors from the date of forfeiture until payment, but the Directors may waive payment of such interest either wholly or in part and the Directors may enforce payment without any allowance for the value of the shares at the time of forfeiture.
42. A statutory declaration in writing by a Director or the Secretary that a share has been duly forfeited on the date stated in the declaration shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share, and such declaration and the receipt by the Company of the consideration (if any) given for the share on the sale, re-allotment or disposal thereof together with the share certificate delivered to a purchaser or allottee thereof shall (subject to the execution of a transfer if the same be required) constitute a good title to the share, and the person to whom the share is sold, re-allotted or disposed of shall be registered as the holder of the share and shall not be bound to see to the application of the purchase money (if any).

INCREASE OF CAPITAL

43. The Company may from time to time by ordinary resolution increase its share capital by such sum to be divided into shares of such amount as the resolution shall prescribe. Power to increase capital

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| 44. | All new shares shall be subject to the provisions of these Articles with reference to payment of calls, lien, transfer, transmission, forfeiture and otherwise and, unless otherwise provided in accordance with the powers contained in these Articles or any Shareholders Agreement, shall be Equity Shares. | Right and liabilities attached to new shares |
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ALTERATION OF CAPITAL

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| 45. | Subject to Article 6 and the Shareholders Agreement, the Company may by ordinary resolution: | Power to consolidate shares |
| | (a) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares; | Power to cancel shares |
| | (b) cancel any shares which, at the date of the passing of the resolution, have not been taken, or agreed to be taken by any person, and diminish the amount of its capital by the amount of the shares so cancelled; | Power to sub-divide shares |
| | (c) sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the Company's Memorandum of Association (subject, nevertheless, to the provisions of the Act), and so that the resolution whereby any share is sub-divided may determine that, as between the holders of the shares resulting from such sub-division, one or more of the shares may have any such preferred or other special rights over, or may have such deferred rights, or be subject to any such restrictions as compared with the others as the Company has power to attach to unissued or new shares; | Power to reduce capital |
| | (d) reduce its capital or any capital redemption reserve fund or any share premium account in any manner authorised by the Act. | |

GENERAL MEETINGS

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| 46. | A general meeting shall be held as the annual general meeting once in every year (the " Annual General Meeting "), at such time (within a period of not more than fifteen months after the holding of the last preceding Annual general meeting) and place as may be determined by the Directors. All general meetings other than Annual General Meetings shall be called " extraordinary meetings ". | Annual General Meeting |
| 47. | The Board may by resolution call an extraordinary meeting whenever they think fit or such a meeting may be called by any Member who owns not less than 15 percent of the outstanding Equity Shares entitled to vote at such meeting and shall, on requisition in accordance with the Act, proceed to convene an extraordinary meeting as required by the Act. In the case of an extraordinary meeting called in pursuance of a requisition, unless such meeting shall have been called by the Directors, no business other than that stated in the requisition as the objects of the meeting shall be transacted. A resolution in writing, signed by all the Members for the time being entitled to vote thereat, shall be effective as a resolution passed at a meeting of Members duly convened and held, and may consist of several documents in the like form, each signed by one or more of such Members. | Extraordinary General Meetings |

NOTICE OF GENERAL MEETINGS

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| 48. | All meetings of Members shall be called by twenty-one days' notice in writing at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and exclusive of the day for which it is given, and shall specify the place, the day, and the hour of meeting, and in case of special business, the general nature of such business (and in the case of a meeting convened for passing a special resolution, the intention to propose such resolution as a special resolution). Notice of the meeting must be given to all Members of the class or classes that are entitled to vote. Notwithstanding the foregoing, all the Members may, by an instrument in writing delivered before or after the meeting or by participation at the meeting, waive notice of any meeting of the Meetings, | Notice of General Meetings required |
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in which event any such meeting shall be considered to be duly constituted notwithstanding the absence of notice in respect thereof.

49. The accidental omission to give notice to, or the non-receipt of notice by any Member, shall not invalidate the proceedings at any general meeting. Omission and non-receipt of notice

PROCEEDINGS AT GENERAL MEETINGS

50. All business shall be deemed special that is transacted at an extraordinary meeting, and also all business that is transacted at an Annual General Meeting, with the exception of declaring dividends, the reading and consideration of the accounts and balance sheet and the ordinary reports of the Directors and documents required to be annexed to the balance sheet, the election of directors and appointment of auditors and other officers in the place of those retiring by rotation or otherwise, the fixing of the remuneration of the auditors and the voting of remuneration or extra remuneration to the Directors. Special business
51. Any person entitled to be present and vote at a general meeting may submit any resolution or amendment to the meeting, provided that at least five and not more than fourteen clear days before the day appointed for the meeting he shall have served upon the Company a notice in writing signed by him, containing the proposed resolution or amendment and stating his intention to submit the same. Notice of resolutions and amendments by Members
52. Upon receipt of any notice served in accordance with Article 51, the Secretary shall include in the notice of the general meeting in any case where the notice of intention is received before the notice of the meeting is issued, and shall in any other case issue as soon as possible to the Members notice that such resolution or amendments will be proposed. Any resolution or amendment of which such notice has not been given shall in the case of a resolution and may in the case of an amendment be ruled out of order, and the ruling of the Chairman shall be conclusive. Issue of such notice
53. The quorum at any general meeting of the Company, or adjourned general meeting, shall be two Members present and representing, in person or by Proxy, not less than 51 percent of the voting power represented by Equity Shares entitled to vote at such meeting. No business shall be transacted by any general meeting unless a quorum is present at the commencement of the meeting and also when that business is voted on. Quorum
54. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened on the requisition of the Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week (or, if that day is not a Business Day, the next Business Day) at the same time and place. Quorum at any such adjourned meeting shall be the same as for the earlier meeting. Only those items included on the agenda for the original meeting may be acted upon at such a rescheduled meeting, but any matters may be considered with the consent of all Members at an adjourned meeting. Adjournment if quorum not present
55. The chairman of the Board of Directors if any shall preside as Chairman at every general meeting of the Company. If at any meeting the Chairman is not present within fifteen minutes after the time appointed for holding the meeting, or be unwilling to act as Chairman, those Members present shall choose some Director to act as Chairman, or if no Director be present, or if all the Directors present decline to take the chair, they shall choose some Member present to act as Chairman, in either case in accordance with their respective voting rights. Election of Chairman

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| 56. | The Chairman may with the consent of any general meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place. When a meeting is adjourned for fourteen days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting. | Adjournment

Notice of adjournments |
| 57. | At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the Chairman or by at least one Member present in person or by Proxy and entitled to vote, or by a Member or Members entitled either by reason of their own holding or as representatives or as proxies, to cast one-tenth or more of the votes which could be cast in respect of that resolution if all persons entitled to vote thereon were present at the meeting. Unless a poll is so demanded, a declaration by the Chairman that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, or not carried, and an entry to that effect in the minute book shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution. | Method of Voting and demand of poll vote |
| 58. | If any votes shall be counted which ought not to have been counted, or might have been rejected, the error shall not vitiate the resolution unless the same be pointed out at the same meeting, or at any adjournment thereof, and not in that case unless it shall in the opinion of the Chairman of the meeting be of sufficient magnitude to vitiate the resolution. | Votes counted in error |
| 59. | If a poll is duly demanded, it shall be taken at such time and in such manner (including the use of ballot or voting papers or tickets) as the Chairman may direct, and the result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The Chairman may in the event of a poll, appoint scrutineers and may adjourn the meeting to some place and time fixed by him for the purpose of declaring the result of the poll. The demand for a poll may with the consent of the Chairman of the meeting be withdrawn. | How poll to be taken |
| 60. | In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded is not entitled to a second or casting vote. | No casting vote |
| 61. | A poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith. No notice need be given of a poll taken immediately. | Time for taking a poll |
| 62. | The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded. | Continuance of business after demand a poll |

VOTES OF MEMBERS

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| 63. | Subject to any special rights or restrictions as to voting attached by or in accordance with these Articles to any class of shares, on a show of hands and on a poll, every Member who is present in person or by Proxy shall have one vote for every Equity Share of which he is the holder. All questions proposed for consideration by the Members at a meeting shall be determined, and all resolutions, in order to be effective, shall be passed, by Members holding at least | Voting rights of Members |
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a majority of the issued Equity Shares.

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| 64. | In the case of joint holders of a share, the vote of the senior who tenders a vote, whether in person or by Proxy, shall be accepted to the exclusion of the votes of the other joint holders and for this purpose seniority shall be determined by the order in which the names stand in the Register of Members. | Voting rights of joint holders |
| 65. | A Member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, curator bonis, or other person in the nature of a committee or curator bonis appointed by such court, and such committee, curator bonis or other person may on a poll vote by Proxy, provided that such evidence as the Directors may require of the authority of the person claiming to vote shall have been deposited at the Company's registered office not less than three days before the time for holding the meeting. | Voting Rights of lunatic Members |
| 66. | No Member shall, unless the Directors otherwise determine, be entitled to vote at a general meeting either personally or by Proxy, or to exercise any privilege as a Member unless all calls or other sums presently payable by him in respect of shares in the Company have been paid. | No right to vote where a call is unpaid |
| 67. | No objection shall be raised to the qualifications of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairman of the meeting whose decision shall be final and conclusive. | Objections |
| 68. | Any corporation which is a Member of the Company may, by resolution of its directors or other governing body, authorise any person to act as its representative at any meeting of the Company or of any class of Members of the Company, and such representative shall be entitled to exercise the same powers on behalf of the corporation which he represents as if he had been an individual shareholder, including power, when personally present, to vote on a show of hands. | Voting of corporation |
| 69. | The instrument appointing a Proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing, or if the appointor is a corporation either under the common seal or under the hand of an officer or attorney so authorised. | Execution of proxies |
| 70. | The instrument appointing a Proxy and the power of attorney or other authority (if any) under which it is signed, or a notarised certified copy of such power or authority, shall be deposited at the Company's registered office not less than twenty-four hours before the time appointed for holding the meeting or adjourned meeting, or in the case of a poll not less than twenty-four hours before the time appointed for the taking of the poll at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid. | Deposit of proxies |
| 71. | An instrument of proxy may be in the usual common form or in such other form as the Directors shall prescribe. The proxy shall be deemed to include the right to demand, or join in demanding, a poll, and shall (except and to the extent to which the proxy is specially directed to vote for or against any proposal) include power generally to act at the meeting for the member giving the proxy. A proxy, whether in the usual or common form or not shall, unless the contrary is stated thereon, be valid as well for any adjournment of the meeting as for the meeting to which it relates and need not be witnessed. | Form of proxies |

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- such Director holding that office, or of the fiduciary relating thereby established,
- PROVIDED THAT, with the exception of interests in (a) above, the nature of the interest of the Director in such contract or proposed contract or arrangement be declared at the meeting of the Directors at which the question is first taken into consideration if his interest then exists, or in any other case at the next meeting of the Directors held after he became interested. A Director may not vote in respect of any contract or arrangement in which he is interested and be counted in ascertaining whether a quorum is present.
79. A Director shall be deemed to have disclosed the nature and extent of an interest which consists of him being a director, officer or employee of any body corporate in which the Company is interested.
 80. The holder of Class A Shares shall elect from amongst the Directors appointed by them a Chairman of the Board on such terms and for such period as they may think fit. Chairman of the Board
 81. Subject to any provisions to the contrary contained in the Act or in these Articles, the Directors may entrust to and confer upon the Chairman and upon a Director holding any such executive office as aforesaid any of the powers exercisable by them as Directors upon such terms and conditions and with such restrictions as they deem fit, and either collaterally with or to the exclusion of their own powers, and may from time to time revoke, withdraw, alter or vary all or any such powers. Delegation of powers
 82. Subject to any Shareholders Agreement, the Company in general meeting may from time to time increase or reduce the number of Directors by passing a special resolution to that effect. Change in number of directors
 83. Subject to any Shareholders Agreement, the Directors shall by a resolution of the Board have power at any time, and from time to time, to appoint any person to be a Director, to fill a casual vacancy but so that the total number of Directors shall not at any time exceed the maximum number fixed by or in accordance with these Articles.
 84. Subject to any Shareholders Agreement, the Members may by an extraordinary resolution remove any Director before the expiration of his period of office and may appoint another person in his stead. Removal of Directors
 85.

POWERS OF DIRECTORS

The business of the Company shall be managed by the Directors, who may exercise all such powers of the Company as are provided by the Act, by these Articles or by any Shareholders Agreement required to be exercised by the Company in the general meeting or otherwise by the Members, subject nevertheless to any regulations of these Articles, to the provisions of the Act, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by special resolution of the Company, but no regulation so made by the Company shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made. The general powers given by this Article shall not be limited or restricted by any special authority or power given to the Directors by any other Article. In the exercise of their powers, the Directors may have regard to the interest of the company's holding company in accordance with Section 182 of the Act.

Management by the Directors

Ability to act in the interest of the holding company
 86. The Directors may arrange that any branch of the business carried on by the Use of branch

Company or any other business in which the Company may be interested shall be carried on by or through one or more subsidiary companies, and they may on behalf of the Company make such arrangements as they think advisable for taking the profits or bearing the losses of any branch or business so carried on or financing, assisting or subsidising any such subsidiary company or guaranteeing its contracts, obligations or liabilities and they may appoint, remove and re-appoint any persons (whether members of their own body or not) to act as directors, executive Directors or managers of any such company or any other company in which the Company may be interested, and may determine the remuneration (whether by way of salary, commission on profits or otherwise) of any person so appointed, and any Directors of this Company may retain any remuneration so payable to them.

87. The Directors may from time to time and at any time by power of attorney under the Seal appoint any company, firm or person or any body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under these Articles) and for such period and subject to such conditions as they may deem fit, and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Directors may deem fit, and may also authorise any such attorney to sub-delegate all or any of the powers, authorities and discretion vested in him. Appointment of attorney
88. The Company may exercise the powers conferred by the Act with regard to having an official seal for use abroad, and such powers shall be vested in the Directors. Use of seal abroad
89. The Company, or the Directors on behalf of the Company, may cause to be kept in the United Republic of Tanzania in which the Company transacts business, a Branch Register or Registers of Members resident there and the Directors may (subject to the provisions of the Act) make and vary such regulations as they may deem fit with respect to keeping of any such register.
90. The Directors may raise or borrow for the purposes of the Company's business such sum or sums of money as they may in their absolute discretion deem fit. The Directors may secure the repayment or raise any such sums as aforesaid by legal or equitable mortgage or charge upon the whole or any part of the property and assets of the Company, present and future, including its uncalled capital, or by the issue at such price as they may deem fit, of debentures and debenture stock either charged upon the whole or any part of the property and the assets (including its uncalled capital) of the Company or not so charged, or in such other way as the Directors may deem expedient. Borrowing powers
91. Subject to the provisions of Article 78 of these Articles, a Director of this Company may be or become a director or other officer of, or otherwise interested in, any company including but not limited to any company promoted by this Company, in which this Company may be interested as Member or otherwise or any holding company of this Company, and no such Director shall be accountable for any remuneration or other benefits received by him as director or officer of, or from his interest in such other company. The Board may also exercise the voting power conferred by the shares in favour of any resolution appointing it or any of its number, directors or officers of such other company. Furthermore, any Director of this Company may vote in favour of the exercise of such voting rights in manner aforesaid notwithstanding that he may be or be about to become a director or officer of such other company and as such or in any other manner is or Holding of concurrent office

may be interested in the exercise of such voting rights in a manner aforesaid.

92. All cheques, promissory notes, bills of exchange, and other negotiable or transferable instruments and all receipts for moneys paid to the Company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, in such manner as the Directors shall from time to time by resolution determine. Signature of cheques and bills

DIRECTORS RESOLUTIONS

93. Notwithstanding the composition of the Board, at any meeting of the Board at which the quorum is present, the aggregate voting power of the Directors of the Company nominated by a Member and present at the meeting shall be equal to such Member's Proportionate Interest, divided equally among such Directors. All questions proposed for consideration by Directors at a meeting of the Board shall be determined, and all resolutions, in order to be effective, shall be passed, by Directors nominated by the Members holding at least a majority of the issued and outstanding Equity Shares, which majority must include the approval of the Government Shareholder for so long as it holds the Free Carried Interest. Proceedings in case of vacancies
94. The Chairman shall not be entitled to a second or casting vote.

BOARD MEETINGS

95. The continuing Directors may act notwithstanding any vacancies in the Board, but if and so long as the number of Directors is reduced below the number fixed by or in accordance with these Articles, the continuing Directors or Director may act for the purpose of filling up vacancies in the Board or of summoning general meetings of the Company, but not for any other purpose. If there be no Directors or Director able or willing to act, then any Member may summon a general meeting of Members for the purpose of appointing Directors.
96. In the absence of the Chairman, the chairman of the meeting of the Board shall be the person chosen by the Directors who are present at the meeting in accordance with their respective voting rights. Chairman
97. The Board will meet at least quarterly and at such other times as considered necessary. Any Director nominated by a Member holding at least a 15 percent Proportionate Interest can call a meeting of the Board on not less than 15 days' written notice given to all other Directors; provided that all the Directors may, by an instrument in writing delivered before the meeting or by participating at the meeting, waive notice of any meeting of Directors, in which event any such meeting shall be considered to be duly constituted notwithstanding the absence of notice in respect thereof.
98. A resolution in writing, signed by all the Directors for the time being, shall be effective as a resolution passed at a meeting of the Directors duly convened and held, and may consist of several documents in the like form, each signed by one or more of the Directors. Resolutions in writing
99. The Directors, and any committee of the Directors, shall be deemed to meet together if, being in separate locations, they are linked by conference telephone or other communication equipment which allows those participating to hear and speak to each other, and a quorum in that event shall be two Directors so linked. Unless unanimously agreed by the Board, such meetings shall be deemed to take place in Tanzania. Telephone board meetings
100. The quorum at any meeting of the Directors shall be two Directors (provided that at least one director shall be the appointee of the Government Shareholder) Quorum

present in person or by means of communication referred to in Article 99. A person who holds office only as an alternate Director shall, if his appointor is not present, be counted in the quorum reflecting the designation of his appointor. No business shall be transacted at any meeting of the Directors unless a quorum is present at the commencement of the meeting and also when that business is voted on. If a quorum is not present within thirty minutes of the time for the relevant meeting as set out in the notice of meeting then the Director(s) present shall resolve to adjourn that meeting to the same day in the immediately following week (or, if that day is not a Business Day, the next Business Day) at the same place and time. Quorum at such adjourned meeting shall be the number of Directors present at such adjourned meeting either in person or by means of communication referred to in Article 99. Only those items included on the agenda for the original meeting may be acted upon at such a rescheduled meeting, but any matter may be considered with the consent of all Directors at an adjourned Board meeting.

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| 101. | A meeting of the Directors for the time being, at which a quorum is present, shall be competent to exercise all powers and discretion for the time being exercisable by the Directors. | Powers of meeting at which a quorum is present |
| 102. | Without prejudice and in addition to the provisions of Article 81, the Directors may delegate any of their powers to committees consisting of such number of members of their body as they think fit. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on them by the Directors. | Power to appoint committees |
| 103. | The meetings and proceedings of any such committee, consisting of two or more members, shall be governed by the provisions of these Articles regulating the meetings and proceedings of the Directors, so far as the same are applicable and are not superseded by any regulations made by the Directors under the last preceding Article. | Proceedings at committee meetings |
| 104. | All acts done by any meeting of Directors, or of a committee of Directors, or by any person acting as a Director, shall as regards all persons dealing in good faith with the Company, notwithstanding that there was some defect in the appointment of any such Director, or person acting as aforesaid, or that they or any of them were disqualified, or had vacated office or were not entitled to vote, be as valid as if every such person had been duly appointed, and was qualified and had continued to be a Director and had been entitled to vote. | Validity of acts of Directors in spite of some formal defect |
| <u>ALTERNATE DIRECTORS</u> | | |
| 105. | Any Director may at any time appoint any person to be an alternate Director of the Company and may at any time remove any alternate Director so appointed by him from office. An alternate Director so appointed shall not be entitled to receive any remuneration from the Company or to appoint an alternate, but shall otherwise be subject to the provisions of these Articles with regard to Directors. An alternate Director shall be entitled to receive notices of all meetings of the Board, and to attend and vote as a Director at any such meeting at which the Director appointing him is not personally present, and generally to perform all the functions of his appointor as a Director in the absence of such appointor. An alternate shall cease to be an alternate Director if his appointor ceases for any reason to be a Director. All appointments and removals of alternate Directors shall be effected by writing under the hand of the Director making or revoking such appointment and delivered at the Company's registered office. | Provisions for appointing and removing alternate Directors

Records of appointments and proceedings to be kept |

MINUTES

106. The Directors shall cause proper minutes to be made in books to be provided for the purpose of all appointments of officers made by the Directors, of the proceedings of all meetings of Directors and committees of Directors and of the attendances thereat, and of the proceedings of all meetings of the Company and all business transacted, resolutions passed and orders made at such meetings, and any such minute of such meetings if purporting to be signed by the chairman of such meeting, or by the Chairman of the next succeeding meeting of the Company or Directors or committee, as the case may be, shall be sufficient evidence without any further proof of the facts therein stated.

THE SEAL

107. The Seal of the Company shall not be affixed to any instrument except by the authority of a resolution of the Board and shall be so affixed in the presence of at least one Director and the Secretary or some other person approved by the Board, both of whom shall sign every instrument to which the Seal is so affixed in their presence.

Formalities for
affixing Seal

AUTHENTICATION OF DOCUMENTS

108. Any Director or the Secretary or any person appointed by the Directors for the purpose shall have power to authenticate any documents affecting the constitution of the Company (including the Memorandum and Articles of Association) and any resolutions passed by the Company or the Board, and any books, records, documents and accounts relating to the business of the Company, and to certify copies thereof or extracts there from as true copies or extracts, and where any books, records, documents or accounts are elsewhere than at the Company's registered office, the local manager or other officer of the Company having the custody thereof shall be deemed to be a person appointed by the Directors.

Power to
authenticate
documents

DIVIDENDS

109. Subject to any special rights as to dividend attached to any new class of shares in accordance with these Articles (including Article 6), the profits of the Company available for dividend and resolved to be distributed in respect of any financial year or other period for which the Company's accounts are made up and submitted to the Company in a general meeting shall be apportioned and paid to the Members according to Articles 7 and 8.
110. No dividend shall be payable except out of the profits of the Company, or in excess of the amount recommended by the Directors.
111. Any general meeting declaring a dividend may resolve that such dividend be paid wholly or in part by the distribution of specific assets, and in particular of Paid Up shares, debentures or debenture stock of the Company, or Paid Up shares, debentures or debenture stock of any other company, or in any one or more of such ways.
112. If and so far as in the opinion of the Directors the profits of the Company justify such payments, the Directors may pay to the holders of any class of shares interim dividends thereon of such amounts and on such dates as they think fit.
113. No unpaid dividend, bonus or interest shall bear interest as against the Company.

Payment of
dividends

Dividends payable
only out of profits

Payment of interim
dividends

Dividends not to
bear interest

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| 114. | The Directors may retain any dividends and bonuses payable on shares on which the Company has a lien, and may apply the same in or towards satisfaction of the debts, liabilities or engagements in respect of which the lien exists. | Retention of dividends |
| 115. | The payment by the Directors of any unclaimed dividend into an unclaimed dividend account shall not constitute the Company a trustee in respect thereof, and any dividend unclaimed after a period of twelve years from the date of declaration of such dividend shall be forfeited and shall revert to the Company. | Unclaimed dividends |
| 116. | If several persons are registered as joint holders of any share any one of them may give effectual receipts for any dividend or other moneys payable on or in respect of the share. | Dividends due to joint holders |

RESERVES

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| 117. | The Directors may from time to time set aside out of the profits of the Company and carry to reserve such sums as they think proper which shall at the discretion of the Directors be applicable for meeting contingencies or for the gradual liquidation of any debt or liability of the Company or for repairing or maintaining the works plant and machinery of the Company or for special dividends or bonuses or for equalising dividends or for any other purposes to which the profits of the Company may properly be applied and pending such application may at the like discretion either be employed in the business of the Company or be invested in such investments (other than shares of the Company) as the Directors think fit. | Carry profit to reserve

Application of reserve |
| 118. | The Directors may divide the reserve into such special funds as they think fit and may consolidate into one fund any special funds or any parts of any special funds into which the reserve may have been divided as they think fit. | Division of reserve into special funds |
| 119. | The Directors may also without placing the same to reserve carry forward any profits which they may think it not prudent to divide. | Power to carry forward profits |
| 120. | The Directors may establish a reserve to be called the “ Capital Reserve ”, which shall not be available for dividend, but which shall be available to meet depreciation or contingencies or for repairing, improving, or maintaining any property of the Company or for such other purposes as the Directors may in their discretion think conducive to the interests of the Company, and the Directors may invest the sums standing to the Capital Reserve in such investments as they think fit, other than shares or stock of the Company, and may from time to time deal with or vary such investments and dispose of all or any part thereof with full power to employ the Capital Reserve in the business of the Company, and that without keeping it separate from the other assets and with power to divide the said Capital Reserve into separate accounts or funds if they think fit. | Power to establish and deal with a Capital Reserve |

CAPITALIZATION OF PROFITS AND RESERVES

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|------|---|-----------------------------|
| 121. | The Company in a general meeting may, upon the recommendation of the Directors, resolve that it is desirable to capitalise any undivided profits of the Company not required for paying the fixed dividends or Preference Shares if any (including profits carried and standing to the credit of any reserve or reserves or other special account), and accordingly that the Directors be authorised and directed to appropriate the profits resolved to be capitalised to the Members in the proportions in which such profits would have been divisible amongst them had the same been applied in paying dividends instead of being capitalised, and to apply such profits on their behalf, either in or towards paying up the amounts, if any, for the time being unpaid on any shares held by such Members respectively, or in paying up in full unissued shares, debentures or securities of the Company | Power to capitalise profits |
|------|---|-----------------------------|

of a nominal amounts equal to such profits, such shares, debentures or securities to be allotted and distributed credited as fully Paid Up, to and amongst such Members in the proportion aforesaid, or partly in one way and partly in the other.

ACCOUNTS

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|------|---|---|
| 122. | The Directors shall cause proper books of account to be kept with respect to:
(a) all sums of money received and expended by the Company and the matters in respect of which such receipt and expenditure takes place;
(b) all sales and purchases of goods by the Company; and
(c) the assets and liabilities of the Company. | Directors to keep proper accounts |
| 123. | The books of account shall be kept at the Office or at such other place as the Directors deem fit and shall always be open to the inspection of the Directors. Except as set out in any Shareholders Agreement, no Member (other than a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by the Act or authorised by the Directors or by the Company in a general meeting. | Inspection of books |
| 124. | The Directors shall once at least in every year lay before the Company in a general meeting a profit and loss account and a balance sheet containing a general summary of the capital, the assets, and the liabilities of the Company arranged under suitable heads, both made up to a date not more than six months before the meeting. | Submission of balance sheets and profits and loss account |
| 125. | Every such balance sheet as aforesaid shall be signed on behalf of the Board by two of the Directors, and shall have attached to it a report of the Directors as to the state of the Company's affairs and the amount which they recommend to be paid by way of dividend to the Members, and the amount (if any) which they have carried or propose to carry to the Capital Reserve, fund, general reserve or reserve account shown specifically on the balance sheet or to be shown specifically on a subsequent balance sheet. The balance sheet shall also have attached or annexed to it, the auditors' report and such other documents as the Act may require. | Signature on balance sheets |

AUDIT

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|------|--|-------------------------------|
| 126. | The Company shall at each Annual General Meeting appoint an auditor or auditors to hold office until the next ensuing Annual General Meeting. The auditor's report shall be read before the Company at the Annual General Meeting and shall be open to inspection by any Member. The auditors' duties shall be regulated in accordance with the Act. | Appointment of auditors |
| 127. | No Director or other officer of the Company or any person who is a partner of or in the employment of an officer of the Company, or any corporation, shall be capable of being appointed auditor of the Company. | Directors may not be auditors |

NOTICES

- | | | |
|------|--|--------------------|
| 128. | A Member whose registered address is not within Tanzania shall be entitled to have notices sent to him as if he were a Member with a registered address within Tanzania. | Service of Notices |
| 129. | Any notice or other document may be served on or delivered to any Member by the Company either personally, or by sending it by pre-paid registered post (air mail in the case of an address for service outside Tanzania) addressed to the Member at his registered address, by fax or email to a number or address provided by the Member for this purpose, or by leaving it at his registered address, addressed to the member, or by any other means authorised in writing by | |

the Member concerned.

TIME OF SERVICE

130. Except as otherwise contemplated by any Shareholders Agreement,
- (i) any notice or other document if given personally, shall be deemed served when delivered; if sent by registered post, shall be deemed to have been served or delivered 48 hours after posting to an address in Tanzania or five days after posting to an address outside Tanzania; and if sent by fax or email, it shall be deemed served when dispatched; and
 - (ii) in proving such service or delivery, it shall be sufficient to prove that the notice or document was delivered to the address given for notice, or properly addressed, stamped and put in the post or, in the case of a fax or email, that such fax or email was duly dispatched to a current fax number or email address of the addressee
131. Any requirement in these Articles for any notice, resolution or other document to be signed by or on behalf of any person shall be deemed satisfied where a notice, resolution or other document is received with the signature of the relevant person reproduced thereon by means of telex print out or facsimile copy if such signature is confirmed by receipt of the notice, resolution or document bearing the original signature in manuscript within 14 days of receipt of the reproduction.

WINDING-UP

132. If the Company shall be wound up (whether the liquidation is voluntary, under supervision, or by the court), the liquidator may with the authority of a special resolution, divide among the Members in specie or kind the whole or any part of the assets of the Company and whether or not the assets shall consist of property of one kind or shall consist of properties of different kinds and may for such purpose set such value as he deems fair upon any one or more class or classes of property and may determine how such division shall be carried out as between the Members or different classes of Members, provided always that such division shall be consistent and in accordance with Articles 8 and 12. The liquidator may, with the like authority, vest any part of the assets in trustees upon such trusts for the benefit of Members as the liquidator with the like authority shall think fit, and the liquidation of the Company may be closed and the Company dissolved, but so that no contributory shall be compelled to accept any shares in respect of which there is a liability.

Provisions relating to liquidation

INDEMNITY

133. Subject to the provisions of the Act every Director, managing agent, auditor, manager, Secretary or officer or servant of the Company shall be entitled to be indemnified by the Company against all costs, charges, losses, expenses and liabilities incurred by him in the execution and discharge of his duties or in relation thereto.
134. No Directors, managing agent, auditor or other officers of the Company shall be liable for the acts, receipts, neglects or defaults of any other Director or officer, or for joining in any receipt or other act for conformity or for any loss or expense happening to the Company through the insufficiency or deficiency of title to any property acquired by order of the Directors for or on behalf of the Company, or for the insufficiency or deficiency or any security in or upon which any of the moneys of the Company shall be invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person with whom any moneys, securities or effects shall be deposited, or for any loss occasioned by any error of judgment, omission, default or oversight on his part, or for any other loss, damages or misfortune whatsoever which shall happen in relation to the

Indemnity of Directors and officers or servants

execution of the duties of his office or in relation thereto, unless the same happen through his own dishonesty.

INSURANCE

135. The Company shall (at the cost of the Company) effect and maintain for each Director policies of insurance insuring each Director against risks in relation to this office as each director may reasonably specify including without limitation, any liability which by virtue of any rule of law may attach to him in respect of any negligence, default of duty or breach of trust of which he may be guilty in relation to the Company.

Company to
maintain insurance

PARAMOUNTCY

136. In the event of any conflict or inconsistency between the provisions of these Articles and the terms of any Shareholders Agreement in effect at the relevant time, the provisions of such Shareholders Agreement shall prevail to the extent not inconsistent with applicable law.

Paramountcy of
Shareholders
Agreement

Name, Address and Description of Subscriber	Number of Shares taken	Seal / Signature of Subscribers
		For and on behalf SEAL Signature: Signed
		Signature: Signed
		Signature: Signed

Dated _____

Witness to the above signatures:

Name: _____

Signature: _____

Postal Address: _____

Qualification: Advocate/Notary Public/Commissioner for Oaths

FOURTH SCHEDULE

(Made under regulation 11(c))

FORM OF EXTRACT OF JOINT FINANCIAL MODEL

1. <u>MINERAL RESOURCE & RESERVES SUMMARY</u>			
Classification	Ore Tonnes (Mt)	Grade	Contained Minerals
A: Mineral Resource Estimate			
• Measured			
• Indicated			
Sub-total Measured + Indicated			
• Inferred			

Total Measured + Indicated + Inferred			
B: Mineral Reserves Estimate			
• Proven			
• Probable			
Total Proven + Probable			

2. PRODUCTION AND REVENUE PROFILE

	LOM	Annual Profile
A: Mining		
Mining Method (Open pit/ Underground)		
Total Material Mined		
Total Ore Mined		
Mining Rate		
Strip ratio		
Average Grade Mined		
Contained Minerals Mined		
B: Processing		
Total Tonnes Milled		
Mill throughput		
Head grade		
Process/Mill Recovery		
Minerals Produced		
Minerals Sold (Payable)		
B: Revenue		
Selling Price		
Gross Revenue		

3. CAPITAL COSTS

	LOM	Annual Profile
Initial Capital (pre-production)		
• Mining (equipment, development, technology etc.)		
• Processing		
• Infrastructure		
• Owners Cost		
• Contingency		
Sustaining Capital:		
• Mining (equipment, development, technology etc.)		
• Processing		
• Infrastructure		
• Closure		
• Other		

4. OPERATING COSTS

	LOM	Annual Profile
Mining costs		
Processing costs		
Site G&A		
Other operating costs		
Total Operating Costs		
Off-Site Costs		
By-product credits		
Cash Costs		

5. CAPITAL STRUCTURE

- Shareholders' Equity: USD
- Shareholder Loans: USD
 - Term: Years
 - Interest Rate: %
- Senior Debt/ External Loan: USD
 - Term: Years
 - Interest Rate: %

Total Finance: USD**6. PROJECT BASE CASE ECONOMICS**

	LOM	Annual Profile
Gross Revenue		
- Cost of Sales		
Gross Profit		
- Selling, G&A		
EBITDA/ Operating Income		
- Depreciation/ Amortization		
EBIT/ Operating Profit		
- Interest Expense		
EBT/ Pre-tax Cash Flow		
- Taxes		
Post-tax Cash Flow		
+ Depreciation		
- Capex		
- External Debt Repayment		
Cash Flow after External Debt		
Discount Rate		
Net Present Value (Post Tax)		
IRR		
Payback Period		
Sensitivity analysis		

7. ECONOMIC BENEFITS SPLIT

	LOM	Annual Profile
A: Total Project Take		
B: Distributions to Government:		
Royalty		
Inspection Fee		

Mining (State Participation)

GN No.574 (Contd)

Service Levy (Local Government Levy)			
Skills Development Levy			
Import Duty on Development Capex			
Corporate Income Tax			
Withholding Tax on Investor's Dividends			
Withholding Tax on Government's Dividends			
Total Government Take (Fiscal)			
Government's Share of interest-bearing Shareholder Loan Repayments			
Net Dividends to GOT FCI (Class B Shares)			
Total Government Take (Fiscal + Participation)			
C: Distributions to Investor			
Repayments of Shareholder Loans			
Net Dividends			
Return of Capital			

Dodoma,
9th September, 2022

DOTO MASHAKA BITEKO
Minister for Minerals

LIBRARY FB ATTORNEYS