

*The document below reflects some three years of work with the Ministry of Mines and Energy aimed at creating a new mining law based on Liberia's existing experience (as distinguished from earlier draft laws that embodied then current ideas of best practice but paid little regard to Liberia's historic practice). This draft is based on the most recent version delivered to MME on September 10, except as follows. Corrections of typographic and minor drafting errors have been removed, as have changes marked in the September 10 draft that reflected matters previously agreed. Certain proposed changes and editorial comments (in red italics) have been retained because there was not yet agreement on language or because they reflect suggestions made after the last MME review. The principal representative of MME in the drafting process was Assistant Minister Johnson Willabo. Sam Summerville, of the GIZ aid mission in Monrovia, was a participant in the drafting process, and could provide additional background.*

*Copies of earlier drafts were circulated for comment to the Minister of Finance and Development Planning and the Commissioner General of the Liberia Revenue Authority in the spring of 2023. It is not known whether the Ministry of Mines and Energy received any responses.*

*The draft is deliberately relatively detailed, reflecting the fact that it has historically been difficult for Liberia to move from new statutes to implementing regulations. It also incorporates the Kimberley diamond process requirements, formerly contained in a separate law.*

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**CONFIDENTIAL**

**Republic of Liberia**

**Minerals and Mining Law 2023**

**Draft – January 15, 2023**

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Schedule 1 – Schedule of Fees

Schedule 2 -- Procedures Applicable to the Trade in Rough Diamonds

**AN ACT**  
**AMENDING AND RESTATING**  
**THE MINERALS AND MINING LAW CONSTITUTING**  
**PART 1 OF TITLE 23 OF THE LIBERIA CODE OF LAWS REVISED**

**PREAMBLE**

**WHEREAS**, Article 7 of the Constitution of the Republic of Liberia provides that: “The Republic of Liberia shall, consistent with the principle of individual freedom and social justice enshrined in this Constitution, manage the national economy and the natural resources of Liberia in such manner as shall ensure the maximum feasible participation of citizens under conditions of equality as to advance the general welfare of the Liberian people and the economic development of Liberia.”

**WHEREAS**, Article 22(b) of the Constitution of the Republic of Liberia provides that: “Private property rights, however, shall not extend to any mineral resources on or beneath any land or to any lands under the seas and waterways of the Republic. All mineral resources in and under the seas and other waterways shall belong to the Republic and be used by and for the entire Republic.”

**WHEREAS**, it is desirable to

- promote transparency and openness in the administration of the mineral resources of the Republic of Liberia,
- position Liberia as a competitive mining destination that will attract technically and financially sound investment,
- ensure that workers and communities are fairly treated, protected, and benefit from the development of minerals,
- promote the development of Liberia’s mineral resources for the benefit of all stakeholders, particularly the young and future generations,
- address the problem of conflict diamonds by careful implementation of the Kimberley Process, and
- ensure that Liberia’s mineral resources are managed in an environmentally responsible and sustainable manner.

**THEREFORE, BE IT ENACTED BY** the Senate and House of Representatives of the Republic of Liberia in Legislature assembled.

## PART I. GENERAL PROVISIONS

### Section 1 Status and Title of this Law

This Law amends and restates in its entirety Part 1 of Title 23 of the Liberian Code of Laws Revised and may be cited as the “Minerals and Mining Law 2023.” Section 64 of this Law also amends (a) the Public Procurement and Concession Act of 2005, as heretofore amended and restated, (b) Chapter 33 of Title 12 of the Liberian Code of Laws Revised and (c) certain environmental laws, all as further specified herein.

### Section 2 Application of this Law

2.1 This Law shall be applicable to:

- (a) reconnaissance, prospecting and exploration for, and development and exploitation of, minerals, including coal but excluding crude oil and natural gas as defined in the Petroleum (Exploration and Production) Act, 2014, whether located on or under surface lands or on or under land covered by water that is within the borders of Liberia, under the territorial waters of Liberia, forms part of the continental shelf of Liberia or forms part of the exclusive economic zone of the Republic of Liberia;
- (b) the exploration and exploitation of geothermal or water resources on or under any such lands;
- (c) exploitation of secondary mineral deposits without regard to whether they are above or under the surface of the land;
- (d) minerals trade, import and export, to the extent set forth herein, and
- (e) the use of water resources in connection with license activities.

2.2 This Law applies despite any right of any ownership of any person in any such land on or under which any minerals or geothermal or water resources are found.

2.3 This Law shall be applied to ensure that the mineral resources of the Republic of Liberia are explored and exploited for the benefit of the people of Liberia in an efficient and effective manner.

### Section 3 Definitions

3.1 Defined Terms. For purposes of this Law, the following terms and phrases shall have the respective meanings set forth below, except that terms or phrases with application solely to the trade in diamonds and the Kimberley Process are defined in section 51.2. Terms that are capitalized in this section 3, if used uncapitalized, have their normal everyday meanings.

“affiliate” means a person that Controls, is Controlled by or is under common Control with another person.

“ancillary activities” means activities identified in section 47.1

“ancillary activities agreement” means a contract entered into between the State, acting through the Minister, and the holder of a mining license setting forth legal commitments related to ancillary activities.

“Applicable Law” means any law, regulation, rule, judgment or order of the Republic of Liberia or treaty to which the Republic of Liberia is a party applicable to the person or circumstances in issue.

“ASMSWG” has the meaning given in section 5.4.

“authorized official” means any official, employee or representative of the State that has legal authority to conduct the described activity.

“broker” means an individual holding a broker license.

“broker license” means a license to trade certain minerals within the Republic of Liberia issued pursuant to section 49.

“Change of Control” means a change in possession of the power to Control the holder of a license, whether such power is vested in a single person or a group of persons acting in concert. A Change of Control of a person who is a shareholder, member, partner or joint venturer with respect to a license holder constitutes a Change of Control of such license holder if such shareholder, member, partner, or joint venturer can Control the license holder. An agreement whereby the holder of a mineral license agrees to conduct operations as directed by a third party is also a Change of Control.

“Class A mining license” means a Class A mining license referred to in section 9.1(g) and more fully described in section 20.

“Class B mining license” means a Class B mining license referred to in section 9.1(e) and more fully described in section 18.

“Class C mining license” means a Class C mining license referred to in section 9.1(d) and more fully described in section 17.

“closure management plan” means a plan (a) providing for the decommissioning of a mine, the removal of its associated facilities, restoration, rehabilitation and reclamation of the environment, and (b) assisting the transition to a post-mine existence of communities that are substantially dependent on the mine for their livelihood, as more fully described in section 31.5.

“coal” means a fossil fuel consisting of carbonized plant matter deposited in sedimentary basins including anthracite, bituminous coal, sub-bituminous coal and lignite.

“Community” or “Communities” when used as a capitalized term, means a self-identifying coherent social group or groups comprised of Community Members as defined in the Land Rights Act. Lower case references generally to “communities” include but are not limited to any relevant “Communities” as above defined.

“Community Land” has the meaning given in the Land Rights Act.

“Competent Person” has the meaning assigned in the Selected CRIRSCO Code and shall also include a geologist who is a citizen and resident of Liberia with a graduate degree in geology relevant to the identification and evaluation of hard rock mineral resources from an internationally recognized geology program who lacks the professional membership requirements imposed for qualification as a Competent Person under the Selected CRIRSCO Code but who otherwise has a minimum of five years post-graduate experience in non-governmental employment relevant to the style of mineralization and type of deposit or class of deposit under consideration and to the activity which that person is undertaking, provided that (a) if such person is estimating or supervising the estimation of Mineral Resources, the relevant experience must be in the estimation, assessment and evaluation of Mineral Resources, (b) if such person is estimating, or supervising the estimation of Mineral Reserves, the relevant experience must be in the estimation, assessment and evaluation of the economic extraction of Mineral Reserves, and (c) such person has satisfied the

Minister that he or she has the requisite professional competence in the relevant commodity, type of deposit and situation.

“Control” (including the terms “Controlling,” “Controlled by,” “under common Control with” and “Controls”), when used as capitalized terms, mean the possession by one person or group of persons acting in concert with the power to direct or administer the affairs of another person by virtue of the ownership of more than fifty percent (50%) of the share capital or other voting power in such person or by virtue of any other right or power to direct and administer the affairs of such person.

“day” means a twenty-four (24) hour period beginning at midnight and ending on the following midnight based on Monrovia, Liberia time.

“dealer” means an entity holding a dealer license.

“dealer license” means a license to trade in certain minerals within and without the Republic of Liberia issued pursuant to section 50.

“deposit” means any naturally occurring concentration of minerals or mineral aggregates, primary or secondary, and where the context requires also includes minerals recoverable from such post-extraction sources as tailings and tailings ponds.

“effective date” when used with respect to this Law means the date this Law is published into handbills by the Ministry of Foreign Affairs.

“entity” means a partnership, trust, joint venture, cooperative, corporation, company, association or governmental unit, without regard to whether it constitutes a distinct legal entity under Liberian law.

“environmental impact assessment” means a study of the potential effects of an activity on the physical environment and on the impact of such effects on the health and livelihoods of individuals and communities, including potential effects arising in connection with or following the cessation of mining operations and setting forth the applicant’s proposed methods of mitigation and restoration, rehabilitation and reclamation.

“environmental management plan” means a program and work plan designed in accordance with internationally accepted good mining practice to eliminate or satisfactorily mitigate negative environmental impacts from license activities, including the impacts of the cessation of mining operations.

“EPA” means the Environmental Protection Agency of the Republic of Liberia and any ministry or agency of the State that succeeds to the regulatory functions of such agency and “Executive Director of the EPA” means the senior official of such entity.

“EPA Mining Requirements” has the meaning given in section 31.1.

“Excluded Land” has the meaning given in section 33.2.

“Existing Exploration Regulations” means the “Regulations Governing Exploration under a Mineral Exploration License of the Republic of Liberia,” adopted by the Ministry of Lands, Mines and Energy and effective on and from March 2010, as they may have been amended, modified or supplemented prior to the effective date of this Law, excluding any portion thereof that is in direct conflict with the provisions of this Law.

“exploration” means surface, subsurface or depth investigation for purposes of discovering the existence, location, quantity, quality, characteristics, or commercial value of mineral deposits, including geological, geophysical, and remote sensing

techniques, drilling and laboratory testing and assays carried out in connection with the foregoing activities, provided that activities permitted to be carried out under a reconnaissance license or a prospecting license are not considered “exploration” for the purposes of applying the exploration licensing provisions of this Law.

“exploration license” means an exploration license referred to in section 9.1(c) and more fully described in section 16.

“exploitation” means the extraction of minerals for commercial purposes, including mining of minerals and such processing of mined minerals as is normally required to enter the commercial marketplace, or the capture and related processing of geothermal or water resources for commercial purposes.

“Extractive Industries Transparency Initiative” or “EITI” means the program to achieve transparency over payments and revenues in the extractive sector initially promulgated by a diverse group of countries, companies and civil society organizations in 2003, the principles and details of which are set forth in the “EITI Standard” published from time to time on behalf of the EITI Association by the EITI International Secretariat.

“Family Member” has the meaning given in the Liberia Code of Conduct of 2014, as it may from time to time be amended, modified or supplemented.

“feasibility study” means a comprehensive technical and economic study of the selected development option for a mineral reserve that includes assessments of relevant operational factors and financial analysis with respect to such option. Such a study is a favorable feasibility study only if it reasonably demonstrates at the time of reporting that such reserve is economically mineable taking into account the technologies proposed, the available markets, and associated non-extraction costs such as environmental and social costs and closure management costs.

“force majeure” has the meaning given in section 30.

“Geological Data” means geological, geophysical and geochemical information relating to Liberia, including seismic data, velocity, magnetic, surface and other surveys, drill logs, seismic sections, surface or subsurface maps, plots, charts, cores, cuttings and samples and other geological, geophysical or geochemical information relating to the surface or subsurface composition of Liberia’s lands or waters, and all information derived from the processing of any such data.

“geothermal deposit” is a geothermal reservoir consisting of natural heat which is from an underground source and is stored in rocks or in an aqueous liquid or vapor having a temperature exceeding 122 degrees Fahrenheit (50 degrees Celsius) as measured at the wellhead or in the case of a natural hot spring, at the intake to the distribution system.

“Government,” when used as a capitalized term, means the government of the Republic of Liberia and all branches, subdivisions, instrumentalities, authorities and agencies thereof.

“holder” means the person in whose name a license issued under this Law is registered with the Ministry of Mines and Energy.

“Indicated Mineral Resource” has the meaning given in and is to be determined as prescribed in the Selected CRIRSCO Code.

“individual” when used as a noun means a natural person.

“Industrial Rocks and Minerals” means barite, basalt, clay, dolomite, feldspar, gabbro, granite, gravel, gypsum, laterite, limestone, mica, magnesite, marble, phosphate rock, sandstone, river or beach sand, slate and talc, when mined for agricultural, building, road construction or industrial purposes, either in bulk for use in Liberia or as dimension stone, and shall also include such other minerals and aggregates of minerals when mined for similar use as the Minister may declare by Regulation to constitute Industrial Rocks and Minerals.

“International Standards” means any of the standards of professional care, skill, diligence, practices and methods generally followed in the European Union, the United States, Canada, Australia or South Africa by prudent professionals employed by leading international firms regarding the conduct of similar activities or the provision of similar services, provided that the Minister may by Regulation designate a particular International Standard as being generally applicable to all holders of a class of mining licenses or all holders of exploration licenses.

“joint venture” includes an arrangement between two or more entities to work together without creation of a separate legal entity or formal partnership.

“Kimberley Process” means the international certification scheme developed by representatives of diamond producing and trading countries, the diamond industry and civil society that regulates trade in rough diamonds in order to prevent the flow of conflict diamonds. References in this Law to the requirements of or compliance with “the Kimberley Process” refer to the requirements of, or compliance with the provisions of, this Law and the Regulations implementing the Kimberley Process.

“land” means the surface of the earth whether above or beneath water.

“Land Rights Act” means the Land Rights Act of 2018 as it may from time to time be amended, modified or supplemented.

“Law” means this Minerals and Mining Law as it may from time to time be amended, modified or supplemented.

“LEITI” means the Liberia Extractive Industries Transparency Initiative, as established by the law entitled Liberia Extractive Industries Transparency Initiative (LEITI) Act of 2009 as it may from time to time be amended, modified or supplemented.

“Liberia Geological Survey” means the organizational unit of the Ministry charged with the systematic investigation of the geology of Liberia provided for in section 8.

“Liberia Revenue Authority” means the entity of the State charged with the responsibility of collection of revenues and any ministry or agency of the State that succeeds to the functions of such authority, and “Commissioner General” means the highest administrative official of such entity.

“license” means an instrument evidencing the rights of the holder granted under this Law with respect to the license activity set forth in the license.

“license activity” means the mineral exploration or mineral extraction activity permitted to be conducted under a mineral license.

“license area” means the area granted to the holder of a mineral license for the carrying out of license activities and license operations. In the case of a Class A mining license, a Class B mining license or a quarry license, the license area set forth in the license shall distinguish between the area in which mineral extraction is

permitted to occur and such additional area in which the licensee is given the right to carry out related processing operations.

“license operations” means the operations carried out by the holder of a mineral license within or adjacent to its license area in the performance of its authorized license activity, including post-extraction processing and preparation for transport or sale and compliance with its environmental and social management obligations.

“local government” means political subdivisions of the State that include counties, cities, towns, districts, and villages, as well as Communities established pursuant to the Lands Rights Act.

“MDA” means a mineral development agreement entered into by the State pursuant to section 21 in which an eligible applicant and the State may agree to and be bound by terms not covered in this Law or the Regulations. Where the term is used in the context of requirements generally applicable to existing MDAs, it also includes any similar agreement entered into under the Mining Law 2000.

“Measured Mineral Resource” has the meaning given in and is to be determined as prescribed in the Selected CRIRSCO Code.

“mine” (as a noun) means any place, excavation or working by which any operation involving with mining is carried out together with all buildings, structures, premises, erections and appliances belonging or appertaining to it, above and below the surface of the ground, for the purpose of obtaining or extracting any mineral by any mode or method, including buildings, structures, premises, erections, and appliances used in processing the extracted mineral if located at or substantially adjacent to the location of the place of extraction. For the avoidance of doubt, “mine” includes a quarry.

“mine” (as a verb) means the intentional extraction of minerals for use, trade or sale.

“mineral” means a naturally occurring element or compound having an orderly internal structure and characteristic chemical composition, crystal form and physical properties, formed by or subject to a geological process and including Industrial Rocks and Minerals. The term also includes coal and lignite but excludes crude oil and natural gas as defined in the Petroleum (Exploration and Production) Act, 2014.

“Mineral Cadastre System” means the mapping and registry system for recording the existence and location of mineral licenses, applications for mineral licenses, information relating to the holders of mineral licenses, payments with respect to mineral licenses and other matters referred to in section 6.3.

“mineral license” means a reconnaissance license, a prospecting license, an exploration license, a Class C mining license, a Class B mining license, a quarry license or a Class A mining license issued under this Law.

“Mineral Reserves” has the meaning given in, and is to be determined as prescribed in, the Selected CRIRSCO Code.

“Mineral Resources” when used as a capitalized term has the meaning given in, and is to be determined as prescribed in, the Selected CRIRSCO Code.

“mining” means the activity of the intentional extraction of minerals for use, trade or sale.

“Mining Inspectorate” means the Mining Inspectorate provided for in section 7.

“Mining Law 2000” means the Minerals and Mining Law of 2000, Part I of title 23 of the Liberia Code of Laws Revised, as it may have been amended, modified and supplemented prior to the effective date of this Law.

“mining license” means a Class C mining license, a Class B mining license, a quarry license or a Class A mining license.

“Ministry” means the Ministry of Mines and Energy and any ministry or agency of the State that succeeds to the mineral regulatory functions of the Ministry of Mines and Energy under this Law, and “Minister” means the highest official of such entity.

“Ministry of Finance and Development Planning” means the Ministry of Finance and Development Planning and Energy and any ministry or agency of the State that succeeds to the functions of such ministry, and “Minister of Finance and Development Planning” means the highest official of such entity.

“Mortgage” means a mortgage, pledge, encumbrance or other grant of security with respect to the rights of a license holder under its license.

“occupant” means with respect to any area of land, a person holding under a lease or other formal grant of right from the recognized owner of the land or an individual or group of individuals that has the use of such land as a member of a community that is recognized as traditionally enjoying the use of such land, whether or not such land has been designated as “Community Land” under the Land Rights Act. A person holding a mineral license under this Law is not an “occupant” for the purposes of this Law.

“ore” means a natural aggregate of one or more minerals.

“overburden” means the rock or soil that is displaced in accessing an ore body or other mineral deposit without being processed for its mineral content.

“owner” means, with respect to any surface area, (a) a person holding legal title to the surface area or a Community identified pursuant to the Land Rights Act as having the right to hold such surface area as “Customary Land” (as defined in the Land Rights Act), or (b) the State, holding such surface area as either Government Land or Public Land, as such terms are used in the Land Rights Act.

“perimeter” means, with respect to a license issued under this Law, the boundary of an area demarcated on the surface of the earth as described in such license.

“plant and equipment” means, unless the context clearly otherwise requires, all equipment, machinery, fixtures, buildings and other structures or improvements placed on or adjacent to a license area utilized by the licensee (or its contractors or subcontractors) in carrying out activities under its license.

“person” means an individual or an entity.

“PPCA” means the 2010 Amendment and Restatement of the Public Procurement and Concession Act, 2005, as such amendment and restatement may from time to time be further amended, modified or supplemented.

“precious minerals” means gold, diamonds, precious gems and such other minerals that are designated as precious minerals by the Minister from time to time by Regulation under this Law.

“Probable Mineral Reserve” has the meaning given in and is to be determined as prescribed in the Selected CRIRSCO Code.

“processing” means, in relation to any mineral, the transforming of such mineral in its extracted form so as to change its natural characteristics or to prepare such mineral for commercial sale through such actions as crushing, washing, concentration, or beneficiation. Such steps as smelting and refining are not part of processing unless the extracted mineral does not normally enter the commercial marketplace before the occurrence of such actions, and then only if such actions take place at or substantially adjacent to the mine site.

“proposed mining area” has the meaning given in section 20.3(b).

“proposed production area” has the meaning given in section 20.3(c).

“prospecting license” means a prospecting license referred to in section 9.1(b) and more fully described in section 15.

“Proven Mineral Reserve” has the meaning given in and is to be determined as prescribed in the Selected CRIRSCO Code.

“Public Finance Management Act” means the Amendment and Restatement of the Public Finance Management Act, approved October 22, 2019, as such amendment and restatement may from time to time be further amended, modified or supplemented.

“public official” means any individual in a position of official authority that is conferred by the State including an individual who holds a legislative, administrative or judicial position, whether appointed or elected.

“quarry” means a place where Industrial Rocks and Minerals are extracted in surface excavations for commercial sale. A quarry may include processing facilities for readying extracted Industrial Rocks or Minerals for commercial sale.

“quarry license” means a quarry license referred to in section 9.1(f) and more fully described in section 19.

“radioactive mineral” means a mineral which contains by weight at least one twentieth of one percent (0.0005 or 1/20 x.01 percent) of uranium or thorium or any combination of them and include but not limited to (1) monazite sand and other ore containing thorium and (2) carnotite, pitchblende and other ores containing uranium.

“reconnaissance license” means a reconnaissance license referred to in section 9.1(a) and more fully described in section 14.

“Regulation” when used as a capitalized term means a regulation issued by the Minister pursuant to and in effect under section 53 of this Law. Such term includes the Existing Exploration Regulations except to the extent in conflict with an express provision of this Law or expressly modified by a Regulation issued under this Law.

“Reserved Area” has the meaning given in section 10.3.

“resettlement action plan” means a written document based on a social impact assessment that is prepared by the licensee or other responsible party in consultation with the communities from which resettlement is required and the communities in which resettlement is expected to occur in compliance with section 36 and the relevant Regulations.

“restoration, rehabilitation and reclamation” refers to the various techniques that may be used to return a mineral license area to its natural state or to a condition that does not present health or safety risks and to the extent feasible is useable for another purpose or purposes, including, as appropriate but without limitation:

- (i) contouring, grading and terracing all exposed artificial gradients, declivities and high walls created as a result of its operations to the extent necessary to stabilize them and protect against erosion;
- (ii) removal or stabilization of stockpiles and tailings;
- (iii) control of airborne dust and other pollutants;
- (iv) storage and restoration of topsoil to promote revegetation;
- (v) revegetation with environmentally appropriate plant life including reforestation to restore or compensate for any significant felling of trees in support of or to facilitate mining operations;
- (vi) protection, restoration or replacement of water sources interrupted or polluted as a result of the licensee's operations; and
- (vii) control of acid runoff or other waterborne pollution sources.

“Restricted Mineral” has the meaning given in section 10.2.

“Revenue Code” means the Revenue Code of Liberia of 2000 as amended by the Consolidated Tax Amendment Act, 2010 together with the regulations duly adopted thereunder, as such code or regulations may from time to time be further amended, modified or supplemented.

“secondary mineral deposit” means a mineral deposit formed when a primary mineral deposit is subjected to alterations through chemical and/or mechanical weathering, including both natural eluvial and alluvial deposits and man-made deposits such as tailings heaps and tailings ponds.

“Selected CRIRSCO Code” means a Committee for Mineral Reserves International Reporting Standards (CRIRSCO) recognized mineral evaluation code for the public reporting of Mineral Resources. Initially, each of JORC, SAMREC and NI 43-101, as from time to time in effect, is a Selected CRIRSCO Code. If any such code is no longer in effect or no longer defines a term defined herein by reference to it, the Minister shall by Regulation designate after consultation with a cross section of medium and large-scale mining companies a CRIRSCO-compliant replacement code or if none exists a functionally and substantively similar replacement code (which designated replacement code shall thereafter be deemed a Selected CRIRSCO Code). Once a licensee or a license applicant has elected to utilize a particular Selected CRIRSCO Code, it and its successors must obtain the consent of the Minister (which may not be unreasonably withheld) to utilize an alternative Selected CRIRSCO Code .

“social impact assessment” means a study of the potential effects of projected license operations on the lives and livelihoods of individuals and communities other than those attributable to the environmental impact of license activities, including potential effects arising in connection with or following the cessation of mining operations.

“social management plan” means a written program and work plan that includes measures other than those included in the environmental management plan designed to eliminate or satisfactorily mitigate the negative impacts of license activities on the lives and livelihoods of individuals and communities, including the impact of cessation of license operations.

“stakeholder” means any Government agency, non-government organization, civil society organization, investor, group of citizens, individual or individuals or donor

organization that is or may reasonably be expected to be impacted by the conduct of operations under a mineral license.

“State” when used as a capitalized term means the governmental authority of the Republic of Liberia.

“subsurface mining” means mineral extraction when access to the mineral resource is achieved through shafts, adits, or other pathways, as opposed to the removal of earth or other minerals overlying the mineral to be extracted.

“surface rent” means the annual fee to be paid by a license holder for the land subject to its license, which fee is to be based on the area of the subject land.

“surrender” means the giving up by a license holder of its rights to all or a part of the land subject to its license.

“tailings” means the material remaining from the extraction or processing of minerals and any solid or liquid residues derived from them.

“Transfer” means any sale, assignment, conveyance, or other transfer of the rights of a holder under a mineral license other than a Mortgage.

“year” when not used in connection with the age of a person means a period of time commencing at midnight on a day and ending at midnight on the corresponding day in the following calendar year, Monrovia time.

- 3.2 References. All references in this Law to a “section” or a portion of a “section” without other attribution are to sections or subsections of this Law.

## **PART II. INSTITUTIONAL ARRANGEMENTS**

### **Section 4 Granting of Mineral Licenses**

- 4.1 When Mineral License Required. A person may not search for, develop or exploit minerals found on or under surface lands, or on or under lands covered by water that is within the borders of the Republic of Liberia, under the territorial waters of the Republic of Liberia, forms part of the continental shelf of the Republic of Liberia or forms part of the exclusive economic zone of the Republic of Liberia unless such person holds an appropriate license granted under this Law or that was granted under the Mining Law 2000 and remains in effect in accordance with the applicable provisions of section 64.1

- 4.2 Types of Mineral Licenses. The following mineral licenses may be acquired under this Law:

- (a) Exploration rights, in the form of
  - (i) a reconnaissance license,
  - (ii) a prospecting license, or
  - (iii) an exploration license, and
- (b) mining rights, in the form of
  - (i) a Class C mining license,
  - (ii) a quarry license,
  - (iii) a Class B mining license, or
  - (iv) a Class A mining license.

Under the circumstances provided in this Law certain holders of mining licenses may also be entitled or may be required to enter into an MDA with the State.

- 4.3 When Broker or Dealer License Required. A person may not trade in gold, diamonds or other precious minerals unless it holds a broker license or a dealer license that (a) is issued under this Law or (b) was issued under the Mining Law 2000 and remains in effect in accordance with the applicable provisions of section 64.
- 4.4 Boundaries of Mineral Licenses. The surface boundaries of any mineral license granted under this Law shall be stated in reference to the Mineral Cadastre System provided for in section 6.3.
- 4.5 Relationship to Petroleum Rights. The granting of a mineral license under this Law shall not preclude the subsequent grant by the Liberia Petroleum Regulatory Authority to another person of the right to carry out reconnaissance and explore for and produce crude oil or natural gas within the area subject to such mineral license if (a) the Minister has reasonably determined that such activities will not interfere with safe operations under such mineral license and will result in minimal interference with current or projected future operations under such mineral license, and (b) the grantee of such petroleum rights has agreed to compensate the mineral license holder for any increases in costs or losses reasonably attributable to the operations of the grantee.

A mineral license may be granted with respect to an area for which a reconnaissance license or a petroleum agreement under the Petroleum (Exploration and Production) Act, 2014 is outstanding if (i) the Liberia Petroleum Regulatory Authority has reasonably determined that such activities will not interfere with safe operations under such reconnaissance license or petroleum agreement and will result in minimal interference with current or protected future operations under such reconnaissance license or petroleum agreement, and (ii) the grantee of such mineral rights has agreed to compensate the petroleum rights holder for any increases in costs or losses reasonably attributable to the operations of the grantee.

A determination referred to above by the Minister or the Liberia Petroleum Regulatory Authority may be made only after notice to the existing rights holder and full opportunity for the presentation of evidence by the parties involved.

## **Section 5 Administration of this Law**

- 5.1 Role of the Ministry. The Ministry is the agency of the State responsible for the administration of this Law, and the Minister is responsible for the performance by the Ministry of its responsibilities set forth in this Law.
- 5.2 Powers of the Ministry. In the exercise of the foregoing responsibilities the Ministry is authorized, in accordance with this Law and the Regulations, to:
- (a) grant or deny, revoke, suspend, modify, terminate, extend or renew licenses and maintain records with respect thereto;
  - (b) authorize or undertake investigations into the geological, mineral, hydrological or geothermal resources of Liberia;
  - (c) maintain records and maps pertaining to the geological, mineral, hydrological or geothermal resources of Liberia;
  - (d) coordinate mineral sector developments with other ministries and agencies of the State;

- (e) provide assistance to licensees in complying with the requirements of this Law and the Regulations and enter license areas to conduct inspections, survey or related license functions;
- (f) prepare, issue and implement Regulations, procedures, guidelines, directives and orders necessary or reasonably appropriate for implementation of the provisions of this Law;
- (g) enlist the services of consultants, contractors or advisors as may reasonably be appropriate to advise upon or assist in the administration of this Law; and
- (h) take such other actions as are directed by this Law or are reasonably necessary to implement the provisions of this Law.

5.3 Concerning Notices and Payments.

- (a) Where the giving of a notice is required or provided for under this Law or the Regulations, and the giving of such notice triggers the running of a period of days, such period shall be deemed to run from the day following the earliest of (i) the day on which the recipient receives the notice, if delivered by hand or by a recognized courier service at the address for notices provided by the recipient, or (ii) the day after the day on which it is given, if given by email to an email address provided by the recipient and not returned as undeliverable or (iii) the day on which the recipient has acknowledged the receipt of such notice. In any other case, the person claiming that the period of time has run shall have the burden of showing when the notice was received by the recipient. Any notice of change of address or email address provided by a person for the purposes of this Law or the Regulations shall not be effective until the fifth day following the day it was received.
- (b) A license holder is responsible for timely payment of all amounts due under this Law, the Regulations or the terms of such license if:
  - (i) the payment is due in fixed amounts and at a fixed time or at stated intervals; or
  - (ii) the amount of a fee or other payment can be calculated by such holder or can be ascertained from this Law, the Regulations or the terms of such license and the due date for such payment is determinable by reference to this Law, the Regulations or the terms of such license; or
  - (iii) the payment is due under the Revenue Code.

If clause (ii) of this section 5.3(b) is applicable, the payment shall be accompanied by an explanation of the calculation of the amount paid.

5.4 Artisanal and Small-Scale Mining Sector Working Group. Within 90 days of the effective date of this Law, the Minister shall cause the organization of an Artisanal and Small-Scale Mining Sector Working Group (“ASMSWG”) to advise the Ministry on matters pertaining to the licensing and operation of artisanal mining operations (Class C mining licenses) and smaller mines operating under Class B mining licenses or quarry licenses.

- (a) The ASMSWG shall consist of representatives of at least ten and not more than sixteen institutions or organizations named in this section 5.4 as *ex officio* members or designated by the Minister. The EPA, the Cooperative Development Agency, the Ministry of Labor and the Ministry of Internal Affairs or their respective successors shall at all times be *ex officio* members

of the ASMSWG. At all times, one half of the members shall be agencies or instrumentalities of the State, and one half of the members shall be civil society organizations or other non-governmental entities with an interest in the social and environmental issues arising from artisanal and small-scale mining. Each member shall appoint a representative to the ASMSWG, and each representative shall be of sufficient rank to discuss authoritatively about the operations and policies of the institution or organization she or he represents and be able to devote time to the work of the ASMSWG.

- (b) A representative of a non-statutory member:
  - (i) shall serve a term of four years, and may be reappointed for one additional term;
  - (ii) may withdraw at any time; and
  - (iii) may be replaced at any time by the member appointing such representative.
- (c) A non-statutory member may withdraw at any time and may be removed by a majority of the non-governmental members acting together with a majority of the governmental members.

The Minister shall promptly designate a replacement for any withdrawn or removed non-statutory member.
- (d) The ASMSWG shall
  - (i) normally meet at least bimonthly, and more frequently if requested by a majority of its members;
  - (ii) shall be chaired, in alternate calendar years, by the Minister (or the Minister's designee) and by the representative of a non-governmental member selected by the non-governmental members; and
  - (iii) establish its own rules of procedure, including procedures for keeping minutes of meetings and records of actions.
- (e) The ASMSWG functions shall include:
  - (i) coordination of governmental and non-governmental interventions linking conservation, environmental stewardship, gender and social protection, health, safety and conservation;
  - (ii) sharing of sector-related information and building awareness among stakeholders towards formalizing the artisanal and small-scale mining subsector of Liberia;
  - (iii) providing a platform through which stakeholders may contribute to artisanal and small-scale alluvial and eluvial mining, environmental stewardship and conservation-related policy development;
  - (iv) developing strategies that will enhance the collection of geospatial and statistical data for sector performance and relevant monitoring and evaluation;
  - (v) advising the Ministry on matters of artisanal and small-scale alluvial and eluvial mining, safety, environment and community development issues; and

- (vi) such other related functions as may be reasonably agreed by the majority of the ASMSWG members.
- (f) The functions of the ASMSWG are public functions and public funds may be budgeted and expended for the support of its activities.

5.5 Additional Guidance for the Administration of Prospecting Licenses and Class C Mining Licenses. Within six (6) months of the effective date of this Law, the Minister shall have commissioned the preparation of a publication to set forth for applicants for prospecting licenses and Class C mining licenses a comprehensive guide to the steps required to obtain and to renew such licenses. The publication shall be as nearly as is practicable in plain English, shall contain illustrative samples of all documentation required to obtain or renew such licenses, and when approved by the ASMSWG shall be widely distributed in areas in which such licenses are granted.

## Section 6 Organization of the Ministry

### 6.1 Authority to Organize the Ministry and Delegate Responsibilities.

- (a) The Minister may delegate the responsibility for the implementation of this Law to designated officials within the Ministry, and may establish and assign responsibilities to specific offices or divisions in order to implement this Law. Reference to specific administrative units of the Ministry in sections 7 and 8 of this Law does not limit the authority of the Ministry to change the names of administrative units, to establish additional administrative units within the Ministry to assist in carrying out the responsibilities of the Ministry under this Law and or to set forth the powers and responsibilities of each such unit so long as the functions mandated by this Law are provided for. General delegations of authority shall be pursuant to Regulations adopted pursuant to this Law. Delegations of authority to take specific actions shall be in writing. All such delegations of authority shall be public documents.

~~(b) The administrative units of the Ministry responsible for the administration of this law on the effective date of this Law are as set forth in Schedule 1 to this Law.~~

*The June draft proposed to include an MME organization chart, setting for the current structure of MME. Unfortunately the current chart (as posted on the MME website) describes an organizational structure that is inconsistent with the description of the MCIMU contained on the MME website. In the absence of an explanation of, or a reconciliation of, the differences, it seemed prudent simply to delete the reference of an organizational chart. It is not necessary to the functioning of the Law*

6.2 Limitations on Delegation. The decision to grant, amend, or revoke a reconnaissance license, an exploration license, a quarry license, a Class B mining license, a Class A mining license or to give any approval required for an MDA or ancillary activities agreement, or to approve a direct or an indirect transfer of an interest in any such license, MDA or ancillary activities agreement may not be delegated. No delegation under this authority may be below the Assistant Minister level.

### 6.3 Certain Specific Functions.

- (a) There shall be a Mining Inspectorate with the powers and responsibilities set forth in section 7 and a Liberia Geological Survey with the powers and responsibilities set forth in section 8

- (b) There shall be a unit charged with the maintenance and operation of a Mineral Cadastre System for Liberia. Unless otherwise provided by Regulations, the Cadastral System Map shall be based on the spatial projection of WGS84 UTM Grid Zone 29N, and the vertices and boundaries of each licensed area shall be plotted on such map. The boundaries of a license area shall be aligned on a north-south/east-west basis as shown on WGS84 UTM Grid Zone 29N, and for all mineral licenses other than prospecting licenses and Class C mining licenses, no side of a license area shall be less than 500 meters, unless otherwise provided by Regulation or the Minister has determined in the specific case that it would be in the public interest to permit a lesser distance.
- (c) The Mineral Cadastre System shall record, in such manner as to permit (x) surface area searches that identify outstanding licenses or license applications attributable to the selected surface area, (y) direct searches for specific licensees or applicants, and (z) searches by type of license:
  - (i) the location of existing mineral licenses (including outstanding licenses granted under the Mining Law 2000) and pending applications for mineral licenses, and recording changes in those locations;
  - (ii) the location of areas known to the Ministry that are restricted, prohibited, designated for special use or otherwise limited with respect to the mineral licenses that may be granted with respect thereto including Excluded Areas; and
  - (iii) with respect to each mineral license holder and, where applicable, applicant
    - (1) its identity and contact information,
    - (2) the date or deemed date of filing of each pending application,
    - (3) for each outstanding license, its effective date, scheduled termination date and terms,
    - (4) each MDA or ancillary activities agreement associated with such license,
    - (5) the information furnished as to its officers, directors and beneficial owners,
    - (6) each approved Transfer, Change of Control and Mortgage,
    - (7) the due date and actual payment date of fees payable, and the due date and filing date of required reports, and
    - (8) such other information as the unit may determine to be necessary or useful or as may be directed by the Minister.
- (d) The information contained in the Mineral Cadastre System shall be directly accessible by the public through public computer terminals maintained by the Ministry except to the extent that this Law provides for the confidentiality of certain information.
- (e) The records of the vertices and boundaries of licenses existing on the effective date of this Law shall be maintained in the Mineral Cadastre System even if they do not conform to the requirements of section 6.3(b), but any changes to

such vertices or boundaries with respect to any such license made after the effective date of this Law shall conform to the requirements of section 6.3(b).

## **Section 7 Mining Inspectorate**

7.1 Functions of the Mining Inspectorate. The Ministry shall maintain a Mining Inspectorate headed by an Inspector General with experience in mining operations and a reputation for probity who shall be appointed by and shall report to the Minister. The Inspector General shall be responsible for monitoring the operations of license holders to ensure compliance with this Law and the terms and conditions of licenses and related MDAs and ancillary activities agreements, including:

- (a) determining the compliance of mineral license holders with approved work programs and the operational requirements established under this Law and the Regulations, and assisting relevant Ministries and agencies in determining the compliance of mining operations with applicable environmental protection and health and safety regulations arising under other Applicable Law;
- (b) determining the compliance of brokers and dealers with the requirements with license terms and this Law and the Regulations;
- (c) investigating incidents with actual or potential adverse effects upon health; safety or the environment;
- (d) verifying mineral production reported by licensees for royalty payment purposes;
- (e) recommending to the Minister actions to be taken based on the foregoing determinations, investigations or verifications; and
- (f) such other functions as may be assigned to the Inspector General by the Minister consistent with the provisions of this Law or the Regulations.

7.2 Rights of Inspection. For the purposes of section 7.1, the Inspector General may appoint authorized representatives who shall have the right at any reasonable time, upon presentation of photographic identification issued by the Ministry identifying them as Mine Inspectors, to:

- (a) enter into any area, structure, installation, facility, office or building used by a license holder in relation to operations under its license;
- (b) inspect and test, or cause to be inspected or tested by a qualified person, any plant, or equipment used by a license holder or its contractors or subcontractors in connection with its license operations for compliance with applicable health and safety regulations or requirements of environmental law;
- (c) take or remove for the purpose of analysis or testing, or for use in evidence in connection with an offense against this Law samples of minerals, water or other substances from any plant or equipment used by a license holder or its contractors or subcontractors in connection with its license operations, or from the surrounding area;
- (d) inspect, take extracts from or make copies of any document belonging to a license holder or its contractors or subcontractors relating to compliance with the requirements of this Law and the Regulations (any such copies being subject to the restrictions on public disclosure of operating and financial information of a license holder contained in or referred to in section 61); and

- (e) make such other examinations and inquiries as may be reasonably necessary to ensure that the provisions of this Law and the Regulations, and of any directives issued, conditions imposed or orders made under this Law or under any license or MDA, are being complied with.
- 7.3 Work Stoppages and Spot Fines. No representative of the Mining Inspectorate shall be entitled (a) to order an immediate cessation of mining operations except in the case of imminent danger to life or imminent material damage to the environment, with any such order being deemed vacated if not confirmed by telephone or email from the Monrovia office of the Mining Inspectorate within 24 hours, or (b) to demand the payment to such representative of fines or penalties.
- 7.4 Duty to Limit Disruption. A representative of the Mining Inspectorate entering upon a license area for any purpose authorized under this Law shall use reasonable efforts to limit any disruption to the operations of the license holder beyond that reasonably necessary to accomplish such purpose. The Mining Inspectorate shall seek in good faith to coordinate inspections with other ministries and agencies with the right to inspect the facilities and operations of a licensee so as to reasonably limit overlap and the frequency of inspections. A representative of the licensee is permitted to accompany any representative of the Mining Inspectorate entering on the license area or otherwise entering premises of the licensee.

## **Section 8      Liberia Geological Survey**

- 8.1 Functions of Liberia Geological Survey. The Ministry shall maintain a unit entitled the Liberia Geological Survey. Its functions shall include:
- (a) undertaking geological investigations and mapping aimed at defining the character and distribution of the rocks and deposits and determining the mineral potential of Liberia;
  - (b) conducting geo-environmental studies;
  - (c) providing advice to the Government on all matters related to geology and the development of minerals;
  - (d) conducting assessments and making recommendations to the Government regarding the categorization of minerals and the designation of reserved and artisanal mining areas;
  - (e) developing a national data base concerning the geological, mineral, geothermal and water resources of Liberia;
  - (f) promoting private sector interest and investment in mineral exploration by providing geological information and services to prospective investors;
  - (g) implementing training programs to develop Liberia’s capacity in geological sciences;
  - (h) advising the Minister as to Geological Data reporting and delivery requirements for license holders contemplated by section 43.4;
  - (i) evaluating Geological Data furnished by the holders of mineral licenses; and
  - (j) performing such other functions as may be assigned by the Minister consistent with the provisions of this Law or the Regulations.
- 8.2 Storage and Retrieval of Geological Data. The Liberia Geological Survey shall develop as funds become available programs and procedures for the physical and

electronic storage and retrieval of Geological Data obtained by the Liberia Geological Survey through its own efforts, from the holders of mineral licenses or from third parties. Such storage and retrieval may be provided by the Liberia Geological Survey or by third parties under contract with the Liberia Geological Survey.

8.3 Access to Geological Data. Applicants for mineral licenses, holders of mineral licenses, other commercial entities, academic and governmental institutions and the public are entitled to access Geological Data held by the Liberia Geological Survey not subject to a confidentiality obligation under section 43.5 on the payment of such fees and charges as are established by Regulations. Pending such Regulations certain of such fees and charges are set forth in Schedule 1 to this Law. Such fees and charges may reasonably vary with respect to the nature and detail of the information sought or with respect to different classes of users such as (by way of example):

- (a) commercial entities engaged or potentially engaged in mining operations and entities acting on behalf of such commercial entities;
- (b) academic and governmental institutions (not performing services for entities referred to in clause (a) of this section), and entities requiring information in connection with the safe and efficient design of structures or improvements on land; and
- (c) the general public.

No charge shall be made for access to generalized mapping and mineralization information other than reasonable fees for printing or reproduction of such data.

8.4 Confidentiality of Geological Data. The Liberia Geological Survey may require a person to agree to maintain the confidentiality of information delivered by or to it under Section 8.3 if the Liberia Geological Survey deems such action necessary to maintain the market value of such information.

8.5 Access to Petroleum Geological Data and Mineral Geological Data. The Liberia Geological Survey shall have free access to Geological Data obtained or maintained by the Liberia Petroleum Regulatory Authority or the National Oil Company of Liberia in connection with the performance of their responsibilities, but may not make such information available to third parties except on terms and conditions reasonably satisfactory to and consistent with the confidentiality obligations of the Liberia Petroleum Regulatory Authority or the National Oil Company of Liberia, as the case may be. The Liberia Petroleum Regulatory Authority and the National Oil Company of Liberia shall have free access to Geological Data obtained or maintained by the Liberia Geological Survey in the performance of its responsibilities under this Law, but may not make such information available to third parties except on terms and conditions reasonably satisfactory to and consistent with the confidentiality obligations of the Liberia Geological Survey.

### **PART III. TYPES OF AND ELIGIBILITY FOR MINERAL LICENSE**

#### **Section 9 License Types and License Scope**

9.1 Scope of Licenses. The scope of activity permitted under a mineral license identified in section 4.2 is as follows, in each case subject to any more specific requirements or limitations contained in this Law or the Regulations.

- (a) Reconnaissance License. A reconnaissance license confers the right to carry out geophysical surveys, geochemical surveys, photo-geological surveys or

other investigations through the use of aerial or other remote sensing techniques. Surface access to the license area other than by use of existing roads is permitted only for (i) limited surface mapping as may be permitted by the Regulations, and (ii) launching and retrieving aerial remote sensing equipment that is not aircraft based. Drilling, trenching or other excavation is prohibited.

- (b) Prospecting License. A prospecting license confers the right to carry out surface-based searches for exploitable mineral deposits in the form of alluvial or eluvial deposits and mineral bodies suitable for exploitation under Class C mining licenses, Class B mining licenses or quarry licenses. A prospecting license does not permit (i) drilling, trenching, pitting or other excavation operations other than manual auguring, trenching or pitting for sampling purposes to depths of no more than 3 meters, (ii) disruption of water supplies, or (iii) felling of trees or clearance of land other than incidental felling and clearance necessary for permitted sampling operations.
- (c) Exploration License. An exploration license confers the right to carry out operations and works to search for exploitable mineral deposits and to evaluate the potential for exploitation of any such deposit. It permits drilling, trenching, pitting or other excavation to determine the presence, extent or quality of a deposit.
- (d) Class C Mining License. A Class C mining license confers the right to extract secondary mineral deposits by manual operations, and to sell the recovered minerals. The holder of a Class C mining license may not use blasting, mechanical diggers, crushers, conveyor belts, dredging, or similar mechanized operations or reservoir or high-pressure placer operations except as provided in section 17.7 for overburden removal, and may not undertake subsurface mining of any kind. The use of light tractors or similar vehicles for moving excavated materials from an excavation area to a safe location (but not for excavation itself), is permitted. The use by a Class C mining cooperative pursuant to Section 17.8 and Regulations adopted pursuant thereto of batch processing washing equipment with a capacity of up to 250 liters of mineral bearing material for precious mineral recovery is also permitted but only if prior to installing such equipment the Ministry has approved a request to use such equipment.
- (e) Class B Mining License. A Class B mining license confers the right to carry out mechanized mining operations with respect to primary or secondary mineral deposits other than Industrial Rocks and Minerals and to sell the recovered minerals. A Class B mining license permits subsurface mining only if the Minister has adopted Regulations expressly providing for the regulation of subsurface mining by the holders of Class B mining licenses. The maximum capital investment under a Class B mining license unrecovered through depreciation or similar allowances may not exceed ten million US dollars (US\$10,000,000). A more capital-intensive operation requires a Class A mining license.
- (f) Quarry license. A quarry license permits the mining of Industrial Rocks and Minerals solely through surface operations and to sell the recovered minerals, and is otherwise subject to the same rights and limitations as a Class B mining license.

- (g) Class A Mining License. A Class A mining license confers the right to conduct mechanized surface and subsurface mining operations as permitted by the terms of its license and its approved mine development plan and to sell the recovered minerals.
- (h) Dredging. Dredging operations are prohibited under any type of license unless approved pursuant to section 22.8.

The Minister may by Regulations impose additional restrictions permitted under applicable laws and regulations upon the operations that may be carried out under a particular type of license but any such restrictions shall not apply to a license at the time outstanding unless (x) expressly incorporated in the terms of the license as issued or (y) the Minister has determined that such restrictions are necessary either for the protection of the health or safety of workers and others who may be affected by license operations or for the protection of the environment.

9.2 Concerning Industrial Rocks and Minerals.

- (a) A mining license may not cover both Industrial Rocks and Minerals and other minerals. If the holder of a quarry license determines that the mineral deposit from which it is extracting Industrial Rocks and Minerals contains other recoverable minerals, or the holder of a Class B mining license or a Class A mining license determines that the mineral deposit it is licensed to mine or removed overburden contains recoverable Industrial Rocks and Minerals, it must apply separately for an appropriate license applicable to the mining of such minerals.
- (b) If the Minister determines that there are insufficient domestic sources of Industrial Rocks and Minerals, the Minister may by Regulation provide for the issuance of exploration licenses limited solely to searches for Industrial Rocks and Minerals recoverable through surface excavation, with less stringent requirements than those contained in section 16 and the Existing Exploration Regulations. Such Regulations:
  - (i) shall permit the granting of a license only to an individual eligible to hold a prospecting license or to a corporation, partnership or joint venture that is permitted to hold a quarry license;
  - (ii) shall permit limited drilling, trenching, pitting or other excavation operations for sampling purposes, including appropriate environmental protection and closure management requirements and limitations on the equipment that may be used;
  - (iii) shall not permit the data derived from such exploration to serve as the basis for acquiring any license other than a quarry license; and
  - (iv) shall bar the holder from holding more than one such license and from proceeding to any mining license other than a quarry license.

Any such license shall be limited to not more than 200 hectares and a term of not more than two (2) years, renewable for a term of not more than one (1) year under the terms and conditions otherwise applicable to the renewal of an exploration license under section 24.

9.3 Contiguous License Areas. If an individual or entity has been awarded Class B mining licenses or quarry licenses covering contiguous mining license areas, the entity must apply for and conduct discrete separate mining operations on each license

area. Contiguous areas may not serve as the basis for a single integrated Class B mining or quarry operation unless the license holder applies for and obtains permission to convert such licenses to a single Class A mining license covering the total area involved. If an entity holds contiguous Class A mining licenses, the mining operations in each license area must constitute a separate “mining production project” as defined in the Revenue Code, and must be accounted for in accordance with the requirements of Chapter 7 of the Revenue Code.

## **Section 10 Radioactive Minerals, Restricted Minerals, Reserved Areas and Scientific Investigations**

- 10.1 Radioactive Minerals. The State is under no obligation to grant a mining license permitting the recovery of radioactive minerals, and reserves the right to carry out in such manner as it may see fit the mining, processing and marketing of radioactive materials. The State shall not grant a mining license or other extraction right for any site that appears to contain recoverable quantities of radioactive minerals, or carry out for its own account any such activities until the Minister, in consultation with the EPA, the Ministry of Health, and other relevant regulatory agencies, has issued Regulations approved by the Cabinet governing mining for and the possession, processing, transportation and storage of radioactive minerals and the protection of the public.
- 10.2 Restricted Minerals. If national security, the health or safety of the population, public interest, economic or strategic necessity or the protection of the environment so requires, the Cabinet may, after consultation with the Minister, declare a mineral to be a Restricted Mineral. Exploitation of a Restricted Mineral is prohibited except with Cabinet approval, which approval may impose restrictions beyond those then required under this Law and the Regulations on the manner in which such mineral may be extracted, processed or marketed or the persons who may carry out such activities.
- 10.3 Reserved Areas. If national security, the health or safety of the population, public interest, economic or strategic necessity, or the protection of the environment so requires the Cabinet may, after consultation with the Minister, declare an area to be a Reserved Area for a fixed or open-ended duration. No mineral license may be awarded with respect to a Reserved Area during the duration of the designation. As provided in section 33.2, lands designated as Reserve Areas constitute Excluded Lands so long as the lands continue to constitute Reserve Areas.
- 10.4 Rights of Existing License Holders. A declaration under section 10.2 or 10.3 does not affect the rights of the holder of an exploration license or a mining license outstanding at the time of such declaration, including without limitation the right of a holder of an exploration license to transition to a mining license in accordance with the provisions of sections 16 and 20 and the priority provisions of section 12, unless the Cabinet has determined, after public notice and opportunity for comment, that the restriction is necessary to avoid material adverse impacts on public health or public safety.
- 10.5 Research Institutions. The Minister may authorize any academic or governmental institution, domestic or foreign, to conduct geological research operations over any portion of Liberia without a reconnaissance license, prospecting license or exploration license on the condition that:
  - (a) it carries out all such operations in accordance with the requirements of this Law and the Regulations applicable to the work being done had it acquired an appropriate license;

- (b) it carries out such operations in a manner that does not interfere with the operations of any holder of a license issued under this Law or the Mining Law 2000 without the consent of such holder;
- (c) all original and processed Geological Data obtained from such operations shall be deemed the property of and be made available to the Ministry in an accessible format without cost and without restrictions as to the further use or publication of such data by the Ministry; and
- (d) such institution may make such data available to third parties only on terms consented to by the Minister.

Work performed under this section 10.5 does not give the entity performing such work a right to acquire a mineral license.

## **Section 11 Who May Apply for or Hold a Mineral License**

### **11.1 Class C Mining License.**

- (a) The holder of a Class C mining license must at all times be an individual who is a Liberian citizen at least eighteen (18) years old.
- (b) No Class C mining license may be granted to any individual otherwise eligible under this section 11.1 who at the time of the grant:
  - (i) does not have legal capacity; or
  - (ii) was adjudged insolvent or bankrupt or otherwise declared bankrupt by a court of competent jurisdiction under the law of any jurisdiction within five years prior to the date of filing of the application; or
  - (iii) has been convicted at any time within five years prior to the date of application of (1) an offense involving economic fraud or corruption or (2) a felony under the laws of any jurisdiction or (3) an offense under this Law or the Mining Law 2000; or
  - (iv) previously held a license issued under this Law or the Mining Law 2000 that was terminated within five years prior to the date of application by reason of a violation of a law or regulation applicable to such license; or
  - (v) is a present or prior public official prohibited by section 54 from holding an interest in a mineral license, is an employee of the Ministry or is a Family Member of any such person; or
  - (vi) is Controlled by a person that would be ineligible to hold a license under this section 11.

### **11.2 Prospecting License, Reconnaissance License, Exploration License, Class B Mining License, Quarry License or Class A Mining License.**

- (a) The holder of a prospecting license must be an individual permitted by Section 11.1 to hold a Class C mining license.
- (b) The holder of a reconnaissance license must at all times be a corporation organized under the laws of, or duly registered and qualified to do business in Liberia.
- (c) The holder of a Class B license or a quarry license must at all times be:

- (i) a corporation organized under the laws of, or duly registered and qualified to do business in, Liberia that is at least seventy percent (70%) owned and Controlled (in terms of both voting power and economic interest) by individuals who are Liberian citizens; or
- (ii) a partnership or joint venture of individuals that is at least seventy percent (70%) owned and Controlled (in terms of both voting power and economic interest) by individuals who are Liberian citizens; or
- (iii) an individual permitted by Section 11.1 to hold a Class C mining license,

provided that the requirements set forth in clauses (i) and (ii) of this section 11.2(c) shall be one hundred percent (100%) in the case of a quarry license for the extraction of river or beach sand.

- (d) The holder of an exploration license or a Class A license must at all times be:
  - (i) a corporation organized under the laws of, or duly registered and qualified to do business in, Liberia; or
  - (ii) a partnership or joint venture all of the members of which are corporations organized under the laws of, or duly registered and qualified to do business in, Liberia and are jointly and severally liable for the performance of the obligations of the partnership or joint venture under the license and any related MDA.
- (e) No prospecting license, reconnaissance license, exploration license, Class B mining license, quarry license or Class A mining license may be granted to any applicant if:
  - (i) such applicant, or an entity or individual Controlling, Controlled by or under common Control with such applicant, previously held or Controlled a license issued under this Law or the Mining Law 2000 that was terminated within five years prior to the date of application by reason of a violation of a law or regulation applicable to such license; or
  - (ii) such applicant was, or is Controlled by an entity or individual that was, adjudged insolvent or bankrupt or otherwise declared bankrupt by a court of competent jurisdiction under the laws of any jurisdiction within five years prior to the date of filing its application; or
  - (iii) an order has been made by a court of competent jurisdiction for the winding up or down or dissolution of such applicant; or
  - (iv) such applicant or any of its officers or directors has been, or such applicant is, Controlled by an entity or individual that has been, convicted at any time within five years prior to the date of filing its application of (1) an offense involving economic fraud or corruption or (2) a felony under the laws of any jurisdiction or (3) an offense under this Law or the Mining Law 2000; or
  - (v) an interest in the applicant or an interest in an entity that is an investor in the entity (or a right to acquire any such interest) is held of record by, or is known to a member of senior management (as defined in section 25.5) of the applicant or such entity to be held by, an individual

who would be barred under clause (v) of Section 11.1(b) from holding a Class C mining license.

- (f) The restriction set forth in clause (v) of section 11.2(e) does not extend to interests held through mutual funds or other investment vehicles that are not specialized to the mining industry and as to which neither the individual involved nor any Family Member has (i) any investment discretion or (ii) individually or in the aggregate, has an investment that is material in relation to the total assets of the investment vehicle.
- (g) No exploration license or mining license may be granted to any applicant otherwise eligible under this section 11.2 if such applicant is a partnership or joint venture and any of the partners or joint venturers would be an ineligible applicant under section 11.2(e).
- (h) It is an offense under this Law for an individual or entity to acquire a direct or indirect ownership interest in a mineral license outstanding under this Law or, from and after the effective date of this Law, a mineral license issued and outstanding under the Mining Law 2000 if this section 11.2 would prohibit the issuance of such license to such individual or entity.

11.3 Exceptions. Notwithstanding section 11.2:

- (a) a corporation wholly owned by the State may be (i) the holder of a reconnaissance license, exploration license or Class A mining license, (ii) a shareholder, investor in, or holder of a reconnaissance license, exploration license or Class A mining license, or (iii) a partner or joint venturer in a partnership or joint venture that holds an exploration license or Class A mining license, and
- (b) a present or former public official otherwise prohibited by section 54 from holding an interest in an applicant may nevertheless be an officer or director of an applicant (or an officer or director of (i) an investor in an applicant, (ii) a partner in a partnership that is an applicant or (iii) a joint venturer in a joint venture that is an applicant) for a reconnaissance license, exploration license or Class A mining license if the applicant, the investor, the partner or the joint venturer, as the case may be, is a corporation wholly owned by the State or if such individual's position with an applicant is a contractual consequence of an interest of a wholly State-owned corporation in the applicant.

11.4 Limitation on Number of Licenses Held. For the purpose of applying restrictions on the number of licenses that may be held by an individual or entity, the applicant is deemed to hold all licenses held by individuals or entities Controlled by the applicant and all licenses held or Controlled by any individual or entity that Controls the applicant.

**Section 12 Priority of Applications for Mineral Licenses.**

12.1 General Rules. Subject to the exceptions set forth below in this Section 12:

- (a) if an area is not subject to a mineral license, the grant of a mineral license with respect to such area shall be awarded to the first qualified and eligible applicant to file an application subject to the exceptions set forth in this Section 12;
- (b) if an application for a mineral license is withdrawn or rejected, the mineral license must be awarded to the next qualified and eligible applicant to apply

for a mineral license for such area, without regard to the type of license sought; and

- (c) no mineral license may be granted with respect to any area already subject to a mineral license except as hereafter provided in this section 12.

Section 13 contains provisions for determining when a filing is made or deemed made for the purposes of this section 12.

12.2 Reconnaissance License Exception. A reconnaissance license may be granted to an eligible and qualified applicant for any area not subject to a reconnaissance license covering the same mineral or minerals (or to a prior-filed application for a reconnaissance license covering the same mineral or minerals that has not been withdrawn or rejected) without regard to whether there exists within such area any non-reconnaissance mineral license or a prior-filed application for a non-reconnaissance mineral license.

12.3 Additional Exceptions. The holder of a reconnaissance license, a prospecting license or an exploration license shall have the following additional priorities.

- (a) If within sixty (60) days after the end of the term of a reconnaissance license the holder of such reconnaissance license files an application for an exploration license covering a mineral or minerals covered by such reconnaissance license and lands located in the area subject to such license, the application shall have priority over any application for a prospecting license, exploration license or mining license covering such lands in whole or in part that was filed after the date of the application for such reconnaissance license covering the same mineral or minerals as those covered by such reconnaissance license.
- (b) If within sixty (60) days after the end of the term of a prospecting license the holder of such prospecting license (or an eligible legal entity in which the holder of the prospecting license is an equity investor) files an application for a Class C mining license, a Class B mining license or a quarry license covering a mineral or minerals covered by such prospecting license and lands located in the area subject to such prospecting license, the application shall have priority over any application for a prospecting license, exploration license or mining license covering such lands in whole or in part that was filed after the date of the application for such prospecting license.
- (c) If a holder of an exploration license is eligible to hold a Class B mining license or a quarry license and files an application for such a license at least sixty (60) days prior to the end of the term of such license, in each case covering a mineral or minerals covered by such exploration license and lands located in the area subject to such exploration license, then the application shall have priority over any application for a prospecting license, exploration license or mining license covering such lands in whole or in part that was filed after the date of the application for such exploration license.
- (d) If a holder of an exploration license is eligible to hold a Class A mining license and files an application for such a license within the time permitted by section 16, in each case covering a mineral or minerals covered by such exploration license and lands located in the area subject to such exploration license, then the application shall have priority over any application for a prospecting license, exploration license or mining license covering such lands

in whole or in part that was filed after the date of the application for such exploration license.

12.4 Overlap of Areas with Consent of License Holder. A prospecting license, Class C mining license, Class B mining license or quarry license may be granted for any area subject to an exploration license if the written consent of the holder of such exploration license has been filed with the Minister. Any such consent shall describe the affected areas based on the boundary requirements of the Mineral Cadastre System and shall be included in the Mineral Cadastre System records relating to the affected licenses. The holder of the exploration license shall cause each such request to be reviewed by a responsible employee and discussed with a senior management official, but has no duty to give such consent.

12.5 Exploration Licenses Surrounding Other License Areas.

- (a) An exploration license may be granted for an area even though the area contains smaller areas held under (or subject to priority rights in favor of applicants for) prospecting licenses or Class B or Class C mining licenses. The exploration license area does not include the areas held (or applied for) under such licenses, and the exploration license holder may not interfere with the access of the holders of such other licenses to their license areas.
- (b) The holder of an exploration license is entitled to temporary access to an area contained within its license area subject to a prospecting license or Class B or Class C mining license on reasonable prior notice to the holder of such license in order to carry out a specified mineral search which in the good faith judgment of the exploration license holder cannot effectively be conducted within the exploration license area.
- (c) Such exploration license holder may not require such other license holder to relocate any fixed plant or equipment or to suspend operations (other than for such temporary suspensions of operations as may be necessary to ensure the integrity of seismic exploration techniques), and may not damage any plant or equipment of such other license holder. The exploration license holder is responsible for any damage caused to the land, plant or equipment of such other license holder in the exercise by such exploration license holder of rights under this section 12.5, and must restore any land, plant or equipment damaged in the exercise of such rights.
- (d) If the holder of a prospecting license or mining license refuses to give the holder of an exploration license access as provided in this section 12.5, such holder may request the Minister to intervene.

#### **PART IV. PROVISIONS FOR GRANTING MINERAL LICENSES**

##### **Section 13 General Rules Applicable to the Application for and Issuance of Mineral Licenses**

13.1 Scope of Section. This section 13 and sections 14 through 20 apply only to applications for mineral licenses under this Law for which competitive bidding is not required under the PPCA. Section 21 deals with MDAs and with applications for mining licenses when competitive bidding is required.

13.2 License Forms. A mineral license issued under this Law:

- (a) shall identify the type of license, and set forth therein the size and perimeter of the area covered by the license, the mineral or minerals for which reconnaissance, prospecting, exploration or mining is authorized, the name and legal nature of the holder, the address of the holder for notices and other communications, the term of the license, and any special terms and conditions determined to be appropriate by the Minister; and
- (b) shall otherwise be in such form as may be set forth by the Minister by notice published in the manner required for the publication of final Regulations under section 53, except that until modified by Regulations the form for an exploration license shall be in the form annexed to the Existing Exploration Regulations.

13.3 Application Forms and Making of Applications. An applicant for a license shall submit an application the Monrovia office of the Ministry or, if so provided in the Regulations in the case of an application for a prospecting license or a Class C mining license, to the appropriate regional office of the Ministry. The fees for the filing and review of mineral license applications are set forth in Schedule 1 to this Law, as modified or supplemented by Regulations. All applications other shall be submitted in electronic PDF format with an accompanying hard copy, shall otherwise be in such form, if any, as may at the time be prescribed by Regulations and shall set forth:

***I had originally proposed in the above paragraph to permit prospecting and Class C mining license applications to be submitted only in hard copy format, on the grounds that it might be difficult for individuals to arrange PDF format. I was informed by the Ministry that all applications should be submitted in both hard copy and electronic format – apparently on the basis that the application format is complex enough that individual will need to seek assistance in preparing applications and the assistant will have the capacity to create PDF copies of the application.***

- (a) the identity of the applicant and the area for which the license is sought, set forth in accordance with the Mineral Cadastre System grid referred to in section 6.4;
- (b) the type of license being sought and the mineral or minerals being sought;
- (c) the address in Liberia to which notices and other communications to the applicant may be delivered (which in the case of all mineral licenses other than prospecting licenses and Class C mining licenses must be in Monrovia) and the name and contact information (telephone and email) for a responsible representative of the applicant;
- (d) each other license outstanding under this Law or the Mining Law 2000 held in (i) the name of such applicant or (ii) by an individual or entity directly or indirectly Controlled by such applicant; or (iii) by an individual or entity that directly or indirectly Controls the applicant, indicating the identity of and the relationship to the applicant of the holder of each such license;
- (e) if the applicant is not an individual, (i) the four most senior officers and the directors (or similar persons having substantially the responsibilities of officers or directors) of the applicant, (ii) any ultimate Controlling persons with respect to the applicant, and (iii) any such additional information as to its

officers, directors, shareholders and ultimate beneficial owners as may then be required by LEITI, this Law or the Regulations;

- (f) a certification of the applicant, or if the applicant is not an individual a certificate of the chief executive office of the applicant, that sections 11.1 and 11.2 do not bar the issuance of a license to the applicant; and
- (g) all additional information required by sections 14, 15, 16, 17, 18, 19 or 20, as the case may be, or by the Regulations.

The applicant shall provide prompt notice of any changes in the information provided pursuant to sections 13.3(c), 13.3(d) or 13.3(e) during the time the application is under review.

#### 13.4 Procedure upon Initial Filing

- (a) Promptly after the filing of a mineral license application together with evidence of payment of the required filing fee review the application shall be reviewed to determine:
  - (i) whether the proposed license area is delineated in accordance with the requirements of the Mineral Cadastre System, is in a location in which licenses of the requested type may be issued and is otherwise of an appropriate size for the license sought, and
  - (ii) whether the application appears to contain the information required by sections 13.3.

Clause (i) of this section 13.4(a) does not require a determination that the applicant is entitled to priority for the lands covered by the application and clause (ii) of this section 13.4(a) requires only a determination that the application responds on its face to the requirements of section 13.3. It does not require a determination as to whether the information provided is accurate or is sufficient to satisfy fully the applicable requirements.

- (b) If the Ministry determines that either or both of clause (i) or clause (ii) of section 13.4(a) are unsatisfied, it shall return the application to the applicant and take no action with respect to such application. The applicant is not entitled to return of the filing fee.
- (c) If the Ministry determines that clauses (i) and (ii) of section 13.4(a) are both satisfied, and further determines that the application covers only lands as to which the applicant is entitled to priority, the Ministry shall so notify the applicant, shall cause the Mineral Cadastre System to record the existence of the application and the lands covered by it, and shall commence the substantive review of the application.
- (d) If the Ministry determines that clauses (i) and (ii) of section 13.4(a) are both satisfied, but the applicant is not entitled to priority with respect to any portion of the land for which a license is sought, it shall return the application to the applicant with a statement of the ineligible land, and shall cause the Mineral Cadastre System to record the existence of the application and the priority lands covered by it.
- (e) An applicant may refiles an application returned pursuant to section 13.4(c) within twenty-one (21) days of its receipt of the return application (forty-two (42) days in the case of an application for a Class A mining license) modified

insofar as is necessary to cover only lands as to which the applicant is entitled to priority. In any such case, no additional filing fee is required.

- (f) If the Ministry determines that such refiled application continues to satisfy clauses (i) and (ii) of section 13.4(a) and further determines that such refiled application covers only lands as to which the applicant is entitled to priority, the Ministry shall so notify the applicant, shall cause update the Mineral Cadastre System to reflect the lands covered by such application (but the date for determination of priority with respect to any additional lands added with the refiling is the date of refiling), and shall begin a substantive review of the application.
- (g) If (i) an applicant does not refile within the time period provided in section 13.4(e), or (ii) the refiled application still covers lands to which the applicant is not entitled to priority, the application will be deemed null and void, and the Ministry shall cause the removal from the Mineral Cadastre System of all entries with respect to such application. The applicant is not entitled to return of the filing fee.

### 13.5 Substantive Processing of Mineral License Applications

- (a) If a mineral license application has been approved for substantive processing pursuant to section 13.4(e), the Ministry shall proceed diligently to determine whether the applicant is entitled to the issue of the requested license in accordance with the terms of this Law and the Regulations.
- (b) In the case of applications for exploration licenses, Class B mining licenses, quarry licenses and Class A mining licenses, the Ministry shall:
  - (i) Publish on the Ministry website and, in the case of a Class A Mining License application, in at least one national newspaper (1) a brief summary of the application, including the identity of the applicant, the type of license sought, the location and the Mineral Cadastre System description of the proposed license area, and the nature of the proposed operations, (2) where a copy of the application may be viewed, and (3) the time period after the date of publication within which comments must be received; and
  - (ii) deliver copies (which may be in electronic form) of each such application for comment, to the EPA, the Ministry of Internal Affairs, affected local governmental authorities and Communities, and any other governmental bodies determined by the Minister to be particularly affected by the operations proposed in the application, stating the time period within which comments must be received (which shall be no less than the time period for receipt of public comments).
- (c) In the case of applications for reconnaissance licenses, prospecting licenses or Class C mining licenses, the Ministry shall:
  - (i) publish on the Ministry website as provided in section 13.5(b)(i), and
  - (ii) deliver copies (which may be in electronic form) of each such application to the EPA, the Ministry of Internal Affairs and, only in the case of prospecting licenses and Class C mining licenses, affected local governmental authorities and Communities, stating the time period

within which comments must be received (which shall be no less than the time period for receipt of public comments).

- (d) The comment periods provided for under this section 13.5 shall be at least forty-five (45) days, and in the case of an application for a Class A mining license shall be at least sixty (60) days
- (e) After due consideration of a mineral license application, taking into account the comments received in response to the publication of an application in accordance with this section 13.5, the Ministry shall deliver to the Minister a written recommendation as to whether or not the requested license should be issued, setting forth the reasons for its conclusion and a summary of principal comments received. The recommendation shall set forth any special terms and conditions the Ministry recommends for inclusion in the license or in any MDA or ancillary activities agreements proposed to be entered into in connection with the license.

### 13.6 Action by the Minister; Issuance of Mineral License.

- (a) For the purposes of determining whether an application is sufficient to support the issuance of a license, the Minister shall take into account changes in the substance of the application agreed to by the applicant in the course of the application review process.
- (b) If the Minister determines that a license should not be issued, the Ministry shall give prompt notice to the applicant of the reasons for denial of the application.
- (c) If the Minister determines that a mineral license should be issued, the Ministry shall deliver notice of such determination to the applicant:
  - (i) including together with such notice the terms of the license proposed to be issued and any required license issuance fee;
  - (ii) indicating the office of the Ministry from which the actual license will be issued, and when the license will be available for issuance; and
  - (iii) stating that the license will be issued only against delivery to the issuing office of satisfactory evidence that the relevant Government entity has received payment of the fee for the issuance of the license and the initial payment of surface rent, setting forth such amounts.

The fees for the issuance of mineral licenses are set forth in Schedule 1 to this Law, as modified or supplemented by Regulations.

- (d) If the Minister proposes to issue a mineral license on terms other than those recommended by the Ministry, the notice to the applicant pursuant to section 13.6(c) shall include a statement of such changes and the reasons therefor.
- (e) The effective date of a mineral license is, and the term of a mineral license begins on, the day on which the license is signed by both the Minister or the Minister's authorized designee and the individual receiving the license or an authorized representative of the entity receiving the license.
- (f) The offer of a mineral license is deemed withdrawn if the Ministry has made the license available for issue as provided in the notice given pursuant to section 13.6(c) and the license is not accepted and executed by or on behalf of the applicant within sixty (60) days thereafter. A written request by the

applicant for reconsideration within the sixty (60) day period shall stop the running of such period. If the Minister on reconsideration offers the license on different terms, a new sixty (60) day period shall run. If the Minister notifies the applicant that the terms of the license will not be modified, the applicant shall have, from the date it receives such notice, the number of days in the sixty (60) day period remaining as of the date of its initial request for reconsideration to accept and execute the license originally offered.

- (g) Acceptance of a mineral license by an applicant will constitute a certification by the applicant that, as of the acceptance date, neither section 11.1 nor section 11.2 bars its issuance to the applicant.
- (h) On reasonable request by the applicant for a reconnaissance license, a prospecting license, an exploration license, or a Class C mining license, the Minister may cause the start date for the term of such license to be delayed by up to six months to allow for mobilization outside of the rainy season. No work may commence in the license area prior to any such delayed start date.
- (i) If a license application is finally denied, or the offer of a license is deemed withdrawn pursuant to section 13.6(f), the Ministry shall promptly remove the information relating to the license application from the Mineral Cadastre System. If a license is issued, the Ministry shall promptly cause the Mineral Cadastre System to reflect the actual license area and the terms of the license as issued.

13.7 Regulations. The Minister may issue Regulations consistent with the provisions of this section 13 implementing more detailed procedures for the processing of mineral license applications. Such procedures may reasonably distinguish among applications for different types of mineral license, based on their relative complexity and the nature of their impact on society and the environment. Such Regulations may also make provision for the power of the Ministry to terminate an application that is not being actively prosecuted with reasonable diligence by the applicant. Any such provision in the Regulations must set forth clearly the grounds for termination applicable to each license type, provide for notice to the applicant of intent to terminate if the applicant does not resume diligent prosecution, and provide for the right to a hearing prior to termination.

#### **Section 14 Provisions Applicable to Reconnaissance Licenses**

14.1 Application Requirements. A reconnaissance license application shall satisfy each of the following requirements.

- (a) It shall contain all information and documentation required by section 13.3.
- (b) It shall set forth the minerals proposed to be sought, the proposed license area, and the reasons for believing that the proposed license area is a potential source of the mineral or minerals being sought.
- (c) It shall set forth a proposed work program that complies with applicable provisions of this Law and the Regulations, represents a technically appropriate approach, in light of the mineral or minerals being sought, for remote sensing of potential deposits of such mineral or minerals, and can reasonably be expected to be performed within the term of a reconnaissance license.

- (d) It shall include a budget that is sufficient to support the proposed work program and that if spent will satisfy any minimum spend requirements in the Regulations.
- (e) It shall demonstrate that the applicant has the technical and financial capacity to perform the proposed work.
- (f) It shall demonstrate that the applicant understands and is prepared to comply and cause its contractors with its environmental protection responsibilities under this Law, the Regulations and the applicable requirements of the EPA, and shall include either an environmental impact assessment in conformity with the requirements of the EPA and this Law and the Regulations or a demonstration that because of the nature of the proposed work program such assessment is not required.
- (g) It shall include a certification signed by the chief executive officer of the applicant that the statements made and information provided in the application are true and correct.
- (h) It shall satisfy such other requirements as may be set forth in this Law or the Regulations.

14.2 Term of Reconnaissance License. A reconnaissance license:

- (a) shall have a term of up to six (6) months; and
- (b) may be extended or renewed once for up to six (6) months as provided in section 24.

14.3 License Area; Number of Licenses. A holder shall be entitled to hold up to three (3) reconnaissance licenses at any given time, provided that the total area held under all three licenses shall not exceed three thousand (3000) square kilometers. Each license area shall conform to all other requirements contained in this Law or the Regulations.

14.4 Grant of Reconnaissance License. A reconnaissance license shall be granted by the Minister if the application satisfies each of the requirements set forth in section 14.1 and the Minister has determined that:

- (a) the EPA has advised the Minister that any required environmental impact assessment complies with the requirements of the EPA, or that no such assessment is required, as the case may be, and

***The reference to advice from the EPA is to make it clear that the Minister cannot approve a license without confirmation from the EPA that an EIA is satisfactory or that no EIA is required. See also the comments to sections 15.1(d) and 16.4.***

- (b) the application otherwise satisfies the requirements of this Law and the Regulations, the applicant is eligible to hold a reconnaissance license under this Law and the Regulations, and the area sought to be covered by the license is permitted under this Law and the Regulations to be the subject of such license.

14.5 Rights of Reconnaissance License Holder. The holder of a reconnaissance license shall have the right to conduct the activities permitted by section 9.1(a) in accordance with the terms of its license, its approved work program and this Law and the Regulations, and may market such data as contemplated by section 43.4(c).

- 14.6 Obligations of Reconnaissance License Holder. The holder of a reconnaissance license
- (a) may not enter onto the surface of, or interfere with operations on or access to, any area within the reconnaissance area (a) that is subject to another mineral license, unless the license holder has consented in writing, or (b) that constitutes Excluded Land;
  - (b) unless otherwise provided in the license or the Regulations, must remove all plant and equipment installed in the performance of license operations within the earlier of (i) forty-five (45) days after their use is no longer required or (ii) sixty (60) days after the termination, surrender or revocation of the license; and
  - (c) shall comply with all other requirements for the holder of a reconnaissance license set forth in this Law or the Regulations and with Applicable Law.
- 14.7 Application for Exploration License. If the holder of a reconnaissance license has identified mineral deposits within the scope of its license and within its license area and believes that such deposits will support an application for an exploration license it may apply for an exploration license in accordance with the procedures set forth in this Law and the Regulations, and with such priority as is provided in section 12.

## **Section 15 Provisions Applicable to Prospecting Licenses**

- 15.1 Application Requirements. A prospecting license application shall satisfy each of the following requirements;
- (a) It shall contain all information and documentation required by section 13.3.
  - (b) It shall set forth the minerals proposed to be sought, the proposed license area, and the reasons for believing that the proposed license area is a potential source of the mineral or minerals being sought.
  - (c) It shall set forth a proposed work program that complies with applicable provisions of this Law and the Regulations.
  - (d) It shall demonstrate that the applicant understands and is prepared to comply with its environmental protection responsibilities under this Law, the Regulations and the applicable requirements of the EPA.
- Note that unlike other licenses, a prospecting license may be granted without an affirmative determination by the EPA that either an EIA has been provided or that none is required. This decision assumed that preparation of an EIA would always be beyond the capacity of prospecting license applicants. Should the decision be revisited??*
- (e) It shall include a certification by the applicant that the statements made and information provided in the application are true and correct.
  - (f) It shall satisfy such other requirements as may be set forth in this Law or the Regulations.
- 15.2 Term of and Limitation of Prospecting License. A prospecting license:
- (a) shall have an initial term of nine (9) months;
  - (b) shall not be granted with respect to any Excluded Land; and
  - (c) may be extended or renewed for up to six (6) months as provided in section 24.

- 15.3 License Area; Number of Licenses. The area of land over which a prospecting license may be granted (a) shall not exceed fifty (50) hectares, and (b) shall conform to all other requirements contained in this Law or the Regulations.
- A holder shall be entitled to hold up to three (3) prospecting licenses at any given time.
- 15.4 Grant of Prospecting License. A prospecting license shall be granted by the Minister if the application satisfies each of the requirements set forth in section 15.1 and the Minister has determined that
- (a) it is reasonable to conclude that that the proposed license area is a potential source of the mineral or minerals being sought;
  - (b) the proposed work program is appropriate for surface-based exploration for secondary mineral deposits suitable for mining under a Class C mining license or deposits suitable for mining under a Class B mining license or a quarry license; and
  - (c) the application otherwise satisfies the requirements of this Law and the Regulations, the applicant is eligible to hold a prospecting license under this Law and the Regulations, and the area sought to be covered by the license is at the time permitted under this Law and the Regulations to be the subject of such license.
- 15.5 Rights of Prospecting License Holder. The holder of a prospecting license shall have the right to conduct the activities permitted under section 9.1(b) in accordance with the terms of its license, its approved work program and this Law and the Regulations, including the right to take and remove specimens and samples from the prospecting area not exceeding such limit as is reasonably required for the limited purpose of having such mineral analyzed, valued or tested.
- 15.6 Obligations of Prospecting License Holder. The holder of a prospecting license:
- (a) shall commence operations within thirty (30) days of the commencement of the license term pursuant to section 13.6(d);
  - (b) shall within fifteen (15) days of the end of the license term backfill any auguring, pits or trenches made, remove all equipment and encampments or other facilities installed upon the land, and otherwise leave its license area substantially as it appeared at the beginning of the license term; and
  - (c) shall comply with all other requirements for the holder of a prospecting license set forth in this Law or the Regulations.
- 15.7 Application for Further License. If the holder of a prospecting license has identified mineral deposits within the scope of its license that it believes will support an application for a Class C mining license, a Class B mining license or a quarry license it may apply for such license in accordance with the procedures set forth in this Law and in the Regulations and with such priority as is provided in section 12.

## **Section 16 Provisions Applicable to Exploration Licenses**

- 16.1 Application Requirements. An exploration license application shall satisfy each of the following conditions.
- (a) It shall contain all information and documentation required by section 13.3.

- (b) It shall set forth a statement of the minerals proposed to be sought, the proposed license area, and the reasons for believing that the proposed license area is a potential source of the mineral or minerals being sought.
- (c) It shall set forth a proposed work program for the initial year that complies with applicable provisions of this Law and the Regulations and represents a technically appropriate approach, in light of the mineral or minerals being sought, for exploration for mineral deposits suitable for mining under a Class A mining license, a Class B mining license or a quarry license, as the case may be, together with a summary of the work proposed to be performed during the remaining initial term of the license and the estimated cost of such work.
- (d) It shall set forth an annualized budget that is sufficient to support the proposed work program for the initial term of the license and that if spent will satisfy any minimum spend requirements in the Regulations.
- (e) It shall include a demonstration that the applicant has the technical and financial capacity to perform the proposed work under such license and under each other exploration license concurrently held by it.
- (f) It shall include an environmental impact assessment in conformity with applicable EPA requirements and the requirements of this Law and the Regulations.
- (g) It shall include a certification by the chief executive officer of the applicant that the statements made and information provided in the application are true and correct.
- (h) It shall satisfy such other requirements as may be set forth in this Law or the Regulations.

16.2 Term of and Limitation on Exploration License. An exploration license:

- (a) shall have an initial term of three (3) years;
- (b) shall not be granted with respect to any Excluded Land;
- (c) may be extended or renewed for two additional terms of two (2) years as provided in section 24 and may be further extended as provided in section 16.7.

16.3 Area of License; Number of Licenses. The area for which an exploration license may be granted (a) shall not exceed five hundred (500) square kilometers, and (b) shall conform to all other requirements contained in this Law or the Regulations.

A holder shall not hold more than three (3) exploration licenses at any given time.

16.4 Grant of Exploration License. An exploration license shall be granted by the Minister if the application satisfies each of the requirements set forth in section 16.1 and the Minister has determined that:

- (a) it is reasonable to conclude that that the proposed license area is a potential source of the mineral or minerals being sought;
- (b) the EPA has advised the Minister that the applicant's environmental impact assessment complies with the requirements of the EPA; and

***A question has been raised about whether the Minister can independently determine that the EIA complies with EPA requirements. Clause (b) above is***

***worded to ensure that the Minister cannot approve without an EPA determination of compliance.***

***The draft leaves it open as to whether the Minister could withhold approval even if the EPA has approved. Cause (c) of this section 16.4 gives the Minister an independent right to determine whether an application complies with the Law and the Regulations, and since a requirement of section 16.1 is that the application must include an EIA in compliance with EPA requirements, the Minister could argue that the Minister is entitled to make an independent judgment that an EPA is insufficient.***

- (c) the application otherwise satisfies the requirements of this Law and the Regulations, the applicant is eligible to hold an exploration license under this Law and the Regulations and the area sought to be covered by the license is permitted under this Law and the Regulations to be the subject of an exploration license.
- 16.5 Rights of Exploration License Holder. The holder of an exploration license shall have the right to conduct the activities permitted under 9.1(c) in accordance with the terms of its license, its approved work program, its environmental management plan and this Law and the Regulations, including the right to take and remove specimens and samples from the exploration area not exceeding such amount as is reasonably required for the limited purpose of having such mineral analyzed, valued or tested.
- 16.6 Obligations of Exploration License Holder. The holder of an exploration license:
- (a) shall commence operations within sixty (60) days of the commencement of the license term pursuant to section 13.6(d) subject to obtaining all required approvals for its environmental management plan submitted pursuant to section 31;
  - (b) may not carry out pilot mining or bulk sample operations other than as permitted by the Regulations;
  - (c) remove all equipment and encampments or other facilities installed upon the land other than any that remain useful if the license holder has proceeded to a mining license, and otherwise leave its license area substantially as it appeared at the beginning of the license term; and
  - (d) shall comply with all other requirements for the holder of an exploration license set forth in this Law or the Regulations.
- 16.7 Extension to Determine Existence of Proven or Probable Mineral Reserves.
- (a) An exploration license holder party to an MDA that has exhausted its extension options under section 24 may apply for a further extension of the term of its license by up to two years if at least sixty (60) days prior to the end of the term of such license the holder files with the Minister the following materials together with evidence of payment of all fees and charges then required in connection with such application:
    - (i) the designation of one or more potential mining areas within the exploration license area as then constituted, and the related potential production areas, indicating the minerals expected to be extracted, including mapping of such areas at the scale required by the Regulations;

- (ii) a report of a Competent Person as to each designated potential mining area setting forth
    - (1) his or her conclusion that (x) there are economically significant Proven or Probable Mineral Reserves within such area, (y) that such reserves are insufficient to justify their development, and (z) that the Indicated and Measured Mineral Resources within such area are sufficient to support further efforts to identify the presence of Proven or Probable Mineral Reserves in developable quantities,
    - (2) the basis for such conclusion, in the form required by the Selected CRIRSCO Code, and
    - (3) his or her opinion as to the steps that could reasonably be taken to determine whether such resources can be converted to Proven or Probable Mineral Reserves sufficient to justify the development of such reserves;
  - (iii) the holder's proposed work program to determine whether the reserves identified in the report of the Competent Person can be transformed into a Proven or Probable Mineral Resource sufficient to justify the development of such reserves, and the holder's budget for such work program and
  - (iv) such other documents and materials as may be reasonably required by this Law or the Regulations.
- (b) The Minister shall grant such extension if the designated potential mining areas are within the then-existing exploration license area and otherwise are within permitted mining areas under this Law and the Regulations, the mineral or minerals involved are within the scope of the license, the Minister is reasonably satisfied with the report of the Competent Person and the work program referred to in clause (iii) of section 16.8(a), and the license holder is otherwise in compliance with its obligations under its MDA, this Law and the Regulations in all material respects.
  - (c) The designation of a potential production area or potential mining area may reflect an allowance for the uncertain nature of the final production plan and further refinement and limitation of the area of recoverable deposits.
  - (d) Any extension of the exploration license term granted pursuant to this section 16.7 extends only to the areas under such license covered by the potential mining area(s) and potential production area(s) for which an extension is granted under this section 16.7.
- 16.8 Six Months "Of Right" Extension. If the extended term provided in section 16.7 for a potential mining area designated under such section is about to expire, the holder is not in default in any material respect in the performance of its obligations under this Law and the Regulations, and the holder is not ready to file a Class A mining license application with respect to any or all of the potential mining area and related potential production area identified pursuant to section 16.7 then the holder may purchase an additional six (6) months extension such potential mining area and related potential production area by filing with the Minister at least thirty (30) days prior to the end of the exploration license term as extended pursuant to section 16.7 a statement of its intention to extend together with evidence of payment of all fees and charges then

required in connection with such extension. This extension right shall be utilized only once for any potential mining area and related potential production area.

- 16.9 Fees and other Matters applicable to Extensions under Section 16.7 or Section 16.8. Until otherwise provided in Regulations, the fee for an extension under section 16.7 shall for the first year of such extension accrue at double the rate applicable during the last year of the previous extension period, and for the second year of such extension, if any, shall accrue at four times the rate applicable during the last year of the previous extension period. The fee for an extension under section 16.8 shall accrue at a rate equal to eight times the rate applicable for the initial year of extension under section 16.7. Sections 24.6, 24.7 and 24.8 apply to any extension application under section 16.7 or section 16.8.
- 16.10 Application for Further License. If the holder of an exploration license has identified mineral deposits within the scope of its license that it believes will support an application for a Class A mining license, a Class B mining license or a quarry license it may apply for such license in accordance with the procedures set forth in this Law and in the Regulations and with such priority as is provided in section 12.

### **Section 17 Provisions Applicable to Class C Mining Licenses**

- 17.1 Application Requirements. A Class C mining license application shall satisfy each of the following requirements:
- (a) It shall contain all information and documentation required by section 13.3.
  - (b) It shall set forth the mineral or minerals proposed to be mined, the proposed license area, and the reasons for believing that the proposed license area is a potential source of the mineral or minerals being sought,
  - (c) It shall set forth a proposed work program that complies with applicable provisions of this Law and the Regulations setting forth the manner in which the applicant proposes to conduct mining operations.
  - (d) It shall demonstrate that the applicant has the technical and financial capacity to carry out such work program and, if the applicant then holds other Class C mining licenses, shall also demonstrate that the applicant has the capacity to carry out the remaining portion of the applicable work program under each such other mining license.
  - (e) If required by the EPA, it shall include an environmental impact assessment, and in any case it shall demonstrate that the applicant understands and is prepared to comply with its environmental protection responsibilities under this Law, the Regulations and the applicable requirements of the EPA including the restoration, rehabilitation and reclamation requirements.
  - (f) It shall include a certification by the applicant that the statements made and information provided in the application are true and correct.
  - (g) It shall satisfy such other requirements as may be set forth in this Law or the Regulations.
- 17.2 Term of and Limitation on Class C Mining License. A Class C mining license:
- (a) shall have an initial term of two (2) years except as may be permitted by Regulations adopted under section 17.7;
  - (b) shall not be granted with respect to any Excluded Land; and

- (c) may be extended for up to one (1) year as provided in section 24, and for such additional extension periods as may be permitted under the Regulations.

17.3 Area of License; Number of Licenses. The area for which a Class C mining license may be granted (a) shall not exceed five (5) hectares and have no side less than 100 meters, (b) shall be a quadrilateral defined in compliance with the Mineral Cadastre System grid referred to in section 6.4, and (c) shall conform to all other requirements contained in this Law or the Regulations.

*Clause (b) introduces a quadrilateral boundary requirement that is not required for other licenses. Is this OK*

An individual shall be entitled to hold up to three (3) Class C mining licenses at any given time, which shall be non-contiguous except as may be permitted by Regulations adopted under section 17.7. A Class C mining license area is non-contiguous with another Class C mining license area only if at all points on its border it is separated from any point in the border of such other area by at least fifty (50) meters.

17.4 Grant of Class C Mining License. A Class C mining license shall be granted by the Minister if the application satisfies each of the requirements set forth in section 17.1 and the Minister has concluded that:

- (a) either the applicant has presented a reasonable basis for concluding that the mineral or minerals proposed to be mined can be found within the proposed license area, or reasonable cause exists to conclude that alluvial or eluvial secondary mineral deposits of the mineral or minerals proposed to be mined exist in such area;
- (b) any environmental assessment provided pursuant to section 17.1(e) has been approved by the EPA; and
- (c) the application otherwise satisfies the requirements of this Law and the Regulations, the applicant is eligible to hold a Class C mining license under this Law and the Regulations and the area sought to be covered by the license is permitted under this Law and the Regulations to be the subject of a Class C mining license.

17.5 Right of Class C Mining License Holder. The holder of a Class C mining license shall have the right to conduct the activities permitted under section 9.1(d) in accordance with the terms of its license; its approved work program and this Law and the Regulations issued pursuant thereto.

17.6 Obligations of Class C Mining License Holder. The holder of a Class C mining license:

- (a) may sell precious minerals only to the holder of a broker license or a dealer license issued under this Law and permitting the purchase of the precious mineral or minerals involved; and
- (b) shall comply with all other requirements for the holder of a Class C mining license set forth in this Law or the Regulations.

17.7 Enhancement of Class C Mining License. The holder of a Class C mining license may apply for a temporary permit (a “Class C Special Permit”) to utilize heavy equipment on a short-term basis to remove overburden from a known mineral deposit notwithstanding the heavy equipment limitation set forth in section 9.1(d). A holder of a Class C Special Permit is subject to all the duties and obligations applicable to the

holder of a Class C mining license and such additional duties and obligations as are set forth in this section 17.7.

- (a) The holder of a Class C mining license may apply for a Class C Special Permit if the holder is otherwise in compliance with the provisions of this Law and the Regulations applicable to such holder by delivering to the Minister a statement that the holder wishes to obtain a Class C Special Permit accompanied by evidence of payment of the required application fee and:
  - (i) a copy of the holder's Class C mining license, together with a map showing the location of the license area in relation to nearby villages, roads and rivers or streams;
  - (ii) a description of the mineral resource identified, the work done to date in the license area, and a statement that the work to date has been conducted in compliance with the requirements applicable to Class C mining licenses;
  - (iii) the reasons for believing that exploitable quantities of the mineral resource can be made available through mechanized overburden removal;
  - (iv) a description of the scope of the proposed overburden removal, the proposed method of overburden removal (which may not include blasting), the manner in which the overburden will be stored and remain available for post-mining site restoration, and the name of and contact information for the individual or entity that will carry out the removal and storage work;
  - (v) a plan for restoration of the site upon completion of the mineral resource recovery, including overburden return and provision for spoil stability and revegetation, and an estimate of the cost of such restoration obtained from an individual or entity capable of carrying out the removal and storage;
  - (vi) evidence demonstrating the license holder's financial capacity to perform the proposed work, including overburden removal and site restoration;
  - (vii) a bank security bond or other security from a creditworthy entity securing the applicant's site restoration obligation acceptable in form and substance to the Minister in an amount equal to the greater of (i) five thousand US Dollars (US\$5000) or (ii) eighty percent (80%) of the cost estimate provided pursuant to clause (v) of this section 17.1(a); and
  - (viii) as required by section 17.1(f) and (g).
- (b) A Class C Special Permit shall be granted by the Minister if the Minister determines that:
  - (i) the applicant has provided the information required by section 17.7(a) and is otherwise in compliance with its obligations under its Class C mining license;
  - (ii) it is reasonable to conclude that exploitable quantities of the mineral resource can be made available through mechanized overburden removal;

- (iii) the proposed excavation plan is commercially practicable and necessary to access mineral resources that are commercially recoverable with mining techniques permitted to be used by the holder of a Class C mining license, and will conform to the provisions of this Law and the Regulations and EPA requirements applicable to the performance of such work;
  - (iv) the applicant's site restoration plan is commercially practicable and appropriate for the terrain and the soils involved, the cost estimate for the performance of such plan is reasonable, and if the work is performed in accordance with the plan will provide for the restoration of the site in accordance with the requirements of this Law, the Regulations and the EPA ;
  - (v) performance of the proposed work as planned will not adversely affect adjacent mineral rights holders, land owners or occupants;
  - (vi) the applicant has the technical and financial capacity to perform the proposed work, including the applicant's site restoration plan.
- (c) A Class C Special Permit permits only the specific site excavation covered by the application submitted pursuant to section 17.7(a). It is not an open-ended license permitting continuing use of mechanical overburden removal. Such activity requires a Class B mining license.
- (d) All overburden removal pursuant to a Class C Special Permit must be completed within the earlier of three (3) months after the excavation has commenced and one (1) year after the date the permit is granted. Site restoration must begin promptly after mineral recovery from the exposed mineral reserve is completed, and if the term of the underlying Class C mining license is extended pursuant to section 24, no additional mining work may be undertaken during the renewal term until site restoration is completed.
- (e) The holder of a Class C Special Permit must notify the Ministry of
- (i) the date on which it expects overburden removal to commence at least seven (7) days before excavation commences, and
  - (ii) the date on which overburden removal is complete, the date on which site restoration commences, and the date on which site restoration is complete, in each case within seven (7) days of such date.
- (f) The notification that site restoration is complete must be accompanied by a certification of the holder that the work has been completed in accordance with the approved site restoration plan.

#### 17.8 Class C Cooperatives.

After consultation with the Cooperative Development Agency and the ASMSWG, the Minister may provide by Regulation for the creation of cooperative organizations whose members consist of holders of contiguous or non-contiguous Class C mining licenses engaged in alluvial mining of minerals. Any such Regulations shall reflect the following principles:

- (a) A Class C cooperative shall seek to enhance the effectiveness, efficiency and compliance with legal requirements of individual artisanal miners.

- (b) A Class cooperative shall provide simple mechanics for the addition and resignation of members and the management of the affairs of the cooperative.
- (c) A Class C cooperative shall be tasked with taking into consideration both the needs of its members and the effect of their actions on the surrounding communities.
- (d) A Class C cooperative may not be a vehicle for combining the operations of, or providing centralized management for, or permitting the use of additional forms of mechanization by, a group of Class C mining license holders.

Any such Regulations may also provide that the initial term of a Class C mining license held by a member of a Class C cooperative may be up to three (3) years in length, renewable as provided in section 24.

## **Section 18 Provisions Applicable to Class B Mining Licenses**

***NOTE 1. As now drafted the provisions applicable to Class B mining licenses and Quarry licenses do not require that the applicant be the past or current holder of an exploration license or a prospecting license. As more geological data becomes available, and as the number of sites at which secondary recovery is possible grows, a requirement that the applicant have held a prospecting or exploration license becomes increasingly restrictive and thus, I feel, unnecessary. Sections 18.1(b) 18.1 (f) (for larger proposals) and 18.4(a) give the Minister ample room to reject license applications based on wishful thinking about mineral resources. The same provisions exist in section 19 (quarry licenses).***

***I believe someone from the Ministry expressed a contrary view. If so, I ask that the Ministry reconsider for the reasons set forth above.***

***NOTE 2: The provisions governing Class B and quarry license are almost identical. However, the Ministry felt that the sections should be separate, if only to facilitate drafting if it became desirable in the future to impose further distinctions between Class B and quarry licenses.***

- 18.1 Application Requirements for Class B Mining License. A Class B mining license application shall satisfy each of the following requirements:
- (a) It shall contain all information and documentation required by section 13.3.
  - (b) It shall set forth the mineral or minerals proposed to be mined, the proposed license area (indicating the area proposed for mineral extraction and the area proposed for processing of extracted minerals), and setting forth the evidence relied on by the applicant to establish the existence in commercial quantities of such mineral or minerals for the duration of the requested license term and an estimate of the total recoverable quantity of such mineral or minerals;
  - (c) It shall include a mine development plan setting forth
    - (i) the nature, scope and location of the plant and equipment to be constructed or installed to carry out such program (including mapping at the scale required by the Regulations)), a proposed work program for the initial year of operations (or such longer period as the plan provides for mine development) and an operating plan for the remaining initial term of the license,
    - (ii) the expected operational life of the mine and such installations, plant and equipment,

- (iii) all plant or equipment proposed to be developed by or on behalf of the applicant in connection with license operations that would require under section 47 one or more ancillary activities agreements,
  - (iv) a mine development budget, and
  - (v) marketing plans and financing plans for the initial term of the license;
- (d) It shall demonstrate that the applicant has the technical and financial capacity to carry out the proposed mine development and operating plans under such license and all work remaining to be done under each other mining license then held by it;
- (e) It shall include environmental and social impact assessments in conformity with applicable EPA requirements and the requirements of this Law and the Regulations and shall demonstrate that the applicant understands and is prepared to comply with its environmental protection responsibilities under this Law, the Regulations and the applicable requirements of the EPA including the restoration, rehabilitation and reclamation requirements.
- (f) If the estimated development costs are in excess of five million US dollars (US\$5,000,000), it shall include a favorable feasibility study prepared by an independent third party complying with International Standards and any requirements contained in the Regulations.
- (g) It shall include a certification by the applicant that the statements made and information provided in the application are true and correct.
- (h) It shall satisfy such other requirements as may be set forth in this Law or the Regulations.

18.2 Term of and Limitation on Class B License; A Class B mining license:

- (a) shall have an initial term of five (5) years;
- (b) shall not be granted with respect to any Excluded Land; and
- (c) may be extended or renewed as provided in section 24.

18.3 Area of Class B License; Number of Class B Licenses. The area of land on which a Class B mining license may be granted (a) shall not exceed forty (40) hectares, and (b) shall conform to all other requirements contained in this Law or the Regulations. A license holder shall be entitled to hold no more than three (3) Class B mining licenses and quarry licenses at any given time.

18.4 Grant of Class B License. A Class B mining license shall be granted by the Minister if the application satisfies each of the requirements set forth in section 18.1 and the Minister has determined that:

- (a) the applicant has presented a reasonable basis for concluding that the requested mineral or minerals can be found in the proposed mining area in the commercially extractable quantities necessary to support the proposed mine development and operating plans.;
- (b) the mine development plan, the initial work program and the operating plan proposed for the initial term of the license, comply with applicable provisions of this Law and the Regulations and represent a technically appropriate approach for exploitation of the identified minerals and the management of overburden disposal and tailings;

- (c) the mine development budget is reasonable, and will if so expended satisfy any minimum spend requirements in the Regulations;
  - (d) the environmental impact assessment provided pursuant to section 18.1(e) has been approved by the EPA;
  - (e) the applicant has provided any security required under section 22.5, and
  - (f) the application otherwise satisfies the requirements of this Law and the Regulations, the applicant is otherwise eligible to hold a Class B mining license under this Law and the Regulations, and the area sought to be covered by the license is permitted under this Law and the Regulations to be the subject of a Class B mining license.
- 18.5 Limit of Class B Mining Rights. The mineral extraction rights granted under a Class B mining license extend only to the mining area mapped within the approved license area.
- 18.6 Rights of Class B License Holder. The holder of a Class B mining license shall have the right to conduct the activities permitted under section 9.1(e) in accordance with the terms of its license, its approved work program, mine development plan and environmental and social management plans, and this Law and the Regulations.
- 18.7 Obligations of Class B License Holder. The holder of a Class B mining license
- (a) shall commence mine development operations within one hundred twenty (120) days of the commencement of the license term pursuant to section 13.6(d) subject to obtaining all required approvals for its environmental and social management plans submitted pursuant to sections 31 and 32 and for any required ancillary activities agreements; and
  - (b) shall comply with all other requirements for the holder of a Class B mining license set forth in this Law or the Regulations.

## **Section 19 Provisions Applicable to Quarry Mining Licenses**

- 19.1 Application Requirements for Quarry License. A quarry mining license application shall satisfy each of the following requirements:
- (a) It shall contain all information and documentation required by section 13.3.
  - (b) It shall set forth the mineral or minerals proposed to be mined, the proposed license area (indicating the area proposed for mineral extraction and the area proposed for processing of extracted minerals), and setting forth the evidence relied on by the applicant to establish the existence in commercial quantities of such mineral or minerals for the duration of the requested license term and an estimate of the total recoverable quantity of such mineral or minerals;
  - (c) It shall include a mine development plan setting forth
    - (i) the nature, scope and location of the plant and equipment to be constructed or installed to carry out such program (including mapping at the scale required by the Regulations)), a proposed work program for the initial year of operations (or such longer period as the plan provides for mine development) and an operating plan for the remaining initial term of the license,
    - (ii) the expected operational life of the mine and such installations, plant and equipment,

- (iii) all plant or equipment proposed to be developed by or on behalf of the applicant in connection with license operations that would require under section 47 one or more ancillary activities agreements,
  - (iv) a mine development budget, and
  - (v) marketing plans and financing plans for the initial term of the license;
- (d) It shall demonstrate that the applicant has the technical and financial capacity to carry out the proposed mine development and operating plans under such license and all work remaining to be done under each other mining license then held by it;
- (e) It shall include environmental and social impact assessments in conformity with applicable EPA requirements and the requirements of this Law and the Regulations and shall demonstrate that the applicant understands and is prepared to comply with its environmental protection responsibilities under this Law, the Regulations and the applicable requirements of the EPA including the restoration, rehabilitation and reclamation requirements.
- (f) If the estimated development costs are in excess of four million US dollars (US\$4,000,000), it shall include a favorable feasibility study prepared by an independent third party complying with International Standards and any requirements contained in the Regulations.
- (g) It shall include a certification by the applicant that the statements made and information provided in the application are true and correct.
- (h) It shall satisfy such other requirements as may be set forth in this Law or the Regulations.

19.2 Term of and Limitation on Quarry License; A quarry mining license:

- (a) shall have an initial term of five (5) years;
- (b) shall not be granted with respect to any Excluded Land; and
- (c) may be extended or renewed as provided in section 24.

19.3 Area of Quarry License; Number of Quarry Licenses. The area of land on which a quarry mining license may be granted (a) shall not exceed twenty (20) hectares, and (b) shall conform to all other requirements contained in this Law or the Regulations. A license holder shall be entitled to hold no more than three (3) quarry mining licenses and Class B mining licenses at any given time.

19.4 Grant of Quarry License. A quarry mining license shall be granted by the Minister if the application satisfies each of the requirements set forth in section 18.1 and the Minister has determined that:

- (a) the applicant has presented a reasonable basis for concluding that the requested mineral or minerals can be found in the proposed mining area in the commercially extractable quantities necessary to support the proposed mine development and operating plans.;
- (b) the mine development plan, the initial work program and the operating plan proposed for the initial term of the license, comply with applicable provisions of this Law and the Regulations and represent a technically appropriate approach for exploitation of the identified minerals and the management of overburden disposal and tailings;

- (c) the mine development budget is reasonable, and will if so expended satisfy any minimum spend requirements in the Regulations;
  - (d) the environmental impact assessment provided pursuant to section 18.1(e) has been approved by the EPA;
  - (e) the applicant has provided any security required under section 22.5, and
  - (f) the application otherwise satisfies the requirements of this Law and the Regulations, the applicant is otherwise eligible to hold a quarry mining license under this Law and the Regulations, and the area sought to be covered by the license is permitted under this Law and the Regulations to be the subject of a quarry mining license.
- 19.5 Limit of Quarry Mining Rights. The mineral extraction rights granted under a quarry mining license extend only to the mining area mapped within the approved license area.
- 19.6 Rights of Quarry License Holder. The holder of a quarry mining license shall have the right to conduct the activities permitted under section 9.1(f) in accordance with the terms of its license, its approved work program, mine development plan and environmental and social management plans, and this Law and the Regulations.
- 19.7 Obligations of Quarry License Holder. The holder of a quarry mining license
- (a) shall commence mine development operations within one hundred twenty (120) days of the commencement of the license term pursuant to section 13.6(d) subject to obtaining all required approvals for its environmental and social management plans submitted pursuant to sections 31 and 32 and for any required ancillary activities agreements; and
  - (b) shall comply with all other requirements for the holder of a quarry mining license set forth in this Law or the Regulations.

**Section 20 Provisions Applicable to Class A Mining Licenses**

- 20.1 Term of and Limitation on Class A Mining License. A Class A mining license obtained pursuant to this section 20:
- (a) shall have an initial term of twenty-five (25) years or such lesser period as may be supported by the projected operational life of the mine;
  - (b) shall not be granted with respect to any Excluded Land; and
  - (c) may be extended as provided in section 24.
- 20.2 Area of Class A Mining License. The area of land on which a Class A mining license may be granted (a) shall not exceed the area reasonably believed to encompass the recoverable component of the mineral to be extracted, plus a reasonable allowance for license operations to be conducted at or substantially adjacent to the mine site, all as more fully described in section 20.3, (b) shall be defined in compliance with the Mineral Cadastre System grid referred to in section 6.4, and (c) shall conform to all other requirements contained in this Law or the Regulations.
- 20.3 Application Requirements: Proposed License Area.
- (a) An application for a Class A mining license not subject to competitive bidding under the PPCA may be filed only by the holder of an exploration license that (a) is party to an MDA covering such license, and (b) has identified mineral deposits within the scope of its exploration license it believes will support an

application for a Class A mining license. The application must be filed no later than sixty (60) days prior to the end of the exploration license term, as it may then have been extended pursuant to section 24 or section 16.

- (b) The application must identify the proposed license area, which shall lie within the license area remaining subject to the license at the time the application is filed. The proposed license area shall include
  - (i) “proposed mining area” which shall be the area from which the identified mineral or minerals are proposed to be extracted and shall extend to the surface boundary of the mineral deposit proposed to be mined, without regard to whether mining operations will be from the surface or underground, and
  - (ii) a “proposed production area” which shall encompass the additional adjacent area reasonably required to be utilized for other plant and equipment proposed to be utilized by the licensee in connection with the extraction and processing of the identified mineral or minerals and the management of overburden disposal and tailings (not including non-mining related structures or areas such as employee housing and commercial or educational facilities, recreational land, agricultural land made available to employees or the like, areas required to be set aside for conservation purposes, or downstream processing facilities not adjacent to the proposed mining area).
- (c) The area granted under a Class A mining license shall include both the approved mining area and the approved production area.

20.4 Application Requirements: General. A Class A mining license shall comply with the requirements of sections 20.2 and 20.3 and any relevant MDA and shall satisfy each of the following requirements:

- (a) It shall contain all information and documentation required by section 13.3;
- (b) It shall set forth the mineral or minerals proposed to be mined, the proposed license area, and the evidence relied on by the applicant to establish the existence in commercial quantities of such mineral or minerals for the duration of the requested license term and an estimate of the total recoverable quantity of such mineral or minerals.
- (c) It shall set forth mapping at the scale required by the Regulations indicating both the proposed production area and the proposed mining area.

***We agreed to avoid dealing in this Law with the question of whether the Revenue Code would permit multiple mining areas feeding a single production area to be a single “mining project” for tax purposes. See also the end of section 20.4.***

- (d) It shall include environmental and social impact assessments reflecting the activities contemplated by the development plan and in conformity with the requirements of this Law, the Regulations and the EPA, and demonstrating an understanding of not only the issues raised by the development and operation of the mine but also the issues involved in mine closure.
- (e) It shall set forth a mine development plan setting forth a comprehensive program for the development and exploitation of the mineral resource that takes into account:

- (i) the nature, scope and location of the plant and equipment to be constructed or installed to carry out mineral extraction and processing and the management of overburden disposal and tailings;
  - (ii) the nature, scope and location of all plant and equipment necessary or anticipated to be used by the applicant in development or operation of the mine or in connection with the transport of mine output or other activities that would require an ancillary activities agreement under the terms of section 47;
  - (iii) a development budget and development timeline reflecting all plant and equipment referred to in clauses (i) and (ii) immediately above;
  - (iv) the expected operational life of the mine;
  - (v) environmental management, social management and mine closure issues; and
  - (vi) a marketing plan together with a financing plan reflecting the development budget referred to in section 20.4(d)(iii).
- (f) It shall be accompanied by
- (i) a report of a Competent Person setting forth his or her conclusion as to the amount of Minerals constituting the Proven Mineral Reserves and Probable Mineral Reserves in the proposed mining area, the ability of such reserves to support the proposed development plan and the basis for such conclusions, in the form required by the Selected CRIRSCO Code; and
  - (ii) a favorable feasibility study complying with International Standards and any requirements contained in the Regulations prepared by an internationally recognized third party not an affiliate of the applicant supporting the development of the mineral resource that is consistent with the information otherwise provided pursuant to this section 20.4.
- (g) It shall demonstrate the technical and financial capacity of the applicant to perform the proposed development plan, to operate and maintain the mine and all related plant and equipment and structures set forth in the development plan and to deal with environmental management, social management and mine closure issues.
- (h) It shall include a certification by the applicant that the statements made and information provided in the application are true and correct.
- (i) It shall satisfy such other requirements as may be set forth in this Law or the Regulations.

If the application is timely filed and is on its face responsive to the requirements of this section 20.4, the term of the exploration license with respect to the proposed license area covered by such application shall continue until the requested Class A mining license is issued or finally denied.

- 20.5 Grant of Class A Mining License. A Class A mining license shall be granted by the Minister if the application satisfies each of the requirements set forth in section 18.1 and the Minister has concluded that:

- (a) the applicant holds a prospecting license and an MDA with respect to the requested license area and has presented a reasonable basis for concluding that the requested mineral or minerals can be found at the proposed site;
- (b) the development plan and timeline, as they may have been adjusted during the application review process, comply with applicable provisions of this Law and the Regulations and represent a technically appropriate approach to the extraction, processing and marketing of the identified mineral or minerals in light of the nature of the mineral resources proposed to be developed and the plant, installations, equipment and structures proposed to be constructed and the budgeted costs for the development plan, as they may have been adjusted during the application review process, are reasonable;
- (c) the proposed annual expenditures of the licensee, as contemplated by the development plan, will if so expended satisfy any minimum spend requirements in the Regulations;
- (d) the applicant has demonstrated that it has or has assured access to the technical and financial capacity to carry out such development plan and operate the mine and all related plant and equipment, including all related auxiliary facilities;
- (e) the environmental impact assessment has been approved by the EPA;
- (f) the feasibility study supports the development plan, the proposed development budget, and the financing and marketing plans;
- (g) the applicant has entered into each ancillary activities agreement required by section 47 in connection with any of the activities proposed to be carried on in connection with the extraction, processing, or transport of the identified mineral or minerals;
- (h) the applicant has provided any security required under section 22.5, and
- (i) the application otherwise satisfies the requirements of this Law and the Regulations, the applicant is otherwise eligible to hold a Class A mining license under this Law and the Regulations, and the area sought to be covered by the license is permitted under this Law and the Regulations to be the subject of a Class A mining license.

20.6 Limit of Mining Rights. The mineral extraction rights granted under a Class A mining license extend only to the mining area mapped within the approved license area.

20.7 Rights of Class A Mining License Holder. The holder of a Class A mining license shall have the right, to conduct the activities permitted under section 9.1(f) in accordance with the terms of its license, its approved mine development plan, work programs, environmental and social management plans and approved ancillary activities agreements, the MDA to which it is a party, and this Law and the Regulations.

20.8 Obligations of Class A Mining License Holder. The holder of a Class A mining license:

- (a) shall commence mine development operations as promptly as practical after obtaining all required approvals for its environmental and social management plans submitted pursuant to sections 31 and 32 and for any required ancillary

activities agreements, as well as any other consents required by any MDA to which such holder is a party;

- (b) shall work diligently to obtain all such required approvals; and
- (c) shall comply with all other requirements for the holder of a Class A mining license set forth in this Law or the Regulations or in any MDA to which it is a party.

## **PART V. MINERAL DEVELOPMENT AGREEMENTS**

### **Section 21 Concerning the Obtaining of an MDA.**

21.1 Application for an MDA. When competitive bidding is not required for the issuance of a Class A mining license, the holder of an exploration license may file an application for an MDA with the Minister. Such application must include:

- (a) a report of a Competent Person setting forth his or her conclusion that one or more deposit(s) contained within the license area constitute Measured and/or Indicated Mineral Resources in potentially developable quantities, and the basis for such conclusion, in the form required by the Selected CRIRSCO Code;
- (b) a pre-feasibility study complying with International Standards and any requirements contained in the Regulations and consistent with the report of the Competent Person supporting the commitment of additional resources to determine whether such Mineral Resources are developable;
- (c) a work program for determining whether such Mineral Resources in fact include developable Mineral Reserves;
- (d) evidence that it has the technical and financial capacity to carry out such a work program; and
- (e) such other information as may then be required by this Law or the Regulations.

21.2 Concerning the Inter-Ministerial Concessions Committee and Negotiations. Upon the filing of any such application, the Minister shall determine whether the information provided by the applicant satisfies clauses (a) and (b) of section 21.1, whether the work program is appropriate for its stated purpose, and whether the applicant has demonstrated that it has the requisite financial and technical capacity. Upon an affirmative determination as to all such matters, the Minister shall consult with the Inter-Ministerial Concessions Committee established for the purpose under Part VI of the PPCA to provide a draft MDA as the basis for negotiations. The document and the negotiations shall comply with the applicable requirements of Part VI of the PPCA, other than those applicable only when competitive bidding is required.

21.3 Requirements for MDA. Such MDA may cover any matters not covered by, or amplify any matters covered by, this Law or the Regulations applicable to the obtaining of or operations under a Class A mining license, but may not conflict with or derogate from the requirements of this Law, the Regulations or other Applicable Law. In particular, an MDA may not reduce the requirements set forth in section 20 for the issuance of a Class A mining license, excuse the holder of a Class A mining license from compliance with the provisions of Applicable Law governing the conduct of operations under a Class A mining license, extend the term of a Class A

mining license beyond that permitted by this Law, or vary any provision of the Revenue Code applicable to the holder of a Class A mining license.

- 21.4 When MDA Effective. An MDA shall become effective and binding on the parties thereto when it is (a) executed by the applicant and, on behalf of the State, by the Minister and the Minister of Finance and Development Planning, (b) attested to by the Minister of Justice, (c) signed by the President and (d) approved by the Legislature.
- 21.5 MDA Amendments. Sections 21.3 through 21.4 apply to any amendment to an MDA except that clause (d) of section 21.4 is inapplicable if the amendment is within the scope of a provision contained in the original MDA stating that certain changes primarily technical in nature do not require approval of the Legislature.
- 21.6 An Approved MDA is not Law. The approval of an MDA or any amendment thereto by the Legislature shall not give the MDA or amendment so approved the force and effect of a statute.
- 21.7 Competitive Bid.
- (a) If either an exploration license or a Class A mining license is required by the PPCA to be awarded pursuant to a competitive bid, the competitive bid shall be structured so as to provide that the successful bidder will enter into an MDA providing the framework within which the successful bidder can obtain such licenses or license. The bid shall be conducted as follows.
    - (i) The bid shall be a competitive bid in accordance with the applicable requirements of Part VI of the PPCA.
    - (ii) The bid shall require the prequalification of bidders to ensure that bidders are technically qualified and financially capable to carry out the proposed work.
    - (iii) Pre-qualified bidders shall be given the opportunity to comment upon the form of the proposed MDA.
    - (iv) The bid shall require bidders to bid on the basis of easily comparable financial variables, such as (by way of example and not limitation):
      - (1) the carried interest the State is entitled to receive in the project; or
      - (2) the amount of increase in the royalty rate over the statutory rate the bidder is willing to pay; or
      - (3) a revenue sharing formula that increases the return to the State as the licensee's rate of return increases.
    - (v) Any upfront payments shall be fixed as a bid requirement and shall not be biddable.
    - (vi) The form of the proposed MDA, as it may be adjusted pursuant to the comments of prospective bidders, shall be a bid document.
  - (b) The MDA may vary the manner in which the successful bidder proceeds to apply for an exploration license or a Class A mining license from the precise steps provided for in this Law and the Regulations, but it may not otherwise conflict with or derogate from the substantive requirements of this Law, the Regulations or other Applicable Law. In particular, such MDA may not reduce the requirements set forth in section 20 for the issuance of a Class A mining license, excuse the holder of a Class A mining license from

compliance with the provisions of Applicable Law governing the conduct of operations under a Class A mining license, extend the term of a Class A mining license beyond that permitted by this Law, or vary any provision of the Revenue Code applicable to the holder of a Class A mining license.

- (c) This Law does not address any issues raised for the granting of mineral licenses other than exploration licenses and Class A mining licenses in the event it is determined that under the PPCA any such license must be awarded under the procedures set forth in Part VI of the PPCA but the terms of any such license may not conflict with the requirements of this Law and the Regulations.

## **PART VI. GENERALLY APPLICABLE LICENSE TERMS AND CONDITIONS**

### **Section 22 Conditions Generally Applicable to Licenses.**

22.1 Mineral License Holder Responsible for Acquiring Surface Rights to Land. No holder of a mineral license is entitled to utilize land, within or without its license area, for any purpose connected to its license operations unless the holder has complied with its obligations with respect to the acquisition of the rights to use such land under section 35, has paid all amounts then due in connection with acquiring such rights and has complied with any resulting resettlement obligations under section 36. The acquisition or rental by a licensee of existing facilities such as Monrovia office space or housing for officers and employees is not subject to the requirements of sections 35 and 36, but requires the informed consent of the seller or lessor.

22.2 Rights of Mining License Holder. A holder of a mining license shall have, subject to compliance with section 22.1 and any more restrictive provisions of its license, this Law, the Regulations or Applicable Law, the following rights, subject in each case to all health, safety and environmental requirements applicable to the operations involved:

- (a) the right to install within or without its license area such plant and equipment as are set forth in an approved mine development program or approved work program, or in the absence of either such requirement, are consistent with its authorized license activity, subject to entering into any required ancillary activities agreements;
- (b) the right to access and use of water necessary for operations under its license in accordance with Applicable Law and to the extent provided in its approved work program or approved environmental management plan (if applicable) subject to entering into any required ancillary activities agreements;
- (c) the right to import, free of duties to the extent that may be permitted by the Revenue Code, such goods and materials as are unavailable in Liberia under like conditions of price, quality, delivery time, service and terms of payment, subject to any limitations on this right arising from the operation of section 40;
- (d) the right to free movement of personnel and products within the Republic of Liberia;
- (e) the right to utilize existing public utility, public transportation and public port infrastructure to the extent its use does not limit or endanger the public use thereof and it pays its fair share of the costs thereof;

- (f) in the case of a mining license holder, the right, with the consent of each entity, Community or individual that retains an interest in the affected land to cut and use timber from land within its license area necessary or useful for the conduct of operations and not for the purpose of sale or transfer for commercial gain, subject to any Applicable Law relating generally to forestry clearance if timber is cut from a portion of the license area not otherwise required to be cleared for the conduct of license operations; and
- (g) the right to acquire ownership of minerals extracted by it in accordance with the terms of its license.

22.3 Additional Rights Applicable to Certain License Holders.

- (a) The holder of a Class B mining license, a quarry license or a Class A mining license:
  - (i) has the right to engage in ancillary activities as provided in section 47, provided that the holder has obtained all necessary licenses and permits from any other ministries or agencies having jurisdiction and has entered into one or more appropriate ancillary activities agreements with the Minister, acting on behalf of the State; and
  - (ii) has the right and, under its social management plan, the Regulations, an MDA, an ancillary activities agreement or other Applicable Law, may have the duty, (1) to establish housing facilities, commercial facilities and health and educational facilities within or without its license area to service the needs of its employees, and (2) to give local residents reasonable access to any such commercial, health or education facilities.;
- (b) The Ministry will use reasonable efforts to facilitate:
  - (i) the receipt by the holder of an exploration license, an MDA or a Class A mining license of such rights, licenses, registrations, permits and other authorizations as may be required by Applicable Law in connection with the possession, use, importation or purchase of such communications systems for internal communications (including home office communications), including radio, telecommunications, electronic mail systems, satellite networks, cellular systems, microwave devices and other communications devices and systems; and
  - (ii) the access of a holder of a reconnaissance license, exploration license, MDA or Class A mining license on non-discriminatory terms to available capacity of public communications systems or communications frequencies owned or Controlled by the State.

22.4 Rights of the State to Construct Certain Facilities Through Mineral License Areas.

The State reserves the right, on reasonable prior notice to and consultation with the licensee, to construct roads, highways, railroads, power, telegraph, telephone lines and other lines of communication and other infrastructure or services through a mineral license area if such action is in the public interest and either does not disrupt the operations of the licensee beyond a minimal amount or is done with fair compensation to the licensee for the impact of any disruption.

22.5 Requirement to Post Security. The Minister may require the holder of an exploration license, a Class A mining license, a Class B mining license or a quarry license, as a

condition to commencing mining operations under such license, to post security reasonably satisfactory to the Minister (after consultation with the Ministry of Finance and Development Planning) for the performance of any or all of its obligations under its license not covered by any mandatory security required under section 31.5 or 32.7. All such requirements shall be applied consistently based on license types and the nature and scale of licensee operations.

22.6 Certain Mineral License Holder Prohibitions and Duties. The grant of a mineral license under this Law and the resulting authorization to conduct operations under that license does not excuse the licensee from compliance with requirements of Applicable Law existing independently from this Law and the Regulations, such as labor or public health laws and regulations. Moreover, a mineral license holder:

- (a) may not carry out license activities beyond those provided in an applicable approved work program or in its license;
- (b) may not conduct any physical operations within Liberia other than for the purpose of complying with the requirements set forth in this clause (b) and other than the establishment of local offices until
  - (i) all environmental impact assessments, environmental management plans, closure management plans, and similar documents or permits required under Applicable Law at the time in effect and applicable to such operations have been duly obtained or approved and are in full force and effect; and
  - (ii) all social impact assessments, social management plans, resettlement plans, community development agreements, and employee training programs required under Applicable Law at the time in effect and applicable to such operations have been duly obtained, approved or established and are in full force and effect;
- (c) may not interfere with any water supply utilized for agricultural, commercial or household purposes without providing an equivalent substitute supply unless, in the case of a commercial user, its prior written consent has been obtained;
- (d) may not, if it is subject to an annual work program requirement in accordance with sections 22.9 and 22.10, carry out operations other than as provided in an approved annual work program;
- (e) may not conduct operations over land that is within 200 meters (or such further distance as may be stated in the Regulations) of an occupied structure or lands actively cultivated for agricultural purposes without permission of the owner and any occupant of such structure or the person cultivating such land, which permission shall be in the form of a written agreement of such owner or occupant obtained in a manner that ensures the owner or occupant had a full understanding of the scope of the agreement;
- (f) may not extract and market any mineral or minerals other than those permitted to be mined in its license;
- (g) shall make all payments due under its license, this Law and the Regulations on a timely basis;

- (h) shall maintain all financial and operational records and submit on a timely basis all reports and other documents required to be maintained and/or submitted under its license, this Law and the Regulations;
- (i) shall, unless it is the holder of a reconnaissance license, mark the boundaries of its license area in the manner set forth in the Regulations;
- (j) shall, unless it is a holder of a Class C mining license, promptly report to the Minister any finding of a mineral that it reasonably believes might lead to a potentially exploitable mineral deposit, including a brief description of the location and its views as to the potential scope of such deposit;
- (k) shall promptly report to the Minister any finding of a radioactive mineral, including a brief description of the location and its view of the potential scope of such mineral, and shall cease license operations in the vicinity of such discovery until otherwise authorized by the Minister, provided that in any such case the Minister and such licensee shall make good faith efforts to agree on reasonable compensating adjustments to the licensee's obligations under its license;
- (l) shall inform and consult on an ongoing basis with local government authorities and communities about its operations that require physical entry onto the land within their respective jurisdictions; and
- (m) shall otherwise comply with all conditions and limitations contained in its license, this Law and the Regulations.

22.7 Limited Right of Licensee to Construct Transport or Communications Facilities. A mining license shall not be deemed (1) to grant the right to construct or operate a railroad or highway except between the pit, mine opening, and adjacent processing, overburden or tailings facilities, nor (2) to grant the right to operate telephone, telegraph, water system, hydraulic or electric system, or any other public utility or port facilities except within the bounds of the approved production area and between a mine and such adjacent facilities. Provisions for fixed-line communications and other connections between a non-adjacent facility constructed pursuant to an ancillary activities agreement and the licensee's mining operations must be contained in an appropriate ancillary activities agreement.

22.8 Special Rules Applicable to Dredging Operations. No person may conduct dredging operations in any waters within Liberia or subject to the jurisdiction of Liberia unless such person holds a dredging permit issued under this section 22.8 and either a Class B mining license or a Class A mining license covering the mineral or minerals proposed to be extracted.

- (a) The Minister may not issue a dredging permit unless
  - (i) the applicant has fully disclosed the scope of its proposed dredging program, including the technology to be used, the scale of the equipment to be used, the provision to be made for the deposit of dredged materials and such other matters as the Minister may reasonably require;
  - (ii) the applicant has submitted environmental impact and social impact assessments that appropriately take into account the issues raised by its proposed dredging program, and has submitted an environmental management plan (including its closure management plan) and a social management plan that fairly reflect the scope of the proposed dredging

program and provide environmentally and socially sound techniques for the management of the impacts of the proposed dredging program and that have been created and approved in the manner required by section 31 or 32, as the case may be;

- (iii) the applicant has demonstrated that it has the technical capacity to conduct the dredging program in accordance with the approved environmental management plan;
  - (iv) the applicant has demonstrated that the mineral resource involved cannot reasonably be exploited through any other mining technology; and
  - (v) the applicant has demonstrated the proposed dredging program can be conducted without impingement on other requirements under this Law or the Regulations.
- (b) When issued, the dredging permit shall be deemed an integral component of the mining license issued to the applicant for all purposes of this Law and the Regulations, and may not be subjected to a Mortgage, Transfer or Change of Control except together with such mining license.

22.9 Work Program and Budget Submission. At least 60 days prior to each anniversary of the original effective date of its license, a holder of an exploration license, a Class B mining license, a quarry license or a Class A mining license shall submit to the Minister for approval a detailed annual work program and budget covering its anticipated operations during the year following such anniversary date, and specifically covering any matters required to be addressed in the Regulations. The Minister shall approve such work program and budget if it is consistent with the holder's overall approved mine development or work plan, as it may have been from time to time modified or amended with the approval of the Minister, and is in accordance with good industry practice. If the Minister offers no objection within forty-five (45) days after submission, the work program and budget shall be deemed approved.

22.10 Diligent Implementation of Work Programs and Development Plans. Each holder of an exploration license shall proceed diligently and without interruption to implement its approved work program and each holder of a Class B mining license, quarry license or a Class A mining license shall proceed diligently to implement its approved mine development plan and approved work program and shall use its best efforts to maintain production at operating levels consistent with the design standards and scheduled maintenance requirements of its facilities, subject in each case to its rights under section 29 and section 30. Interruptions occasioned by such matters as good faith labor disputes, regularly scheduled maintenance, repairs and overhauls consistent with a licensee's approved development plan or work programs and good industry practice do not constitute either a breach of its obligations under the preceding sentence or a suspension of operations dealt with in section 29.

22.11 Maintenance of Plant and Equipment; Provision of Insurance. Each holder of a Class B mining license, quarry license or Class A mining license:

- (a) shall maintain its plant and equipment (including any held or operated pursuant to ancillary activities agreements) or cause them to be maintained in good operating condition in accordance with manufacturer or supplier recommendations and good international practice throughout the term of its license; and

- (b) shall carry third party liability insurance and worker’s compensation insurance in such amounts as may be specified in the Regulations or other Applicable Law.

22.12 Extension of Time for Inability to Satisfy Preconditions. If a licensee believes that it will be unable to satisfy all preconditions to the commencement of operations set forth in its license, this Law or the Regulations prior to the time within which it is required to commence operations under its license through no fault or lack of effort on its part, it may apply in writing to the Minister for an extension of time, setting forth the circumstances it believes justify such extension. Unless otherwise provided in the Regulations, the application shall be filed with the office of the Ministry in which the original license application was filed.

The Minister may grant such extension of time as the Minister determines to be justified, and may not unreasonably withhold such extension with respect to any precondition the satisfaction of which requires the taking of action by any other ministry or agency of the State or any community body or holder of a surface right if the licensee reasonably demonstrates that it has proceeded diligently and in good faith to satisfy the precondition. This section 22.12 is not intended to limit the ability of a licensee to seek relief on account of force majeure under section 30 or to request a suspension of its license under section 29.

22.13 Responsibility of Mineral License Holder. A mineral license holder shall remain fully responsible for the management and conduct of all license operations, notwithstanding that it has contracted with others to perform some or all of such operations.

22.14 Mineral Resources Extending Beyond License Area. If an exploitable commercial mineral resource existing within the license area of an exploration license, a Class B mining license, a quarry license or a Class A mining license extends beyond the boundaries of such license area into an area subject to another mineral right, and if the Minister determines after consultation with the relevant license holders that the joint development of the resource would be more efficient and advantageous to the State, or the relevant license holders voluntarily so agree, the relevant license holders shall within one hundred eighty (180) days or such longer time limit prescribed by the Minister, prepare and submit to the Minister for approval, a program for the joint application for the exploration, development, extraction and processing of such mineral resource under a single mining license and, if applicable, a single MDA. In any such case, the joint application shall conform to the requirements applicable to a Class B mining license, quarry license or Class A mining license depending upon the project scope. .

**Section 23 Provisions Relating to the Scope and Administration of Mineral Licenses**

23.1 Revenue Code.

- (a) The holder of a Class A mining license is the holder of a “mining project” under the terms of Chapter 7 of the Revenue Code and is subject to the requirements of Chapter 7 dealing with the determination of the gain, loss and other tax consequences attributable to a mining project. Each other holder of a mineral license is subject to the provisions of the Revenue Code dealing generally with the determination of the gain, loss and other tax consequences attributable to the operations carried on by the license holder under such license. No mineral license or MDA shall reduce or otherwise limit any of the obligations of a license holder under the Revenue Code.

- (b) Without limitation of any rights or powers the Liberia Revenue Authority may have under other Applicable Law, it shall have the right
  - (i) through authorized representatives and during ordinary office hours on at least three (3) day’s prior notice, of access to and the right to inspect the financial books and accounts of the holder of a Class A mining license, and, if such holder is a joint venture or partnership, the financial books and accounts of each participant in such joint venture or partnership; and
  - (ii) to commission an audit of such books and accounts by an independent auditor (an internationally recognized independent auditor, in the case of an audit of a Class A mining license) in accordance with international accounting and auditing standards.
- (c) If an audit referred to in clause (b) of this section determines that the net revenues for income tax purposes of the license holder (or any such participant) have been understated by more than 3%, the costs of such audit shall be for the account of the license holder.

23.2 When License Area may be Increased. The holder of a reconnaissance license, an exploration license, a Class B mining license, a quarry license or a Class A mining license may apply to the Minister for an expansion of its license area if its operations have generated reasonable evidence that a mineral resource covered by its license is likely to extend into an adjacent area not then subject to (a) a mineral license applicable to such mineral resource, or (b) a pending application for a mineral license with respect to such mineral resource that has not been rejected or withdrawn, and that is not an area in which mineral licenses for the mineral resource involved must be awarded through competitive bidding. No such expansion or expansions may encroach on Excluded Land or increase the area under a license, individually or in the aggregate, by more than twenty percent (20%) of the original license area, and each expansion area shall be constructed by the addition to the license area of compact and contiguous Mineral Cadastre System blocks.

An application for an expansion of a license area must be accompanied by a statement of the operations proposed to be conducted on the expanded area for the remainder of the license term, an amended work program and budget incorporating the work proposed to be done with respect to the expanded area in the initial year of expansion, appropriate adjustments to any previously approved environmental and social impact assessments and management plans that reflect the proposed expansion of operations, and appropriate adjustments to any previously approved ancillary activities agreements

The Minister may not refuse an expansion proposal otherwise complying with this section 23.2 if the operations resulting from the proposed expansion would satisfy the requirements under this Law and the Regulations applicable to the grant of a license of the type involved for the expanded license area and is otherwise in compliance with this Law and the Regulations in all material respects. If a Class A mining license is held under the terms of a MDA, any approval of expansion of its license area will not be effective until any separate requirements for amendment of the MDA are satisfied.

23.3 Adding Minerals to an Existing License. If the holder of a prospecting license, exploration license or mining license discovers a mineral in its license area that is not within the scope of its license, and if such mineral is not required to be the subject of a competitive bid and is not restricted under section 10.2, it may apply to the Minister

for an amendment of its license to include such mineral. The application shall be evaluated as though it were a request for a new license covering such mineral under the appropriate provisions of this Law and the Regulations. If a Class A mining license is held under the terms of a MDA, any license amendment under this section 23.3 will not be effective until any separate requirements for amendment of the MDA are satisfied.

23.4 Appointment of Manager under License. Each holder of a reconnaissance license, an exploration license, a Class A mining license, a Class B mining license or a quarry license shall:

- (a) appoint a manager with the requisite qualifications and experience to be in charge of license operations who, in the case of a mining license, shall be regularly stationed at the license area once operations have begun at the area; and
- (b) promptly notify the Minister of the appointment and qualifications of and contact information for each manager and of any changes in such information.

The Minister may by Regulation (a) define the requisite qualifications and experience for the manager of license operations under an exploration license, a Class B mining license, a quarry license or a Class A mining license, and (b) establish training or other technical requirements for the individual supervising operations under a Class C mining license.

23.5 Foreign Employers and Employees Subject to Liberian Law. The operations in Liberia of foreign companies and the conduct of foreign employees of licensees who are based in Liberia are subject to the laws of Liberia and rules and regulations issued under those laws without discrimination of any kind whatsoever except as may otherwise be expressly provided in this Law or in the Regulations.

23.6 Arbitration of Disputes and Waiver of Sovereign Immunity. The following provisions may be included in an MDA or in a license of a type referred to below in this section 23.6.

- (a) If more than fifty percent (50%) of the ultimate legal and beneficial owners of the holder of an exploration license, Class A mining license or MDA are individuals who are not citizens of Liberia or institutional investors not majority owned by Liberian citizens, the Minister is authorized to include in such holder's license or any related MDA provisions to the effect that
  - (i) the parties must seek to resolve disputes relating to such license right by consultation and negotiation before commencing a formal dispute resolution process, and
  - (ii) if a dispute cannot be resolved through such consultation and negotiation process, the parties shall look to international arbitration and, for the resolution of disputes of a technical nature, expert determination.
- (b) The arbitration provisions may include a State waiver of all claims of sovereign immunity from the jurisdiction of, and from the enforcement of any arbitral award rendered by, any arbitral tribunal constituted pursuant to the license or MDA in question, as well as all claims of immunity for the service of process or the jurisdiction of any court in aid of the jurisdiction of such arbitral tribunal or in connection with the enforcement of any such award. However, any judgment or arbitral award of damages against the State may be

only against the assets or income of the State or any State-owned entity relating to the exploration, development and production of minerals (excluding any such assets or income derived from the exploitation of crude oil and natural gas as defined in the Petroleum (Exploration and Production) Act, 2014 or dedicated to the support of local communities affected by mining operations).

- 23.7 Expert Determination of Disputes. The Minister may prescribe by Regulation circumstances in which the Ministry and a mineral license holder may agree to final resolution of a technical dispute through expert determination, and may agree in an MDA that specific technical disputes may be finally resolved through expert determination.

## **Section 24 Extension of the Term of a Mineral License**

### **24.1 Duration of and When to Apply for Extension.**

- (a) Reconnaissance License Extension. A holder of a reconnaissance license may apply for an extension of the term of its license for up to six (6) months on application made to the Minister between thirty (30) and forty-five (45) days prior to the end of its current license term.
- (b) Prospecting License Extension. A holder of a prospecting license may apply for a single extension of the term of its license for up to six (6) months on application made to the Minister between thirty (30) and forty-five (45) days prior to the end of its current license term.
- (c) Exploration License Extension.
  - (i) A holder of an exploration license may apply for an initial extension of the term of its license for up to two (2) years on application to the Minister between forty-five (45) days and one hundred twenty (120) days prior to the end of its current license term.
  - (ii) A holder of an exploration license may apply for an additional extension of the term of its license for up to two (2) years on application to the Minister between forty-five (45) days and one hundred twenty (120) days prior to the end of its current license term.
  - (iii) A holder of an exploration license may have additional extension rights and surrender obligations as set forth in sections 16.7 and 16.8.
  - (iv) An application for the initial extension of an exploration license under clause (i) of this section 24.1(c) requires that the holder has previously surrendered or is contemporaneously surrendering at least fifty percent (50%) of the area originally subject to its license. An application for a second extension of an exploration license under clause (ii) of section 24.1(c) requires that the holder has previously surrendered or is contemporaneously surrendering at least seventy-five percent (75%) of the area originally subject to its license.
- (d) Class C Mining License Extension. A holder of a Class C mining license may apply for successive extensions of the term of its license for up to two (2) years on application to the Minister between thirty (30) and sixty (60) days prior to the end of its current license term. The Minister may by Regulation provide additional extension options for members of Class C cooperatives organized under section 17.7.

- (e) Class B Mining License or Quarry License Extension. A holder of a Class B mining license or a quarry license may apply for successive extensions of the term of its license of up to five (5) years each on application to the Minister between sixty (60) and one hundred twenty (120) days prior to the end of its current license term.
  - (f) Class A Mining License Extension. A holder of a Class A mining license may apply for successive extensions of the term of its license for up to a total of twenty years on application to the Minister between one hundred twenty (120) and one hundred eighty (180) days prior to the end of its current license term. Any such extension shall be for not less than three (3) years and not more than ten (10) years. If a Class A mining license is held under the terms of an MDA an application for extension of the license will not be effective until any separate requirements for extension of the MDA are satisfied.
- 24.2 Processing of Extension Applications. An application for extension shall be filed to the attention of the Minister at the office of the Ministry in which the original license application was filed. An application for extension of the term of a license shall be handled in accordance with the procedures set forth in section 13 and the Regulations for the handling of the original license application provided that the Minister may by Regulation make reasonable modifications to the requirements of section 13 for the purpose of facilitating the processing of extension applications, but may not materially reduce the opportunity for public comment or comments by other ministries or agencies, or the time periods within which comments must be made.
- 24.3 Required Filing. An application for extension of a license shall take the same form and shall cover the same matters as the original license application, subject to the remainder of this section 24.3.
- (a) An application need set forth only any material changes proposed in its mine development plan and budget, its operations plan for the extension term, its technical and financial capacity, and in the expected operational life of the mine or its individual components from those set forth in the original application;
  - (b) An application for extension of a reconnaissance license must demonstrate to the satisfaction of the Minister that the additional work proposed can reasonably be expected to produce significant additional information.
  - (c) An application for extension of a prospecting license must demonstrate that exploration of the license area could not reasonably have been completed within the original license term.
  - (d) An application for extension of the term of an exploration license pursuant to section 24.1(c) must comply with the relevant terms of the Existing Exploration Regulations unless superseded by Regulations adopted under this Law.
  - (e) An application for extension of a Class C mining license must provide reasonable evidence that the license area contains additional recoverable quantities of the mineral or minerals covered by such license.
  - (f) An application for extension of (i) a Class A mining license or a Class B mining license or a quarry license for which a favorable feasibility study was originally delivered does not require a new feasibility study if the work proposed to be carried out during the extension period is within the scope of

the previously delivered feasibility study, except as to the technical economic feasibility of continued operations at the rate proposed for the extension period.

- (g) An application for the extension of a Class A mining license, a Class B mining license or a quarry license requires the delivery of updated environmental and social impact assessments and environmental and social management plans (including its closure management plan) unless the applicant demonstrates that its existing environmental and social management plans and its existing closure management plan are sufficient to support its planned operations during the extension period and the closure of the mine thereafter..
- (h) An application for the extension of a Class A mining license must include a report of a Competent Person to the effect that the amount of Minerals constituting Proven Mineral Reserves and Probable Mineral Reserves are sufficient to support extraction at an average rate for the proposed extended term of at least eighty (80) percent of the average rate realized over the preceding sixty (60) months of the license term

24.4 Conditions for Extension. The Minister shall grant an application for extension of a mineral license under this section 24 if the application satisfies the requirements for approval of an application under this section 24 and if the license holder:

- (a) has timely filed its application for extension;
- (b) has satisfied the applicable requirements of section 24.3;
- (c) has paid all required filing and processing fees;
- (d) is in compliance with Applicable Law in all material respects;
- (e) has provided for the creation or extension in a manner reasonably satisfactory to the Minister and the Minister of Finance and Development Planning of any security required for the performance of any of its obligations under its license or under this Law or the Regulations; and
- (f) remains eligible to hold the type of license involved.

24.5 Treatment of Related Ancillary Activities Agreements or MDA. If the license holder seeking extension is party to (a) one or more ancillary activities agreements governing activities to be continued during the extended term of the license, and/or (b) an MDA, any separate requirements for the extension of each such agreement must also be satisfied.

24.6 Extension of License Term if Application Timely Filed. If an application for extension of a license permitted under this section 24 or under section 16 was timely filed in substantially the appropriate form and is not acted upon by the Minister before the expiry of the term of the relevant license, the term of the license shall be automatically extended until the issuance of a formal decision, provided that if the Ministry has not acted upon such request within one year after the original expiry of the term, the request shall be deemed denied, and the term of such license shall be deemed to end sixty (60) days thereafter.

24.7 When Un-extended License Expires. If an application for extension is finally rejected by the Minister, then the term of such license shall expire on the later of (a) the day that is thirty (30) days following the date of receipt by the applicant of the notice of rejection at its address for notices or (b) the stated expiration date of the license. All mining operations must cease by the end of such period.

- 24.8 Notice of Deficiencies. The Minister shall not reject an application for the extension of the term of a license without giving written notice to the applicant of the deficiencies in the application and giving the applicant a reasonable time to respond if the deficiencies are capable of being corrected.

**Section 25 Transfers, Mortgages and Changes of Control.**

- 25.1 When Transfer, Change of Control or Mortgage is Permitted. A Transfer, Change of Control or Mortgage of a mineral license is permitted only on the terms and conditions set forth in this section 25. A license that is the subject of a Transfer, Change of Control or Mortgage not permitted by this section 25 may be revoked under section 27. In addition:

- (a) a mining license held by an individual as permitted by this Law may be the subject of a Transfer by will or intestate succession only if the recipient is otherwise eligible under this Law and the Regulations to hold the transferred license;
- (b) within six months of the effective date of a Transfer by will or intestate succession, the recipient must have demonstrated its eligibility to hold the license, surrendered the license, or caused the Transfer of the license to an eligible recipient;
- (c) pending the determination of eligibility, surrender or further Transfer to an eligible recipient, operations under the license must be suspended except for operations to protect health, safety or the environment or to maintain and preserve plant and equipment; and
- (d) the license term shall be extended by the length of the suspension period.

- 25.2 Permitted Mortgages. The holder of a mineral license may grant a Mortgage over its license only to secure indebtedness incurred to finance the acquisition of its license and assets acquired to carry out its mining operations. The license holder must furnish the Minister with the identity of the proposed mortgagee and its controlling persons, the financial terms of the Mortgage, and the text of any current or contingent rights of the mortgagee to direct the operations of the license holder. The Minister shall approve the Mortgage if the following conditions are satisfied:

- (a) The holder of the license is in compliance in all material respects with its payment and performance obligations under its license.
- (b) The holder of the Mortgage has agreed in a document satisfactory to the Minister and, as to legal matters, the Minister of Justice that (i) such holder will not exercise remedies under the Mortgage involving the transfer of rights to the license and/or such assets except in a transaction that results in the transfer of all of the rights of the licensee under the property subject to such Mortgage to a transferee permitted by this section 25, and (ii) such transaction will constitute a Transfer subject to section 25.3.
- (c) The Minister has determined that the current and contingent rights of the mortgagee to direct the operations of the licensee prior to enforcement of the Mortgage do not effectively transfer to the mortgagee the power to direct day-to-day operations under the license or generally to manage the license operations of the licensee.

25.3 Permitted Transfers and Changes of Control. A Transfer of a license or a Change of Control of a licensee shall be approved by the Minister if the following conditions are satisfied.

- (a) The licensee has disclosed to the Minister the information required by section 13.3(e) as to the ownership and Control of the licensee as it will exist upon giving effect to the Transfer or Change of Control.
- (b) The licensee is in compliance in all material respects with its payment and performance obligations under its license, each related MDA and ancillary services agreement and the Revenue Code.
- (c) The Minister has reasonably determined that upon giving effect to a Transfer or Change of Control with respect to a license
  - (i) the licensee will continue to qualify as an eligible applicant for a license of such type under this Law and the Regulations; and
  - (ii) the licensee will continue to have the technical capacity to carry out its obligations under the license and under any ancillary activities agreement to which it is a party.
- (d) The Minister (and, in the case of a Class A mining license, the Minister of Finance and Development Planning) has reasonably determined that upon giving effect to the Transfer or the Change of Control the licensee will have the financial capacity to carry out its obligations under the license and under any ancillary activities agreement to which it is a party.
- (e) Any security for the performance of the obligations of the licensee under the license and under any ancillary activities agreement to which it is a party has been modified or reissued on terms satisfactory to the Minister and the Minister of Justice.
- (f) In the case of a Transfer, the transferee (i) has assumed, in an instrument satisfactory in form and substance to the Minister and to the Minister of Justice, liability for the performance and payment of all of the obligations of the transferor under the license and under any related ancillary activities agreement to which it is a party whether such obligations accrued prior to or after the effective date of the transfer and (ii) has made such representations and warranties as the Minister of Justice reasonably determines to be necessary or appropriate.

provided that if the licensee is not in compliance in all material respects with its obligations as a license holder but all other conditions to the Transfer or Change of Control have been satisfied, the Transfer or Change of Control may occur against delivery to the Minister of an undertaking from a creditworthy entity satisfactory to the Minister and, as to legal matters, the Minister of Justice (x) to cure such non-compliance within not more than twelve (12) months following the completion of the Transfer or Change of Control, or (y) if any such non-compliance cannot be cured by a third party, to eliminate the adverse effects on the State of such non-compliance in a manner satisfactory to the Minister.

25.4 Documents that are Public. The following documents and instruments arising out of any Mortgage, Transfer or Change of Control shall be public documents:

- (a) all disclosure provided under section 25.2 or section 25.3(a) other than the financial terms of the proposed Mortgage, Transfer or Change of Control,

including the identity of the affected licensee and the proposed mortgagee, transferee(s) or recipient(s) of the Change of Control; and

- (b) each document or instrument required to be delivered under section 25.2 or 25.3 in connection with the transactions contemplated thereby, excluding financial terms.

Within 60 days after each December 31 the Ministry shall publish a list of all Mortgages, Transfers and Changes of Control approved under this section 25 during the calendar year then ended, identifying the licenses affected and the relevant parties to each such transaction.

- 25.5 Notice of Certain Changes in Beneficial Ownership. A holder of a reconnaissance license, exploration license, Class B mining license, quarry license or Class A mining license shall give prompt notice to the Minister of any change of ten percent (10%) or more in the beneficial ownership of the holder known to any member of the senior management of the holder, identifying the new holder or holders . Each such notice shall be a public document. For the purposes of this section 25.5, a member of “senior management” includes any individual exercising the responsibilities of a chief executive officer, chief operating officer, chief financial officer or chief legal officer of an entity.
- 25.6 Prohibited Transferees, Controlling Persons and Beneficial Owners. The Minister may by Regulation approved by the Minister of Justice identify categories of entities or individuals prohibited from acquiring direct or indirect beneficial ownership interests in, or from Controlling the holders of, mineral licenses issued under this Law. Persons or entities may be placed on this list only as a result of specific prior unlawful conduct and not by virtue of race, nationality or gender or other indicia of status.
- 25.7 Applicability to Certain Transactions. A Transfer, Mortgage or Change of Control of the right to file a mining license application under an outstanding mineral license is subject to this Section 25 as though the transaction involved the underlying license. .
- 25.8 Regulatory Authority. The Minister may issue Regulations establishing additional procedures for submitting and processing a request for the approval of a Mortgage, Transfer or Change of Control of mineral licenses other than exploration licenses and Class A mining licenses that reflect the principles set forth in this section 25 and the differing fiscal, environmental and social issues associated with different license types.

## **Section 26 Voluntary Partial or Total Surrender of a Mineral License**

- 26.1 When Surrender May Occur. The holder of a mineral license may surrender its rights under the license at any time (1) with respect to the entire license area or (2) in the case of any license other than a reconnaissance license, a prospecting license or a Class C mining license with respect to any part of the license area, on prior written notice to the Minister of:
  - (a) one (1) month in the case of a reconnaissance license, a prospecting license or a Class C mining license;
  - (b) three (3) months in the case of an exploration license, Class B mining license or quarry license, and
  - (c) six (6) months in the case of a Class A mining license, or as may otherwise be required by any applicable MDA.

Any surrender shall comply with the applicable requirements of sections 28 and 43.

26.2 Concerning Partial Surrenders. The boundaries of any optional partial surrender of a license area must be on north-south/east-west lines in accordance with section 6.3(b). Pending further Regulations,

- (a) the Existing Exploration Regulations govern partial surrenders of areas subject to an exploration license, and
- (b) any partial surrender of any area subject to a Class B mining license, a quarry license or a Class A mining license must:
  - (i) be a reasonably compact polygon of no more than six (6) sides with each side on a line of latitude or longitude and encompassing at least 10 percent of the license area, provided that the Minister may approve a polygon of more than six sides or covering a lesser portion of the license area if the Minister reasonably determines that the polygon is so structured to avoid exclusion from the license area of Indicated Mineral Resources; and
  - (ii) be structured so as to provide reasonable public access to the surrendered area without interference with the operations of the licensee.

## **Section 27 Revocation of a Mineral License**

27.1 When Revocation May Occur. A mineral license may be revoked by the Minister if:

- (a) a licensee fails to make a payment due under its license, this Law or the Regulations within thirty (30) days of the due date thereof other than an amount due under the Revenue Code, and such failure is not cured within thirty (30) days after notice from the Minister of such failure; or
- (b) a licensee is determined in a final judgment to have willfully failed to pay amounts due under the Revenue Code in an amount that is material with respect to the total liabilities of the licensee under the Revenue Code for the period or periods with respect to which such failure occurred, or a licensee fails to discharge a final judgment or arbitral award with respect to an amount due under the Revenue Code within thirty (30) days of the entry of such judgment or such longer period of time, not exceeding one (1) year, as shall be specified in the final judgment or award, or
- (c) the holder of an exploration license, Class B mining license, quarry license or Class A mining license is in default in the performance of its obligations under section 22.10 to work diligently and such non-performance is not excused under section 29 or section 30:
  - (i) in the case of an exploration license, for at least six (6) consecutive months;
  - (ii) in the case of a Class B mining license or quarry license, for at least nine (9) consecutive months; and
  - (iii) in the case of a Class A mining license, for at least twelve (12) consecutive months; or
- (d) a licensee is determined to be in material breach of (i) any prohibition on the use of explosives or on the use of toxic chemicals or materials contained in section 37.5 or section 37.6, or contained in Regulations adopted pursuant to either such section, or (ii) the terms on which it has been authorized to use

such explosives or such toxic chemicals or materials in accordance with section 37.5 or section 37.6; or

- (e) a licensee is determined to have been engaging in dredging operations not permitted by section 22.8; or
- (f) a Mortgage, Transfer or Change of Control not permitted by Section 25 has occurred with respect to a license, and such action is not reversed to the satisfaction of the Minister and the Minister of Justice within one hundred eighty (180) days of the occurrence thereof; or
- (g) a licensee has failed to perform any other obligation with respect to its license reasonably determined by the Minister to be material to the rights or interests of the State, and has failed to cure such failure or remedy the adverse effects of such failure to the reasonable satisfaction of the Minister within sixty (60) days after notice from the Minister of such failure (or, in the case of an obligation that cannot be discharged by a monetary payment, such longer period as may reasonably be required for such cure or remedy in the exercise of reasonable diligence).

27.2 Regarding Failure to Work Diligently. The Minister may determine after notice and opportunity to be heard that a licensee is in default under section 27.1(c) if the licensee has for the specified period of time not been using reasonable efforts in good faith to proceed with mine development or with mineral extraction, even though the statutory period referred to in section 17.1(c) includes intervals of apparent work. . .

27.3 Manner of Revocation. Revocation of a license pursuant to this section 27 shall be made by delivery of a written notice of revocation signed by the Minister to the holder of such license at its address for notices in Liberia. The Minister shall consult with the Minister of Justice as to the circumstances believed by the Minister to justify revocation before delivery of a notice of revocation of a mineral license..

27.4 When Revocation Effective.

- (a) A revocation by the Minister under this section 27 shall take effect as stated in the revocation notice or, if the licensee has challenged the existence of the event or condition alleged to justify termination in an arbitral proceeding permitted under section 23.8 or a Liberian judicial proceeding, thirty (30) days after the entry of a final order in favor of the Minister in such proceeding or such longer time as the Minister may agree. A licensee must continue to perform all its obligations under its license, this Law and the Regulations until the effective date of the revocation, including during the pendency of any such proceeding.
- (b) In establishing the effective date of a revocation the Minister may take into account the extent to which allowing time for an orderly termination of operations and any transfer of assets pursuant to section 28.6 will (i) lessen the impact of revocation on employment, community health or safety, or the environment, or (ii) enhance the ability of an affected mine to continue operations under a successor licensee.

## **Section 28 Liabilities and Obligations upon Surrender, Expiration or Revocation of a Mineral License**

28.1 Effect of Surrender, Expiration or Revocation. At the end of the term of a mineral license, whether by surrender in whole, expiration or revocation, or upon a partial

surrender of the license area, the license holder shall cease all license operations (all license operations on the affected land, in the case of a partial surrender), and notwithstanding such surrender, expiration or revocation shall commence and diligently pursue relevant shutdown and restoration, rehabilitation and reclamation operations as required by (a) its license, (b) any applicable MDA or ancillary activities agreement, (c) any closure management plan contained in its environmental management plan, (d) any post-closure obligations contained in its social management plan, and (e) Applicable Law. Any minerals obtained from any part of a mineral license area after the end of the term of such mineral license with respect to such area shall be the property of the State, including minerals located in tailings attributable to operations within such license area.

***Last sentence of section 28.1 added after recent dispute over large diamond found on mining site after mining license had expired.***

- 28.2 When Surrender, Expiration or Revocation Effective. Any surrender, expiration or revocation of a mineral license shall be deemed effective at midnight of the date specified for such surrender, expiration or termination.
- 28.3 Obligations of License Holder After Surrender, Expiration or Revocation. Following any surrender in whole, expiration or revocation of a mineral license, the holder shall remain liable for:
- (a) payment of all amounts due from it under the terms of its license, this Law or the Regulations accruing to and including the effective date of such termination, surrender in whole or revocation;
  - (b) performance of all obligations required to be performed by it under the terms of its license, this Law or the Regulations on or before such date;
  - (c) payment and performance of all restoration, rehabilitation and reclamation obligations and all obligations under sections 43 and 47;
  - (d) all surface rent accruing as to any areas for which the holder has not delivered to the Liberia Geological Survey all Geological Data required to be delivered by it under section 43;
  - (e) the payment of all amounts due from it with respect to its operations arising under the Revenue Code or other Applicable Law; and
  - (f) performance of all other obligations that pursuant to its license, this Law or the Regulations, arise after surrender, expiration or termination, such as those arising under section 28.6.
- 28.4 Excused Obligations on Partial Surrender. In the case of a partial surrender, the holder shall be excused from all obligations to carry out reconnaissance, prospecting, exploration or mining operations with respect to the surrendered area but otherwise shall remain liable with respect to such area as provided in section 28.3.
- 28.5 Additional Obligations. An MDA or an ancillary activities agreement may provide additional obligations upon its partial or total surrender, expiration or revocation.
- 28.6 Right of State to Acquire Assets on Surrender, Expiration or Revocation. Upon the surrender in whole, expiration or revocation of a Class A mining license, the holder shall offer the State, through the Minister, the right to acquire at a purchase price of one US dollar (US\$1) all fixed assets used by it in carrying out license operations (including any fixed assets that are the subject of ancillary activities agreements pursuant to section 47), whether located within or without the license area, all rights

in land held by the holder to permit or facilitate the placement and use of such fixed assets, and all moveable property and intellectual property rights required for the operation of such fixed assets.

- (a) The information provided pursuant to this section 28.6 shall:
  - (i) disclose all payments required to maintain such rights and their respective due dates and summarize in reasonable detail all material obligations required to be performed to maintain such rights; and
  - (ii) describe the terms upon which such rights may be subject to early termination.
- (b) The holder shall in addition ensure that the State may without penalty delay until the first anniversary of the acquisition date any payments referred to in clause (i) of section 28.6(a) coming due before such anniversary date.
- (c) To the extent the State does not accept such offer within 60 days after the State has received in writing such offer and a reasonably detailed list of such assets, moveable property and rights, the holder shall diligently proceed to remove all fixed assets and moveable property located within or without its license area used in the conduct of license operations.
- (d) The acquisition by the State of assets and rights pursuant to this section 28.6 does not excuse the holder from the performance of its closure management obligations to the extent performance of those obligations does not conflict with the continued use of such assets.
- (e) The State may exercise this right in its own name, or through a designee of the State that may be a State-owned entity or a privately owned entity that has in accordance with this Law and the Regulations and other Applicable Law acquired the rights to continue the mining operations carried out by the holder of the terminated, expired or surrendered license.
- (f) The Minister may adopt Regulations applying the requirements of this section 28.6 to Class B mining licenses and quarry licenses that have extensive fixed assets.
- (g) If not otherwise specified in the Regulations, the risk of loss to assets to be transferred to the State pursuant to its exercise of its rights under this section 28.6 remains with the licensee until five (5) days following the formal transfer of legal possession to the State, absent loss caused by the actions of the State or persons acting on behalf of the State.
- (h) The acquisition of assets by the State pursuant to this section 28.6 does not excuse the holder from any of its obligations referred to in section 28.3 except to the extent continued operation of such assets by the State or its designee renders the performance of such obligations substantially useless, or increases the burden of performing such obligations, such as the continued addition of materials to a tailings dam site or the continuing operation of a polluting facility.

28.7 Removal of Assets by Other License Holders. Any mineral license holder not subject to the rights of the State set forth in section 28.6 or Regulations established thereunder shall have 120 days, or such further period of time as may be prescribed in Regulations, from the date of surrender in whole, expiration or revocation to remove all fixed assets and moveable property located within or without its license area used

in the conduct of license operations other than those required for the performance of its obligations referred to in section 28.3(c).

## **Section 29 Suspension of Operations by Mineral License Holder**

29.1 Right to Suspend Operations. The holder of an exploration license, a Class B mining license, a quarry license or a Class A mining license may suspend exploration or mining operations, as the case may be, for reasons of unavailability of supplies and materials, unavailability of required skilled personnel or technical services, or unavailability of transport services, in each case resulting in significant disruption of production, or by reason of major disruptions of the relevant international markets, in each case not attributable to force majeure, provided that

- (a) no such suspension of operations under an exploration license shall last for more than one (1) month unless consented to by the Minister;
- (b) no such suspension of operations under a Class B mining license or quarry license shall last for more than one (1) month unless consented to by the Minister;
- (c) no such suspension of operations under a Class A mining license shall last for more than three (3) months unless consented to by the Minister; and
- (d) the license holder shall give the Minister at least five (5) working days notice of any planned suspension, setting forth the reasons for and the expected duration of the suspension.

This Law does not limit the ability of the holder of a prospecting license or a Class C mining license to suspend operations and does not limit the suspension rights of the holder of an exploration license outstanding on the effective date of this Law under the Existing Exploration Regulations.

29.2 Limitation of Suspension Right of Class A License Holder. Unless otherwise consented to by the Minister, the holder of a Class A mining license is entitled to not more than one suspension period in any fifteen (15) month period. During any suspension on account of market disruptions, hourly employees whose regular working hours are curtailed in whole or in part must be paid for such curtailed hours at the rate of at least sixty-five percent (65%) of their normal hourly compensation prior to the suspension.

29.3 Role of Force Majeure. An event of force majeure that causes a suspension of operations is not a suspension to which this section 29 is applicable for so long as the holder is in compliance with its obligations under section 30.

29.4 No Breach of Duty to Work Diligently; No Extension of Time. A suspension of operations permitted by this section 29 is not a breach of the license holder's obligation to work diligently under section 22.10. A permitted suspension of operations under this section 29 does not entitle the license holder to an extension of the term of its license.

29.5 Continuation of Payments that Accrue Over Time. No suspension of operations for any reason, even if consented to by the Minister, shall excuse the holder of a mineral license (a) from the payment of any amounts due the Ministry or the State under the terms of its license, any applicable MDA or Applicable Law that accrue with the passage of time or (b) from the performance of any environmental management or social management obligations that arise during a suspension period.

29.6 Adjustments by Regulations. The Minister may by Regulation:

- (a) extend the time periods provided for in this section 29 upon a finding that the extension will not be materially adverse to the interests of the State; or
- (b) set forth in more detail the events and conditions that entitle a license holder to suspend operations; or
- (c) if the Minister determines that the suspension right is being abused, limit the frequency with which licensees other than the holders of Class A mining licenses may exercise suspension rights under this section 29.

**Section 30 Force Majeure**

30.1 Definition of Force Majeure. The term “force majeure” shall mean acts of God, accidents, wars, acts of war, invasions, acts of public enemies, hostilities (whether war is declared or not), restrictions on trade or other activities of the holder of a mineral license imposed by any sovereign nation or state, embargoes, blockades, revolutions, riots, civil commotions, sabotage, strikes and/or other industrial, labor or employer-employee disputes (if remaining uncured for a period of more than two (2) months), fires, explosions, earthquakes or any other natural disasters, expropriation of facilities or goods, health or other epidemics, and any similar cause, provided that any such cause was not within the reasonable control of the party claiming suspension and could not have been avoided or overcome by such party through the exercise of due diligence. Force majeure does not include delays caused by:

- (a) reasonably predictable events, such as the occurrence of the rainy season or other seasonal weather patterns, or
- (b) the failure to perform of contractors, subcontractors or suppliers not itself attributable to force majeure, or
- (c) adverse market conditions.

30.2 License Holder to give Prompt Notice of Force Majeure. If the holder of a license issued under this Law is rendered unable, in whole or in part, by an event of force majeure to carry out any obligation arising under its license, this Law or the Regulations, other than an obligation to make payments of money due to any ministry or agency of the State, such holder shall give prompt notice of such event in writing to the Minister, and as soon as practicable thereafter give notice of the steps it is taking to remedy the impact of such event and the estimated time required to complete such remedy. A holder of a prospecting license or a Class C mining license may give notice to the nearest office of the Ministry.

30.3 Effect of Force Majeure. If the holder of a mineral license has given notice as required of the occurrence of an event of force majeure and is diligently seeking to remedy the impact of such event then (a) any obligations of the holder under its license, this Law and the Regulations that the holder is unable to perform as a result of such event shall be suspended during the continuance of any such inability, and (b) any time periods specified for the performance of such obligations shall be extended by the period of time the inability caused by such force majeure exists. The term of a mining license may be extended as a result of an event of force majeure only to the extent that such event causes a material delay in the completion of the mine or a material interruption in mine production.

30.4 Continuing Payment Obligations. No event of force majeure shall excuse the holder of a license from the payment of any amounts due the Ministry or the State under the

terms of its license or any applicable MDA, or under Applicable Law, including amounts such as site rental that accrue with the passage of time.

## **PART VII. ENVIRONMENTAL AND SOCIAL PROVISIONS**

### **Section 31 Environmental Protection and Closure Management**

- 31.1 Relationship of the Requirements of this Law to EPA Requirements. Mineral license applicants and mineral license holders are subject to the laws, regulations and guidelines applicable to mineral exploration and mineral exploitation operations administered by the EPA (the “EPA Mining Requirements”). If compliance with a requirement imposed in or pursuant to this section 31 would result in a failure to comply with an applicable requirement of the EPA, such requirement may be enforced only with the consent of the Executive Director of the EPA.
- 31.2 General Environmental Duties of Mineral License Holders. Each holder of a mineral license issued under this Law shall comply with all requirements of the EPA applicable to its operations. In any event, each such holder shall:
- (a) choose those available processes and technologies that result in less damage to the natural environment, and treat and control pollution and contamination of the environment attributable to its operations, in either case whether such damage, pollution or contamination occur within or without its license area;
  - (b) prefer recovery and processing techniques and technologies that limit water usage and long-term adverse effects on the climate;
  - (c) upon closure or abandonment of its operations
    - (i) decommission and remove the buildings, structures and facilities installed by it in connection with its operations (unless otherwise provided in section 28.6 with respect to facilities or improvements to be transferred to the State or a designee of the State) and
    - (ii) undertake restoration, rehabilitation and reclamation operations in accordance with its approved closure management plan (if one is required) and Applicable Law to restore the terrain of any area disturbed by its operations to its prior state or, if it is not feasible to do so, then to undertake appropriate restoration, rehabilitation and reclamation operations to stabilize the terrain and make it suitable for future economically and socially desirable purposes, including (1) levelling all surfaces to the extent reasonable, or contouring, grading and terracing all exposed artificial gradients and declivities created as a result of exploration or mining operations, and (2) re-opening, or creating substitutes for, any water courses that have been closed, such that the water supply to the area is restored and the area is drained by natural runoff with a minimum of erosion; and
  - (d) engage in reforestation activities at least to the extent its operations involved significant felling of trees either in support of or to facilitate mining operations.

A mineral licensee is subject to the requirements of this section 31.2 independently of the specific requirements contained in any environmental management plan to which it is a party.

31.3 Environmental Impact Assessment.

- (a) An applicant for a Class A mining license, Class B mining license, quarry license or exploration license must submit to the Minister and the EPA for approval, as part of its application, an environmental impact assessment with respect to its proposed operations under such license. In addition to any requirements imposed by the EPA,
  - (i) the environmental impact assessment shall be prepared by an independent consulting firm recognized (internationally recognized in the case of an application for a Class A mining license) as having experience in assessing the environmental impact of mining operations under tropical weather conditions.
  - (ii) the assessment shall be conducted in compliance with the requirements of this Law, the Regulations, the EPA Mining Requirements and generally accepted International Standards for such assessments, and shall include public consultations intended to inform and generate feedback in relation to the potential environmental impact of the project.
- (b) The Minister may issue Regulations requiring the submission of and setting forth the required content of an environmental impact assessment in connection with the issuance of a reconnaissance license, a prospecting license or a Class C mining license so long as such Regulations do not create a conflict with the requirements of the EPA.
- (c) A mineral license may not be issued unless the EPA has issued its approval of any environmental impact assessment required by the EPA, and the Minister has determined that such assessment complies with the requirements of this section 31.

31.4 Environmental Management Plan.

- (a) Prior to conducting any operations on its license area, the holder of a Class A mining license, Class B mining license, quarry license or exploration license shall submit to the Minister and the EPA, and obtain their approval of, an environmental management plan setting forth the manner in which the holder proposes to manage the environmental impacts and risks flowing from the proposed project. The environmental management plan shall include a closure management plan complying with the requirements of section 31.5 and shall:
  - (i) be prepared in accordance with generally accepted International Standards for such plans;
  - (ii) comply with the requirements of this Law, the Regulations and the EPA Mining Requirements;
  - (iii) be responsive to the issues raised in the environmental impact assessment;
  - (iv) provide for regular environmental audits of the operations of the license holder and for procedures during the term of the license for reassessing the sufficiency of the environmental management plan; and
  - (v) be made available for public comment and the comments of interested ministries and agencies prior to approval.

- (b) The Minister shall approve the environmental management plan only if the Minister
  - (i) determines that the plan, including the closure management plan referred to in section 31.5, can reasonably be expected to offset the adverse environmental impacts attributable to construction and operation of the activities contemplated under the relevant license and effectively provides for the restoration, rehabilitation and reclamation of the environment to the extent affected by operations under the relevant license, and
  - (ii) otherwise satisfies the requirements of this section 31.

31.5 Closure Management Plan.

- (a) The closure management plan required by section 31.4 to be included in each environmental management plan shall:
  - (i) provide for continuing restoration, rehabilitation and reclamation during the term of the relevant license to the extent practical;
  - (ii) provide for the decommissioning of buildings, structures and other facilities and restoration, rehabilitation and reclamation of the land for appropriate uses (unless otherwise provided in section 28.6 with respect to facilities or improvements to be transferred to the State or a designee of the State);
  - (iii) provide for the decommissioning of facilities constructed pursuant to ancillary activities agreements to the extent such agreements do not contain their own closure management plans;
  - (iv) take into account the end use of the lands to be subject to restoration, rehabilitation and reclamation with a view to maximizing the practical utility of such lands to the surrounding communities;
  - (v) take into account the need for continuing monitoring and maintenance of dams, water processing facilities, overburden dumps, tailings storage facilities and similar facilities or structures that must continue to function after closure;
  - (vi) include, in the case of a Class A mining license, and in the case of such Class B mining licenses and quarry licenses as may be required by Regulations, security for the timely funding of the closure management plan through a letter of credit, surety bond, contributions over time to a closure fund, a guarantee from a creditworthy third party, and/or such other substantially equivalent source as may be approved by the Minister and the EPA after consultation with the Ministry of finance and Development Planning;
  - (vii) provide meaningful assistance to communities economically dependent on the operation of the mine for transition to a post-mine existence, including, if appropriate, resettlement assistance;
  - (viii) provide procedures during the term of the license for reassessing the adequacy of the closure management plan and the funding provided; and
  - (ix) provide a timetable for performance of the plan.

- (b) The Minister may by Regulation set forth provisions for determining at what point in the performance of the plan some or all of the security for performance of the closure management plan can be released, and provide a mechanism for determining at what point the license holder may be released from its obligations under the plan and how such release may be evidenced.

31.6 Concerning the Holders of Prospecting and Class C Mining Licenses. Promptly following the effective date of this Law, the Minister and the Executive Director of the EPA shall designate a working group to consider how the environmental requirements set forth in section 31.2, the EPA Mining Requirements and the publication requirements set forth in section 31.7 should be applied to the holders of prospecting licenses and Class C mining licenses. The working group shall be tasked with delivering recommendations within one year of the date of its formation, and shall include representatives of the Ministry of Health, the Minister of Labor and the Ministry of Internal Affairs.

31.7 Public Consultation Minimum Requirements.

Any applicant that is required to submit an environmental impact assessment or an environmental management plan and any mineral license holder that proposes to make material modifications to an existing environmental management plan must make provision for public consultations with respect to such impact assessment, management plan or plan modifications in compliance with this section 31.7.

- (a) All public consultations required by this section 31 shall:
  - (i) occur on reasonable prior notice to
    - (1) the communities identified in the most recent environmental impact assessment as potentially subject to adverse environmental impact, and
    - (2) stakeholders generally;
  - (ii) be conducted at a location or locations reasonably convenient to such communities;
  - (iii) take into account the languages used in such communities; and
  - (iv) provide for an opportunity to submit written statements.
- (b) The applicant or license holder must:
  - (i) include in its proposed environmental impact assessment or environmental management plan (or any proposed modifications to such management plan) a statement of the steps taken to comply with section 31.7(a);
  - (ii) deliver to the Minister and publish in each county in which the consultation occurred and in Monrovia a fair summary of the results of each consultation; and
  - (iii) make single copies of each such summary available to members of the public on request.
- (c) The Minister shall take consultation comments into consideration when making a decision and may provide additional consultation guidelines in the Regulations.

- 31.8 Scope of Duty under this Section. The duty of a mineral licensee under this section 31 to restore, rehabilitate and reclaim land affected by its operations is independent of the nature of its rights, if any, in the affected land.
- 31.9 Contractor Compliance. A license holder shall ensure that its contractors, subcontractors and suppliers comply with the requirements of its environmental management plan insofar as they are carrying out license operations.

## **Section 32 Social and Community Obligations**

- 32.1 Social Impact Assessment. An applicant for a Class A mining license, a Class B mining license or a quarry license must submit to the Minister, as part of its application, a social impact assessment with respect to both the communities directly affected by the proposed license operations and any other communities that could reasonably be expected to be adversely affected by the proposed license operations.

The social impact assessment shall be prepared by an independent consulting firm recognized (internationally recognized in the case of an application for a Class A mining license) as having experience in the performance of social impact assessments in similar circumstances, shall conform to generally accepted International Standards for such assessments, and shall include public consultations intended to inform and generate feedback in relation to potential environmental and social impacts of the project.

- 32.2 Social Management Plan. Prior to commencing any operations on its license area, the holder of a Class B mining license, quarry license or Class A mining license shall submit to the Minister and obtain approval of, a social management plan responding to the issues raised by the social impact assessment. The scale of the social management plan, the formality of the community development agreement referred to in section 32.3, and the degree of community involvement shall be commensurate with the scale of, and the social disruption attributable to, the proposed license operations. The social management plan shall also comply with any applicable requirements of the EPA and shall include provisions for:

- (a) minimizing displacement of persons;
- (b) providing fair compensation for harm caused to affected properties and livelihoods;
- (c) recognizing the rights of local communities to utilize for subsistence purposes land within the license area not regularly used for license activities and maintaining adequate access to such land consistent with good safety standards and avoidance of interference with license activities;
- (d) coping with the potential influx of persons seeking employment with the holder or providing goods and services to the employees of the holder;
- (e) coping with the impact of license activities upon local infrastructure;
- (f) protecting local communities from adverse impacts upon water supplies used for consumption or agricultural purposes;
- (g) if resettlement is necessary, a resettlement action plan that (i) is in accordance with International Standards, the requirements of section 36 and other Applicable Law, and (ii) is developed in consultation with representatives of both the communities from which resettlement occurs and the communities in which individuals are resettled; and

- (h) planning for the transition of the license area and the surrounding communities for post-closure existence, to the extent not dealt with in the closure management plan.

32.3 Community Development Agreement. A social management plan required by section 32.2 shall provide for the establishment of a community development agreement or agreements between the license holder and representatives of affected communities with respect to the carrying out of the social management plan covering:

- (a) the method of selection of community representatives to participate in the establishment and administration of such agreement (which representatives should reflect a broad range of interests within the affected communities), the extent to which and the timing with which funds will be committed by the holder in support of local development, the manner in which such funds will be expended, and the manner in which expenditures will be monitored and disclosed; and
- (b) the extent to which members of affected communities may benefit from
  - (i) health or educational services made available by the holder to its employees, and
  - (ii) infrastructure constructed by the holder for its use and/or the use of its employees.

An applicant or a license holder may request assistance from the Minister if it appears that affected communities are unreasonably refusing to agree to a community development agreement or are unreasonably insisting on multiple community development agreements.

32.4 Public Hearings and Publication Requirements. An applicant or license holder subject to this section 32 must make provision for public consultations with respect to proposed social impact assessments and social management plans in the manner provided in section 31.7. If resettlement is involved, similar provision must be made for public consultations in communities in which resettlement will occur.

32.5 Approval of Social Management Plan. The Minister shall approve the social management plan only if the Minister determines, in collaboration with other interested ministries and agencies, that the plan, including the community development agreement, appropriately responds to the impact of the proposed license operations on the affected communities and otherwise satisfies the requirements of this section 32, and any applicable requirement of the EPA.

32.6 Contractor Compliance. A license holder shall ensure that its contractors, subcontractors and suppliers comply with the requirements of its social management plan insofar as they are carrying out license operations.

32.7 Costs of Complying with Plan. The costs of carrying out the social management plan (including any related resettlement action plan) for a Class A mining license holder shall be separately guaranteed by a creditworthy entity reasonably satisfactory to the Minister (after consultation with the Ministry of Finance and Development Planning). The Minister may by Regulation extend this requirement to holders (or specific classes of holders) of Class B mining licenses and quarry licenses.

32.8 Expansion of Section Scope. If the Minister determines after notice and hearing that the public interest so requires, the Minister may by Regulation expand the

applicability of the requirements of this section 32, in whole or in part, to applicants and license holders not now covered by this section.

### **Section 33 Excluded Land**

- 33.1 General Prohibition. Mineral licenses other than reconnaissance licenses shall not be granted with respect to Excluded Land, the holder of a prospecting license, exploration license or Class C mining license shall not conduct operations on or within 150 meters of any Excluded Land, and the holder of a Class B mining license, quarry license or Class A mining license shall not conduct operations within 300 meters of any Excluded Land, except, in either case
- (a) with the consent of the officials or community body authorized to administer and control such lands, or that by customary usage administers or controls such lands (where Applicable Law permits the granting of such consent); or
  - (b) transiting in ordinary commercial traffic on established public rights-of-way.
- 33.2 Excluded Land Definition. For the purposes of this Law, “Excluded Land” includes:
- (a) lands located within the boundaries of any city, commonwealth district, municipal district, cemetery, aqueduct, military base, airport, port, Poro or Sande grounds, or otherwise reserved by Applicable Law for a public purpose;
  - (b) highways or other transportation or public utility rights-of-way and lands on which public communication facilities are located unless the responsible ministry or agency has determined that access to and use of such lands for such purposes will remain unimpeded after giving effect to the operations proposed by the license holder or that the relevant license holder has constructed equivalent alternatives on lands made available by the license holder;
  - (c) land declared by the EPA as “an area protected from mining” under applicable environmental laws and regulations;
  - (d) land that has been legally declared as a national park, nature reserve, multiple use reserve, or any other category of protected area established pursuant to the National Wildlife Conservation and Protected Area Management Law as from time to time amended, modified or supplemented, or that is within any Proposed Protected Area that has been designated by the Forestry Development Authority in accordance with the National Forestry Reform Law of 2006 as from time to time amended, modified or supplemented, or that has been declared a national defense resource; or from which license activities or license operations are otherwise excluded by Applicable Law; and
  - (e) any land designated as a Reserved Area under section 10.3.
- 33.3 Additions to Excluded Land; Buffer Zone Adjustment. The Minister may from time to time by Regulation approved by the Ministry of Internal Affairs (a) add additional land use categories to the categories of Excluded Land set forth in section 33.2 or (b) increase the size of the buffer provided in section 33.1 for particular categories of Excluded Land
- 33.4 Obstruction of Access to Excluded Land. In the absence of consent as contemplated by clause (a) of section 33.1, a mineral license may not be granted in such a manner that it significantly obstructs access to any Excluded Land unless substantially

equivalent alternative access is provided. Substantially equivalent access must be measured in terms of ease of use, cost of use, and time.

### **Section 34 Use of State Land**

- 34.1 State to Make Land Available. The State shall make land owned by the State (meaning both Government Land and Public Land as defined in the Land Rights Act) available to the holder of a mineral license for license operations or for activities carried out under ancillary activities agreements if such land does not constitute Excluded Land, and is not otherwise used for Government purposes. All such land included in a license area shall be taken into account in determining the amount of surface rent payable with respect to a license area under section 42.
- 34.2 Rights of Third Parties. If land proposed to be made available by the State is at the time subject to the rights of third parties, the licensee must acquire the rights of or obtain the consent of such third parties in compliance with the requirements of sections 35 and 36 before the licensee may enter onto the land.

### **Section 35 Acquisition of Rights in Land**

- 35.1 Duty to Acquire Rights in Land. If a mineral license holder requires the use of land not owned by the State to carry out license operations or activities under an ancillary activities agreement, it must first acquire the right to do so from the owners and occupants of the land.
- 35.2 When Acquisition of All Rights Required. A mineral license holder must acquire all of the rights of owners (other than the State) and occupants of land proposed to be used to carry out license operations or activities under an ancillary activities agreement:
- (a) if existing improvements on the land will be substantially removed or the surface of or utility of the land will be substantially altered as a consequence of its use by the license holder (without regard to the feasibility of restoration);
  - (b) if the land will be used for such purpose for more than three (3) years;
  - (c) if the land is at the time of acquisition used for residential purposes, and is required by the licensee for more than one (1) year;
  - (d) if the land is at the time of acquisition used for subsistence agricultural purpose, and is required by the licensee for more than one growing season, or
  - (e) if the use of the land by the licensee would create health or safety risks for subsequent users of the land, their animals, or the consumers of crops or animals subsequently raised on the land.
- 35.3 Duty to Acquire Other Land. In addition, a licensee must acquire all of the rights of the owners (other than the State) and occupants of land not actually proposed for use by the license holder in carrying out license operations or activities under an ancillary activities agreement, without regard to whether such land is within or without the holder's license area if
- (a) the land is or will be materially adversely affected as determined by the EPA or by the Minister by airborne or waterborne pollution or other environmental degradation resulting from proposed license operations, or

- (b) the land will have no safe and reasonably equivalent (or better) means of access after giving effect to the license holder's proposed use of adjacent lands, or
- (c) the continued use of the land by its owner or occupants could create significant health or safety risks to the occupants, their animals, or the consumers of crops or animals raised on the land.

35.4 Certain Exceptions. The following exceptions apply to the principles stated in sections 35.2 and 35.3.

- (a) Land use by the holder of a reconnaissance license, prospecting license or exploration license for temporary purposes, such as temporary access, temporary base camps, temporary drilling sites and the like requires the consent of and fair compensation to owners and occupants of the land but does not require the acquisition by the licensee of all rights in the land except in the case of pilot plant mining or bulk sampling.
- (b) In circumstances in which a licensee is otherwise required by section 35.2(b), (c) or (d) to acquire all rights in the land, an owner may elect not to sell its land and instead may lease the land and retain the residual rights to such land following the completion of the license holder's use thereof. The willingness of an owner to take back land is irrelevant to the question of whether a licensee has complied with its restoration, rehabilitation and reclamation obligations under this Law and other Applicable Law. An election by an owner under this section 35.4(b) does not reduce the obligations of the licensee to such owner under section 35.7, and any occupants of such land other than the owner shall continue to receive compensation under section 35.6 as if a total taking had occurred.

35.5 Acquisition for Temporary Use. In any case not mentioned in section 35.2 or 35.3, the license holder must acquire the rights to use the land for such temporary period as it may require from the owners and occupants of such land and comply with section 35.7.

35.6 Duties When License Holder Acquires All Rights in Land. Where the license holder is required to or chooses to acquire all of the rights in any land:

- (a) it must offer cash compensation to the owner and each occupant of the land for
  - (i) the fair market value of its interest in such land, including (x) in the case of any individual or family tilling the land the fair market value at harvesting of crops then growing on such land, (y) in the case of any person conducting a trade or business on the land the fair market value of such trade or business, and (z) in the case of each improvement on the land the fair market value thereof allocated between owners and occupants in accordance with their respective interests in the land and improvements, and
  - (ii) all loss or damage to any personal property of the owner and each occupant attributable to such taking; and
- (b) it must provide (i) each individual or family resident on the land, and (ii) each individual or family substantially dependent on subsistence agriculture conducted on the land or the conduct of a trade or business on the land, with the opportunity for resettlement in compliance with the requirements of section 36.

35.7 Duties When Temporary Rights in Land Acquired.

- (a) Where the license holder is permitted to acquire land for temporary use and there are individuals resident on the land, or individuals or families substantially dependent on subsistence agriculture conducted on the land or a trade or business conducted on the land, the license holder must:
  - (i) offer cash compensation sufficient to support such individuals or families for the period of the holder's use of the land, including (x) all relocation and return costs, (y) costs for temporary accommodations in equivalent housing with substantially equivalent access to water, education and commercial facilities and (z) a reasonable living allowance for the period of dislocation; and
  - (ii) must fully compensate such individuals or families (x) in cash for any loss of income not otherwise fully compensated pursuant to clause (i) of this section 35.7, (y) for all loss or damage to any improvements on the property during the period of the license holder's use of the land (or fully restore such property), and (z) for any loss in value of such land and property after giving effect to the compensation required by subclause (y) of this clause (ii).
- (b) In any other case in which the license holder is not required to acquire all of the rights in land the license holder must pay, to the owner of or the person or persons entitled to the use of the land, the fair market value of the use of the land for the term of use, and pay for or restore all loss or damage to any in cash improvements on the property during the period of the holder's use of the land.

35.8 Certain Exclusions If the holder of an exploration license (a) has filed a license extension application setting forth a proposed mining and production area under section 16.7, or has filed an application for a Class A mining license, a Class B mining license or a quarry license setting forth the land proposed to be included in the license area, and (b) has published a notice of the filing or application in the county seat of each county in which the relevant area is located setting forth the limits of the relevant area, then the compensation and resettlement requirements set forth in sections 35 and 36 are inapplicable to individuals or families who took up residence within the published area after the date of publication, and to individuals, families or entities that began cultivating land or conducting a trade or business on land within the published area after the date of publication. Any such notice shall clearly explain the limitation on compensation set forth in the preceding sentence.

35.9 Acquisition Procedure.

- (a) In acquiring rights in land, a license holder must ensure that its representatives:
  - (i) approach the owner or occupant in a language understood by the owner or occupant;
  - (ii) clearly disclose to the owner or occupant the payment obligations and, if applicable, resettlement obligations of the license holder under this section 35 and section 36; and
  - (iii) inform the owner or occupant of its rights under section 35.12.

- (b) If an individual or entity conducts land acquisition activities in anticipation of obtaining a mineral license under this Law, it must do so in accordance with this section 35.
- (c) Each license holder shall maintain records of transactions governed by this section 35 for at least three years, and shall submit annually in February a listing of all transactions under this section 35 occurring during the prior calendar year that were subject to the requirements of this section 35, identifying the property acquired, from whom it was acquired, the compensation paid (broken down in accordance with the compensation categories under section 35.6 or section 35.7, as applicable), the representative(s) of the license holder that arranged the acquisition, and the language in which the negotiations were conducted. The report shall be a public document.

35.10 Determination of Fair Market Value. The fair market value of rights in land shall be determined without regard to the use the licensee proposes to make of the land, and on the basis that no owner or occupant is under a duty to sell.

35.11 When Minister May Assist License Holder with Land Acquisition. If the holder of an exploration license, Class B mining license, quarry license or Class A mining license has been unable to secure necessary rights in land and the Minister determines that

- (a) the holder (i) has proceeded in accordance with this Law and the Regulations in dealing with the acquisition of rights in land, (ii) has the ability to pay any compensation required in a specific case, (iii) has already offered the owner or occupant, in writing, at least the compensation reasonably believed in good faith by the license holder to be the amount required by this Law and the Regulations, and (iv) has, if resettlement is necessary, offered in writing resettlement in compliance with section 36,
- (b) the compensation and any resettlement offered appears to be in full compliance with the compensation and resettlement requirements of this Law,
- (c) further delay would result in material delays in the overall progress of the holder's work program, and
- (d) the license holder has no reasonable alternatives to the land involved,

then the Minister may assist the license holder to take possession of land before a final determination of the required compensation in accordance with section 35.13.

***This section should be flagged when review copies of the law are given to the Ministry of Justice and the Ministry of Internal Affairs because the section implicitly gives the Minister the power to take possession of land over the objections of owners and occupants.***

35.12 Conduct of Appeals. The Minister shall promptly issue Regulations providing for the hearing of claims that a licensee has failed to comply with this section or section 36, or that an owner or occupant has refused compensation in the amounts required under this Law.

- (a) Such Regulations:
  - (i) shall provide for the appointment of hearing officers to hear such claims in accordance with the Liberia Administrative Procedure Act;
  - (ii) shall provide for the holding of hearings at the county level; and

- (iii) shall give the hearing officer the power and duty to make independent inquiry if in the good faith judgment of the hearing officer such action is necessary for a fair disposition of the proceeding.
- (b) If the compensation proposed by a license holder prior to a proceeding provided for in this section 35.12 is determined in such proceeding to have been less than 80% of the compensation required by this section 35, the license holder shall pay the owner or occupant, in addition to the compensation required by this section 35, an amount equal to treble the amount of such shortfall, plus all costs incurred by or on behalf of the applicant in connection with the proceeding.
- (c) If the issue is the adequacy of resettlement and the license holder is determined to have furnished substandard resettlement, the license holder shall bear the costs or providing resettlement in accordance with the requirements of section 36.
- (d) In any proceeding governed by this section 35.12:
  - (i) any individual reasonably literate in the English language or organization may act on behalf of an owner or occupant but its compensation for so acting shall be limited to recovery from any award of twice its out-of-pocket costs; and
  - (ii) the license holder has the burden of demonstrating that it has complied in all material respects with the requirements of this section 35, and with section 36 if resettlement is involved.
- (e) Pending such Regulations the Minister shall appoint and the Ministry shall pay for an independent third party to hear any appeals or claims and recommend a disposition to the Minister. Absent manifest error, the Minister shall adopt the recommended disposition as the decision of the Minister. Either party shall have such right of further appeal from the decision of the Minister as is provided in the Liberia Administrative Procedure Act for appeal of an administrative decision.

## **Section 36 Resettlement**

- 36.1 When Resettlement Action Plan Required. Whenever resettlement is unavoidable or an offer of resettlement is mandated, the social management plan must include a resettlement action plan that:
- (a) is prepared in consultation with the impacted population and affected communities;
  - (b) identifies actions to be undertaken to ensure that affected persons are fairly treated, including all terms of relocation, compensation and quality of life;
  - (c) demonstrates compliance with the requirements set forth in section 36.2;
  - (d) provides housing that meets any minimum standards for housing accommodation established by any ministry or agency of the State having jurisdiction, and in any case no less than the standard of housing previously occupied by the affected individual or family;
  - (e) ensures that formalized systems are in place to address grievances of affected persons;
  - (f) ensures that sufficient funding is available for the implementation of the plan and the required compensation of resettled persons, including full

compensation for all lost property (including growing crops assuming they would be harvested at maturity); and

- (g) provides clear pathways for delivering funds to affected communities, families and individuals in ways that such funds will be used to reestablish productive livelihoods and healthy family and social structures.

36.2 Resettlement of Individuals or Families. An individual or family entitled or required to be offered resettlement

- (a) must be offered resettlement in an area
  - (i) that offers residential land, water availability, employment opportunities, access to shops and stores, access to health, education and other public facilities or services and access to the wider world that in each case are qualitatively and quantitatively substantially the same as (or better than) the conditions at the location from which such individual or family is being relocated,
  - (ii) in the case of subsistence or other farmers, offers accessible land at least as suitable for the mode of farming previously conducted, including soil quality, water availability and access to supplies and markets, and
  - (iii) the location of which is as close as is reasonably practical (given the duty to satisfy subclauses (i) and (ii) of this section 36.2(a)) to the location from which the individual or family was relocated, and
- (b) is entitled to be compensated as provided in section 35.

36.3 Satisfaction of Resettlement Standard. The fact that a proposed resettlement location satisfies the requirements of section 32.2 must be established in the relevant social management plan.

### **Section 37 Health and Safety**

37.1 Mining Health and Safety Regulations. The Minister shall prepare in consultation with the Ministry of Health and Social Welfare and the Ministry of Labor detailed health and safety Regulations and procedures specific to mineral license operations unique to mining or carried out within or adjacent to a license area, including the rights and obligations of mineral license holders and workers.

- (a) Pending the issuance of such Regulations:
  - (i) a license holder shall ensure that operations under its license are carried out in a safe and prudent manner and in accordance with all applicable rules and regulations of the Ministry, the Ministry of Health and Social Welfare, the Ministry of Labor and the EPA; and
  - (ii) the holder of a Class A mining license, and, in the case of subclauses (1) and (2) of this clause (ii) the holder of a Class B mining license or a quarry license, shall, at a minimum:
    - (1) provide its employees and contractors with clean and accessible toilet and, where the nature of the work makes it appropriate, shower facilities at its workplaces;
    - (2) ensure a convenient and uninterrupted supply of clean and safe drinking water for its employees and contractors;

- (3) ensure access to adequate housing for employees and resident spouses and dependent children living within or immediately adjacent to the approved production area with flush toilet, sink and shower in each house and separate bedrooms for parents and children;
  - (4) on commencement of mine development operations, ensure that 24 hour emergency care medical treatment is available at each production area; and
  - (5) provide to its employees in the production area (and their resident spouses and dependent children) health services including the “Basic Package of Health Services” for primary healthcare as established by the Ministry of Health and Social Welfare in 2008 as modified and developed over time.
- (b) Any accident to a person in connection with license operations rendering the person unable to work for more than 24 hours, and any accident to property involving an estimated cost to remedy of more than five hundred US dollars (US\$500) (which amount may be adjusted upward or downwards by Regulations to reflect the different circumstances of different license types), shall be promptly reported to the Minister at the nearest office of the Ministry, and as may otherwise be required by Applicable Law.
- (c) If an accident results in serious injury or death, the condition of the premises where the accident occurred shall be preserved without alteration (except to the extent necessary to prevent further injury or further material damage to property) for investigation by the Ministry. This duty continues until the Minister is satisfied with the investigation or has given permission to alter the condition of the site.

37.2 When Minister May Take Corrective Action.

- (a) If a license holder has received notice from the Minister or other authorized officer of the Ministry of
- (i) a serious risk to life or of a serious risk of damage to the property of others, or
  - (ii) a material violation of any provision of Applicable Law with respect to health, safety or the environment,
- and thereafter fails to take prompt corrective action, the Minister may order the stoppage of operations and may directly take or cause to be taken such actions as appear necessary to correct such situation, in either case without further notice to the holder if the Minister has reasonably concluded that there is serious risk of injury or death.
- (b) The license holder shall be liable for all expenses incurred by or on behalf of the Ministry in connection with any action taken under clause (a) of this section 37.2.

37.3 Protection of Water Supplies. No mineral license holder may conduct license operations in a manner that adversely affects the quality of water used for drinking or irrigation purposes unless a substitute source of at least equal quality, quantity and convenience is provided.

37.4 Prevention and Elimination of Hazards. A mineral license holder shall fence or otherwise secure all pits and other openings, hazardous materials or waste dumps, overburden, tailings or water retention areas or other hazards created by or on behalf of the licensee that could endanger people, livestock, wildlife, crops or any lawful activity of any owner or occupant of the license land or adjacent land. Upon any suspension of operations at or closing of a mine, or abandonment of any exploration area, the holder shall ensure compliance with the foregoing requirements and take any other actions appropriate to ensure that the area is safe.

37.5 Restrictions on Use of Explosives. Holders of exploration licenses, Class B mining licenses, quarry licenses and Class A mining licenses shall apply to the Minister for permission to import, export, buy, sell, manufacture, store, handle, purchase, use, dispose of or otherwise deal in or with explosives. The Minister may grant such permission only after:

- (a) consultation with the Minister of Defense and the Minister of Justice, and
- (b) an affirmative determination by the Minister that the license holder has demonstrated its commitment and capacity to store, handle, use and dispose of explosive materials in a secure, safe and environmentally sound manner.

The Minister, with the approval of the Minister of Defense and the Minister of Justice, may issue Regulations setting forth the method of applying, the requirements to be satisfied in order to receive permission, and the manner in which explosives are to be transported, stored, used and disposed of.

Holders of reconnaissance licenses, prospecting licenses and Class C mining licenses are not allowed to import, export, buy, sell, manufacture, store, handle, purchase, use, dispose of or otherwise deal in or with explosives.

37.6 Mercury, Cyanide and Other Toxic Chemicals or Materials.

- (a) The use of mercury or cyanide in any form in connection with license operations is prohibited except that, if specifically approved by the Minister and the EPA in the context of the grant of the relevant license and if not otherwise prohibited by Applicable Law, the holder of a Class A mining license or a Class B mining license may use cyanide to recover minerals through a chemical leaching process from previously extracted tailings or other waste material, or from newly extracted material.
- (b) The holder of a Class A mining license or a Class B mining license may use sulfuric acid or other toxic chemicals or materials not subject to clause (a) of this section 37.6 in extracting or processing minerals only if
  - (i) their use is not otherwise prohibited by Applicable Law,
  - (ii) such chemicals or materials are identified in such holder's license application; and
  - (iii) their use is specifically authorized by the terms of the license.
- (c) If any such license holder applies for the right to add to its existing license operations a chemical extraction or recovery process referred to in section 37.6(a) or (b) that it would have been permitted to include in its original license application, the application shall be dealt with by the Ministry as though it is an application for a new mining license limited to the extraction of minerals by such process.

- (d) The Minister may, after consultation with the EPA and the Ministry of Health and Social Welfare, issue Regulations (i) identifying other chemicals or other materials as being toxic and therefore subject to section 37.6(b), and (ii) setting out conditions for the importing, exporting, buying, selling, manufacturing, storing, handling, purchasing, use, disposal of or otherwise dealing in or with any chemicals or other materials subject to the requirements of this section 37.6.

### **Section 38 Security**

38.1 Provision of Security Services. A holder of an exploration license, Class B mining license, quarry license or Class A mining license may directly or by contract with a responsible provider of security services establish asset and employee security services in each license area and in the immediate vicinity of other locations at which assets of the license used in the conduct of license operations or ancillary activities are located. All security services shall be conducted in accordance with Applicable Laws and regulations.

38.2 Conduct of Security Services. Any such security services shall be conducted in accordance with the most recent published version of the “Voluntary Principles on Security and Human Rights” (see <https://www.voluntaryprinciples.org>). The licensee is fully responsible for the compliance of security personnel, even if employed by an outside contractor, with all requirements of Applicable Law. If any person is detained by a licensee’s security force, the Liberian National Police (“LNP”) must be notified immediately, and the person detained must be handed over to the LNP as soon as practical and in no case later than 24 hours from the time of detention. Security personnel may not use unreasonable force in detaining persons, and any detention facilities must be adequately ventilated, reasonably clean and with access to sanitary toilet facilities and must be approved by the Minister of Justice prior to commencement of operation of the detention facilities.

A licensee must report monthly to the Minister of Justice (with a copy to the Minister) on the activities of any security service provided or retained by it including numbers of persons detained, the reason for, the place of and the period of any detention, and the disposition of each detained person. Each such report shall be certified by an authorized representative of the Company as being true and correct.

### **Section 39 Personnel and Training**

39.1 General. A holder of a mineral right shall have the right to hire and dismiss the services of its employees, subject to this Law, the Regulations and the Decent Work Act 2015 of the Republic of Liberia.

39.2 Prohibition of Certain Non-Liberian and Child Labor. It shall be an offense for any license holder or contractor or subcontractor employed by such holder to employ or hire (a) any non-Liberian citizen as an unskilled laborer, or (b) any child or other person in contravention of the Liberia Decent Work Act 2015.

39.3 Hiring Requirements Applicable to Certain Mining License Holders. A holder of a Class A mining license, a Class B mining license, a quarry license or an exploration license and its contractors and subcontractors:

- (a) shall ensure that opportunities are given to qualified Liberian citizens for employment in various levels of its operations under such license, and

- (b) in the case of a foreign-Controlled licensee, may not commence operations within its license area until it has provided a comprehensive plan reasonably satisfactory to the Minister and the Ministry of Labor to train Liberian citizens in skills required for employment in, supervisory, managerial and executive positions and in the technologies and skilled trades involved in the development and operation of operations under its license or under any related MDA or ancillary activities agreement.

#### **Section 40 Local Content Requirements**

- 40.1 Liberian Preference. A license holder and its contractors and subcontractors shall give preference to enterprises, goods and services provided or supplied by Liberian citizens or business entities Controlled by Liberian citizens, where conditions of price, quality, delivery time, service and terms of payment are equivalent to those from other providers or suppliers, and shall comply with any stricter provisions of Applicable Law relating to local content.
- 40.2 Duty of Class A License Holder. For this purpose, a Class A license holder shall organize, and shall require each of its contractors and major subcontractors to organize, its procurement procedures to give meaningful opportunity to Liberians when purchasing goods and services related to its mining operations (including for such purposes all related processing, transport and similar operations conducted by the holder or any of its affiliates with respect to minerals extracted under such license).
- 40.3 Duty of Class B and Quarry License Holders. The holder of a Class B mining license or a quarry license and its contractors may purchase goods or services from non-Liberian sources only after the holder files with the Ministry a written statement (labelled a “Section 40.3 statement”) that it or they have been unable to source such goods and services from Liberian sources, summarizing the efforts made to identify Liberian sources.
- 40.4 Project Linkage Plan Requirement. If an applicant for the grant or extension of a Class A mining license, a Class B mining license or a quarry license is required to deliver a favorable feasibility study in connection with its application, its mine development plan must include a project linkage plan that:
  - (a) identifies the potential for local suppliers, contractors and service providers to provide in support of mining operations goods having value-added in Liberia and services performed by Liberians (including for such purposes all related processing, transport and similar operations conducted by the holder or any of its affiliates with respect to minerals extracted under such license);
  - (b) identifies key interventions to develop the capacity of Liberian-owned enterprises to deliver goods and services to the mining sector within and without Liberia;
  - (c) includes a local project purchase plan applicable to the holder, its contractors and major subcontractors that complies with the requirements of this section 40 with clear milestones identified in terms of an increasing percentage of local purchases of goods and services and providing for bidding preferences for local suppliers, contractors and service providers (provided that such persons offer quality, terms, delivery, service, quantity and price at least comparable to those obtainable from other sources); and
  - (d) sets forth reasonable goals within the context of such plan, provides procedures for regular monitoring and reporting of the holder’s performance

against such plan, and establishes reasonable economic sanctions for failures to achieve such goals.

40.5 Regulations May Extend the Requirements of Section 40 The Minister may by Regulation

- (a) prescribe additional methods for achieving the goals of this section,
- (b) conform the requirements of section 40.3 to any more general local content enhancement requirements generally applicable to businesses operating in Liberia or
- (c) subject other mineral license holders to some or all of the requirements set forth in either or both of section 40.2 and 40.3.

## PART VIII. OTHER PROVISIONS

### Section 41 Regulation of Geothermal Deposits and Underground Waters

41.1 Power to Issue Regulations. At such time as the Minister shall determine it is desirable to promote the efficient extraction or use of geothermal deposits or surface and/or underground waters the Minister may issue Regulations governing the conduct of such activities and establishing within the Ministry an organizational structure to implement such Regulations.

41.2 Purposes of Regulations. The purposes of Regulations issued under this section include

- (a) identification and classification of water and geothermal resources;
- (b) efficient utilization of water and geothermal resources;
- (c) protection of the quality of water and geothermal resources; and
- (d) ensuring equitable access to water resources.

41.3 Governing Principles. The Regulations shall be governed by the following principles:

- (a) The Regulations may not without the approval of the Legislature apply to the extraction and use of underground or surface waters by individuals for their domestic household use or for the conduct of subsistence agriculture and not for resale.
- (b) With respect to other extraction and use or marketing of such resources, the Regulations may limit or prohibit the extraction and use of such resources without a license, set forth terms on which such a license may be obtained, define who shall be eligible to hold such a license, distinguish between licenses for exploration for such resources and for exploitation of such resources, create different license types based on the resource proposed to be exploited or the proposed scope or method of exploration or exploitation, define permitted methods of extraction or use, and regulate transfers of such licenses in the manner provided in section 25.
- (c) Without limitation of section 41.3(b), licenses issued under this section shall control, regulate or provide the following:
  - (i) the volume or calorific content limit beyond which the holder may not extract the resource involved;

- (ii) if such resource is utilized in a production process by the licensee, the manner in which such resource, post-use, may be disposed of in light of the contaminants that it may contain;
  - (iii) re-injection requirements in the case of geothermal resources; and
  - (iv) define the area within which the licensee may conduct extraction and/or the depth or depths from which the resource may be extracted.
- (d) Regulations adopted under the authority of this section shall take into account the importance of an affordable, reliable and sanitary supply of water to homes and small businesses.
- (e) Unless the Minister, the Executive Director of the EPA and the Minister of Health have reached an agreement to the contrary, any individual or entity exploring for or exploiting geothermal or water resources remains responsible for compliance with all requirements of the EPA and the Ministry of Health with respect to such activities.
- (f) Regulations pursuant to this section 41 may incorporate other principles set forth in this Law governing the issuance of mineral licenses and the conduct of operations under mineral licenses if the Minister determines after consultation with the EPA and the Ministry of Health that the public interest would be served by such actions.

41.4 Required Content of Environmental Impact Assessments and Environmental Management Plans. Even if Regulations have not been adopted under this section 41, if a mining license granted under this Law or a related ancillary activities agreement provides for the use of geothermal or water resources in connection with mineral extraction or processing operations each environmental impact assessment and environmental management plan required under the Law must consider the environmental impact of the acquisition of such resources and the disposition of any waste water attributed to such operations.

## **Section 42 Fees and Charges; Surface Rent**

- 42.1 Establishment of Fees and Charges. The Minister, after consultation with the Minister of Finance and Development Planning, shall establish by Regulation the fees payable in connection with
- (a) the filing and processing of applications for licenses under this Law;
  - (b) the filing and processing of applications for amendments or modifications to, or extension of licenses under this Law;
  - (c) the processing of a request for approval of a Transfer or Change of Control, or approval of the granting or enforcement of a Mortgage, with respect to a license under this Law;
  - (d) annual fees payable during the term of a license issued under this Law;
  - (e) access to Geological Data held by the Liberia Geological Survey, provided that fees shall not be charged for public access to generalized geologic, mineral and water resource mapping information.
  - (f) obtaining a Kimberley Process Certificate under section 52;
  - (g) surface rents for holders of prospecting licenses, Class C mining licenses, Class B mining licenses, and quarry licenses

- (h) licenses granted in section 41 may require the payment of fees payable to the Consolidated Account established under the Liberia Revenue Code based on the usage by the licensee of geothermal or water resources;

***Clause (h) added because fees for the usage of water or geothermal resources are more like royalties than normal administrative handling fees, and should be treated in the same manner as tax or royalty receipts.***

- (i) fees assessable for late payments or for failure to make required filings (such as financial or operating reports or Geological Data) when due; and
- (j) any other matter under this Law pursuant to which the Ministry is authorized to assess a fee or a charge.

All such fees and charges shall be reasonably related to the achievement of the goals of this Law and the ability of different classes of license applicants to pay, and shall not discriminate among similarly situated persons. Fees and charges for the reproduction or copying of documents do not require promulgation by Regulation so long as they approximate the costs reasonably associated with such reproduction or copying. A schedule of all fees and charges imposed pursuant to this Law, including fees and charges for the reproduction or copying of documents shall be available to the public in each office of the Ministry.

***The last two sentences of the above paragraph were added to ensure that simple copying fees do not require Regulations, and to make it clear that a schedule of such fees as well as all other fees and charges are made available to the public***

Until changed by Regulation, fees and charges identified in Schedule 1 to this Law shall remain at the levels set forth in such Schedule 1, and any other fees and charges that have been published by the Ministry and are in effect on the effective date of this Law remain in effect at the published levels. Surface rents for the holders of exploration licenses and Class A mining licenses are set forth in section 704(b)(i) of the Revenue Code.

- 42.2 Certain Fees Not Refundable or Eligible for Proration. Fees or charges imposed as a condition to the filing or processing of an application for a license or any action with respect to an existing license are not refundable in the case of the denial of the application or request. Fees that accrue with the passage of time (such as payments for surface rights) and are required to be paid in advance are not refundable, even on a pro rata basis, as a result of the surrender in whole or in part, termination or revocation of a license or other inability of a licensee to receive the full benefit of a payment.
- 42.3 Fees and Charges not Referred to in Section 42.1. The Minister may pursuant to Regulations adopted after consultation with the Minister of Finance and Development Planning and the Minister of Justice impose fees and charges other than those referred to in section 42.1 with respect to the taking of actions by the Ministry at the request of a license holder (which fees and charges shall be reasonably related to costs incurred by the Ministry in reviewing such requests and taking such actions).
- 42.4 Where Payments Made. All payments on account of such fees and charges shall be made as required or permitted from time to time under the Public Finance Management Act or other Applicable Law. A receipt issued by the relevant authority indicating the amount of the payment and the stated purposes of the payment is prima facie evidence that the payment in such amount has been made.

- 42.5 Enforceability of Payment Obligations. A fee, charge, surface rent, or other payment that is payable by a holder of a license issued under this Law shall be considered as a civil debt owed to the State and where not paid by the holder, is recoverable by the State in a court of the Republic of Liberia, subject to any rights to arbitration under the terms of the holder’s license or this Law if the facts relevant to the determination of the amount of the payment are in dispute.

**Section 43 Delivery of Geological Data and Related Geological Information**

- 43.1 Scope of Section. For the purposes of this section 43 the generic terms “holder of a license” and “licensee” refer only to the holders of reconnaissance licenses, exploration licenses, Class B mining licenses, quarry licenses, Class A mining license and licenses issued for subsurface extraction of water or geothermal energy. If the Minister determines that it would be in the best interests of Liberia to do so, the Minister may issue Regulations not inconsistent with the principles of this section 43 requiring the delivery of Geological Data by the holders of prospecting licenses, Class C mining licenses and/or other licenses issued under section 41, and limiting the use by such holders of such data in the manner set forth in this Section 43.
- 43.2 Geological Data Property of the State. All Geological Data relating to Liberia obtained by a licensee, including the results of any processing of such data (but not the technology used in such processing), is the property of the State. The holder of a license shall maintain the confidentiality of all Geological Data and shall not disclose Geological Data to a third party without the written consent of the Minister, except as may be provided in this Law, the Regulations or the relevant license. Breach of this requirement by a licensee constitutes an offense under this Law.
- 43.3 Rights of License Holder. Notwithstanding section 43.2, the holder of a license may use Geological Data obtained by it in the conduct of license activities or from the Liberia Geological Survey and may make such data available to an affiliate of the holder or its affiliate’s advisors, consultants and contractors and to any transferee of the license permitted under this Law that is an affiliate of the holder, in each case for use in furtherance of the holder’s operations under its license and on condition that the recipient undertakes to maintain the confidentiality of such data.
- 43.4 Duty to Turn Over Geological Data. All Geological Data acquired by a license holder or resulting from the processing of Geological Data by or on behalf of such holder, together with access to such tools as may be reasonably necessary to utilize the processed Geological Data, shall be provided by a licensee to the Liberia Geological Survey as and when required by the Regulations. Pending the adoption of such Regulations:
- (a) the delivery requirements for Geological Data other than drill cores and other physical samples obtained by the holders of exploration licenses or mining licenses shall be as set forth in the Existing Exploration Regulations;
  - (b) drill cores and other physical samples obtained by holders of exploration licenses or mining licenses shall be held and dealt with by the licensee as set forth in the Existing Exploration Regulations; and
  - (c) the delivery requirements for Geological Data obtained by the holders of reconnaissance licenses shall be as set forth in the Existing Exploration Regulations for aerial reconnaissance data, and the terms, if any, upon which the holder of a reconnaissance license may market such data shall be as agreed by the Ministry and the license holder at the time of issuance of the license.

43.5 Geological Data Confidentiality Requirements. Geological Data obtained by the Liberia Geological Survey from a license holder shall be kept confidential as follows;

- (a) Geological Data obtained by the Liberia Geological Survey from the holder of a reconnaissance license or exploration license shall be kept confidential by the Liberia Geological Survey until one hundred eighty (180) days after the end of the license term with respect to the area from which such information was obtained, subject to clauses (b) and (c) of this section 43.5.
- (b) A reconnaissance license may permit the holder thereof, during a period of up to five years after the end of the license term, to license Geological Data obtained pursuant to such reconnaissance license to applicants for or holders of exploration licenses or mining licenses. Any such data license shall be for a term of not more than five years, and shall expire earlier if the holder of such data license has its application for an exploration or a mining license for the area covered by such data rejected. The proceeds from any such data licenses shall be shared between the State and the reconnaissance licensee on the terms set forth in the license.
- (c) In any such case, the ownership of the data is retained by the State, the reconnaissance license holder, the data licensee and the Liberian Geological Survey shall maintain the confidentiality of such data for so long as clause (a) is applicable to such data, and each of the reconnaissance license holder and the data license holder must return or destroy all such data at the expiration of such confidentiality period.
- (d) If the holder of a reconnaissance license or exploration license has applied for an exploration license or a mining license, as the case may be, within the period in which it has a priority right to apply for such a license pursuant to this Law, the Liberia Geological Survey shall maintain the confidentiality of the Geological Data delivered by such holder with regard to the area covered by the license application:
  - (i) until the application is withdrawn or rejected, or
  - (ii) if the license is granted, for a period of five years after the effective date of the license.

***The purpose of clauses (b) through (d) is to encourage reconnaissance by creating the possibility that a reconnaissance license holder could license data to a mining or exploration company, on the basis that the proceeds are shared with the State in a manner similar to that prevailing in the oil industry.***

- (e) Geological Data obtained by the Liberia Geological Survey from the holder of a mining license shall be kept confidential by the Liberia Geological Survey for the duration of the license term for the area with respect to which such information was obtained, or for five years, whichever is lesser.

43.6 Right of Licensee to Retain Copies of Data During Term of License. Copies of Geological Data required to be delivered to the Liberia Geological Survey by this section 43 upon the partial surrender of a license area may be retained by a licensee and used in connection with operations concerning the remaining area of its license. All such retained copies shall be destroyed or turned over at such time as the entity no longer holds a license under this Law and the licensee shall confirm to the Minister that it has done so.

## **Section 44 Reporting and Recordkeeping Requirements.**

44.1 Minimum Reporting Requirements. The Minister may prescribe in the Regulations financial and operating reporting requirements, as to substance and as to form, for the holders of mineral licenses issued under this Law.

- (a) The requirements for the holders of exploration licenses shall include the provision of annual audited financial statements, quarterly interim financial statements, and quarterly and annual reports as to the results of operations, together with annual and final environmental audits, which in each case shall be no less extensive than those required under the Existing Exploration Regulations.
- (b) The requirements for the holders of Class B mining licenses, quarry licenses and Class A mining licenses shall include at least:
  - (i) provision of annual audited financial statements, quarterly interim financial statements, and monthly (for Class A mining licenses), quarterly and annual reports as to the results of operations;
  - (ii) provision of information on a quarterly basis (monthly for Class B mining licenses covering any precious mineral and for Class A mining licenses) for individual sales of minerals and processed mineral products, including the number of units and the price per unit for each sale, and the computation of royalties;
  - (iii) if the purchaser of minerals or processed mineral products is an affiliate of the holder, information as to the identity of the purchaser and its relationship to the holder;
  - (iv) in the case of Class A mining licenses, annual and final environmental audits and, in the case of Class B mining licenses and quarry licenses, biannual and final environmental audits, in each case no less extensive than those required under the Existing Exploration Regulations; and
  - (v) such other information as may be of use to the Ministry or the Ministry of Financial and Development Planning in assessing the impact of transfer pricing upon taxable income.
- (c) The requirements for the holders of prospecting licenses and Class C mining licenses shall reflect the smaller size and lower capacity of the holders of such licenses. However, the holder of a Class C mining license shall report at least semi-annually as to types and quantities of minerals sold, the identity and licensed broker or dealer number of each purchaser of precious minerals, and the sales price for each precious mineral transaction.
- (d) The reporting requirements for all mineral license holders that are not individuals shall include reports at least annually as to (i) the identity of directors and officers (or individuals with comparable responsibilities), material shareholders, material beneficial owners and Controlling persons or groups, and (ii) changes in the identity of such persons or groups since the effective date of the previous report submitted under this clause (d). The Regulations may define “material” for the purposes of this paragraph but must in any event be at least as expansive as the requirements then in effect for such disclosure under the international Extractive Industries Transparency Initiative.

- 44.2 Reporting Pending Regulations. Pending the promulgation of relevant Regulations, license holders shall seek in good faith to comply with the reporting principles set forth in sections 44.1(a) and clauses (i) through (iv) of section 44.1(b), and an exploration license holder shall also comply with all additional reporting requirements of the Existing Exploration Regulations
- 44.3 Maintenance of Financial Books and Records; Accounting Principles. The holder of an exploration license, a Class B mining license, a quarry license, or a Class A mining license must maintain its financial books and records with respect to its operations under such license in accordance with (i) generally accepted accounting principles in the United States or (ii) international financial reporting standards as applied in the United Kingdom or (iii) another jurisdiction with internationally accepted accounting principles reasonably satisfactory to the Minister. The holders of quarry licenses, Class B mining licenses may keep their financial books and records with respect to their license operations in accordance with generally accepted accounting principles in Liberia unless otherwise required by Regulations.
- 44.4 Certification of Reports. All reports required under this section 44 or the Regulations adopted pursuant thereto delivered by or on behalf of an entity holding a mineral license shall be certified as follows:
- (a) if consisting of financial statements or reports of the financial results of operations, by the chief financial officer of the entity, or
  - (b) if consisting of other information, by the chief executive officer or chief operating officer of the entity,
- as being to his or her knowledge after reasonable investigation true and correct in all material respects.
- All reports required under this section 44 or the Regulations adopted pursuant thereto delivered on behalf of an individual holding a mineral license shall be certified by the individual holding such license as being to his or her knowledge after reasonable investigation true and correct in all material respects.
- 44.5 Reports from Brokers and Dealers. The reporting requirements for the holder of a broker license are specified in section 49 and for the holder of a dealer license are specified in section 50. The provisions of section 44.4 are applicable to reports required to be filed by individuals and entities under section 49 or 50.
- 44.6 Compliance with Revenue Code Requirements. Each holder of a license issued under this Law shall comply with all reporting and recordkeeping requirements of the Revenue Code and shall maintain its books and accounts for tax purposes in accordance with the requirements of the Revenue Code.
- 44.7 Filing of Reports. Unless otherwise provided by Regulations or the terms of a specific license, all reports required from a holder of mineral licenses shall initially be filed with the unit of the Ministry responsible for the management of the Mineral Cadastre System, which shall record the delivery of such report and pass it to the unit of the Ministry responsible for the management of such license.

## **Section 45 Cooperation with the Liberia Extractive Industries Transparency Initiative**

All holders of licenses issued under this Law, including holders of broker or dealer licenses, shall engage with and comply in full with the applicable disclosure requirements of LEITI and the directives and guidelines approved by the LEITI multi-

stakeholder steering group without regard to whether such requirements, directives or guidelines are expressly applicable to the terms and conditions of each such license. In particular, a holder shall disclose to the LEITI reconcilers and to the Minister on an accurate and timely basis and in the required manner all payments made to the State under their licenses and under any related MDA or ancillary activities agreement, including any ministry or agency of the State or any State-owned company, and shall provide said reconcilers and the Minister with such information and documents as the reconcilers may reasonably require for the purposes of investigating any discrepancies and preparing the LEITI reports.

#### **Section 46 Indemnity of the State**

A holder of a mineral license or party to a MDA or ancillary activities agreement shall at all times keep the State indemnified against all actions, claims and demands that may be brought or made against the State by reason of anything done by the holder in the conduct of its operations under such license, MDA or ancillary activities agreement.

#### **Section 47 Requirement for Ancillary Activities Agreement**

47.1 When Ancillary Activities Agreement Required. The following activities (“ancillary activities”) carried out by the holder of a mining license are subject to separate authorization and requirements, and must be documented by one or more separate ancillary activities agreements, whether conducted within or without the license area:

- (a) construction and operation of electricity generating and transmission facilities, including hydroelectric facilities;
- (b) construction and operation, other than solely within the license area, of facilities to supply water for use in the conduct of mining or beneficiation activities;
- (c) construction and operation of communications and transportation infrastructure other than for use solely within the license area or between adjacent facilities and the license area;
- (d) construction and operation of port infrastructure;
- (e) construction and operation of refining, smelting or similar facilities, and of beneficiation facilities not located on or adjacent to the license area;
- (f) construction and operation of tailings dams; and
- (e) such other related activities as may be prescribed by Regulation.

47.2 Exceptions. Notwithstanding the requirements of section 47.1, the requirement of an ancillary activities agreement may be waived by the Minister if the Minister reasonably determines after opportunity for public comment:

- (a) that neither the public nor the State has any significant interest in the conduct of the activity involved or the use or operation of the facilities constructed in connection therewith;
- (b) that the potential environmental and social impact of the construction and operation of the facilities involved is insignificant in comparison to the impact of the other activities contemplated by the license holder; and

- (c) that the activity in question is fully reflected in the license holder’s social and environmental impact assessments and management plans, and its mine development plan and feasibility study (if the latter is required).

A separate ancillary activities agreement is not required if an MDA existing on the effective date of this Law sets forth the circumstances and manner in which such ancillary activity may be carried out by the licensee but if the licensee has not yet undertaken such ancillary activity, then prior to commencing construction of any facilities associated with such ancillary activity, the Minister must find that the proposed activities will comply with the requirements of section 47.3(a)(i) and (ii).

47.3 Certain Requirements for Ancillary Activities Agreements.

- (a) Activities conducted under an ancillary activities agreement must
  - (i) be an integral part of any feasibility study required for the grant of a mining license if the activities are included in the initial development plan for the mine, or a separate favorable feasibility study appropriate for the contemplated project scope; and
  - (ii) be subject to separate environmental impact assessments, social impact assessments, environmental management plans and social management plans in a detail and scope appropriate to the nature of the facilities concerned, including appropriate closure management plans and resettlement action plans unless such activities have been fully taken into account in the respective assessments and plans submitted as part of the application for the underlying mining license.
- (b) An ancillary activities agreement must identify the mineral license supported by the activities to be conducted thereunder, its term must be co-extensive with the term of such license unless the activity will not be utilized in the operations of the license after a lesser period of time, and the existence of the agreement must be noted in the record of such license maintained in the Mineral Cadastre System. If a mining license is subject to an MDA, any related ancillary activities agreement should be constituted as an annex to the MDA and if so constituted, may incorporate by reference the definitions contained in and other appropriate terms of such MDA. An ancillary activities agreement is a public document, whether it is an annex to a MDA or a free-standing agreement.

47.4 State Asset Acquisition Rights. An ancillary activities agreement providing for the construction and operation of fixed facilities must provide for the asset acquisition rights of the State referred to in section 28.6. An ancillary activities agreement providing for the construction of infrastructure suitable for utilization by others after the cessation of mine operations shall be designed for a service life at least as long as would be expected in good international practice if such facilities were being constructed as public infrastructure, and shall be constructed and maintained in accordance with good international practice.

47.5 Third Party Usage Rights in Certain Cases.

- (a) The Minister shall condition approval of an ancillary activities agreement covering the development of a railway, heavy-haul roadway or port facilities constructed by it for the movement of minerals or mineral products outside of its license area on the agreement of the license holder that the use of excess capacity of such facilities will be made available (or may be expanded to make

such capacity. available) to other users. Any agreement shall provide (i) for the payment by any third party user of a fair share of the operating costs, and any then unrecovered capital costs with respect to such facilities, and a fair share of any additional capital costs attributable to its use of such facilities, (ii) for the scheduling of any required expansion of such facilities to minimize delays and disruptions to the operations of the license holder, an (iii) for the compensation of the license holder for unavoidable material delays and disruption, and

- (b) The Minister shall condition approval of an ancillary activities agreement covering the development of the development of an electric generating facility on the agreement of the license holder that such facility shall be designed and operated so that a significant portion of its output is made available to the State at cost (including a reasonable allowance for the cost of capital) for general public use, provided that an appropriate State entity has contracted with the license holder for the purchase of such power as and when it becomes available.

47.6 Ancillary Activities Agreement not a Mineral License. An ancillary activities agreement is not a mineral license and cannot confer any rights for which a mineral license is required under this Law.

#### **Section 48    Discovery of Cultural or Archeological Relics**

48.1 Procedure on Discovery of Relics. If a mineral license holder discovers cultural or archeological relics that would be disturbed or made inaccessible by the work proposed to be carried out by the holder, and if the licensing process did not result in the identification of such relics and/or the establishment of a plan for dealing with such relics through the environmental impact assessment, the social impact assessment or another plan approved by the appropriate governmental authority, the holder must immediately notify the Minister and the Minister of Internal Affairs. The Minister of Internal Affairs shall in turn notify any other relevant Government agency.

- (a) The holder shall not move or relocate any such cultural or archeological relics and shall safeguard such items on behalf of the State.
- (b) The holder shall immediately suspend any operations that could disturb or endanger such relics until the Minister of Internal Affairs has caused the removal of the relics or has given permission for resumption of those operations.

48.2 Impact of Requirement to Suspend Operations. If any suspension of operations required by this section 48 continues for more than 30 days, then the holder is entitled to an extension in the term of its license sufficient to offset any delays in license activities attributable to such suspension that the holder could not with reasonable effort under the circumstances have avoided. The holder has the burden of establishing that the condition for extension of the license term is satisfied.

48.3 Rights of Licensee on Failure of Ministry to Act. If the Ministry of Internal Affairs or its designee has taken no action to remove such relics within ninety (90) days after notice of discovery of relics given by the holder of a license pursuant to section 48.1, the holder may give notice to the Minister of Internal Affairs of its intention to remove such relics, together with as much of the undisturbed immediately surrounding earth as is practicable, preserve them in a safe location, and continue with its development or extraction program. The holder may take such action if the

Ministry of Internal Affairs or its designee has not commenced such removal within thirty (30) days after the giving of such notice, or if such removal is not completed within one hundred eighty (180) days of the commencement of removal.

- 48.4 Relics of Major Cultural Importance. If the Cabinet determines that such relics are be of major cultural importance to Liberia, and removal within the period prescribed above is impractical, it may prescribe a longer period for removal, or provide that they shall remain in place, and shall provide such compensation to the licensee as the Cabinet shall determine to be fair and reasonable under the circumstances.

***This provision may be found objectionable by mining companies as they lack a direct voice in the determination of compensation. But without it there is no basis for cultural preservation of important relics that cannot be removed on a timely basis.***

## PART IX. BROKER AND DEALER LICENSES

### Section 49 Provisions Relating to Broker Licenses.

- 49.1 Requirement to Obtain Broker License. An individual who wishes to trade in precious minerals within the territory of the Republic of Liberia must obtain a broker license issued under this section 49. An entity is not eligible to hold a broker license.
- 49.2 Eligibility for Broker License. Any individual who (i) has attained the age of twenty-one (21) years, and (ii) is otherwise eligible to receive a Class C mining license pursuant to section 11.1 may be issued a broker license as contemplated by section 49.3, provided that a broker license may not be issued to an applicant if the applicant or a person Controlled by, Controlling or under common Control with the applicant:
- (a) already holds a broker license or dealer license, or
  - (b) held at any time in the previous five years a mineral license, broker license or dealer license that was revoked for any reason.
- 49.3 Class C Mining License Holder and Broker License. The holder of a Class C mining license may apply for and receive a broker license with respect to one or more precious minerals if the individual is otherwise eligible under section 49.2. It is not necessary that the individual be entitled to mine such precious minerals under the terms of its mining license. The transactional, financial and tax accounting records relating to such individual's broker license must be kept completely separate from the records relating to its operations under its mining license.
- 49.4 Application for Broker License; Extension of Term. An application by an individual for a broker license may be filed at any regional office of the Ministry or at its principal office in Monrovia.
- (a) Each application shall be made in such form and cover such matters as is from time to time prescribed by the Minister, and shall be accompanied by evidence of payment of the appropriate filing fee. Each application shall at a minimum provide:
    - (i) the name and address of the applicant;
    - (ii) the address at which its books and records will be maintained;
    - (iii) the precious minerals in which the applicant proposes to trade;
    - (iv) where its inventory, if any, of precious minerals will be kept; and

- (v) an undertaking that the applicant does not Control, and is not Controlled by or under common Control with, another holder of a broker license or a holder of a dealer license.

An applicant must in addition demonstrate to the reasonable satisfaction of the Minister that the applicant has the capacity to comply with the record keeping and reporting requirements of this section 49.

- (b) If an applicant files an incomplete application, the Minister shall return the application. If the applicant refiles a complete application within 60 days after the application is returned, no new filing fee is required. If the Minister does not act within sixty (60) days after the filing of a complete application and delivery of evidence of payment of the required filing fee, the application is deemed denied without prejudice. If the applicant files a request for reconsideration within sixty (60) days after such deemed denial (for which no new filing fee shall be required) and the Minister does not act within sixty (60) days after such filing, the application shall be deemed approved and the applicant entitled to receive the requested license.
- (c) The license, if granted, will be valid for a term of one (1) year. The holder of a broker license must pay an annual license fee in advance in the amount then required by this Law or the Regulations as a condition to the issuance of the license.
- (d) If the holder of a broker license is in compliance in all material respects with the record keeping and reporting requirements of this section 49 and other provisions of this Law and the Regulations applicable to broker licenses, and the holder then satisfies the standards applicable to an applicant for a broker license under sections 49.1 and 49.2, the broker license may be extended for consecutive one (1) year terms on application filed between ninety (90) and sixty (60) days prior to the end of the current license term in such form as may be prescribed by the Minister and evidence of payment of the filing fee in the amount then required by this Law and the Regulations.
- (e) The annual fee during any license extension shall be as then required by this Law or the Regulations and must be paid within thirty (30) days of the beginning of the extension year.
- (f) If an extension application is timely filed, the current license term shall terminate on the later of its stated end date and the date upon which the application is accepted or rejected.

#### 49.5 Requirements and Restrictions Relating to Broker Licenses.

- (a) A holder of a broker license may not engage others to act on his or her behalf in the purchase or sale of precious minerals and may not deal in precious minerals other than those covered by the license.
- (b) The holder of a broker license may sell a precious mineral only to the holder of a dealer license authorizing dealings in such mineral or to another holder of a broker license authorizing dealings in such mineral.
- (c) The holder of a broker license may acquire a precious mineral only from the holder of a Class C mining license permitting the extraction of such mineral.
- (d) The holder of a broker license authorizing dealing in diamonds shall comply with all requirements of the Kimberley Process applicable to brokers, provided

that in any conflict between the requirements of this section 49 and the requirements of the Kimberley Process, the latter shall control.

- (e) The holder of a broker license may not sell, assign, convey or otherwise transfer, or enter into a mortgage, pledge, encumbrance or other grant of security with respect to, such license.
- (f) The Ministry shall provide a holder of a broker license, on issuance of the license, with identification issued by the Ministry indicating that such individual is authorized to engage in the mineral brokerage business.
  - (i) The identification shall indicate the name and business address of the license holder, the precious minerals covered by such license, and the period for which the license is valid, and shall bear the photograph of the license holder.
  - (ii) The identification shall be reissued on each extension of the license to reflect the new validity period and any other changes in the information required to be included in such identification. The Ministry shall require delivery of a new photograph as a condition for reissue every three years or as may otherwise provided by Regulation.
- (g) The holder of a broker license must present the identification required by clause (e) of this section 49.5 when buying and selling precious minerals.
- (h) A broker license may be revoked if the holder:
  - (i) fails to make a payment due under its license, this Law or the Regulations within thirty (30) days of the due date thereof other than an amount due under the Revenue Code, and such failure is not cured within thirty (30) days after notice from the Minister of such failure; or
  - (ii) is determined in a final judgment to have willfully failed to pay amounts due under the Revenue Code, or a licensee fails to discharge a final judgment with respect to an amount due under the Revenue Code within thirty (30) days of the entry of such judgment; or
  - (iii) is in default of its record keeping obligations or the limitations on the persons with whom it may deal, and such default is determined to be willful; or
  - (iv) is in breach of section 49.5(e) and such breach is not cured within thirty (30) days; or
  - (v) is otherwise in breach of any of its obligations under this section 49 and has failed to cure such breach to the reasonable satisfaction of the Minister within thirty (30) days after notice from the Minister of such breach.
- (i) Sections 27.3 and 27.4(a) shall be applicable to any such revocation. The holder of a revoked license must immediately turn in its identification card and dispose of all precious minerals then held by it in a manner permitted by this section 49.

49.6 Record keeping and reports. The holder of a broker license must keep separate registers covering its transactions for each mineral in which it deals complying with this section 49.6 and containing such other information as may be prescribed in Regulations.

- (a) In the case of precious minerals other than rough diamonds, such records shall include for each transaction:
  - (i) the nature and weight of the minerals purchased or sold;
  - (ii) the price paid or received for the minerals;
  - (iii) the date of the purchase or sale;
  - (iv) the name and address of the vendor or the purchaser (and the consignee, if different);
  - (v) evidence demonstrating that the sale was to a purchaser permitted under section 49.5(b); and
  - (vi) such other matters as may be required by the Regulations.
- (b) In case of rough diamonds, such records shall include for each transaction all information required by section 52.
- (c) Within thirty (30) days of the end of each calendar quarter, each holder of a broker license shall deliver to the Monrovia office of the Ministry, or at such other location as may be specified in Regulations a full and legible copy of its required records for the calendar quarter most recently ended and as to such other matters as may be prescribed by Regulations, including all reports with respect to rough diamond transactions required by section 52. Such records must also be exhibited to an authorized officer of the Mining Inspectorate on request during normal business hours.
- (d) All reports must be separated by type of mineral and otherwise comply with any requirements as to form contained in the Regulations.
- (e) Each holder of a broker license must in any event comply with applicable reporting requirements of the Revenue Code and maintain its books and accounts for tax purposes in accordance with the requirements of the Revenue Code

49.7 Further documentation. The Minister shall cause the creation of a single public information document setting forth the requirements of this section 49 and the Kimberley Process to be observed by the holders of broker licenses authorizing transactions in diamonds. The publication shall be as nearly as is practicable in plain English, shall contain illustrative samples of required documentation, and shall be made available on the Ministry's website and, without cost, at the office of the Ministry.

## **Section 50 Provisions Relating to Dealer Licenses**

- 50.1 Requirement to Obtain Dealer License. An entity that wishes to trade in precious minerals within the territory of the Republic of Liberia must obtain a dealer license issued under this section 50. An individual may not hold a dealer license.
- 50.2 Eligibility for Dealer License. Any entity that is eligible to receive a Class B mining license or a Class A mining license under section 11.2 may be issued a dealer license as contemplated by section 50.3, provided that a dealer license may not be issued to an applicant if the applicant or a person Controlled by, Controlling or under common Control with the applicant:
  - (a) already holds a dealer license; or

- (b) held at any time in the previous five years a mineral license or dealer license that was revoked for any reason.

50.3 Concerning Class B Mining Licenses and Class A Mining Licenses. The holder of a Class B mining license or a Class A mining license:

- (a) is not required to hold a dealer license if it sells precious minerals mined under the terms of its mining license
  - (i) to a dealer holding a license under this Law covering precious minerals of such type, or
  - (ii) in an export transaction whereby it retains control of and responsibility for such precious minerals until delivery is made outside of the territory of the Republic of Liberia;
- (b) must hold a dealer license in order to trade in precious minerals in Liberia other than as provided in section 50.3(a)(i) (including any transaction with a person located in or a citizen of Liberia or providing for delivery of or receipt of the relevant precious mineral occurring in Liberia); and
- (c) is responsible for the payment of royalties in accordance with the requirements of the Revenue Code on all precious minerals sold or otherwise disposed of by it by it to any person other than a dealer licensed under this Law to trade in such precious minerals.

50.4 Application for Dealer License. An application for a dealer license must be filed with the Monrovia office of the Ministry, or, if permitted by Regulations, in a regional office of the Ministry.

- (a) Each application shall be made in such form and cover such matters as is from time to time prescribed by the Minister, and shall be accompanied by evidence of payment of the appropriate filing fee. Each application shall at a minimum provide:
  - (i) the name and address of the applicant;
  - (ii) the address at which its books and records will be maintained;
  - (iii) the precious minerals in which the applicant proposes to trade;
  - (iv) where its inventory, if any, of precious minerals will be kept; and
  - (v) an undertaking that it does not Control, and is not Controlled by or under common Control with, another holder of a dealer license or a holder of a broker license.
- (b) Each applicant must provide credible evidence that the applicant:
  - (i) commands the skills necessary to comply with the record keeping and reporting requirements of this section 50 and to identify and evaluate the minerals in which it proposes to deal; and
  - (ii) possesses sufficient resources to carry on the proposed dealer business.
- (c) If an applicant files an incomplete application, the Minister shall return the application. If the applicant refiles a complete application within 60 days after the application is returned, no new filing fee is required. If the Minister does not act within sixty (60) days after the filing of a complete application and delivery of evidence of payment of the required filing fee, the application is deemed denied without prejudice. If the applicant files a request for

reconsideration within sixty (60) days after such deemed denial (for which no new filing fee shall be required) and the Minister does not act within sixty (60) days after such filing, the application shall be deemed approved and the applicant entitled to receive the requested license.

- (d) The license, if granted, will be valid for a term of two (2) years. The holder of a dealer license must pay an annual fee in the amount required by this Law or the Regulations, as a condition to the issuance of the license, and at the beginning of the second year of the license term. Failure to pay the annual fee within thirty (30) days after the beginning of the second year is grounds for immediate termination of the license by the Minister.
- (e) If the holder of a dealer license is in compliance in all material respects with the record keeping and reporting requirements of this section 50 and other provisions of this Law and the Regulations applicable to dealer licenses, and the holder then satisfies the standards applicable to an applicant for a dealer license under sections 50.1 and 50.2, the dealer license may be extended for consecutive two year periods on application filed between ninety (90) and sixty (60) days prior to the end of the current license term in such form as may be prescribed by the Minister together with evidence of payment of the filing fee in the amount then required by this Law and the Regulations.
- (f) The annual fee during any license extension shall be as then required by this Law or the Regulations and must be paid within thirty (30) days of the beginning of the extension year.
- (g) If an extension application is timely filed, the current license term shall terminate on the later of its stated end date and the date upon which the application is accepted or rejected.

50.5 Requirements and Restrictions Relating to Dealer Licenses.

- (a) The holder of a dealer license may sell a precious mineral covered by its license only:
  - (i) to another holder of a dealer license authorizing transactions in such mineral;
  - (ii) in an export transaction for delivery to the purchaser outside of Liberia: or
  - (iii) to an end-user.
- (b) The holder of a dealer license may acquire only those precious metals covering by its license, and then only from a broker or dealer authorized to deal in such mineral or from the holder of a Class B mining license or a Class A mining license permitting the extraction of such mineral.

***The paragraph above now does not permit dealers to deal directly with holders of Class C mining licenses.***

- (c) The holder of a dealer license authorizing dealings in diamonds shall comply with all requirements of the Kimberley Process applicable to dealers, as set forth in this Law or in the Regulations, provided that in any conflict between the requirements of this section 50 and the requirements of the Kimberley Process, the latter shall control.

- (d) The holder of a dealer license is responsible for the payment of royalties in the amounts set forth in the Revenue Code on all precious minerals sold or otherwise disposed of by it by it to any person other than another dealer licensed under this Law to trade in such precious minerals unless such precious minerals are acquired by it from the holder of a Class B mining license or a Class A mining license that has paid such royalties.
- (e) The holder of a dealer license may not sell, assign, convey or otherwise transfer, or enter into a mortgage, pledge, encumbrance or other grant of security with respect to, such license without the prior written consent of the Minister.
- (f) A dealer license may be revoked if the holder:
  - (i) fails to make a payment due under its license, this Law or the Regulations within thirty (30) days of the due date thereof other than an amount due under the Revenue Code, and such failure is not cured within thirty (30) days after notice from the Minister of such failure;), or
  - (ii) is determined in a final judgment to have willfully failed to pay amounts due under the Revenue Code, or a licensee fails to discharge a final judgment with respect to an amount due under the Revenue Code within thirty (30) days of the entry of such judgment; or
  - (iii) is in default of its record keeping obligations or the limitations on the persons with whom it may deal, and such default is determined to be willful; or
  - (iv) is in breach of section 50.5(a) and such breach is not cured within thirty (30) days, or
  - (v) is otherwise in breach of any of its obligations under this section 49 and has failed to cure such breach to the reasonable satisfaction of the Minister within thirty (30) days after notice from the Minister of such breach.
- (g) Sections 27.3 and 27.4(a) shall be applicable to any such revocation. The holder of any revoked license must immediately turn in all identification cards issued to representatives of such holder pursuant to section 50.7 and dispose of all precious minerals then held by it to a dealer licensed under this section 50

50.6 Performance Bond. As a condition of obtaining or renewing a dealer license under this section, an applicant shall be required to file a bond of fifty thousand US Dollars (US\$50,000), or such larger amount reasonably related to the dealer's royalty liabilities as may be established by Regulation approved by the Minister of Justice, issued by a bank established in Liberia and securing the performance by the dealer of its royalty payment obligations.

50.7 Dealer Representatives. The holder of a dealer license may employ individuals, but not other entities, to act as its representatives in the conduct of its business. The holder is responsible for ensuring that its representatives comply with the requirements of this section 50 and any applicable Regulations.

- (a) Any individual engaged by the holder of a dealer license to represent such holder in the purchase or sale of precious minerals must hold identification

issued by the Ministry indicating that such individual is authorized to engage in such business on behalf of the dealer.

- (i) The identification shall indicate the name and address of such individual, the name and business address of the dealer for whom the representative acts, and the precious minerals covered by such dealer's license, shall bear the photograph of such individual, and shall on its face be valid for no more than one year from the date of issue.
- (ii) The identification for an individual must be renewed annually on application and provision of evidence that the representative is still acting for the same dealer license holder and shall reflect any other changes in the information required to be included in such identification. The Ministry shall require delivery of a new photograph as a condition for reissue every three years or as may otherwise provided by Regulation.
- (iii) The Ministry may charge a reasonable fee as provided in the Regulations for the issuance or renewal of such identification.
- (b) A dealer representative must present his or her identification when buying and selling precious minerals.
- (c) A dealer representative must return his or her identification on leaving the employment of the dealer named on the identification.

50.8 Record keeping and reports. The holder of a dealer license must keep separate registers covering its transactions for each mineral in which it deals complying with the balance of this section 50.8 and containing such other information as may be prescribed in Regulations.

- (a) In the case of precious minerals other than rough diamonds, such records shall include for each transaction:
  - (i) the nature and weight of the minerals purchased or sold;
  - (ii) the price paid or received for the minerals;
  - (iii) the date of the purchase or sale;
  - (iv) the name and address of the vendor or the purchaser (and the consignee, if different) and evidence demonstrating that the sale was to a purchaser permitted under section 50.5(b); and
  - (v) such other matters as may be required by the Regulations.
- (b) In the case of rough diamonds, such records shall include for each transaction all information as is required by section 52 relating to the Kimberley Process.
- (c) Within thirty (30) days of the end of each calendar quarter, each holder of a dealer license shall deliver to the Monrovia office of the Ministry a full and legible copy of its required records for the calendar quarter most recently ended and as to such other matters as may be prescribed in Regulations, including all reports with respect to rough diamond transactions required by the Kimberley Process provisions in section 52. Such records must be also be exhibited to an authorized officer of the Mining Inspectorate on request during normal business hours.
- (d) All reports must be separated by type of mineral and otherwise comply with any requirements as to form contained in the Regulations.

- (e) In addition, a dealer shall comply with the reporting requirements set forth in and pursuant to section 44.1(d).
- (f) Each holder of a dealer license must in any event comply with applicable reporting requirements of the Revenue Code and maintain its books and accounts for tax purposes in accordance with the requirements of the Revenue Code.

## PART X: KIMBERLEY DIAMOND CERTIFICATION PROCESS

### Section 51 The Kimberley Diamond Certification Process

This section 51, section 52 and Schedule 2 to this Law together replace in its entirety the act of the Legislature entitled “Act Amending the New Minerals and Mining Law, Part 1, Title 23, LCLR, by adding thereto a New Chapter 40, Providing for Controls On the Export, Import and Transit of Rough Diamonds,” published by the Ministry of Foreign Affairs on July 27, 2005.

#### 51.1 The Continuation of the Kimberley Diamond Certification Process.

The diamond certification scheme known as the Kimberley Diamond Certification Process established pursuant to the act of 2005 referred to above is hereby continued. The validity of actions taken under the act of 2005, including proceedings commenced prior to or after the effective date of this Law with respect to offenses under such act while it was effective, is not affected by the replacement of such act by this section 51, section 52 and Schedule 2 to this Law.

#### 51.2 Defined Terms Used in Connection with the Kimberley Diamond Certification Process.

For purposes of sections 51 and 52 of this Law and Schedule 2 to this Law, the following terms and phrases shall have the respective meanings set forth below.

“Chair of the Kimberley Process” has the meaning given in the Core Document.

“conflict diamonds” means rough diamonds used by rebel movements or their allies to finance conflicts aimed at undermining legitimate governments, as described in relevant UNSC resolutions insofar as they remain in effect, or in other similar UNSC resolutions which may be adopted in the future, and as understood and recognized in UNGA Resolution 56/263 or in other similar UNGA resolutions which may be adopted in future.

“consignment” means one or more packets or parcels of rough diamonds that are placed in a tamper-resistant container and exported or imported.

“Core Document” means the basic document outlining the terms and conditions generally applicable to the Kimberley Process from time to time agreed by the nations that have agreed to participate in the Kimberley Process. The document is as of May 1, 2023 available at [www.kimberleyprocess.com/en/kpcs-core-document](http://www.kimberleyprocess.com/en/kpcs-core-document).

“country of origin” means the country where a consignment of rough diamonds has been mined or extracted.

“country of provenance” means the last KP Participant from which a consignment of rough diamonds was exported, as recorded in import documentation.

“export” means the physical leaving or taking out, in a lawful manner, of a consignment of rough diamonds out of any part of the territory of the Republic of Liberia.

“Exporting Authority” means the Mining Inspectorate, or such other unit within the Ministry as may be designated by the Minister pursuant to section 52.6(e).

“HS Code” means the Harmonized Commodity Description and Coding System developed by the World Customs Organization.

“import” means the physical entering/bringing, in a lawful manner, of a consignment of rough diamonds into any part of the territory of the Republic of Liberia.

“Importing Authority” means the Mining Inspectorate, or such other unit within the Ministry as may be designated by the Minister pursuant to section 52.6(e).

“KPC” or “Kimberley Process Certificate” (a) in relation to exports from Liberia means a forgery resistant document containing the information required by section 1 of Schedule 2 to this Law that is issued and validated by the Exporting Authority and identifies a consignment of rough diamonds as being in compliance with the requirements of the Kimberley Process, and (b) in relation to imports into Liberia mean a substantively identical certificate that is issued and validated by the exporting authority of a KP Participant.

“Kimberley Process Certification Scheme” means the international certification scheme for the international trade in rough diamonds negotiated in the Kimberley Process.

“KP Participant” means any state or Regional Economic Integration Organization enforcing the Kimberley Process Certification Scheme.

“National Diamond Database” means a structured computer database capturing and recording available data relating to the production of diamonds in, and the import and export of diamonds into and from, the Republic of Liberia.

“parcel” means one or more rough diamonds that are packed together and that are not individualized.

“Regional Economic Integration Organization” means an organization comprised of sovereign states that have transferred competence to that organization in respect, inter alia, of matters governed by the Kimberley Process Certification Scheme.

“rough diamond” means a diamond that is unworked or simply sawn, cleaved or bruted and falls under HS Code 7102.10, 7102.21 or 7102.31.

“transit” means the physical passage from a place outside the territory of the Republic of Liberia across the territory of the Republic of Liberia to a place outside the territory of the Republic of Liberia, with or without transshipment, warehousing or change in mode of transport.

“UNGA” means the United Nations General Assembly.

“UNSC” means the United Nations Security Council.

“validated” or “validation” in the context of a KPC means that the KPC has been signed and sealed on behalf of the appropriate importing or exporting authority.

### 51.3 Administration.

- (a) The Minister shall be responsible for administering the Kimberley Process to achieve the purposes and promote the objectives set forth herein.
- (b) The Minister shall have the authority to conduct such investigation as may be necessary and appropriate in order to ensure compliance with the provisions of

this Law and the Regulations relating to rough diamonds, the principles set forth in the Kimberley Process Certification Scheme as published by the Administrative Support Mechanism established under the Kimberley Process Certification Scheme and applicable international conventions, UNSC resolutions and UNGA resolutions.

- (c) The Minister may delegate as provided in section 6.1 any power conferred upon him by section 51 or 52 of this Law excluding the power to make Regulations. With the prior written consent of the Commissioner General of the Liberia Revenue Authority, the Minister may by Regulation grant specific enforcement responsibilities under section 52 to the customs authorities.

51.4 Changes to the Core Document. If the Core Document is hereinafter modified to require changes in the Kimberley Process that are inconsistent with the requirements set forth in section 52, the provisions of Schedule 2 to this Law, or the definitions or other provisions of this section 51, the Minister may after consultation with the Minister of Justice and the Minister of Internal Affairs make by Regulation such changes to such requirements or such definitions as are necessary to conform them to the requirements of the Core Document, provided that such changes do not result in the application of a fundamentally different scheme for tracking and controlling the traffic in rough diamonds.

## **Section 52 Procedure for Trading**

This section 52 and Schedule 2 to this Law together set forth the Kimberley Process requirements applicable to the rough diamond trade in Liberia.

### 52.1 Requirements for Export of Rough Diamonds.

The export of rough diamonds from the Republic of Liberia is prohibited unless each of the following requirements is fulfilled:

- (a) The rough diamonds are accompanied by a corresponding KPC issued and validated by the Exporting Authority.
- (b) The rough diamonds are placed in a tamper-resistant container that meets the requirements of this Law and the Regulations.
- (c) The container with the rough diamonds is sealed with the seal of the Exporting Authority or the seal of the Minister.
- (d) There is compliance with section 1.1 of Schedule 2 to this Law.

### 52.2 Requirements for Imports of Rough Diamonds.

The import of rough diamonds into the Republic of Liberia is prohibited unless each of the following requirements is satisfied:

- (a) Any and all rough diamonds imported into the country must be delivered directly to the Importing Authority, contained in a tamper-resistant container and accompanied by a validated KPC from a KP Participant. The Importing Authority must clearly and precisely be able to identify the consignment to which the KPC pertains.
- (b) The Importing Authority shall verify that the consignments of rough diamonds and the identity of the importer conform to the accompanying KPC, ascertain that the diamonds contained therein conform to the details in the accompanying KPC, and verify that neither the sealed container nor the contents have been tampered with.

- (c) There is compliance with section 1.2 to Schedule 2 of this Law.

52.3 Transit of Rough Diamond Consignment.

The provisions of this Law shall not apply to consignments of rough diamonds that are in transit through the (geographical) territory of the Republic of Liberia destined to another KP Participant, provided that (a) the rough diamonds are accompanied by a validated KPC, (b) the container has not been tampered with, and (c) the consignments of rough diamonds and the accompanying KPC leave the territory of the Republic in an identical state as they entered, i.e., unopened and not tampered with.

Rough diamonds in transit shall in any case be deposited in a secure depository approved by the Importing Authority and not removed until the Exporting Authority is satisfied that such removal is for prompt transfer by a secure means of transporting such diamonds to the importing authority of a KP Participant pursuant to an appropriate KPC or is otherwise authorized pursuant to section 52.5.

If rough diamonds in transit are determined to be unaccompanied by a validated KPC or are determined to be in a container that has been tampered with, they shall be detained by the Importing Authority or the Exporting Authority and dealt with in the manner provided in section 52.4.

52.4 Authority of the Minister upon Suspected Non-Compliance.

- (a) If the Importing Authority suspects that rough diamonds imported into the territory of the Republic, or the Exporting Authority suspects that rough diamonds proposed to be exported from the territory of the Republic are not in compliance with this Law and the Regulations, or if either Authority suspects that rough diamond(s) in a consignment have been acquired unlawfully, such Authority shall immediately:
- (i) inform the Minister of the basis for its suspicions and retain such rough diamond(s) in a secure location designated by the Minister;
  - (ii) inform the exporter or importer of the action;
  - (iii) request the exporter or importer to provide the Minister with proof or reason why the rough diamond(s) in question are eligible for shipment or import and should not be retained; and
  - (iv) in the case of an import, request such confirmation from the exporting authority of the KP Participant issuing the relevant KPC, if any, accompanying such consignment as may be appropriate in the circumstances.
- (b) The Minister shall promptly review the reasons given for the retention of such rough diamonds and any information provided pursuant to clauses (iii) and (iv) of section 52.5(a). If the Minister finds that the failure to fulfill the relevant conditions was inadvertent, or that the relevant authority had no basis for retaining such rough diamonds, the Minister shall do the following:
- (i) in the case of an export consignment, direct the release by the Exporting Authority of the rough diamond(s) for shipment on satisfaction in full of the requirements set forth in section 52.2 for the issuance of a KPC with respect to such rough diamonds; and

- (ii) in the case of an import consignment, direct the release by the Importing Authority of the rough diamond(s) on satisfaction in full of the requirements set forth in section 52.2 for the import of rough diamonds.
- (c) If release under section 52.5(b) is not required, the Minister must release the rough diamonds involved to the rightful owner (or in the case of imported diamonds return them to the exporting authority of their country of origin if no rightful owner can be identified and the country of origin is a KP Participant) within three hundred sixty-five (365) days after they were retained under this section 52.5 unless:
  - (i) no rightful owner or originating exporting authority can be identified, in which case the diamonds shall be forfeited to the State; or
  - (ii) a proceeding against a person for an offense under of this Law the Regulations with respect to the attempted export or import of such diamonds has commenced prior to the end of such period, in which case section 52.5(d) is applicable.
- (d) If such a proceeding has commenced, the diamonds shall be retained until the conclusion of the proceeding. If a person responsible for the attempted importing or exporting of such diamonds is convicted of an offense under this Law, the court shall order the diamonds forfeited to the State unless the court determines that an innocent third party is the rightful owner of such diamonds, in which case the court shall order them returned to such third party.

52.5 Offenses.

- (a) A person commits an offense under this section 52 if the individual:
  - (i) engages in mining for diamonds in the Republic of Liberia without holding a valid license permitting such mining under this Law or the Mining Law 2000; or
  - (ii) engages in buying or trading diamonds in the Republic of Liberia without holding (x) a valid broker or dealer license issued under this Law or the Mining Law 2000 permitting such buying or trading or (y) a valid Class B mining license or Class A mining license authorizing engagement in such activities; or
  - (iii) engages in the conveyance and transport of rough diamonds or otherwise in the possession of rough diamonds (other than an end-user) without holding a valid license referred to in clause (i) or (ii) of this section 52.5; or
  - (iv) imports rough diamonds that lack a KPC or imports rough diamonds without submitting them in the original containers to the Importing Authority for inspection; or
  - (v) exports rough diamonds without a KPC or without submitting them to the Exporting Authority for inspection; or
  - (vi) willfully furnishes any false or misleading information or knowingly makes any misrepresentation in any application for a Liberian KPC, or in connection with any subsequent use of such KPC or the export or disposition of the rough diamonds to which it relates; or

- (vii) forges a Liberian KPC or erases or alters any information appearing thereon or on a KPC issued by any other KP Participant and presented to the Importing Authority in connection with a proposed import of rough diamonds; or
- (viii) transfers, assigns, gives, barter, or sells a Liberian KPC if the individual knows or has cause to know that it will be used for the export of rough diamonds other than those in respect of which it was issued; or
- (ix) in order to avoid compliance with this Law or the Regulations:
  - (1) destroys, alters, mutilates, or disposes of records, bills of accounts and documents, etc., that are required to be kept; or
  - (2) makes false or misleading entries in the records, books, documents or data; or
  - (3) omits a material particular from records, books, documents or data; or
  - (4) hinders or prevents the performance by an authorized officer of his or her work or duty in the enforcement of this section 52; or
  - (5) otherwise takes an action expressly prohibited by this section 52.
- (b) An officer or director of, or other individual having similar authority with respect to, an entity commits an offense under this section 52 if such individual directs or authorizes an action constituting an offense under section 52.6(a) or accepts on behalf of the entity the benefits of the offense with knowledge or good reason to believe that the offense had occurred. An entity commits an offense under this section 52 if it is determined that such entity has not made reasonable efforts to require compliance by its employees and agents with this section 52.
- (c) Section 58 sets forth the penalties applicable to offenses under this section 52.

52.6 Regulations.

In addition to Regulations authorized by section 51.4, the Minister is specifically authorized to issue Regulations to provide for all or any of the following:

- (a) clarification of, or additional details with respect to, implementation of the requirements of this section 52 or Schedule 2 to this Law;
- (b) fees payable for the issue or replacement of a KPC or for the approval of the import of rough diamonds under a KPC issued by another KP Participant;
- (c) designation of a place(s) as a point(s) of entry and exit for the importation and/or exportation of rough diamonds;
- (d) maintenance of an updated list of KP Participants upon instruction from the Chair of the Kimberley Process; and
- (e) designation of the units of the Ministry that serve as the Importing Authority and Exporting Authority under this Section 52.

## PART XI - REGULATIONS

### Section 53 Regulations

- 53.1 Authority to Issue Regulations. The Minister may issue Regulations for giving effect to the provisions of this Law. Each Regulation issued under the authority of this Law shall first be approved by the President before taking effect. A Regulation may not be adopted under this law unless the Minister has made an affirmative determination that the Regulation is consistent with this Law and is otherwise in the public interest. A Regulation is not issued until it is published in the manner provided in section 53.3(b), and is not effective until the time provided in section 53.4.
- 53.2 Procedure for Issuing Regulations. Prior to issuing any Regulation, the Minister shall consult with ministries and agencies with responsibilities relevant to the proposed regulation and shall conduct a public hearing on the subject matter of the proposed Regulation, as follows:
- (a) An announcement of a proposed Regulation and the related public hearing shall be published on the Ministry's website and in two (2) national newspapers, which shall include:
    - (i) a summary of the provisions of the proposed Regulation;
    - (ii) in the case of the website publication, the full text of the proposed Regulation;
    - (iii) the locations where the proposed Regulation can be obtained (single copies of which shall be free of cost);
    - (iv) the date and location of the hearing (which shall be at least twenty (20) days following the later of the date of newspaper publication and the date of web publication); and
    - (v) the format and manner in which comments can be made, and the deadline for submitting comments which shall not be less than forty (40) days from the later of the date of newspaper publication and the date of web publication and shall be at least twenty (20) days following the date of any hearing.
  - (b) Announcements as to the subject matter of the proposed Regulation, the places where copies of the proposed Regulation may be obtained (single copies of which shall be free of cost), the date and location of the hearing, and the deadline for submitting comments on the proposed Regulation shall also be made on the Radio Service of the Liberia Broadcasting System on at least three separate days.
  - (c) Notwithstanding the foregoing, the Ministry need not hold public hearings on a proposed Regulation if the Minister and the Minister of Justice determine in good faith that the proposed Regulation will have no direct effect on the general public or on the revenues receivable by the Ministry or the State in respect of mineral licenses and will not have an adverse impact on the environment or an adverse impact on the health or safety of workers in the industry or the general public. If the Minister and the Minister of Justice make such determination, announcement of the proposed Regulation must nevertheless be made in the manner provided in clauses (a) and (b) of this section 53.2, setting forth in addition the basis for determination that no public hearing is required.

- (d) Upon expiry of the deadline for submitting comments, and prior to proposing a final Regulation, the Ministry shall publish on its website a summary of the comments received.

53.3 Procedure for Final Regulations.

- (a) The Minister shall give due consideration to all comments received and may cause a proposed final Regulation to be prepared or withdraw the proposed Regulation. The proposed final Regulation shall be submitted to the President for approval.
- (b) On approval by the President, an announcement of the final Regulation shall be published on the Ministry's website, on the website of the Executive Mansion, and in two (2) national newspapers, which shall include:
  - (i) in the case of the newspaper publication, a summary of the scope of the final Regulation, the locations at which electronic and physical copies of the final Regulation may be obtained, and the effective date of the final Regulation;
  - (ii) in the case of the website publication, the full text of the final Regulation, a summary of the principal changes from the published form of the proposed Regulation, the locations at which physical copies of the final Regulation may be obtained, and the effective date of the final Regulation.
- (c) Announcements as to the subject matter of the final Regulation and the places where copies of the Regulation may be obtained, shall be also made on the Radio Service of the Liberia Broadcasting System on at least three separate days.
- (d) Physical copies of proposed and final Regulations directly affecting prospecting licenses or Class C mining licenses must be made available at the office of the District Commissioner in each district in which prospecting or artisanal mining activities are being undertaken.
- (e) Single copies of proposed and final Regulations shall be made available free of charge.

53.4 Effectiveness of Final Regulation. A final Regulation shall not become effective less than thirty (30) days after the later of the announcements required by section 53.3(b) and 53.3(c), unless the Minister determines, with the concurrence of the Minister of Justice, that an imminent threat to health, safety or the environment requires an earlier effective date (but not less than five (5) days after the later of the announcements required by section 53.3(b) and 53.3(c)).

53.5 Scope of Regulations. Without limiting the general effect of section 53.1 of this Law or any provision of this Law specifically authorizing or directing the issue of Regulations by the Minister, the Minister may issue Regulations implementing the provisions of this Law, including:

- (a) the form and content of applications for licenses under this Law, or for the extension, modification, surrender or transfer (direct or indirect) of such licenses;
- (b) with the consent of the Public Procurement and Concessions Commission and the Ministry of Justice, competitive bidding procedures where required for mineral licenses or MDAs;

- (c) concerning the establishment and operation of the Mineral Cadastre System;
- (d) prescribing (i) a new model MDA conforming to the requirements of this Law for use in competitive bidding contexts, and (ii) rules for dealing with exceptions raised by bidders to the provisions of any such model MDA not required by this Law;
- (e) the making and submission by license holders of and the forms of reports, returns and programs to be submitted by license holders, and the accounts, books and records to be maintained by license holders;
- (f) the submission, approval and modification of work programs required by this Law or the Regulations;
- (g) the inspection of areas and facilities in which license operations are carried out, including operations under ancillary activities agreements;
- (h) after consultation with the Ministries of Health and Labor,
  - (i) the conduct of mining operations in a safe and effective manner,
  - (ii) the health, safety and welfare of persons employed in mining operations, including working conditions, safety measures and emergency preparedness, and
  - (iii) accident reporting;
- (i) the inspection protocols and procedures to be followed by officials of the Mining Inspectorate;
- (j) the form and content of environmental and social impact assessments and environmental and social management plans required in connection with license applications or requests for license extensions or modifications ;
- (k) with the concurrence of the Ministry of Internal Affairs and the Ministry of Information and Cultural Affairs, the protection and preservation of cultural and historical heritage sites located within or in the vicinity of areas in which mining operations are being carried out;
- (l) the manner in which required disclosures of legal and beneficial ownership of mineral licenses are to be made;
- (m) the valuation, sampling, weighing and testing of minerals;
- (n) the qualifications required for managers appointed pursuant to section 23.5; and
- (o) such other matters as may assist in the implementation of this Law and are not in conflict with this Law or other Applicable Law.

## **PART XII. OFFENSES**

### **Section 54 Public Officials and Conflicts of Interest**

54.1 Public Official Prohibition. Without limitation of the Code of Conduct of Liberia, 2014, a public official generally engaged in the implementation of this Law or who has a specific responsibility set forth in this Law shall not, in his or her private capacity, knowingly acquire, attempt to acquire or hold, directly or indirectly:

- (a) a license issued under this Law or an interest in any such license;

- (b) a direct or indirect economic interest, participation interest or share in a company that is providing goods or services to one or more holders of a mineral license under this Law in amounts individually or in the aggregate material to the provider of such goods and services.

The foregoing prohibition shall remain in force as to each official for a period of two years after such official leaves office.

54.2 Penalties. A public official who contravenes section 54.1 of this Law commits an offense and is liable on conviction to a fine not exceeding two hundred fifty thousand US dollars (US\$250,000) or to a term of imprisonment not exceeding two (2) years or both, and to the requirement that such official disgorge the value of any gain.

54.3 Definitions. For the purposes of section 54.1:

- (a) any interest held by a Relative of a public official (as such term is defined in the Code of Conduct of Liberia, 2014) is deemed held by such official;
- (b) an “indirect” interest includes an interest in a company or other entity that holds, directly or indirectly, an ownership interest in a holder of a license issued under this Law or the Mining Law 2000 or in an entity that is a partner in a partnership or a joint venturer in a joint venture that holds such a license;
- (c) an “indirect” interest includes a circumstance in which the public official involved is acting on behalf of the State (i) with respect to the granting of a license to a former private sector employer of such public official or to an affiliate of such employer, or (ii) with respect to the administration of a license held by a former private sector employer of such public official;
- (d) an “indirect interest” also exists if the public official or a Relative of the public official Controls or is a member of a group that Controls any entity referred to in clause (b) of this section; and
- (e) “indirect” interests do not include investments in mutual funds or other pooled investment vehicles that are not specialized to the mining industry, and as to which neither the public official involved nor any Relative of the public official has any investment discretion or, individually or in the aggregate, have a material investment in relation to the total size of the investment vehicle.

54.4 Future Regulations. The Minister may, with the concurrence of the Minister of Justice, further define by Regulation other circumstances not specifically identified in section 54.3 that are within or are excluded from the concept of indirect interests for the purposes of this section 54.

54.5 Conflicts of Interest of Consultants or Advisors. The Ministry may not retain any consultant or advisor to assist in the administration of any aspect of this Law if the consultant or advisor or his or her employer has any interest that could reasonably be expected to create a conflict with the interests of the Ministry.

## **Section 55 Improper Disclosure of Confidential Information by Public Officials**

55.1 Prohibition. Any public official who, by virtue of official capacity or former official capacity, has access to any confidential information shall not disclose such information except in the proper performance of the functions attached to that official capacity.

55.2 Penalty. Any public official in breach of such prohibition or who makes improper use of confidential information to gain, directly or indirectly, an advantage for such

official or for any other person, commits an offense and is liable on conviction to a fine not exceeding two hundred and fifty thousand US dollars (US\$250,000) or to a term of imprisonment not exceeding two (2) years or both, and to the requirement that he or she disgorge the value of any such gain.

- 55.3 When Information is No Longer Confidential. For the purposes of applying the prohibition of this section 55 insofar as it applies to use by a public official of confidential information to gain, directly or indirectly, an advantage for such official or for any other person, confidential information that has come into the possession of a public official is deemed to remain confidential until the earlier of the time that such information has been published by the Ministry or such information is otherwise a matter of public knowledge through no action of such official.

### **Section 56 False Representations**

A person who

- (a) in or in connection with any application for, or request for a modification, waiver, or consent under, a license under this Law, or in response to any invitation or requirement of the Ministry or of any authorized public official acting pursuant to this Law, knowingly or recklessly gives or permits to be given information which is false or misleading in a material particular, or
- (b) in any report, return or affidavit submitted in accordance with this Law or the Regulations or a license issued pursuant to this Law, knowingly or recklessly includes, or permits to be included, any information which is false or misleading in a material particular,

commits an offense and is liable on conviction (i) in the case of an individual, to a fine not exceeding five hundred thousand US dollars (US\$500,000) or imprisonment not exceeding one (1) year or both, or (ii) in the case of an entity, to a fine not exceeding five (5) million US dollars (US\$5,000,000) and an assessment of costs.

### **Section 57 Obstruction of Authorized Officers**

A person who without reasonable excuse, obstructs, molests or hinders an authorized public official in the exercise of powers granted under this Law commits an offense and is liable on conviction to a fine not exceeding fifty thousand US dollars (US\$50,000) or (in the case of an individual) to a term of imprisonment not exceeding one (1) year or both).

### **Section 58 Other Offenses.**

58.1 Major Offenses. A person who:

- (a) acts or fails to act in a manner designated as an offense under this Law other than in sections 54 through 57; or
- (b) carries out activities for which a mineral license or a broker or dealer license is required under this Law without holding such license, or
- (c) disposes of any mineral in a manner not permitted by the terms of the mineral license, broker license or dealer license held by it; or
- (d) willfully enters into a Mortgage, Transfer or Change of Control in breach of section 25; or

- (e) conducts license activities in violation of section 33 after notification of a breach of such section; or
- (f) willfully or knowingly is in breach of section 37, 38 or section 39.2 in any material respect

commits an offense and is liable on conviction, in the case of an entity, to a fine not exceeding three (3) million US dollars (US\$3,000,000) and an assessment of costs, or, in the case of an individual, a fine not exceeding five hundred thousand US dollars (US\$500,000) or a term of imprisonment not exceeding one (1) year or both.

58.2 Improper Disposal of Minerals. Where a person is convicted of an offense under any of section 52.5 or sections 54 through 58.1 involving the disposition of a mineral in a manner not permitted by this Law (including the disposition of a mineral without paying royalties required to have been paid in connection with such disposition), the court may in addition to any penalty imposed also make an order for:

- (a) the forfeiture to the State of any mineral so disposed of that can be recovered by the State; or
- (b) to the extent the mineral cannot be recovered by the State, the payment by the convicted person to the State of (i) the proceeds received by such person from the improper disposition of the mineral, or (ii) if such proceeds cannot reasonably be determined, the fair market value of such mineral.

If there is a dispute as to the proceeds received, the convicted person has the burden of proof to show that the proceeds received were less than the fair market value of the mineral involved.

58.3 Misdemeanors. A person who knowingly or willfully breaches a provision of this Law or the Regulations governing the conduct of a licensee or a license applicant not otherwise characterized as an offense under this Law commits a misdemeanor, and is liable on conviction to a fine, in the case of an entity, not exceeding one hundred thousand US dollars (US\$100,000) plus an assessment of costs, or, in the case of an individual, not exceeding ten thousand US dollars (US\$10,000). For the purposes of this section 58.3 the knowledge or willful act of a manager appointed pursuant to section 23.4 or of an executive officer of a licensee is imputed to the licensee.

58.4 Administrative Penalties.

- (a) If a license holder continues to be in breach of a provision of this Law or the Regulations governing the conduct of such licensee after receipt of a notice of breach from the Minister or the Deputy Minister for Operations, or who fails to take an action expressly required by this Law or the Regulations to be taken within a stated period of time, and such breach does not otherwise constitute an offense or a misdemeanor under this Law, such holder may be subjected to administrative penalties determined in accordance with this section 58.4. The Minister may by Regulation establish specific penalties for specific breaches or failures, subject to the limitations set forth below.
- (b) The penalty may not exceed:
  - (i) one hundred US dollars (US\$100) per day in the case of the holder of a prospecting license. Class C mining license or broker license;
  - (ii) five hundred US dollars (US\$500) per day in the case of the holder of a quarry license or a Class B mining license with annual gross receipts of receipts of less than US\$250,000 or the holder of a dealer license;

- (iii) two thousand US dollars (US\$2000) per day in the case of the holder of a reconnaissance license or exploration license or in the case of the holder of a Class B mining license or a quarry license with annual gross receipts in excess of US\$250,000; and
  - (iv) five thousand US dollars (US\$5000) per day in the case of any holder of a Class A mining license.
- 58.5 Adjustment of Penalty Caps. After each fifth anniversary of the effective date of this Law, the maximum amount of any fine or penalty provided for under this Law shall be adjusted in the manner provided in section 704(b)(3) of Chapter 7 of the Revenue Code for surface rent adjustments by an amount not exceeding the percentage so determined. The Minister shall request the calculation of such adjustments by the agency then responsible for the calculation of adjustments under such section 704(b)(3), consult with the Minister of Finance and Development planning as to the actual adjustment to be made, and publish such adjustments in accordance with the requirements applicable to the publication of final Regulations under this Law.
- 58.6 Relation of Penalty to Violation. Sections 54 through 58 set forth maximum penalties. The severity of the infraction and the nature of the license involved shall be taken into account in assessing actual fines and penalties.

### **PART XIII. MISCELLANEOUS**

#### **Section 59 Taxation and Related Financial Obligations due the State**

All matters with respect to import and export duties, royalties, income and other taxes, and investment incentives shall be dealt with as provided in the Revenue Code unless otherwise expressly provided in this Law. The Ministry has no power to grant exemptions with respect to amounts payable under the Revenue Code or to offer incentives in the form of tax holidays or otherwise except as may be expressly provided in the Revenue Code.

#### **Section 60 Right of Owner or Occupant with Regard to Industrial Rocks and Minerals**

Nothing in this Law requires the owner or occupant of land to obtain a license under this Law to search for or extract Industrial Rocks or Minerals solely for the purposes of building, road construction or agricultural purposes on such land and not for the purpose of sale or transfer for commercial gain, so long as (a) such activity is conducted in accordance with all Applicable Law pertaining to the manner in which such search or extraction operations are conducted (including, without limitation, the health, safety and environmental requirements otherwise attributable to mining operations), and (b) any necessary consents have been obtained from all other parties having any interest in the land involved. This section does not authorize an owner or occupant to transfer Industrial Rocks or Minerals from one parcel to a non-adjacent parcel in which such owner or occupant has rights for the purpose of improving the commercial value of the receiving parcel.

#### **Section 61 Confidentiality and Public Access to Documents.**

- 61.1 Documents not Confidential. The following documents are non-confidential and shall be made available for inspection by members of the public during normal official office hours. Documents not available through the Mineral Cadastre System must be requested and are not available on demand. Members of the public are also entitled to

obtain copies of non-confidential documents on payment of reasonable duplicating fees.

Non-confidential documents include the following:

- (a) Documents required to be available to the public in the Mineral Cadastre System pursuant to section 6.5(c).
- (b) Outstanding licenses and license applications, license extension applications and requests for license modification;
- (c) all filings with respect to proposed or completed Transfers, Mortgages or Changes of Control stated to be public information in section 25 and all consents or approvals with respect thereto;
- (d) all surrender notices and termination notices in respect of licenses;
- (e) decisions to designate certain areas as Non-Bidding Areas, as such term is defined in the PPCA;
- (f) in relation to any license to be granted by public tender, the prequalification guidelines, the list of pre-qualified applicants, the tender protocol for the bid, the bid assessment report and the winning bidder announcement;
- (g) MDAs, ancillary activities agreements, environmental impact assessments, environmental management plans, social impact assessments, social management plans, closure management plans, resettlement plans, community development agreements and environmental audits, and any amendment or modification of or supplement to any such agreement or instrument;
- (h) all agreements setting forth the terms on which the State or an entity owned by the State is a direct or indirect participant in a mining license or MDA;
- (i) all annual financial statements and annual summaries of operations submitted by mineral license holders pursuant to this Law or the Regulations;
- (j) All reports referred to in section 61.2 that pursuant to such section are no longer confidential; and
- (k) all reports required under section 44.1(d) or otherwise as to the identity and ownership interests of officers, directors, beneficial owners or Controlling persons with respect to any license applicant or license holder.

61.2 Confidential Reports. Required reports from the holders of licenses issued under this Law as to the results of operations, physical and financial, other than specifically identified in section 61.1, are confidential until:

- (a) in the case of a holder of a Class A mining license, the earlier of five (5) years after submission and two (2) years from the termination of the license;
- (b) in the case of a holder of an exploration license, a Class B mining license, or a quarry license, the earlier of three (3) years after submission and one (1) year from the termination of the license;
- (c) in any other case, the earlier of two (2) years after submission and one (1) year from the termination of the license.

Reports required to be made under the terms of a reconnaissance license are no longer confidential one (1) year after the end of the term of such license even if the license holder has moved on to an exploration license, and reports required to be made under the terms of a prospecting license or an exploration license are no longer confidential

two (2) years after the end of the term of such license even if the license holder has moved on to a mining license.

Information contained in reports that would reveal personal information about individuals other than their names, citizenship, titles and responsibilities shall be redacted from any such reports that become public other than reports provided in compliance with section 44.1(d).

61.3 Confidentiality of Geological Data. The confidentiality of Geological Data is governed by section 43 and not by this section 61.

61.4 Exceptions to Confidentiality. Nothing in this section 61 prohibits the disclosure by the Minister of confidential information held by the Ministry or by a licensee of Geological Data otherwise confidential under section 43 if the disclosure is:

- (a) required in accordance with other Applicable Law;
- (b) pursuant to a prosecution under Applicable Law or an arbitral proceeding authorized under section 23.6;
- (c) required by the final order of a court of competent jurisdiction;
- (d) by the Ministry to a consultant or advisor to the Ministry that has agreed to maintain the confidentiality of such information;
- (e) by the holder of a license to a consultant, advisor or contractor that has agreed to maintain the confidentiality of such information where the provision of such information is necessary for work being done by the consultant, advisor or contractor with respect to the license operations of the holder;
- (f) to an authorized official entitled to receive the confidential information;
- (g) by the holder of a license or by the Minister at the request of such holder to a prospective participant in a transaction involving a Transfer, Mortgage or Change of Control that has agreed in writing to maintain the confidentiality of such information;
- (h) by the Ministry or the holder of a license of financial information to firms appointed as reconcilers under LEITI to prepare, according to the current standards of the Extractive Industries Transparency Initiative, LEITI reconciliation reports in respect of financial data relating to payments made by the holder to any governmental authority of the State under or in relation to such license or related MDA;
- (i) required by any rules or requirements of any government or stock exchange having jurisdiction over the Ministry or the holder or a person Controlling such holder; or
- (j) where such data or information has become part of the public domain, through no fault of the disclosing person.

An agreement between a private party and the Ministry that purports to prohibit the Ministry from disclosing information otherwise permitted to be disclosed under this section 61.4 is unenforceable.

61.5 Information Required to be Published. The Minister shall cause to be published on the Ministry's website at least semi-annually a cumulative list of all outstanding exploration licenses, Class B mining licenses, quarry licenses and Class A mining licenses, identifying each amendment or modification or supplement to any such instrument, indicating its effective date, and the county or counties in which activity

under each such instrument is authorized. In addition, the Minister shall cause a copy of each MDA, Class A mining license and exploration license and of any amendment or modification or supplement to any such instrument to be posted on the Ministry's website within thirty (30) days after it has become effective .

61.6 Availability of Documents; Document Retention.

- (a) If an instrument or document is stated to be a public document, it must be made available to the public for inspection (or delivery, if a copy has been requested) within thirty (30) days after it has been requested open payment of any required copying fees. . If an instrument or document is required to be posted on the website of the Ministry, It shall be posted within thirty (30) days after it has been issued by or received by the Ministry.
- (b) Unless a longer period is required by Applicable Law, documents with respect to any license or license application need not be retained for a period longer than the fifth anniversary of the license termination date as it may from time to time have been extended, or if the license application was ultimately rejected, for a period longer than the fifth anniversary of the date on which the rejection became final, provided that if at the end of any such five (5) year period there is an outstanding dispute related to such license or license application, the period shall be extended until final resolution of such dispute.

**Section 62 Mineral Development Fund**

62.1 Establishment of Mineral Development Fund. There is hereby established a Mineral Development Fund. The Mineral Development Fund:

- (a) shall be used for the purposes set forth in section 62.2;
- (b) shall be funded as provided in section 62.4; and
- (c) shall be held, administered and audited as provided in section 62.5.

62.2 Purposes of Mineral Development Fund. The Mineral Development Fund shall be used solely for the following purposes:

- (a) to support geophysical or geochemical studies undertaken by the Liberia Geological Survey;
- (b) to improve the capacity of the Liberia Geological Survey to receive, store, and access geophysical and geochemical data provided by licensees or third parties, or generated through studies undertaken by the Liberia Geological Survey;
- (c) to improve the capacity of Liberia Geological Survey staff to manage and utilize the geophysical and geochemical data held by or made available to the Liberia Geological Survey; and
- (d) cost reimbursements as provided in section 62.5(d).

62.3 Establishment of Mineral Development Fund Account. The Mineral Development Fund shall be held in a bank account approved by the Minister of Finance and Development Planning (the "MDF Account"). Balances in the MDF Account may be invested only in such investments as may from time to time be approved by the Minister of Finance and Development Planning.

62.4 Funding of Mineral Development Fund. Upon establishment of the MDF Account, the following amounts shall be transferred to the Mineral Development Fund Account

from the Consolidated Fund or (in the case of amounts referred to in section 62.4(d)) paid directly into the MDF Account.

- (a) fifty percent (50%) of all surface rentals and annual license fees paid by the holders of reconnaissance licenses, prospecting licenses, Class C mining licenses, Class B mining licenses and quarry licenses;
- (b) fifty percent (50%) of all annual license fees payable by the holders of exploration licenses and Class A mining licenses issued after the date hereof;
- (c) twenty-five percent (25%) of all amounts realized by the State pursuant to the sale of minerals recovered under section 58.2(a) or recovered by the State pursuant to section 58.2(b); and
- (d) any amount specifically provided in an MDA or a Class A mining license to be paid to the Mineral Development Fund.

Transfers from the Consolidated Fund to the MDF Account of the appropriate percentage of any of the foregoing amounts that were deposited into the Consolidated Fund shall be made within fifteen (15) days after the end of each calendar month, covering all such amounts received during the preceding calendar month, and shall be accompanied by a computation of the amounts to be paid over.

62.5 Administration of and Expenditures from the Mineral Development Fund

- (a) The Mineral Development Fund shall be administered by a Management Board (the “Board”) consisting of the head of the Liberia Geological Survey, a representative appointed by the Minister (the “Ministry Representative”) and a representative appointed by the Minister of Finance and Development Planning (“MFDP Representative”). A designee of the head of the Liberia Geological Survey shall be responsible for preparing and presenting to the Board program planning, design and budgeting recommendations, annual budget proposals, and proposed annual reports pursuant to the requirements of the remainder of this section 62.5. General accounting and support services shall be provided by administrative staff of the Ministry.
- (b) Members of the Board shall not receive compensation for their services, but each annual budget shall provide for reasonable reimbursement to the Ministry from the MDF Account of the cost of accounting and support services provided pursuant to the last two sentences of section 62.5(a).
- (c) No disbursements shall be made from the MDF Account during the twelve month period following its creation. Thereafter disbursements may be made only
  - (i) as provided in an annual budget approved by the members of the Board based on the fiscal year of the State and setting forth sources of funding and the activities to be funded during the year; and
  - (ii) a disbursement request signed by the MFDP Representative and a Ministry Representative.
- (d) Expenditures provided for in the annual budget shall not exceed the amount expected to be on hand at the beginning of each fiscal year plus reasonably estimated revenues during the coming fiscal year. To ensure MDF Account liquidity and avoid inefficient suspension of program activities supported by the Mineral Development Fund, the expenditure timeline must lag at least two months behind the estimated revenue timeline and supported activities of a

continuing nature must be structured so that performance can be slowed and payment can be deferred without material penalty or loss of value of work performed to date.

- (e) The Board shall cause the preparation within sixty (60) days of the end of each fiscal year of a report setting forth the sources and uses of funds during such fiscal year, indicating for each activity supported by the fund, the payments in support of such activity and the recipients of such payments. The accounts of the Mineral Development Fund are subject to audit by the General Audit Commission of Liberia concurrently with each audit of the Ministry.

### **Section 63 Right to Appeal.**

All applicants and license holders have the right to appeal actions taken under this Law or the Regulations (a) in accordance with the requirements of the Liberia Administrative Procedure Act, (b) in a court of Liberia having jurisdiction following any exhaustion of remedies required under the Liberia Administrative Procedure Act, or (c) when permitted under section 23.6, through arbitration.

### **Section 64 Savings Clauses and Amendments**

#### **64.1 Savings Clause.**

- (a) The amendment and restatement of the Mining Law 2000 accomplished by this Law is without prejudice to the validity of any mineral license, broker license, dealer license or MDA duly issued under the Mining Law 2000 and outstanding on the effective date of this Law, any consent, approval, authorization or waiver granted to any holder of a license or an MDA prior to the effective date of this Law, or any enforcement action commenced before or after the effective date of this Law with respect to a violation or an offense under the Mining Law 2000 arising from an event or condition occurring or existing prior to the effective date of this Law.
- (b) If a conflict exists between the express terms and conditions set forth in any such license or MDA and this Law, the terms and conditions of the existing license or MDA (including any terms permitting the extension or renewal of the term of such license or MDA) continue to be valid and enforceable notwithstanding such conflict but:
  - (i) in the case of an amendment to or modification of the terms of any such license or MDA made after the effective date of this Law other than a simple extension or renewal of the term of such license or MDA in accordance with its terms, any amended terms must be amended in a manner that complies to the extent reasonably practical with this Law and the Regulations , and any new terms must comply with such requirements;
  - (ii) no consent, approval, authorization, waiver or other action with respect to any such license or MDA or with respect to the holder thereof may be given if the result thereof would conflict with the terms of this Law or the Regulations unless by the express terms of such license or MDA such action is required if the license holder satisfies the stated conditions;
  - (iii) all operations under any extension of the term of any such license or MDA must comply with the terms of this Law and the Regulations

applicable to the type of license involved except to the extent such license or MDA expressly permits a conflicting action notwithstanding a change in Applicable Law; and

(iv) the provisions of sections 31.2 (General Environmental Duties of License Holders), 37 (Health and Safety), 38 (Security), 43 (Geological Data), 44 (Reporting) and 45 (LEITI Compliance) of this Law are applicable to the holder of any such license or MDA from and after the date that is one hundred eighty (180) days after the effective date of this Law.

(c) The terms and conditions set forth in an amendment to an existing MDA submitted to the Legislature for approval prior to the effective date of this Law but not approved prior to such date are upon approval of such amendment deemed to have been in effect prior to the effective date of this Law. This Law does not abrogate any stabilization or similar rights existing under an MDA effective as of the date of this Agreement.

64.2 Certain Priority Rights under Existing Mineral Licenses. If a mineral license or MDA validly granted prior to the adoption of this Law gave the holder a priority right to apply for a further mineral license, such as the right of a holder of an exploration license or an MDA to apply for a mining license, but no application has been filed prior to the effective date of this Law, such priority right shall remain available for the term provided in such license or MDA, as the case may be, but the terms and conditions on which on which such license may be granted and held shall be those set forth in or pursuant to this Law unless other terms and conditions are expressly provided for in the license or MDA granting such priority right.

64.3 Pending License Applications. A license application or a license extension application (including a broker or dealer license application or extension application) properly filed under the Mining Law 2000 prior to the effective date of this Law as to which no final action is taken as of the effective date of this Law shall continue to be processed in accordance with the procedural requirements applicable under the Mining Law 2000 but the terms and conditions on which on which such license may be granted and held shall be those set forth in or pursuant to this Law to the extent not inconsistent with the express terms of an MDA in effect on the effective date of this Law.

64.4 Automatic Extension of the Term of Certain Licenses. Any prospecting license, Class C mining license, broker license or dealer license validly issued under the Mining Law 2000 with a term ending within ninety (90) days after the effective date of this Law shall automatically be extended until the ninetieth (90th) day following the effective date of this Law. Any Class B mining license, quarry license, Class A mining license or MDA validly issued under the Mining Law 2000 with a term ending within one year after the effective date of this Law shall automatically be extended until the first anniversary of the effective date of this Law.

64.5 Amendments to PPCA.

(a) Section 75(3) of the PPCA is amended by amending clause (e) as follows (deletions being shown as strike-outs and additions being shown as underlined):

(e) An “Eligible Quarry License” is a Quarry License that (i) covers an area of not more than fifty (50) acres, (ii) is exclusively for the quarrying of ~~Building and Industrial Minerals~~ Industrial Rocks and

Minerals” and (iii) is otherwise subject to all of the restrictions applicable to operations under a Quarry License and a Class B Mining License;

- (b) Section 75(3) of the PPCA is amended by amending clause (i) to read as follows:
- (i) Capitalized terms used in subsections (2), (3) and (4) of this Section 75 without definition in this Act have the respective meanings given in the Mining Law as in effect on the date hereof, provided that from and after the effective date of the Minerals and Mining Law 2023, such capitalized terms shall also have the correlative meanings (whether or not capitalized) given in the Minerals and Mining Law 2023 with respect to Mineral Rights issued after such date.
- (c) Section 75(2) of the PPCA is amended by adding the following clause (j) to the enumeration of license grants that are not deemed to be the grant of a Concession (as defined in the PPCA) subject to the PPCA:
- (j) The grant of a Reconnaissance License, a Prospecting License, a Class C Mining License, a Class B Mining License or a Quarry License that would otherwise be deemed the grant of a Concession under Part VI of this Act may be awarded without compliance with Part VI if such license is awarded pursuant to written procedures agreed upon by the Public Procurement and Concessions Commission and the Minister of Mines and Energy that generally parallel the bidding and bid evaluation procedures set forth in the PPCA for Government procurement contracts, with due regard to the differences between a procurement contract and the grant of a right to exploit a natural asset of the State. Such procedures need not pass through the Procurement Committee and Procurement Unit of the Ministry of Mines and Energy.

64.6 Amendment of Chapter 33, Title 12 of the Liberia Code of Laws Revised.

Chapter 33 of Title 12 of the Liberia Code of Laws Revised, as amended by the Land Rights Authority Act of 2016, is further amended to read in its entirety as follows:

***Chapter 33. MINISTRY OF MINES AND ENERGY***

§ 33.1. Ministry created; appointment of Minister, Deputy Ministers, Assistant Ministers.

§ 33.2. Functions of Ministry.

§ 33.3. Organization of Ministry.

**§ 33.1 Ministry created; appointment of Minister, Deputy Ministers, Assistant Ministers.**

There is hereby created and established in the Executive Branch of the Government a Ministry of Mines and Energy to be headed by a Minister who shall be appointed by the President with the advice and consent of the Senate. The President shall appoint, with the advice and consent of the Senate, one or more Deputy Ministers, one of whom shall be to designated to act in the absence of the Minister. The President may also appoint, with the advice and consent of the Senate, such Assistant Ministers as would be required for the effective operation of the Ministry.

**§ 33.2. Functions of Ministry.**

The Ministry of Mines and Energy shall be charged with the administration of the mining and survey laws of the Republic. It shall, in addition to the responsibilities specifically assigned in such laws

- (a) Collect and distribute information about the mineral resources of the nation;
- (b) Conduct research and exploration in geology and related fields for new sources of supply and evolution of mineral, water and geothermal resources and prepare topographic and mineral maps;
- (c) Promote safety in mineral industries, investigate problems of mining and the preparation and utilization of minerals; and control the use of mineral, water and geothermal resources according to approved conservation practices;
- (d) With the approval of the President, request participation of experts in any matter which may be deemed necessary or appropriate for the more efficient solution of matters submitted to the Ministry;
- (e) Propose to the President the tariffs relating to mineral substances, except diamonds;
- (f) Supervise, coordinate and conduct research in developing conventional alternatives, new or renewable energy sources;
- (g) Formulate, and from time to time update, in conjunction with relevant ministries and agencies, and in accordance with prevailing conditions and , national requirements, a comprehensive national energy policy for submission to the Government of Liberia; and
- (h) Perform such other functions as may from time to time be assigned by the President.

**§ 33.3. Organization of Ministry.**

The Ministry of Mines and Energy shall be organized in such manner and with such personnel as shall be determined by the Minister, subject to the approval of the President and to any more specific provisions of the Minerals and Mining Law 2023.

64.7 Environmental Law Modifications.

- (a) The reference to the “New Minerals and Mining Law of Liberia” appearing in Annex V of the Environment Protection Agency Act of Liberia, published April 30, 2003, shall from and after the effective date of this Law be deemed to refer to the Mining Law 2000, during the period of its effectiveness, and thereafter to this Law.
- (b) References to “the New Mining Law 2000” or “the Mining Law” appearing in the Environmental Impact Assessment Guidelines for Mining and Mineral Processing, dated December 2007, issued by the EPA, shall from and after the

date of this Law be deemed to refer to the Mining Law 2000, during the period of its effectiveness, and thereafter to this Law.

**Section 65    Effective Date**

This Law shall take effect immediately on publication into handbills.

ANY LAW TO THE CONTRARY NOTWITHSTANDING

**SCHEDULE 1 TO MINERALS AND MINING LAW 2023**

**Schedule of Fees**

Until Regulations to the contrary are issued by the Minister, fees for the activities referred to below shall be as stated below.

(a)	Reconnaissance license application	US\$ _____
(b)	Prospecting license application	US\$ _____
(c)	Exploration license application	US\$ _____
(d)	Class C mining license application	US\$ _____
(e)	Class B mining license application	US\$ _____
(f)	Class A mining license application (not iron ore)	US\$ _____
(g)	Class A mining license application (iron ore)	US\$ _____
(h)	Application for MDA	US\$ _____
(i)	Grant of reconnaissance license	US\$ _____
(j)	Grant of prospecting license	US\$ _____
(k)	Grant of exploration License	US\$ _____
(l)	Grant of Class C mining license	US\$ _____
(m)	Grant of Class B mining license	US\$ _____
(n)	Grant of Class A mining license	US\$ _____
(o)	Annual fee for reconnaissance license	US\$ _____
(p)	Annual fee for prospecting license	US\$ _____
(q)	Annual fee for exploration License	US\$ _____
(r)	Annual fee for Class C mining license	US\$ _____
(s)	Annual fee for Class B mining license	US\$ _____
(t)	Annual fee for Class A mining license	US\$ _____
(u)	Any mineral license extension application pursuant to section 24:	[50%] of original application fee]
(v)	Broker license application or extension fee	US\$ _____
(w)	Dealer license application or extension fee	US\$ _____
(x)	Broker license annual fee	US\$ _____
(y)	Dealer license annual fee	US\$ _____
(z)	Dealer representative identification document issue or renewal	US\$ _____
(aa)	Surface rents per hectare applicable to	
	(i) Prospecting licenses	US\$ _____
	(ii) Class C mining licenses	US\$ _____
	(iii) Class B mining licenses	US\$ _____

- (iv) Quarry licenses US\$ \_\_\_\_\_
- (bb) Fees for obtaining Geological Data from Liberia Geological Survey

***Possible categories of fees to be provided by MME.***

**SCHEDULE 2 TO MINERALS AND MINING LAW 2023**

Procedures Applicable to the Trade in Rough Diamonds  
Pursuant to Section 52 of such Law

**Section 1 Requirements for Obtaining a Kimberley Process Certificate for Export of Rough Diamonds**

The requirements for obtaining a KPC for export of rough diamonds are as follows.

- (a) The Exporting Authority shall not issue and validate a KPC unless:
  - (i) It contains all information required by section 4 of this Schedule 2 and otherwise satisfies the requirements of section 52.1 of the Minerals and Mining Law 2023.
  - (ii) The exporter has provided conclusive evidence that the rough diamonds meant for export have been mined in the Republic of Liberia or have been imported in compliance with this Law, and that the presence of conflict diamonds has been eliminated from the consignment, together with a declaration that the rough diamonds being exported are not conflict diamonds.
  - (iii) The rough diamonds are to be exported to a KP Participant.
  - (iv) The rough diamonds have been inspected by the Exporting Authority to verify conformity with the accompanying forms and documents.
  - (v) Each individual parcel of a rough diamond consignment has been digitally photographed by the Exporting Authority of the State.
  - (vi) The exporter has informed the Exporting Authority of the proposed export shipment date.
- (b) A validated KPC authorizes the export of the diamonds covered thereby for the period stated therein, which may not exceed ninety (90) days.
- (c) The original of the validated KPC must accompany the consignment of rough diamonds. The Exporting Authority shall furnish the exporter with an authenticated copy for its records and shall retain a copy in its records for five (5) years.
- (d) Upon issue and validation of a KPC, the Exporting Authority shall release to the exporter the sealed consignment of rough diamonds that are the subject of such KPC for export in keeping with the provisions of this Law, and shall notify the importing authority of the importing KP Participant via electronic message (delayed for security reasons until the second regular business day of the Exporting Authority following the proposed date of shipment provided by the exporter) containing information on the carat weight, value, country of origin or provenance, importer, the unique number of the KPC and its date of issue and expiry.

- (e) The Exporting Authority shall promptly record and register all rough diamond exports in the National Diamond Database. This shall include for each KPC as follows:
  - (i) the unique certificate number;
  - (ii) the name and address of the exporter in the Republic of Liberia, and if the exporter is not an individual, the name, address and title of the individual submitting the application on the entity's behalf;
  - (iii) the name and address of the intended importer;
  - (iv) the destined KP Participant;
  - (v) the date of issue and validation;
  - (vi) the date of expiry of validity;
  - (vii) the country of origin, where known, and if mined in Liberia, the location of the mine and the identity of the license holder;
  - (viii) the carat weight (mass) and value in US dollars by applicable HS Code(s);
  - (ix) the number of parcels in the consignment, and the seal number of each parcel;
  - (x) the digital photographs referred to in clause (a)(v) of this section 1.1; and
  - (xi) the date of confirmation of import by the importing authority of the destined KP Participant.

## **Section 2 Requirements for Imports of Rough Diamonds**

The requirements for the import of rough diamonds are as follows:

- (a) If the requirements of section 52.2 are satisfied and the Importing Authority has digitally photographed each individual parcel of a rough diamond consignment the Importing Authority shall furnish the authorized importer with an authenticated copy of the KPC applicable to the rough diamonds to be imported, and shall release the diamonds to the authorized importer. The Importing Authority shall retain the original KPC for at least five (5) years.
- (b) The import of the consignment of rough diamonds must be confirmed reasonably promptly by the Importing Authority to the relevant KP Participant's exporting authority.
- (c) The Importing Authority shall promptly record and register all rough diamond imports in the National Diamond Database. This must include for each KPC as follows:
  - (i) the unique certificate number;
  - (ii) the name of the issuing and validating authorities;
  - (iii) the name and address of the exporter;
  - (iv) the name and address of the importer and if different the destined person(s) in the Republic of Liberia;

- (v) the date of issue and validation;
- (vi) the date of expiry of validity;
- (vii) the country of provenance;
- (viii) the country of origin, where known;
- (ix) the carat weight (mass) and value, by applicable HS Code(s);
- (x) the digital photographs required by clause (a) of this section 2; and
- (xi) the date of importation.

### **Section 3 Reporting Requirements for Rough Diamonds Production and Trade.**

Each holder of a mining license, broker license or dealer license authorized to mine or deal in diamonds is required to report in such format as the Ministry shall reasonably require:

- (a) in the case of Class B mining license holders and Class A mining license holders, at least quarterly as to rough diamond production volumes, by carat (mass) and HS Codes 7102.10, 7102.21 or 7102.31, and as to sales during the quarter, identifying each transaction by carat (mass), by value in US dollars, by HS Codes 7102.10, 7102.21 or 7102.31 and by purchaser, and indicating which sales are export sales;
- (b) in the case of Class C mining license holders, at least semi-annually as to rough diamond production volumes by carat weight (mass), and sales during the semi-annual period, identifying each transaction by carat (mass), sales price and purchaser; and
- (c) in the case of brokers and dealers, at least quarterly as to purchases and sales for during the quarter, identifying each transaction by carat weight (mass), by HS Code 7102.10, 7102.21 or 7102.31, by value in US dollars, and by seller or purchaser, indicating, in the case of dealers, which transactions are
  - (i) import purchases,
  - (ii) domestic purchases,
  - (iii) export sales,
  - (iv) domestic non-end-user sales, and
  - (v) domestic end-user sales.

Unless otherwise provided by Regulation, reports due under clauses (a) and (c) shall be filed within thirty (30) days after the end of the relevant quarter, and reports due under clause (b) shall be filed within forty-five (45) days after the end of the relevant semi-annual period. The Minister shall ensure that detailed information on all mining, broker, and dealer licenses submitted pursuant to this section 3 will be recorded in the National Diamond Database for at least five years.

#### **Section 4      Data Analysis and Reporting**

- (a) The Minister shall conduct the following analyses of the data stored in the National Diamond Database:
  - (i) The Minister shall submit the characteristics of the rough diamonds produced and the actual production based on carat weight and value to analysis on a regular basis.
  - (ii) The Minister shall submit the production figures and estimates and the export and import data recorded in the National Diamond Database to regular examination in order to reconcile the data.
  - (iii) If after reconciliation, significant anomalies are identified between the summation of production figures and import data versus export data, the Minister shall launch an investigation to clarify said anomalies in keeping with the spirit of this Law and of the Kimberley Process Certification Scheme.
- (b) The Minister shall report significant anomalies in the following manner.
  - (i) The Minister shall submit to the Kimberley Process Administrative Support Mechanism (the “Kimberley Process ASM”) information concerning identified significant anomalies and report on follow-up and investigation.
  - (ii) The Minister shall submit to the Kimberley Process ASM within two months of the reference period in the format indicated by the designated body of the Kimberley Process, quarterly aggregate statistics of exports and imports of rough diamonds, as well as the number of KPCs validated for export, and of imported consignments accompanied by KPCs from relevant KP Participants, by provenance and origin wherever possible; by carat weight and value; and under HS Codes 7102.10, 7102.21 or 7102.31, together with the number of shipments validated for export and the number of imported shipments accompanied by KPCs.
  - (iii) The Minister shall submit to the Kimberley Process ASM on a semi-annual basis and within two months of the reference period aggregate statistics on rough diamond production by carat weight and value in the format indicated by the designated body of the Kimberley Process, and shall notify the Chair of the Kimberley Process if it is unable to do so.
  - (iv) The Minister shall submit an annual report to the Kimberley Process ASM about the functioning of the Kimberley Process Certification Scheme in the Republic of Liberia in the format and within the time frame as indicated by the designated body of the Kimberley Process.
  - (v) The Minister shall ensure free and unrestricted access to the National Diamond Database to individuals or bodies designated by the Chair of the Kimberley Process to do so, provided that commercially sensitive information, such as the customers of individual brokers or dealers, the buying and selling prices realized by individual brokers and dealers, and the expenditures and revenues of individual brokers and dealers, which is

by nature confidential, shall not be made public or used for purposes other than those mandated by the Chair of the Kimberley Process.

- (vi) Copies of reports delivered to the Kimberley Process ASM shall be concurrently delivered to the Minister of Justice, the Minister of Finance and Development Planning, and the Minister of Internal Affairs.

## **Section 5      Characteristics of the Kimberley Process Certificate of the Republic of Liberia**

Each and every KPC of the Republic of Liberia shall bear the title “Kimberley Process Certificate” and the following statement: “The rough diamonds in this consignment have been handled in accordance with the provisions of the Kimberley Process Certification Scheme for rough diamonds,” and shall satisfy the following requirements:

- (a) bear the title “Ministry of Mines & Energy – Republic of Liberia” as issuing authority;
- (b) identify country of origin (only for consignments of the same-unmixed-origin);
- (c) bear a unique certificate number preceded by “LR”;
- (d) identify the destined KP Participant and (by name and address) the exporter and importer;
- (e) identify the number of parcels in the consignment and the seal number of each parcel;
- (f) set forth carat weight (mass) and value in US\$ for each of HS codes 7102.10, 7102.21 and 7102.31;
- (g) set forth the date of issuance and validation and the date of expiry of validity;
- (h) bear the seal and signature of the Exporting Authority or the Minister as validation of the KPC;
- (i) have security features that make it tamper and forgery resistant; and
- (j) have an “Import Confirmation” part containing the following elements:
  - (i) the title “Ministry of Mines & Energy – Republic of Liberia” followed by “Import Confirmation Certificate”;
  - (ii) the same unique number as the main body of the certificate;
  - (iii) the identification of importer and KP Participant;
  - (iv) the carat weight (mass) and value in US\$ for HS codes 7102.10, 7102.21, and 7102.31; and
  - (v) provision for the entering by the importing authority of the KP Participant of the date of receipt and the authentication of such importing authority.

Sample copies must be submitted to the Chair of the Kimberley Process and to all KP Participants.