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Refresher mining updaters – service providers

Local Content Shareholding Requirements For Service Providers To The Mining Sector

The Mining Act R.E. 2019 (the **Act**) and the Mining (Local Content) Regulations 2018 (the **Regulations**) provide for minimum local content shareholding requirements for entities operating in and servicing the mining sector. Below we have set out the varying positions under each, the Act and the Regulations and for ease of understanding, we have provided a flowchart which identifies the three options for compliance in relation to shareholding for service providers.

Position under the Act

Mining companies are required to comply with the requirement to give priority to local companies according to the Act.

A local company is defined as a company or subsidiary company incorporated under the Companies Act R.E 2002, which is either:

- a) one hundred percent owned by a Tanzanian citizen (note, single shareholder companies are not allowed in Tanzania, so we understand this to mean Tanzanian citizens); or
- b) a company that is in a joint venture partnership with a Tanzanian citizen or citizens whose participating shares are not less than fifty one percent.

The Act provides for an alternative which is that if the goods are not available in Tanzania, the goods shall be provided by a local company which has entered into a joint venture with a foreign company who holds twenty five percent in the joint venture **or otherwise as provided for in the Regulations.**

Position under the Regulations

Mining companies are required to comply with the requirement to give priority to indigenous Tanzanian companies according to the Regulations.

An indigenous Tanzanian company is defined as a company incorporated under the Companies Act R.E 2002 that has:

- a) at least twenty percent of its equity owned by a citizen or citizens of Tanzania; and
- b) has Tanzanian citizens holding at least eighty percent of executive and senior management positions and one hundred percent of non-managerial and other positions.

The Regulations provide for alternatives where it is not possible to obtain goods and services from indigenous Tanzanian companies. This includes joint venture arrangements whereby a non-indigenous Tanzanian company which intends to provide goods or services to a mining licence holder within Tanzania shall incorporate a joint venture company with an indigenous Tanzanian company and afford that indigenous Tanzanian company an equity participation of at least twenty percent.

Therefore, in terms of provision of goods and services, if the service provider qualifies as either:

- a) a "local company"; or
- b) an "indigenous Tanzanian company"; or
- c) a joint venture with a minimum of 20% of shares owned by Tanzanian citizens/ an indigenous Tanzanian company,

it can lawfully supply goods or render services to mining licence holders under the Act or the Regulations.

Mining local content flowchart

