

MINING LAW NO 20/2014, DATED 18TH AUGUST

PREAMBLE

In light of the need to adapt the Mining Law to the country's present economic situation and to the recent developments in the mining sector, with a view to ensure the competitiveness and transparency and the protection of rights and definition of the obligations of the mining holders, as well as to safeguard the national interest, in accordance with the provisions of article 170, 1, of the Constitution, the Assembly of the Republic determines:

CHAPTER I

General Provisions

Article 1

(Definitions)

Terms and expressions used herein are set out in the glossary attached to this Law.

Article 2

(Scope of application)

1. This Law establishes the general principles that govern the exercise of the rights and obligations regarding the use and re-use of mineral resources, including mineral water.
2. The exercise of rights and obligations regarding the use and re-use of oil, natural gas, associated methane gas and associated natural gas is excluded from the scope of this Law.

Article 3

(Object)

The purpose of this law is to regulate the use and re-use of mineral resources in harmony with the best and safest mining and socio-environmental practices and transparency, allowing a sustainable long term development and the raising of revenues in favour of the State.

Article 4

(Property of mineral resources)

Mineral resources found in the soil and subsoil, internal waters, territorial sea, continental shelf and in the exclusive economic zone are property of the State.

Article 5

(Acquisition of rights)

1. The right to carry out a mining activity is obtained pursuant to the following mining holding permits:
 - a) Prospecting and Research Licence;
 - b) Mining Concession;
 - c) Mining Certificate;
 - d) Mining Pass;
 - e) Mining Treatment Licence;
 - f) Mining Processing Licence;

g) Licence for the Commercialisation of Mining Products.

2. The following permissions are considered as authorizations:

- a) Extract mineral resources for the construction of public works;
- b) Geologic Investigation;
- c) Removal of fossils and archaeological finds;

Article 6

(Mining areas characterization)

1. For the purposes of this Law, the mining areas are characterized as:
 - a) available area;
 - b) reserved area;
 - c) designated area;
2. It shall be considered available area, any area which:
 - a) it is not object of a mining holding permit;
 - b) it is not submitted to a public procurement proceeding;
 - c) it is not object of a mining holding or permit request;
 - d) it is not declared an area where mining is restricted or prohibited.
3. A reserved area must be declared as such and the respective mineral resources must be appropriate for prospection and research, simplified mineral extracting and processing, exclusive to the assignment of mining passes.
4. A designated area must be declared as such and the respective mineral resources must be appropriate for the prospection and research, simplified mineral extracting and processing, exclusively to the assignment of mining passes.

Article 7

(Requirements for granting mining holding permits)

1. Mining holding permits are granted in available areas to applicants that satisfy the requirements established in this Law and in other applicable legislation.
2. Applicants for mining holding permits, in the form of a commercial company, shall, at the submission of the application, attach a document showing evidence of the incorporation of the company, including the identification of the shareholders and the value of their participations.

Article 8

(Mining contract)

1. The Government may enter into a mining contract with the holder of a Prospecting and

Research Licence and Mining Concession, in terms to be regulated.

2. The mining contract, among other clauses, should contain the following:
 - a) State participation in the mining venture;
 - b) Minimum local content;
 - c) local employment and technical-professional training programmes;
 - d) incentives for the increase of value of the minerals;
 - e) social responsibility activities to be developed by the mining holder;
 - f) memorandum of understanding between the Government, the company and the community(ies);
 - g) dispute settlement mechanisms, including provisions related to the settlement of any such disputes through arbitration;
 - h) the way communities of the mining area are engaged and benefitted by the venture;
3. A financial offer must be paid when a contract is concluded following a public tender procedure.
4. Mining contracts must be published in the *Boletim da República*, preceded by the Administrative Court's prior approval, within 30 days.
5. Notwithstanding its publication in newspapers and internet sites, mining contracts, once approved, as well as its amendments, shall be sent, for cognizance, to the Assembly of the Republic.

Article 9

(Principle of priority)

Mining holding permits are assigned following the order of priority of date and time of entry of the respective application to the competent authority, considering the proposal that offers the best conditions, advantages and gains for the Mozambican State as owner of the mineral resources.

Article 10

(Public tender)

1. The Government may organize a public tender procedure for the mining operations when there is public interest, in the following areas:
 - a) geologically studied areas;
 - b) areas with mineral resources' potential;
 - c) areas that have been subject to previous mining activity;
 - d) areas declared reserved for mining activity;
 - e) areas of partial or total protection.
2. The procedures for conducting public tenders are defined by Regulation, without prejudice to other applicable legislation.

Article 11

(Mineral Water)

1. The Government shall regulate the mechanisms for the exploration of mineral water, assuring the

compliance with consumer rights and public health norms.

2. The holder of a right of use and enjoyment of land, the area of which is a mineral water source, may require an authorization for mineral water exploitation, in accordance with applicable legislation.

Article 12

(Use and enjoyment of land)

1. The use and occupation of land for carrying out mining activities is regulated by law, without prejudice to the provisions of the present law.
2. Pre-existing rights of use and enjoyment of land are considered extinct after the payment of a fair compensation to land users and the termination thereof, in accordance with applicable law.

Article 13

(Competence of the Government)

The Government is responsible for:

- a) the protection and administration of the national heritage of mineral resources;
- b) approving other regulations necessary for the right implementation of this Law, after consulting the High Authority of the Extraction Industry;
- c) declaring areas reserved for mining;
- d) extending, giving reasons, the period prescribed in this Law, for the beginning of mining production;
- e) inventorying the revenues from mining operations and publishing them periodically;
- f) entering into contracts with mining holders;
- g) protecting the communities where mining activities are authorized and promote socio-economic development.

Article 14

(Inspection)

1. The mining activity is subject to inspection in order to assure a rational and sustainable use and enjoyment of mineral resources.
2. The Mineral Resources General Inspection is responsible for controlling the observance of this Law and any other legislation on mining and technical security in geologic-mining activities.

Article 15

(Data ownership)

1. Data obtained under any holding permit or mining contract regulated in this Law is considered property of the State.
2. The terms and conditions for the exercise of rights concerned with data are established by regulation.

3. The Government is responsible for the announcement of information concerning mineral resources discoveries.

Article 16

(Taxes)

1. Mining holders are subject to the payment of the following taxes:
 - a) income tax;
 - b) VAT;
 - c) production tax;
 - d) surface tax;
 - e) municipal taxes, when applicable;
 - f) other taxes established by law.
2. Mining holders are subject to the payment of all the taxes concerned with the processing of applications for mining holding permits.
3. The mining holder who exports for laboratory analysis with commercial value must pay the respective taxes according to the law.

Article 17

(Performance guarantee provision)

To ensure the observance of the terms and conditions established in the mining holding permits and / or mining contracts, mining holders and / or their operators are subject to the provision of financial guarantee, under regulatory terms.

Article 18

(Reserved mining area)

When the development, use and exploitation of mineral resources is considered as being of public interest to the national economy or to the future development of the region in which they occur, the Government may declare that the land on which mineral resources are located is reserved in order to preserve such land for mining holding permits requests, specifying the types of incompatible and prohibited activities in the reserved mining area.

Article 19

(Full and partial protection zones)

Exercise of mining activities in fully and partially protected areas is regulated by the provisions of applicable legislation.

Article 20

(Local development)

1. A percentage of State revenues generated by mining activities is allocated to the development of the communities established in the areas where mining activities take place.
2. The above mentioned percentage is fixed in the State Budget Law, depending on the expected revenue for mining activity.
3. Revenue is channelled through the annual budget.

Article 21

(Industrial activity development)

1. Mineral Resources must be used, whenever necessary, for the cogeneration of energy in order to achieve the safety of national energy or as raw material for the manufacturing industry, under regulatory terms;
2. The State may require the purchase of mining products at market price for use in local industry if its commercial interests require it.
3. The industrial processing activity of raw materials from mining exploitation is subject to specific legislation.

Article 22

(Acquisition of goods and services)

1. The acquisition by the mining holders of goods or services above a certain value, in terms to be regulated, shall be made by public tender and this shall be published in the most relevant newspapers.
2. Single or collective foreign legal persons providing services to mining operations shall be associated to Mozambican single or collective legal persons in accordance with the regulation.
3. In the evaluation of the public tender proceedings the following selection criteria must be considered: quality of the product, price, delivery time and guarantees offered.
4. The mining holder must give preference to local products and services.

Section II

Role of the State

Article 23

(Evaluation and promotion of access to mineral resources)

1. The State, institutions and other legal persons of public right are fundamental in the promotion of the evaluation of mining potential, in order to allow access to the mining production benefits and contribute to socio-economic development.
2. In its action, the State pursues the stimulation of investments in mining operations.
3. Upon proposal by the Government, the Assembly of the Republic shall define the mechanisms for the sustainable management of the revenue from the exploitation of natural resources of the country, taking into consideration the satisfaction of the present and future generation development needs.

Article 24

(Defence of national interests)

In the granting of rights for the exercise of mining operations under the scope of this Law, the State shall always ensure the respect for the national interests in relation with defence, navigation, research and conservation of natural resources, environment, existing economic activities and communities' food and nutritional safety.

Article 25

Alta Autoridade da Indústria Extrativa (High Authority for the Extractive Industry)

1. The Alta Autoridade da Indústria Extrativa is established as a collective person of public right, with administrative and financial autonomy, supervised by the Council of Ministers which approves its statutes, defines its powers, composition, incompatibilities, powers, working and organic structure.
2. The Alta Autoridade da Indústria Extrativa must be in operation within 12 months.

Article 26

Instituto Nacional de Minas (National Institute of Mines)

1. The Instituto Nacional de Minas is established as the regulator of mining activities, supervised by the Ministry responsible for supervising natural resources, responsible for the guidelines for the participation of the public and private sectors in exploration, processing, import and export of mining products and their derivatives.
2. The Instituto Nacional de Minas is responsible for:
 - a) proposing measures for developing the mining sector and supervising its implementation and execution;
 - b) reviewing and approving projects and technical and economic studies for the opening of new mines as well as rehabilitation and/or closure of already existing ones;
 - c) receiving, preparing, organizing and analysing the processes related to the allocation of Prospecting and Research Licences, mining and mineral water concessions, practicing all acts contained in the Mining Law Regulation;
 - d) promoting, supporting and supervising, along with other institutions, the prospection, research and extracting, use and enjoyment of mineral resources excluding oil and gas;
 - e) promoting, supporting and supervising small scale mining, taking into account the minimization of its social and environmental negative impact;
3. The organization and functioning of the Instituto Nacional de Minas and other powers are defined by the Government.

CHAPTER II

Pre-existing rights

Article 27

(Rights of the State)

1. For the purposes of this Law, the State has priority over other pre-existing rights of land use.

2. Pre-existing rights may be extinguished in favour of the State if payment of fair compensation were made by the applicants of mining rights.

Article 28

(Distinction between rights)

The mining exploration right is distinct from the use and enjoyment of land rights and from other pre-existing rights.

Article 29

(No overlapping of rights)

1. The granting of the mining exploration rights does not necessarily presuppose the allocation of the right of use and enjoyment of land or other pre-existing rights that remain in custody of the State until the closure of the mining activities.
2. The Government must decree the end of the mining exploration immediately after the license expires and when there is a depletion of the resource or violation of the law.
3. Once declared the end of the mining right, the State may, whenever possible, assign the right of use and enjoyment of the land related with the closed mine to other interested applicants in terms to be regulated.
4. When the end of mining activities is decreed, the State may reassign the right of use and enjoyment of land to interested applicants, and the holders of pre-existing rights of option or their legal representatives enjoy preference in the re-acquisition of the rights forfeited in favour of the State for the purpose of mining operations, in terms to be regulated by the Government.

Article 30

(Fair compensation)

1. When the available area covers, totally or partially, spaces where families or communities are established, implying their replacement, the company must pay them a fair and transparent compensation, under terms to be regulated.
2. The fair compensation value must be fixed in an understanding memorandum between the Government, the company and the community, and such an act may be witnessed by a community-based organization, if requested by one of the parties.
3. The above mentioned understanding memorandum is one of the requirements for the allocation of mining exploration rights.
4. The Government is responsible for assuring the best terms and conditions in favour of the community, including the payment of fair compensation.

Article 31

(Contents of fair compensation)

Fair compensation to be paid to pre-existing rights' holders must cover:

- a) resettlement in dignified homes, by the holder of the mining concession, in better conditions than the previous ones;
 - b) payment of the value of the improvements under the Land Law and any other applicable legislation;
 - c) support in the development of activities that those covered depend on in life, food and nutritional safety;
 - c) preservation of historical, cultural and symbolic heritage of families and communities in ways to be agreed.
2. The definitive Resettlement can only occur when the research confirms the availability of mineral resources, according to principles defined in Regulation by the Council of Ministers.

Article 32

(Involvement of communities)

1. Previous information concerned with the beginning of the prospecting and research activities must be provided to communities as well as the necessity of their temporary resettlement for this purpose.
2. Communities must be previously consulted before the granting of an authorization for the beginning of mining exploration.
3. The Government shall create mechanisms in order to allow the engagement of communities in the mining projects located where they are settled.
4. The Government is responsible for assuring the organization of the communities in order to promote their engagement as mentioned above.

Article 33

(Workforce in mining activities)

1. Mining companies must observe the applicable legislation in order to assure the workers' rights and a harmonious environment in labour relationships.
2. Mining companies must assure the employment and professional training of Mozambican workers according to the applicable legislation.
3. Mining companies must assure the workers' safety and health according to Mozambican and international applicable legislation.
4. Workers' recruitment must be published in the major newspapers or broadcast on radio, television or published in the internet, specifying the nearest location for the submission of applications, the requirements and the ensuing publication of results.
5. The Government must regulate the mining work regime.

Article 34

(Promotion of national entrepreneurship)

1. The Government must create mechanisms in order to allow the engagement of national entrepreneurship in mining projects, including the definition of the terms and conditions for this purpose.
2. The State must intensify, progressively, its participation level in mining projects.
3. The Government shall promote the entry of mining companies into the Stock Exchange of Mozambique in the terms of the applicable legislation.

CHAPTER III

Legal Regime of Mining Holding Permits

Section I

Rights, obligations and guarantees

Article 35

(General rights of mining holders)

1. The holder of the rights for prospecting and research, evaluation or exploration of mineral resources enjoys beside others, the right to:
 - a) obtain or consult the competent entities of the State entity which oversees the geological and mineral information available regarding the area covered by the mining holding permit;
 - b) obtain the collaboration of the administrative authorities for carrying out field work and for the establishment of right of way in the terms of the law;
 - c) request, with right of preference, the inclusion in the mining holding permit, the associated minerals or others which may have been found;
 - d) use the surface water and groundwater near the concession area which are not in use or under other specific holding title of exploration without prejudice to the rights of third parties and always complying with the mining legislation;
 - e) build and implement the infrastructure and facilities required in the execution of geologic and mining activities;
 - f) use, according to legal and regulation terms, the limited areas for the implementation of mining facilities, buildings and equipment;
 - g) change, in accordance with approved plans and work programs, and to the extent necessary, the natural configuration of the concession areas;
 - h) undertake mining activities necessary for the implementation of approved work plans, subject to no limitations other than those prescribed by law or the concession contract or regulation from the responsible ministry;
 - i) extract, transport and benefit from the mineral resources;
 - j) dispose and commercialize extracted mineral resources;
 - k) recover, with the results of the mining exploitation, all investment expenses

- incurred with the reconnaissance, prospecting, research and evaluation;
- l) be compensated for losses arising from actions which may limit the exercise of mining rights under the law or the concession contract.

Article 36

(General Obligations of the mining holder)

The holder of mining rights has, beside others, the obligation to:

- a) hold the mining holding permit before starting any mining activity;
- b) carry out social, economic and sustainable development actions in the areas of the mining concession;
- c) secure employment and technical training to national citizens especially the ones who live in the concession area;
- d) adopt the best methods in order to stimulate and increase efficiency, always respecting the economic market conditions, environmental protection and rational use of resources.
- e) register all the investigation activities carried out;
- f) allow the control and the supervision of its activity by the competent authorities, including the access to the registry of technical, economic and financial data related with the activity undertaken.
- g) release, progressively, the initial area covered by the holding permit according to this Law and its regulation.
- h) observe the approved exploitation plan, obeying the legal and regulatory provisions and the best methodological options;
- i) comply with the deadlines for execution of mining operations and the ones established for the production programme, maintaining the exploration activity, except if the suspension is authorized or imposed or when determined by reasons of *force majeure*.
- j) comply with the provisions contained in the Environmental Impact study;
- k) develop the necessary actions regarding the environmental protection according with de Environmental Impact Study;
- l) promote public health and security according with national and international applicable legislation;
- m) provide information about soil and environment characteristics;
- n) repair the damages caused to third parties by the exercise of mining activities.

Article 37

(Guarantees)

The mining holder enjoys the following legal guarantees:

- a) registration of the mining holding permit request that is supplied in compliance with the principles of temporal and exclusiveness in accordance with legally established deadlines;

- b) publicize the mining concession/mining rights applications;
- c) ensure the right of transmission of the mining rights in the terms of the present Law;
- d) the necessary State support for the execution of the mining activities and the respect for their inherent rights;
- e) right to freely dispose of and commercialize the mineral products whilst observing the rules and procedures established in the present Law and in complementary legislation on the matter.

Article 38

(Geosite, geological heritage and archaeological finds)

1. The holder of mining rights and mining authorizations should, if it is the case, adopt the necessary measures in order to preserve geosites, geologic heritage and archaeological finds.
2. The mining holder must request an authorization from the competent entity for the removal of geosites, geologic heritage and archaeological finds.

CHAPTER IV

Permit Holdings

Section I

Prospecting and Research License

Article 39

(Conditions and validity period)

1. The Prospecting and Research Licence is assigned to the legal person constituted and registered in accordance with Mozambican legislation, with technical and financial capacity that wishes to carry out prospecting and research operations.
2. The expiry date of the license observes the following provisions:
 - a) two years for mineral resources for construction renewable once for the same period of time;
 - b) five years for other mineral resources, including mineral water, renewable once, for three further years;

Article 40

(Specific rights of a mining holder)

The Prospecting and Research Licence gives its holder in the concession area the right to:

- a) access the area and exclusively carry out the prospection and research activities;
- b) collect, remove, transport and export samples that do not exceed the acceptable limits and volumes for laboratory analysis according to patterns and criteria set out in specific legislation;
- c) realize sampling and mining treatment tests in order to determine its content whenever the acceptable limits and volumes defined in the specific legislation are not exceeded;

- d) occupy the land, open access roads and build temporary facilities, campsites, constructions or buildings necessary for conducting the prospecting and research activities;
- e) use water, wood and other necessary materials for the prospection and research operations according to the applicable law and the observance of good mining and social-environmental practices;
- f) apply, with right of preference, for the licence which authorizes the prospection and research of identified mineral resources for construction, identified in the area subject to the Prospecting and Research Licence;
- g) apply, with right of preference, for the right to use and enjoy associated methane gas in the area subject to the prospecting and research licence for coal.

Article 41

(Specific obligations of a mining holder)

1. The holder of a Prospecting and Research Licence must observe, among others, the following obligations:
 - a) exercise mining activity according with applicable legislation and regulations;
 - b) respect the local communities and contribute for the preservation of their socio-cultural values;
 - c) comply with the approved work programme;
 - d) provide information to the government regarding the investments made and annual reports on prospecting and research operations;
 - e) compensate land users for damage caused to land or property by prospecting and research activities;
 - f) execute activities in accordance with good mining and socio-economic practices;
 - g) observe mining activities' norms related with technical safety and health for geologic – mining activities in compliance with applicable legislation and undertake the environmental restoration of the area as well as repair damages caused by prospecting and research activities, according to environmental legislation;
 - h) inform the Government before any public disclosure about the discovery of minerals, according to the applicable regulation;
2. Fully execute the plan for compensation and resettlement of the population.
3. The holder of the Prospecting and Research Licence who sells mineral products, for the purpose of point c) of the previous article, is subject to the payment of all taxes and other tax obligations as if the mineral resources sold had been obtained under a mining concession, mining pass or mining certificate.

Section II

Mining concession

Article 42

(Conditions and validity period)

1. The mining concession is assigned to the legal person constituted and registered in accordance with Mozambican legislation, with technical and financial capacity, that wishes to carry the activities referred in article 39 and the satisfies the legal requirements.
2. The mining concession deadline is of up to twenty five years and it may be extended for an equal period, based on the economic life of the mine and compliance with legal duties by the concession holder.
3. It is considered emerging from the Prospecting and Research Licence the mining concession application submitted by its holder with respect to any portion of area covered by the holding permit and not emerging from the licence in other cases.
4. The application of emerging mining concession enjoys the right of preference over the application of a mining concession as long as its holder has complied with the obligations related to the prospecting and research activities.

Article 43

(Specific rights of a mining concession holder)

The mining concession gives its holder the right to:

- a) access the covered area and carry out exclusively the extraction, development and mining processing of the mineral resources found, quantified and evaluated at the phase of prospecting and research;
- b) use and occupy the land for the purpose of carrying out the necessary operations and work, including the building of the required facilities and infrastructures for conducting the mining operations;
- c) use, for the purpose of the mining operations, water, wood and other forest materials as well as water observing the applicable law for use of these resources;
- d) store, transport, process the mineral resources and treat contaminated waste in accordance with the respective environmental management legislation;
- e) perform mining activities according with the approved mining plan and observing good mining and social-environmental practices;
- f) sell or alienate in another form the mineral products emerging from mining activities and operations;
- g) abandon, totally or partially, the area covered by the mining concession, according to the rehabilitation and mine closure plan;
- h) use part of the area of the mining concession required for agriculture and animal farming, in adequate proportions to personal consumption.

Article 44

(Specific obligations of a mining concession holder)

1. Before the beginning of any development and extraction operation in the area covered by the concession, the mining concession holder must obtain:
 - a) environmental Licence;
 - b) right to use and enjoyment of the land;
 - c) approval of the compensation and resettlement plan
2. The concession mining holder must observe, beside others, the following obligations:
 - a) exercise the mining activity according to applicable legislation;
 - b) respect local communities and contribute to the preservation of their socio-cultural values;
 - c) establish and respect the limits of the mining area;
 - d) initiate mining operations within 24 hours;
 - e) initiate mining production within 48 months from the date of emission of the mining concession;
 - f) maintain the production level defined in the mining plan and subsequent alterations approved by the competent authority;
 - g) maintain updated information on the activities, including the sale or alienation of the extracted and processed mineral resources;
 - h) maintain the accounting books and others that are legally required updated;
 - i) supply the Government with information and periodic reports on mining activities legally required;
 - j) allow the undertaking of scientific studies by State and teaching institutions according to articles 60 and 61 of this Law;
 - k) observe mining activities' technical safety and health regulations for geologic and mining activities;
 - l) comply with the requirements for the prevention, protection, management and environmental restoration;
 - m) allow access in any mining area to any adjacent area, if this does not interfere with the mining activities;
 - n) allow the construction and use of ditches, canals, pipelines, gas pipelines, sewers, drains, wires, power lines, roads and public infrastructures in the mining area so long as they do not interfere with the mining operations;
 - o) compensate land users for any damage to land and property resulting from the mining operations;
 - p) perform environmental restoration of the area and the closure of the mine in accordance with the approved plans;
 - q) when necessary, commercialize mining production in the country for industrial development, in terms to be regulate;

r) register the mining exploration company in the Mozambique Stock Exchange in the terms of the.

3. The period referred in subparagraph e) may be extended by *force majeure* circumstances or by justified decision of the Government.

CHAPTER V

Small scale and artisanal mining

Section I

Mining certificate

Article 45

(Conditions and validity period)

1. The mining certificate is assigned to national single or collective legal person with judicial capacity that proves having technical and financial capacity to carry out small-scale mining operations.
2. The characteristics that allow the distinction between small scale mining activities for the purpose of acquiring a mining certificate from other mining activities are fixed by regulation.
3. The mining certificate may be emitted for a period of 10 years, extendable for equal periods, according to the economic life of the mine.
4. The area covered by the mining certificate shall not exceed the necessary area for small scale mining operations and usage rights.

Article 46

(Rights of a mining certificate holder)

The mining certificate gives rightist holder, under the terms of the applicable legislation, the right to:

- a) access the covered area and carry out small scale mining operations exclusively;
- b) occupy the land, open access roads and build temporary facilities, campsites, constructions or buildings necessary for conducting small scale mining activities;
- c) use water, wood and other necessary materials to small scale mining operations according to the applicable law and good mining and social-environmental practices;
- d) sell or alienate mineral products arising from small scale mining activities;

Article 47

(Obligations of a mining certificate holder)

1. The concession certificate holder must, prior to any work of development and extraction in the area for which the mining certificate was issued, obtain the environmental licence and the right of use and enjoyment of the land.
2. The mining certificate holder must in the area of the concession, observe, among others, the following obligations:
 - a) exercise mining activity according to the laws and regulations in force;

- b) immediately declare to the responsible authorities the discovery of associated minerals in the concession area;
- c) respect local communities and contribute to the preservation of their socio-cultural values;
- d) initiate mining operations within 24 hours counted from the date of issue of the mining certificate;
- e) submit information and periodical reports on the mining activities legally required, including production and commercialisation;
- f) allow the carrying out of scientific studies by State and teaching institutions according to articles 60 and 61;
- g) maintain the area and mining operations observing technical safety and health norms for small scale mining activities in compliance with applicable legislation;
- h) comply with prevention, protection, management and environmental restoration requirements for small scale mining activities;
- i) allow access in the mining area to any adjacent area, if this does not interfere with the mining activities;
- j) allow the construction and use, in the mining area, of ditches, canals, pipes, gas pipelines, sewers, drains, wires, power lines, roads and public infrastructures if these do not interfere with mining operations;
- k) compensate land users for any damage to land and property resulting from small scale mining operations;
- l) carry out small scale mining activities according to the best mining and socio-economic practices;
- m) return, totally or partially, the mining area object of the mining certificate, according to the mining rehabilitation and closure plan;
- n) execute fully the plan for compensation and resettlement of the population;

Article 48

(Conversion)

1. The mining certificate holder may require the conversion of its certificate into a mining concession if all legal requirements are met;
2. The Government or relevant authority may in the course of the validity of the mining certificate, condition the said activity to the acquisition of a mining concession.

Section II

Mining Pass

Article 49

(Designation of areas)

1. For the direct benefit of communities, there are designated pass mining areas.
2. The mining pass is assigned to designated areas, for a period of up to five years and may be extended successively for equal periods in accordance to the economic life of the mine;

3. The characteristics and limitations that draw the distinction between artisanal mining operations for the purposes of the mining pass from other mining operations are fixed by regulation.

Article 50

(Conditions and validity)

The mining pass is assigned to a single or collective legal person with judicial, technical and financial capacity to carry out artisanal mining operations.

Article 51

(Rights of a mining pass holder)

The mining pass gives the right to:

- a) access the covered area and carry out artisanal mining operations;
- b) undertake artisanal mining activities in accordance with good mining and socio-economic mining practices;
- c) sell or alienate mineral products arising from the small scale mining activities.

Article 52

(Obligations of a mining pass holder)

The mining pass holder must observe the following obligations:

- a) exercise mining activity according to the laws and regulations in force;
- b) respect local communities and contribute to the preservation of their socio-cultural values;
- c) carry the mining pass whenever involved in mining operations;
- d) comply with terms and conditions stipulated in the mining pass;
- e) maintain the area and mining operations in accordance with the technical safety, and health applicable legislation as well as the environmental legislation;
- f) return the mining pass in case of its revocation, waiver or cessation of the mining activity.

CHAPTER VI

PERMITS

Section I

Mineral Resources for building materials

Article 53

(Traditional uses of mineral resources for building materials)

The extraction of natural resources for building materials does not require a mining permit or authorization when the following requirements are met:

- a) carried out by national citizen in the extent and way allowed by the local customs and in the land where it is common to carry out such extraction;
- b) housing, warehousing and other facilities' construction;
- c) handcrafted ceramics production by users of the land.

Article 54

(Use of mineral resources for building material)

1. The extraction of construction materials carried out by a collective person with a duly approved contract by the relevant authorities to undertake building work of public interest, rehabilitation and maintenance of roads, railways, dams and other engineering works or infrastructures in available areas does not require a mining permit.
2. For the purposes of no. 1 above, the collective legal person must obtain authorization for the use of mineral resources for building which give the right for their extraction for construction work of public interest.
3. The authorization for extracting mineral resources for building material is assigned by the Minister who supervises the mineral resources area if the contract referred in no.1 specifies that the State shall provide free mineral resources for construction.
4. People who extract minerals for construction under the authorization referred to in no. 2 of this article must comply with the environmental legislation as well as technical safety and health in the mining activities legislation.

Article 55

(Illegal commercialization of mineral resources for building materials)

1. The extraction of mineral resources for building material referred in articles 53 and 54 is immediately suspended if it is done for commercial purposes.
2. Besides the suspension referred in no.1, a production tax must be paid notwithstanding other legislation eventually applicable.

Section II

Mining Treatment and Processing

Article 56

(Requirements for the attribution of the mining treatment licence)

1. The mining concession is issued to the collective legal person constituted and registered in accordance with Mozambican legislation, with legal technical and financial capacity that wishes to carry out the mining treatment activities.
2. Holders of a mining concession, mining certificate or mining pass may carry out mining treatment activities without a mineral treatment licence, except in the cases defined in this law and in specific legislation.
3. Apart from the licence referred in the previous paragraphs, the treatment of radioactive minerals requires an authorization in accordance with legislation applicable to atomic energy and radioactive minerals.
4. Criteria, requirements and conditions of treatment licences are stipulated by regulation.

Article 57

(Treatment and internal processing)

Whenever the availability of the resource and economic viability justify it, the treatment and processing of Mozambique's explored mineral shall be carried out in the country.

Article 58

(Requirements for the issue of the mineral processing licence)

1. The mineral processing licence is issued to the collective legal person constituted and registered in accordance with the Mozambican legislation in force, with legal, technical and financial capacity that wishes to carry out mineral processing activities.
2. For the processing of radioactive minerals a further authorisation, in accordance with the applicable legislation in atomic energy and radioactive minerals, is necessary.

Section III

Commercialization of mining products

Article 59

(Requirements)

1. The purchase and sale of mineral products not carried out under a mining concession, mining certificate or mining pass shall be made by a national, single or collective, legal persons constituted by national citizens and registered in accordance with the laws in force in the Republic of Mozambique in the terms of specific regulation
2. The commercialization of mineral products extracted under a mining concession, mining certificate and mining pass does not require a trading authorization and it is subject to the legislation in force in the Republic of Mozambique.

Section IV

Geologic Investigation

Article 60

(Geologic investigation carried out by the State)

1. The State, without the necessity of any mining permit, promotes and carries out through specialized institutions, geo-scientific investigations, geologic mapping of the territory and other geologic, metallurgic and mining studies that may be considered appropriate in order to inventory and evaluate the country's mineral resources potential.
2. Any agent authorized in undertaking activities described in the previous paragraph cannot be assigned any mining permit over any area where that person has researched on behalf of the State and while this link with the State subsists.

Article 61

(Scientific studies by teaching and scientific investigation institutions)

Teaching or scientific research institutions constituted or registered in accordance with the laws of the Republic of Mozambique may, with the prior permission of the relevant authority, conduct scientific studies in areas covered by the mining holding permit, in accordance with the provisions of this Law and other applicable laws.

CHAPTER VII

Transfer and Revocation

Article 62

(Transfer)

1. The transfer of rights and obligations conferred under mining holding permits and/or mining rights to an affiliate or a third party must be made in accordance with Mozambican law and is subject to approval by the Government.
2. This provision also applies to other direct and indirect transfers of participation interests, permits and/or mining rights, including the transfer of shares or other forms of participation.
3. The transfer of permits and/or mining rights may occur after two years from the beginning of the activity for which the holder was authorized and the request must be comprised by the activity report as well as certificate of tax discharge issued by the tax administration.
4. The transfer of permits and/or mineral rights, including the transfer of shares or other forms of participation, made without compliance with the provisions of the preceding paragraphs has no effect in national territory.

Article 63

(Transfer on death or disability)

Mining permits may be transferred on death or disability of its holder in terms to be regulated.

Article 64

(Revocation of mining permits)

Mining permits are revoked when the holder:

- a) Fails to pay the specific taxes;
 - b) Does not comply with any regulation or specific provisions of the mining contract and this stipulates that such violation constitutes grounds for the revocation of the permit;
 - c) becomes bankrupt, enters into agreement or composition with the creditors unless there is a constituted and registered guarantee of the mining facilities;
 - d) transforms or dissolves the company without the Government's prior approval;
 - e) is indebted to the State.
2. The Prospecting and Research Licence may be revoked when the holder:
- a) does not submit the annual prospecting and research reports and investments made;
 - b) fails to comply with the minimum expenditure fixed in the budget and perform the research in accordance with the approved work programme.
3. The mining concession may be revoked when the holder does not observe the provisions set out in no.1 and subparagraphs c), e), f), i) and p) and article 44, no. 2, if the holder stops production for reasons different from *force majeure* or if the holder of the mining concession violates any provision that stipulates that such violation constitutes grounds for the revocation of the concession;
4. The mining certificate may be revoked when the holder does not observe the provisions set out in article 47, no. 2, subparagraphs c) and d) or if the holder of the mining certificate violates any provision that stipulates that such violation constitutes grounds for the revocation of the concession.
5. The mining pass may be revoked in case of:
- a) violation of environmental norms;
 - b) illegal sale of mineral products;
 - c) trafficking or concealment of trafficking actions of mineral products;
 - d) when the mining activity results in serious environmental damage.
6. The revocation of the mining permit does not preclude the fulfilment of the obligations undertaken by the mining title holder before the date of the revocation as well as any third party claims in good faith claim for damage or injury caused by the mining activity.

CHAPTER VIII

Direct Investment

Article 65

(Forms of investment)

1. Direct national and foreign investment may be made, exclusively or jointly, in the following manners if measurable in monetary terms:
 - a) value paid in currency freely convertible for the total or partial acquisition of shares in a company constituted in Mozambique or mining permit in the case of partial or total transmission, so long as the value is paid in a bank registered in Mozambique or an authorized foreign account under the terms of Foreign Exchange Law;
 - b) equipment and respective accessories, materials and other imported goods;
 - c) in case of direct national investment, infrastructures, facilities and the transfer of rights to use land, concessions, permits and other rights of economic, commercial or technical nature;
 - d) granting, in specific cases and in the terms agreed and sanctioned by the relevant entities, of the rights to use patented technology and trademarks in terms to be regulated;

- e) amount spent on technological studies or other activities within the scope of the obligations foreseen in the present Law.
2. The value of direct investment covers the expenses, duly accounted and confirmed by audit company of recognized reputation, incurred in prospecting and research, treatment, development, processing and other mining operations related with prospecting and exploration and mining production in a mine subject to a mining concession holding or certificate.
 3. State investment is covered through the valuation of existing resources and other forms to be defined by the Government.

Article 66

(Guarantees)

1. The State assures the safety and legal protection of the ownership of goods and rights, including industrial property rights covered by the authorised and carried out investments under the mining permit issued in accordance with this Law and other applicable legislation.
2. The expropriation of private property goods and rights covered by a mining permit may only occur in exceptional circumstances and if justified by public interest and is subject to the payment of fair compensation.
3. In order to calculate the compensation value, the evaluation of expropriated goods and rights as well as financial losses caused to the investors by the State is made within 90 days, by mutual agreement, and undertaken by a committee constituted for that purpose or by a recognized audit company.
4. The compensation mentioned in the preceding paragraphs shall be paid within 190 days, or another time period mutually agreed, from the date of the committee's decision or of the presentation of the report by the audit firm, based on the evaluation made in the terms of the previous paragraph.
5. The appreciation time for a decision on the evaluation made and submitted to the competent State authority shall not exceed 90 days from the date of delivery and receipt of the file evaluation.

Article 67

(Fund transfer abroad)

1. The State ensures the transfer abroad upon presentation by the holder of the discharge documents issued by the respective tax area of:
 - a) exportable profits resulting from eligible investments for export earnings;
 - b) royalties and other payments of indirect investments compensations associated with the assignment or transfer of technology or

other rights in the terms of the applicable law;

- c) repayment and loan interest contracted in the international financial market and applied in investment made in the country;
- d) foreign capital invested;
- e) sums related to the payment of obligations to non-resident entities.

CHAPTER IX

Environmental Management of the Mining Activity

Article 68

(Principles)

The exercise of mining activities must be made according to:

- a) laws and regulations on the use and enjoyment of mineral resources as well as environmental protection and preservation rules, including socio-economic and cultural aspects;
- b) good mining practices in order to ensure the preservation of biodiversity minimize waste and loss of mineral resources and protection against adverse effects to the environment;
- c) technical safety rules in accordance with specific regulation.

Article 69

(Environmental classification of mining activities)

1. Mining activities are classified into Category A, Category B and Category C.
2. Category A covers mining activities carried out under a mining concession;
3. Category B covers mining activities in quarries, prospecting and research activities for pilot experiment purposes and activities undertaken under a mining certificate;
4. Category C covers mining activities carried out under a mining pass and non-mechanized prospecting and research activities.

Article 70

(Environmental Management Tools)

1. The fundamental environmental tools are under the scope of the present Law:
 - a) environmental impact study for the activities of Category A;
 - b) simplified Environmental impact study for the activities of Category B;
 - c) environmental Management Programme for the activities of Category C.
2. Communities must be heard throughout the process of implementation of the environmental management tool until the closure of the mine.

Article 71

(Closure and rehabilitation of the mine)

1. Mining operations should not be closed or abandoned without running the mine closure programme approved by the relevant authority.
2. In cases where the law requires holders to provide a performance bond to cover the cost of rehabilitation and mine closure, its value shall be reviewed every two years by the sector that oversees the area of mineral resources.
3. The value of the performance bond shall be returned when the mining holder has terminated its mining activities and the previous environmental audit concludes that fulfilment of rehabilitation and mine closure obligations have been met.
4. The performance bond shall be used by the State for rehabilitation and mine closure purposes when the mining activity ends and the previous environmental audit concludes that the holder has not fulfilled his rehabilitation and mine closure obligations.

Article 72

(Supervisory capacity enforcement)

The Government should continue to strengthen its capacity for environmental supervision in order to ensure the observance of environment protection and rehabilitation rules, according to the law and good international practices.

Article 73

(Protection of natural resources)

The Government should secure the protection of natural resources, minerals in particular, encouraging the fight against smuggling, counterfeiting and illegal trading of mining products.

CHAPTER X

Explosives and radioactive material

Article 74

(Use of explosives)

1. The use of explosives in mining activities is subject to Mozambican legislation in force.
2. The adoption of techniques and safety measures on the planning, execution and supervision of the use of explosives must be included in the exploration plan, which must be submitted for approval by the relevant authorities.

Article 75

Permitted explosives in mining activities

The allowed explosives the mining activities are exclusively the ones which are legally fixed in the applicable legislation in Mozambique.

Article 76

(Acquisition, transport and use of explosives)

The acquisition, transport, handling, storing and use of explosives must be carried out by licensed companies with special authorization.

Article 77

(Radioactive material)

1. Notwithstanding the provisions of paragraph a) of Article 41 of this law, the use and exploitation of mineral resources must be exercised in accordance with the norms on protection against exposure to ionizing radiation.
2. Notwithstanding the provisions of paragraphs 1 and 2 of Article 5, prospecting and research as well as mining which involve exposure of people, property and the environment to ionizing radiation are subject to prior permission by the Atomic Energy Regulatory Authority.

CHAPTER XI

Violations

Article 78

(Violations)

1. The exercise of mining activities without licence or authorization is prohibited;
2. The violation of the provisions of the previous paragraph shall be punishable with fine, confiscation of extracted mineral product and of equipment used, depending on the severity of the offense, under the terms of the Criminal Code.

Article 79

(Illegal research and extraction of minerals)

1. Prospecting and exploration, possession and transport of mineral samples without permission is punishable by imprisonment in accordance with the Criminal Code.
2. The extraction, treatment, processing and commercialization of minerals without proper authorization are punished with 2-8 years imprisonment according to the Criminal Code.
3. The extraction, treatment, processing and commercialization of any radioactive mineral without permission are punishable by 8-12 years imprisonment, according to the Criminal Code.
4. The aggravation rules established in the Criminal Code must be applied when the value of the mineral product exceeds a thousand minimum salaries.

Article 80

(Traffic of mineral product)

1. The purchase, sale and any form of transaction and the exit from national territory of mining products without permission are treated as traffic and are punishable with imprisonment from 8-12 years.
2. The penalty is increased if these operations result in danger.

Article 81

(Reward for cooperation)

People who, in any way, contribute to the seizure of minerals have the right of protection and to a reward for cooperation, in the terms to be regulated by the Government.

CHAPTER XIII

(Final and Transitional Provisions)

Article 82

(Registration)

The acquisition, alteration, transfer and termination of mining permits are subject to registration in the mining records in accordance with the regulation in force.

Article 83

(Rights granted under existing agreements)

1. The rights acquired under mining contracts and/or agreements with the Government and mining concessions issued before the entry into force of this law will remain in force.
2. To mining concession holders and holders that have concluded contracts and other agreements with the State is granted the option to be fully governed by the provisions of this Law and this option should be exercised within 12 months from the date of entry into force of this law.

Article 84

(Contracts in force)

With the expiry of contracts concluded in accordance with Article 83, No. 1, the new contracts will be executed in accordance with this Law.

Article 85

(Revocation norm)

The Law No. 14/2002, of 26 June and other legislation that contradicts this Law are revoked.

Article 86

(Rights regulation)

The holders of reconnaissance, prospecting and research licences for mineral resources for building materials, mining certificate and mining pass must apply for the regulation of acquired rights under Law No. 14/2012, of June 26, within 180 from the entry into force of this Law.

Article 87

(Regulation)

The Government is responsible for the regulation of all matters in the present law within 90 days.

Article 88

(Entry force)

This law enters into force immediately after its publication.

GLOSSARY

Archaeological find – objects of historical interest produced or worked by man such as ceramics, stone tools, housing remains and petro glyphs and others.

Associated minerals - minerals with the same chemical composition but different in terms of shapes and crystalline structures and others that nonetheless not being from the same deposit exist in the same mining holding permit area. They are also known as polymorphs.

Authorization – permission for the extraction of mineral resources for construction, geologic mapping and geologic and metallurgic studies carried out by the State and teaching institutions

Competent authority – authority which supervises mining activities and other relevant sectors.

Content - quantity of mineral resources existing in a cubic meter or in a one ton of ore from a deposit.

Land User – individual or entity that, in accordance with the Land Law and the other applicable regulations, uses or occupies land.

Crude Oil – crude mineral oil, asphalt, ozokerite, and all types of oil and bitumen in its natural state, either solid or liquid, or obtained from natural gas by condensation or extraction, excluding carbon or any substance capable of being extracted from coal.

Crude ore - rock constituted by a mineral or mineral aggregation containing one or more valuable minerals which was not subject to beneficiation or processing and with possibility to be economically utilized.

Environmental impact assessment – a tool for preventive environmental management, which consists of prior qualitative and quantitative identification and analysis of beneficial and harmful environmental effects resulting from a proposed mining activity.

Environmental quality standards - permissible levels of pollutants prohibited by law.

Environmental sectorial legislation – legal provisions on a specific environmental issue.

Fair compensation – the one which covers the real and current value of the expropriated property at the date of payment, damages and lost profits resulting from the property expropriation.

Fossils - remains of animals or plants and traces of their activity preserved in the soil and in other geological structures.

Geological Heritage – set of geosites located in a certain place composed by the set of geological occurrences with scientific, economic, educational and touristic interest.

Geosite - occurrence of one or more elements of geodiversity that arise as a result of natural processes or human intervention, geographically limited and which have scientific, educational, cultural and touristic value such as fossils, rocks, mountains geological formation.

Good mining practices – practices and proceedings used in the international mining industry by diligent operators concerned with environmental safety, prevention and preservation and efficiency in order to assure a prudent management of natural resources.

Inter vivos transfer – Direct or indirect transfer of the ownership of a mining holding permit from the one in whose name the holding permit was assigned to another natural or legal person, even when purchaser and transferee are the same person following a change of company's name regardless of the change of its board and statutes.

Ionizing radiation – radiation able to produce ion pairs in biological materials.

Local community – group of families and individuals living in a locality or in lower territorial constituency level, which aims to safeguard common interests through the protection of residential areas, agricultural areas under cultivation or fallow, forests, sites of cultural importance, pastures, water and expansion areas and potential areas for carrying out mining operations.

Mine - any place, excavation or works where mineral exploitation is undertaken, including all infra-structures and land provisions, surface or underground, aerial, fluvial, lacustrine and marine, that are necessary for the operation, functioning and maintenance of mining exploitation, also covering the spaces for storing mining products such as debris, waste and residuals, as well as social infrastructures.

Mineral deposit - covers the natural accumulation of mineral resources, with utility and economic value to be determined.

Mineral value addition – economic activities or mineral treatment and processing activities.

Mineral water - underground water originating from aquifers catchments area sprouting through a spring or natural exits, as well as obtained through bore-holes, wells, galleries or any excavation made to capture water, with therapeutic properties as it emerges, including miner-medicinal, medicinal and thermal waters;

Mining – extraction of any mineral resources.

Mining activity - operations consisting of the development in isolated or joint form of activities such as prospecting and research, development and extraction, mining processing and commercialization of mining products.

Mining assets – tangible or intangible assets with the capacity of producing benefits, including facilities, equipment, machinery, buildings and other materials and acquired goods for mining exploration as well as any part of an asset or any right or interest with it related, including a mining permit, a share in the collective legal person holder of the permit or contract participation in a mining operation.

Mine closure programme – methods and procedures undertaken in the conception, development, construction, operation and closure,

with the aim of decommissioning mine and the rehabilitation and monitoring the environmental and of adjoining areas affected by mining activity, including social, economic and cultural aspects;

Mining concession - permit granted in accordance with this Law, allowing the exploitation of mineral resources.

Mining contract - written contract in accordance with the provisions of this Law.

Mining discovery - mineral resource found in a natural deposit or geological structure found following a prospecting and research activity and which may be extracted by the conventional methods of mining industry.

Mining exploitation - operations and works related to exploration, extraction, treatment and processing of mineral resources, including their technical and economic utilization as well as the necessary or related activities of development and trade of these mineral products.

Mining holder - individual or entity on whose name the mining holding permit is held in accordance with this Law.

Mining holding permit - reconnaissance licence, exploration license, mining concession and mining certificate or any of these holdings, according to the context in which the expression mining holding is used;

Mining operations - works undertaken in the context of any mining activity.

Mining processing - the activities undertaken in the context of any mining activity with the aim of obtaining metals, alloy or other mineral products that require treatment from other mineral substances either as extracted or as previously subjected to treatment in accordance with this law.

Mining product - refers to minerals extracted from the land with or without beneficiation or processing.

Mineral resource - any solid, liquid or gaseous substance formed on the crust of the land by geological phenomenon or linked to them.

Mining treatment - an operation that aims at achieving the concentration, beneficiation and purification of mineral resources, as well as the separation of the respective mineral substances.

Minister - the Minister overseeing the area of mineral resources.

Ministry - the Ministry overseeing the area of mineral resources.

National natural person - natural person with Mozambican nationality.

Natural gas - oil that in normal atmospheric conditions is in the gaseous state as well as not conventional gas, including methane gas associated with coal and shale gas.

Naturally occurring radioactive material (“NORM”) - radioactive material which has no

significant qualities of radionuclide different from naturally occurring radionuclide.

Petroleum - crude oil, natural gas or other hydrocarbons produced or susceptible of being produced from crude oil or natural gas, shales or bituminous soils.

Pre-existing rights - use and enjoyment of land rights acquired by licence or occupation in accordance with the applicable legislation.

Prospecting - mining operations in order to get the information and initial elements for confirming preliminary suspicions about the possibility of the existence of a deposit.

Prospecting and Research License - Mining title assigned according with the terms of this Law which allows carrying out geo-scientific and geotechnical activities in order to discover and define mineral resources’ characteristics and economic value.

Radioactive material - material subject to regulatory control because of its radioactivity.

Research - mining operation for the confirmation of the existence of the deposit which is developed in different phases: field research, trenches, drilling, geophysics, geochemistry and analysis of samples and metallurgical testing.

Royalty - payment to an inventor, author or editor for the use of his patents or rights.

Small scale mining operations - mining operations undertaken under a mining certificate or a mining pass.

Tax Regime - taxation regime applicable to the development of a mining activity in according with terms and conditions defined in it.