



# AN EXCERPT OF THE MINING SECTOR PROCUREMENT LIST – 4<sup>TH</sup> EDITION

September 2022

The Minerals and Mining (General) Regulations, 2012 (L.I. 2173) and the Minerals and Mining (Local Content and Local Participation) Regulations, 2020 (L.I. 2431), amongst others, require holders of mineral rights, mining support service providers and licensees who export or deal in minerals to submit a procurement plan to the Minerals Commission for approval.

The procurement plan must include targets for local procurement covering at least the items specified in the local procurement list. The Mining Procurement List (“**Procurement List**”), put together by the Minerals Commission in consultation with relevant stakeholders, serves as a procurement guide for companies in the sector.

## Growth of the Procurement List

The first edition of the Procurement List was published in January 2014 and had only eight (8) goods/services to be procured locally. The second edition of the Procurement List took effect on 1<sup>st</sup> January, 2016 and it had nineteen (19) goods/services to be procured locally. The third edition took effect on 1<sup>st</sup> January, 2019 and had twenty-nine (29) goods/services to be procured locally.

The fourth edition of the Procurement List has been published and the number of goods/services have been increased to forty-one (41).

## Changes Introduced by the 4<sup>th</sup> Edition of the Procurement List

The corporate structure of the suppliers/service providers of the following goods/ services has been amended, as detailed below:

Good/Service	New Corporate Structure of Service Provider/Supplier
<b>Contract Mining (Surface Operations)</b>	Service Provider should be incorporated in Ghana and have exclusively Ghanaian shareholders and directors
<b>Contract Mining (Underground Operations)</b>	Service Provider should be incorporated in Ghana with a minimum of 30% Ghanaian directors and shareholders
<b>Financial Services (Banking)</b>	Service Provider should be incorporated in Ghana with a minimum of 20% Ghanaian directors and shareholders
<b>General Lubricants</b>	Supplier should be incorporated in Ghana and have exclusively Ghanaian shareholders and directors
<b>Insurance/ Reinsurance Services</b>	Service Provider should be incorporated in Ghana with a minimum of 20% Ghanaian directors and shareholders
<b>Overalls and Work Clothes</b>	Supplier should have exclusively Ghanaian shareholders and directors

The following goods/services have been added to the fourth edition of the Procurement List:

Good/Service	Corporate Structure of Service Provider/Supplier
<b>Complete logistics services which include customs clearing of goods, transportation and warehousing on turnkey basis</b>	Service Provider should be incorporated in Ghana
<b>Geophysical Airborne –based Survey</b>	Service Provider should be incorporated in Ghana with a minimum of 30% Ghanaian directors and shareholders

<sup>4</sup> This has now been repealed by the Borrowers and Lenders Act, 2020 (Act 1052).

<b>Good/Service</b>	<b>Corporate Structure of Service Provider/Supplier</b>
<b>Geophysical Ground based Survey, Mapping, Pitting and Trenching</b>	Service Provider should be incorporated in Ghana with exclusively Ghanaian shareholders and directors.
<b>Drilling (surface operations)</b>	Service Provider should be incorporated in Ghana and have exclusively Ghanaian shareholders and directors
<b>Drilling (underground operations)</b>	Service Provider should be incorporated in Ghana with a minimum of 30% Ghanaian directors and shareholders
<b>Civil works; including construction of access/haul roads &amp; other infrastructure</b>	Service Provider should be incorporated in Ghana and have exclusively Ghanaian shareholders and directors
<b>Freight Forwarding Services</b>	Service Provider should be incorporated in Ghana with exclusively Ghanaian shareholders and directors
<b>Ground Engagement Tools</b>	Supplier should be incorporated in Ghana
<b>Hoses and Fittings</b>	Supplier should be incorporated in Ghana
<b>Oxygen Generating Plant and Booster</b>	Supplier should be incorporated in Ghana
<b>Warehousing services</b>	Service Provider should be incorporated in Ghana and have exclusively Ghanaian shareholders and directors

## Penalties

Holders of mineral rights, licensees with licence to export or deal in minerals or a person registered to provide mine support services who fail to comply with the Procurement List are liable to pay the full customs duty in respect of the imported goods and an administrative penalty of five per cent (5%) of the total import value; and for services, an administrative penalty of five per cent (5%) of the gross contract sum.

In addition, a person who fails to submit a procurement plan to the Minerals Commission is liable to pay an administrative penalty of the Ghana Cedi equivalent of Ten Thousand United States Dollars (USD10,000) for each month, for the first six months of default, and subsequently the Ghana Cedi equivalent of Ten Thousand United States Dollars (USD10,000) for each day that the default continues.

## Effect of the Changes

The increase in the number of goods/services on the Procurement List is a welcome change and is expected to improve local content and local participation in the mining industry, as is the requirement for certain service providers to have exclusively Ghanaian directors and shareholders. This ties in with the goal of ensuring that majority of the revenue generated in the sector is spent locally to drive development of the mining communities and the country as a whole.

*\* JLD & MB Legal Consultancy is a top-tier corporate and commercial law firm with extensive experience in advising global and local clients on some of Ghana's highest profile transactions. We provide innovative and solution-oriented advisory services across several practice groups and have received international recognition for our lawyers and our work in a number of sectors including Oil, Gas and Petroleum, Energy and Natural Resources, Banking and Finance, Capital Markets and Mergers and Acquisitions.*

**Contact:**

*JLD & MB LEGAL CONSULTANCY*

*TEL: +233 (0)302 782711/784298*

*Email:info@jldmblaw.net*

**Disclaimer:** *This publication is for information purposes only and is not intended to constitute legal advice. If you require information on any matter discussed in this article, kindly contact the Firm.*

