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**Framework Deed of Agreement for the Development of  
Mining in Afghanistan**

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**PAJHWOK**  
Afghan News

**THIS FRAMEWORK DEED OF AGREEMENT (Agreement)** is made on this 10th day of September 2020.

**BETWEEN**

**THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF AFGHANISTAN (GoIRA).**

**AND**

**FORTESCUE FUTURE INDUSTRIES PTY LTD.,** a company incorporated in Australia with its offices at Level 2, 87 Adelaide Terrace, East Perth WA 6004, Australia, (**Fortescue Future Industries**).

(together referred to as "**the Parties**").

**WHEREAS**

- A. GoIRA has invited Fortescue Future Industries to invest in mineral exploration and the development of mining in Afghanistan.
- B. Fortescue Future Industries has agreed to invest **its** resources in undertaking studies and exploration for the development of mining projects.
- C. The Parties desire to record their respective **rights** and obligations during such period of studies, exploration, project planning, construction and operation pending the execution of project specific documents.

**NOW, THEREFORE,** this Agreement witnesses and it is hereby agreed by and between the Parties as under:

## **1. THE PROJECTS**

- 1.1 Fortescue Future Industries has identified potential resource projects as outlined in Attachment 1 that it considers potentially viable for investment in Afghanistan (the **Project** or **Projects**). For each such Project, GoIRA will assist Fortescue Future Industries in providing such information and facilities as may be reasonably required by Fortescue Future Industries to undertake the studies for such Project.
- 1.2 GoIRA will ensure that until surrendered in writing by Fortescue Future Industries no other person or entity is invited or permitted to undertake similar studies or in any way engage in activities to interfere with the activities of the Project studies and development being undertaken by Fortescue Future Industries or its affiliates, consultants or contractors. The Projects in respect of which Fortescue Future Industries may include any or all of the following:
- (a) mineral deposits;
  - (b) mine sites;
  - (c) access corridors to domestic and international export markets;
  - (d) electricity transmission lines;
  - (e) gas and / or liquid pipelines;
  - (f) industrial processing and manufacturing facilities;
  - (g) materials, storage, receiving and transportation facilities;
  - (h) airports and airstrips;
  - (i) dry export facilities; and
  - (j) ancillary facilities such as roads, bridges, buildings, telecommunications facilities and other required infrastructure.



- 1.3 The Parties intend for the Agreement to be binding but to be replaced with a more specific agreement relevant to each Project which will be on the same terms as this Agreement but restated in more formal documentation which will be fuller and more detailed but not different in effect.

**2. PROJECT SITES**

For each such Project, GoIRA shall ensure that Fortescue Future Industries is provided exclusive rights to enter and utilise such land within its ownership or control to undertake studies as may be identified by Fortescue Future Industries (**Project Site**). Fortescue Future Industries shall not be liable to pay to the GoIRA for the exclusive license to such Project Sites during the studies in respect of such Project and for the duration of the Project.

**3. OBLIGATIONS OF FORTESCUE FUTURE INDUSTRIES**

Fortescue Future Industries agrees that it shall undertake such studies in respect of each Project with a view to ensuring the following benefits to GoIRA:

- (a) local workforce development and training; and
- (b) industrial development, capacity and competency building in Afghanistan.

**4. ENVIRONMENT**

In undertaking each Project, Fortescue Future Industries shall ensure compliance will all applicable environmental laws and regulations.

**5. ADVANCEMENT OF AFGHAN GIRLS & WOMEN EQUAL TO BOYS & MEN**

Precedent to all activities undertaken by Fortescue Future Industries will be the development of a vocational training and employment plan that provides equal opportunities between women and men with an explicit equal employment target. In order to achieve this the GoIRA commits to providing educational outcomes that are equal between school age girls and boys.

**6. PROJECT LICENCES, CONSENTS AND APPROVALS**

To the extent that any licence, permit, consent or approval is required for any Project (Licence), the GoIRA will ensure that such Licence is expeditiously granted to Fortescue Future Industries and for an indefinite period, subject to compliance with applicable laws.

**7. LAND ACCESS**

The GoIRA will procure and provide exclusive access and legal title for Fortescue Future Industries and its affiliates to use all required land for each Project as requested by Fortescue Future Industries.

**8. EXCLUSIVITY**

- (a) In consideration of the significant investment to be made by Fortescue Future Industries in undertaking the required studies the GoIRA agrees and undertakes that it shall ensure that no other person or entity is provided access or any licences related to any Project for the duration of 5 years, unless it is relinquished by Fortescue Future Industries in writing or extended by agreement of the Parties.
- (b) In the event Fortescue Future Industries is unable for any reason to access a Project or a Project site, the duration of the exclusivity outlined in Clause 8(a) will be extended for the same period that Fortescue Future Industries was unable to access the Project or Project site.

**9. PROVISION OF INFORMATION**

- (a) The GoIRA will provide all data and existing studies to Projects and all adjacent mineral systems to ensure all Projects can be optimised for both Parties. Further, the GoIRA will assist Fortescue Future Industries to identify complementary and as yet unidentified Project sites within Afghanistan.



- (b) The intention of this Agreement is that Fortescue Future Industries will conduct studies of the data provided by the GoIRA leading to exploration in accordance with applicable laws.
- (c) The GoIRA will use best endeavours to ensure that any licence fees and holding costs payable for any concession, shall instead be invested by Fortescue Future Industries as exploration works into the Project.

## **10. SEVERABILITY**

If any provision of this Agreement is prohibited, invalid or unenforceable, that provision will be ineffective to the extent of the prohibition, invalidity or unenforceability without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability thereof.

## **11. CONFIDENTIALITY**

- 11.1 Subject to 11.2, neither Party shall disclose to any third party any unpublished information provided by the other without the prior written consent of the disclosing party.
- 11.2 A Party may disclose any confidential information if such disclosure is required:
  - (a) in enforcing this Agreement or in a proceeding arising out of or in connection with this Agreement or to the extent that disclosure is regarded by a Party to protect its interests; or
  - (b) under a binding judicial order or under a procedure for discovery in any proceedings;
- 11.3 This clause shall survive the termination of this Agreement.

## **12. FORCE MAJEURE**

### **12.1 Definition of Force Majeure**

Subject to Section 12.1(d), a force majeure event (**Force Majeure Event**) shall mean any event or circumstance or combination of events or circumstances (including the effects thereof) that is beyond the reasonable control of a Party and

that on or after the date of this Agreement, materially and adversely affects the performance by such affected Party of its obligations under or pursuant to this Agreement; provided, however, that such material and adverse effect could not have been prevented, overcome or remedied in whole or in substantial part by the affected Party through the exercise of proper precautions, diligence or reasonable care, it being understood and agreed that reasonable care includes such acts and activities to protect the Project from a casualty or other event that are commercially reasonable in light of the probability of the occurrence of such event, the probable effect of such event if it should occur, and the likely efficacy of the protection measures.

12.2 Force Majeure Events in this Agreement shall comprise two classes of events (including the effects thereof) as provided below, but only to the extent that each satisfies the above requirements:

(a) Subject to Section 12.1(d), each of the following events shall be deemed an **Afghanistan Political Event** to the extent that it occurs inside or directly involves Afghanistan:

- i) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, coup, riot, insurrection, civil commotion, or act or campaign of terrorism or political sabotage; or
- ii) any strike, work-to-rule, go-slow, or analogous labour action that is politically motivated and is widespread (beyond the region of the Facility) or nationwide; or
- iii) a change in law.

(b) Other events beyond the reasonable control of the affected Party (each a Non-Political Force Majeure Event), including, but not limited to:

- i) lightning, fire, earthquake, hailstorm, flood, storm, cyclone, typhoon, or tornado;



- ii) any excessive delay caused by a GOIRA official at the applicable border crossing in clearing the importation of components or equipment;
  - iii) any strike, work-to-rule, go-slow, or analogous labour action that is not politically motivated and is not widespread or nationwide;
  - iv) explosion, chemical contamination, radioactive contamination or ionizing radiation (except to the extent any of the foregoing events or circumstances results directly from an Afghanistan Political Event, in which case such event or circumstance shall constitute an Afghanistan Political Event); or
  - v) epidemic or plague.
- (c) Force Majeure Events shall not include the following events or circumstances:
- i) late delivery or interruption in the delivery of machinery, equipment, materials, spare parts, or consumables;
  - ii) breakdown in machinery or equipment; or
  - iii) normal wear and tear or random flaws in materials, machinery or equipment.
- (d) The Parties agree and acknowledge that the political and security disturbances or uncertainty during the term of this Agreement shall not constitute a Force Majeure Event. Such political and security conditions and conflicts may constitute an Afghanistan Political Event under Section 12.2(a)(i) only to the extent that they become materially worse than the generally prevailing political and security conditions as of the date of this Agreement.

### **13 TERMINATION**

This Agreement may be terminated by:

- (a) the mutual written agreement of the Parties; or
- (b) upon the execution of required Project documents in respect of the last of the Projects to be developed by Fortescue Future Industries in Afghanistan.



**14 GOVERNING LAW**

This Agreement shall be governed by the laws of Afghanistan.

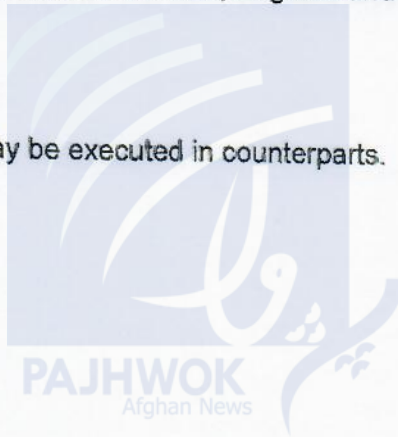
**15 Dispute Settlement**

15.1. Any dispute relating to this Agreement shall be resolved amicably, in good faith, between the Parties;

15.2. In the event the Parties fail to resolve the dispute amicably, such dispute shall be referred to the arbitration in London. The governing law for the arbitration shall be the laws of England and pursuant to the Rules of Arbitration of the Chartered Institute of Arbitrators, London, England. The number of arbitrators shall be three. The arbitration shall be held in London, England and in the English language.

**16 COUNTERPARTS**

This Agreement may be executed in counterparts.



IN WITNESS WHEREOF the Parties have signed this Agreement on the date first written.

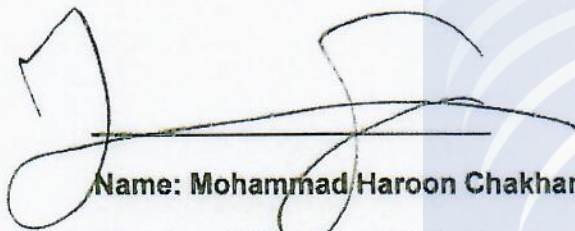
FOR AND ON BEHALF OF THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF AFGHANISTAN

PARTIES:



Name: Attaullah Nasib,

Investment Facilitation Unit

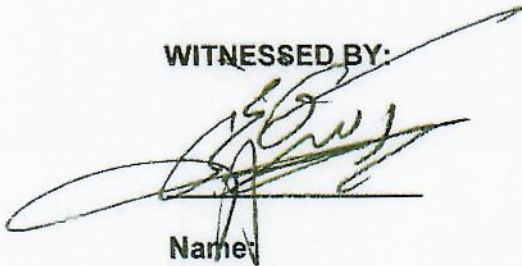


Name: Mohammad Haroon Chakhansuri

Ministry of Mines and Petroleum

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WITNESSED BY:



Name:

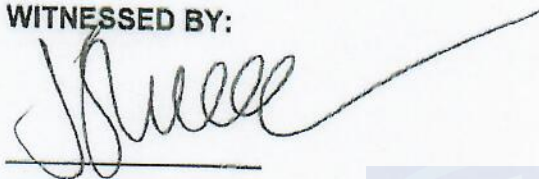


FOR AND ON BEHALF OF FORTESCUE FUTURE INDUSTRIES PTY LTD



Name: Dr Andrew Forrest

WITNESSED BY:



Name: Julie Shuttleworth



## **ATTACHMENT 1**

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### **1.1 Identified Sites**

#### **1) Iron Ore**

- a) Bamyan Iron Ore
- b) Panjshir
- c) Herat Province
- d) Badakhshan Province
- e) Kandahar Province

#### **2) Copper and Gold**

- a) Helmand Basin
- b) Kundalyan (Kandahar)
- c) Logar/Kabul Copper
- d) Herat Copper and Gold
- e) Balkhab
- f) Badakhshan
- g) Takhar Province

#### **3) Lithium & Rare Earth Metals**

- a) Pagmetite Zone (Nuristan, Kunar, Laghman, Parwan and Badakhshan provinces)
- b) Daykundi Province
- c) Herat Province
- d) Nimroz Province
- e) Ghazni Province
- f) Helmand Basin

### **1.2 Other sites**

All other potential gold, iron ore, lithium and rare earths mineral deposits and mine sites across Afghanistan for a 5-year period from the date of this Agreement.