



**ISLAMIC REPUBLIC OF AFGHANISTAN  
MINISTRY OF JUSTICE**

## **OFFICIAL GAZETTE**

**Extraordinary Issue**

# **Minerals Law**

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## CHAPTER ONE

### GENERAL PROVISIONS

#### Article 1: The Legal Basis

This Law has been enacted pursuant to Article 9 of the Constitution of Afghanistan.

#### Article 2: Objectives

The objectives of this Law are:

- (1) To regulate the development and appropriate use of the Mineral resources of Afghanistan;
- (2) To regulate and manage the Reconnaissance, Exploration and Exploitation activities of Mineral resources in Afghanistan;
- (3) The economic self-sustainability of Afghanistan through the development of its Minerals sector;
- (4) To ensure that Mineral resources are developed and managed according to the best international practices and experiences;
- (5) To secure optimal benefit from Mineral extraction and Processing;
- (6) The sustainable development of Mineral resources, the prevention of waste, and the mitigation of negative Environmental and Social Impacts;
- (7) To establish a suitable environment for national and international investment in the Mining sector; and
- (8) To promote peace and security through development of social and economic activities in the Mining local communities.

#### Article 3: Definitions

For the purposes of this Law the following terms have the meanings as set forth below:

1. **“Mine”** means any place where the existence of minerals has been proven and Mineral Activities or any related activity connected with Mining is carried on. All buildings, premises, installations and equipment related to Mineral Activities, above and below the ground levels, for the purposes of extraction, Processing and preparing minerals are included in this definition;
2. **“Mineral”** means any substance, whether in solid, liquid or gaseous form, occurring naturally in or on the earth, in the water, or in Mine residue deposits, having been formed by, or subjected to, a geological process, including elements and compounds of metals and ores, gemstones, sand, stone(rock), gravel, clay and coal. Water, oil, natural gas and surface earth soil are excluded from this definition;



3. **"Mining Operations"** means the activities that are carried out during the course of Mineral Exploitation;
4. **"Mineral Activities"** means the Reconnaissance, Exploration and other pre-production activities, Exploitation, Processing, transformation, Ancillary Activities, transportation, export, marketing or sale of Minerals.  
Reclamation and Mine closure activities, whether on surface or sub-surface or in water courses, are also included in this definition;
5. **"Reconnaissance"** means any activity carried out for the purpose of proving Mineral existence and development, through aerial, geophysical or geochemical surveys, geological mapping, and minor sampling of surface soil and rocks. Drilling and excavations are not included in this definition;
6. **"Exploration"** means any activity carried out to discover potentially economically viable and exploitable Mineral resources or to determine the quality and quantity of the Minerals contained within an area, and to evaluate the possibilities of their Exploitation;
7. **"Exploitation"** means operations and activities related to the technical and economically viable extraction of Minerals or continuing Exploration of Minerals;
8. **"Mining"** means the activities that are carried out for the purpose of Mineral extraction;
9. **"Small-scale Mining"** is Mining activities conducted for the purpose of extraction and Exploitation of industrial minerals (such as clay, lime stone, gypsum, salt, talc, gulfazys, barite, fluorite, asbestos, graphic [graphite], kaolin, sulphur and carbonates) in an area not exceeding one square kilometer and sixty (60) meters in depth;
10. **"Artisanal Mining"** means the extraction of Minerals that is conducted by limited[ordinary] equipment/tools and not exceeding thirty (30) meters in depth and an area of one (1) hectare; Panning[traditional gold-washing method] and extraction of precious, semi-precious and ornamental stones are included in this definition;
11. **"Processing"** means the artificial transforming of Minerals that changes the natural characteristics of the Minerals or prepare the final or semi-final product to use and includes electro-winning, stone-crushing, testing, concentrating, refining, washing, reduction, classifying, proliferation, smelting, polishing refining/screening or gasification thereof;
12. **"Mineral Development Contract"**: is a written agreement which is entered into by the State and a Legal Person for the purpose of Exploration and development of Minerals and Exploitation Activities, and in which the rights and obligations of each party are set forth in accordance with the provisions of this Law;
13. **"License"** means a written document which is granted to a Person for the purpose of conducting Reconnaissance, Exploration, Exploitation, Small-Scale and Artisanal Mining activities, of Minerals, pursuant to the provisions of this Law;
14. **"License Holder"** means the Person in whose name, the License of Mineral Activities is registered in accordance with the provisions of this Law;
15. **"Authorization"** means a written document which is granted by the Ministry of Mines and Petroleum for the purpose of conducting quarry extraction and Exploitation including its processing, transportation or transformation, pursuant to the provisions of this Law;



16. **“Person”** includes Afghan and foreign natural and legal persons;
17. **“Ancillary Activities”** means actions taken in support of Reconnaissance activities, Mineral Exploration, Mineral development, Mining, Processing, transporting or other activities necessary to ensure effective implementation of terms and conditions of a License;
18. **“Area”** means the surface or sub-surface of land where a License Holder can conduct Mineral Activities according to the provisions of this Law;
19. **“Ancillary Areas”** means areas that are not included in the License Area but on which the Holder may, based on the consent of the land owner, carry out related Mineral Activities that are subject to this Law. Such related Mineral Activities may include: generating power, placing of stockpiles, Tailings, ponds, stacks, Processing and smelter plants, offices, workshops and accommodation, and other areas as are reasonably required to conduct Mineral Activities;
20. **“Excavation”** means digging any trench, pit, shaft or other open working activities;
21. **“Cadastral Survey Map”** means the specific topographical map that is prepared and provided by the Ministry of Mines and Petroleum pursuant to the provisions of this Law, which is used to define the perimeter of each License Area;
22. **“Lease”** means a written agreement between a lessor and a lessee to use land or its water as described in the lease solely for the purposes of Ancillary Activities;
23. **“Incident”** means any [unplanned] event which occurs during the course of Mineral Activities and operations which results in damage or injury to any person, or in the death of any person;
24. **“Ore”** means a natural aggregate of materials formed by geological processes from which one or more exploitable Minerals, elements or compounds may be extracted;
25. **“Quarry and Construction Materials”** means a place where Mining activities are conducted on land surface for the purpose of extraction and Exploitation of stones, crushed stones, limestone, dolomites, sand, gravel and other similar Mineral substances that are categorized as construction materials in the relevant Regulations and are used in construction work;
26. **“Radioactive Mineral”** means a Mineral which contains at least 0.05 per cent of radioactive elements;
27. **“Tailings”** means any solid or liquid forms of waste material remaining from the Processing of Ore from which Minerals have been extracted;
28. **“Affected community”** means those persons who are impacted, or can be reasonably expected to be impacted, by Mineral Activities;
29. **“Surface Rent”** refers to the amount that a License Holder pays to the owner or occupant of land on which the Holder intends to conduct Mineral Activities;



30. **“Royalty”** means a financial obligation payable by a License or Authorization Holder or contractor to the State, which is calculated as a specified percentage of the gross production or gross production revenue;
31. **“Rehabilitation and Reclamation”** means the activities that are carried out on a License Area that has been subjected to Mineral Exploration, Exploitation, Small-scale Mining or Artisanal Mining and which are designed for the purpose of restoring such Area, as far as practicable, to its natural state as it was prior to the Mining Operations or to a safe condition consistent with the conditions set forth by the Ministry of Mines and Petroleum and other relevant agencies,;
32. **“Authorized Official”** means any Government representative that has been authorized to conduct prescribed activities and duties under this Law;
33. **“Rare Earth Elements (REE)”** means a group of chemical metallic elements as follows: Scandium(Sc), Yttrium (Y), Lanthanum (La), Cerium (Ce), Praseodymium (Pr), Neodymium (Nd), Promethium (Pm), Samarium (Sm) , Europium (Eu), Gadolinium (Gd), Terbium (Tb), Dysprosium (Dy), Holmium (Ho), Erbium (Er), Thulium(Tm) , Ytterbium (Yb), Lutetium (Lu) Lithium, Beryllium, Tantalum and other relevant elements;
34. **“Reserved Area”** is an area where, based on geological data, Mineral substances exist and [the area] is recognized and reserved/saved for development [of Mineral substances] and Mining activities by the Ministry of Mines and Petroleum;

#### Article 4: Scope of Law

This Law shall regulate all Reconnaissance, Exploration, developmental, Exploitation activities and all types of Mineral resources and Mineral Activities and other Ancillary Activities in Afghanistan. Water and natural petroleum are excluded from this Law.

#### Article 5: Ownership of Minerals

- (1) All Mineral resources, in their deposits and natural state, are the property of the State.
- (2) The State shall administer, control and regulate Mineral resources and Mineral Activities conducted with respect to such Mineral resources.
- (3) All Mineral Activities in the country of [Afghanistan] shall be undertaken only after a License or Authorization and contract is granted in accordance with the provisions of this Law and the relevant Regulations.
- (4) The Holder of a License or an Authorization or the contractor may conduct Mineral Activities in accordance with the terms and conditions of its License, Authorization or contract.



- (5) The Holder of a License or an Authorization or the contractor, following the extraction of Minerals and [or] Mineral substances, has the right to control and possess/exercise dominion over them in accordance with the provisions of this Law.

### **Article 6: Implementing Agency**

- (1) The Ministry of Mines and Petroleum in accordance with the provisions of this Law, is the authorized agency to regulate Mineral Activities in the country [of Afghanistan].
- (2) The Ministry of Mines and Petroleum shall, by itself or with cooperation of other public entities, or in association with the private sector, carry out Mineral Activities, in accordance with the provisions of this Law.

## **CHAPTER TWO: DUTIES AND AUTHORITIES**

### **Article 7: Main Duties and Authorities of the Ministry of Mines and Petroleum**

- (1) To ensure better implementation of the provisions of this Law, the Ministry of Mines and Petroleum has the following main duties and authorities:
1. Developing policies for the purpose of regulating the development of the Mining sector and monitoring its implementation;
  2. Promoting domestic and foreign investment in different fields/aspects of the Mining sector;
  3. Granting of any Reconnaissance License, Small-Scale Mining License, Artisanal Mining License and Authorization in accordance with the provisions of this Law,
  4. Extending, suspending, amending and revoking any Reconnaissance License, Small-Scale Mining License, Artisanal Mining License and Authorization in accordance with the provisions of this Law;
  5. Proposing the grant of Exploration and Exploitation Licenses and Mineral Development Contract and [Mineral rights over] Restricted Minerals to the Commission;
  6. Ensuring that terms and conditions of the granted Licenses, Authorizations and the executed contracts of Mineral Activities are complied with, in accordance with the provisions of this Law and the relevant Regulations.
  7. Undertaking geological research activities on the Mineral resources of the country [ of Afghanistan];
  8. Providing data or information to the public regarding the Mineral resources and activities giving due respect to any confidentiality restrictions;



9. publishing all of the annual reports of Mineral Activities not later than ninety (90) days after the end of each fiscal year and submitting it to the National Assembly through relevant sources;
  10. providing technical assistance to other Government agencies in all matters related to Mines and Minerals;
  11. Evaluating bids and negotiating contracts with interested/participating companies [preferred bidder] and entering into a contract with them, with the participation of the delegates from the Commission [IMC].
  12. Performing such other duties and responsibilities as set forth in this Law, and relevant Regulations and Procedures.
- (2) The Ministry of Mines and Petroleum may assign an Authorized Official to monitor the Mining Area of the License or Authorization to carry out the following duties:
1. Inspecting the [License/Authorization] Area, Mineral Activities, and Processing of Minerals [being conducted] and ensuring that the provisions of this Law are complied with;
  2. Examining and taking copies of registry books, accounts, vouchers, documents or records of any kind required to be kept under the provision of this Law, regulations and terms and conditions of the License and Authorization as deemed necessary.
  3. Taking soil samples or specimens of rocks, Ores, concentrates (pure compounds), Tailings or Minerals situated upon such Area, for the purpose of examination or assay; and
  4. Obtaining such other information as may be considered necessary.
- (3) The Authorized Official may not disrupt the Mineral Activities while conducting an investigation and in carrying out the activities stipulated in Paragraph (2) of this Article
- (4) The Ministry of Mines and Petroleum may summon a License or Authorization Holder or a contractor so as to obtain information regarding the relevant activities and the summoned persons shall be present at the Ministry within the specified time.
- (5) With respect to Contracts involving a capital investment exceeding fifty (50) million-United States Dollars, the Ministry shall, after the endorsement of the Council of Ministers and before the conclusion of the Contract and bidding process, provide the Houses of the National Assembly [House of Representatives and the Upper House] with a report on the eligibility/qualification, experience, expertise and the financial capability of the qualified bidder.



## **Article 8: Special Duties and Authorities of Ministry of Mines and Petroleum**

The Ministry of Mines and Petroleum, for the purpose of better implementation of the provisions of this Law, shall also have the following special duties and authorities:

### **1 - Maintain a Geological Survey:**

- Collecting geo-science figures and data on all matters related to geology and the development of Minerals;
- Undertaking geological, geochemical, seismological and hydro-geological surveys, investigations and mapping aimed at defining the character and distribution of the rocks and superficial deposits and determining the Mineral potential of the land;
- Conducting Reconnaissance and Exploration of Mineral substances;
- Conducting geo-environmental studies;
- Developing a publicly accessible national database of geo-science information through the compilation, unification, publication of information and data concerning the geology and Mineral resources of Afghanistan;
- Reviewing and evaluating the Exploration and geological aspects of the proposals received;
- Reviewing and designating Areas for Small-scale Mining, Artisanal Mining and Quarry and Construction Materials Areas;
- Providing geological and supporting services to miners when necessary;
- Reviewing Mineral Activities and Mining operations and geological plans; and
- Performing other geological survey related functions in accordance with this Law and the relevant Regulations.

### **2 - Maintain a Mines Cadastre:**

- Collecting Royalties, Surface Rents and fees in accordance with the provisions of this Law and the relevant Regulations.
- Confirming or rejecting License applications for Reconnaissance and the Authorization in writing in accordance with the provisions of this Law and the relevant Regulation;
- Monitoring and controlling the process of granting Licenses and Authorizations and their registration;
- Developing and maintaining a cadastral licensing and authorization granting and registry system and all matters pertaining to them and Cadastre Survey Maps, and, if applicable, establishing a computerized registry system; and



- Performing such other cadastral functions in accordance with the provisions of this Law and the relevant Regulations.

3- Maintain an Inspectorate:

- Ensuring technical compliance of Mineral Activities in accordance with the provisions of this Law;
- Ensuring health and safety standards are complied with [by staff], and employees, and that the general public are protected during Mineral Activities;
- Undertaking inspection and supervision of Mineral Activities with regard to the health and safety standards and working procedures;
- Undertaking inspection and supervision of compliance with environmental standards in coordination and understanding with the National Environmental Protection Agency [NEPA];
- Undertaking inspection and supervision of the implementation of any environmental and social impact mitigation plan in compliance with relevant laws;
- Investigating incidents resulting from Mineral Activities;
- Undertaking inspection and supervision of complying with the terms and conditions of any License, Authorization and/or contracts, including payment of Royalty and Surface Rent and other payments in accordance with the provisions of this Law;
- Compiling and publishing statistics on incidents occurring during Mineral Activities and Mining operations available for public information;
- Reviewing mine plans and health and safety plans, environmental and social plans, working procedures, and technical aspects of any Feasibility Study;
- Making such inspections, examinations, inquiries, take photographs or other record considered necessary to carry out official duties;
- Undertaking inspection and oversight of all technical [processes] of Reconnaissance, Exploration and Exploitation activities and reports of the License Holders within this Law;
- Issuing recommendations, warnings, fines and stopping the Mineral Activities in accordance with the provisions of this Law and the relevant Regulation
- Seeking help and assistance from experts;
- Requesting any necessary documents from the Holder of the License or Authorization or the contractor; and



- Performing such other inspectoral functions of Mineral Activities as required in accordance with the provisions of this Law and relevant Regulations.

### **Article 9: Commission**

A Commission shall be established for the purpose of carrying out the duties and authorities stipulated in Paragraph (1) of Article 10 of this Law and shall be composed of:

1. The Minister of Mines and Petroleum, as chairperson
2. The Minister of Finance, as Vice chairperson
3. The Minister of Foreign Affairs, as member
4. The Minister of Economy, as member
5. The Minister of Commerce and Industries, as member
6. The National Security Advisor , as member
7. General Director of National Environmental Protection Agency (NEPA), as member
8. General Director of Afghanistan National Standard Agency (ANSA), as member

### **Article 10: Duties and Authorities of Commission**

(1) The Commission shall have the following duties and authorities:

1. Endorsing or rejecting [the Grant of] an Exploration License and/or an Exploitation License, a Mineral Development Contract, and a declaration of Restricted Minerals [under Article 14(1)] and proposing it [a declaration of Restricted Minerals under Article 14(2)] to the Council of Ministers for approval;
2. Endorsing or rejecting the request for extension, suspension, amendment and revocation of Exploration Licenses, Exploitation Licenses and/or Mineral Development Contracts and declarations of Restricted Minerals [under Article 14];
3. Endorsing the percentage [rate] of the Royalty;
4. Reviewing recommendations for the purpose of promoting sound competitiveness of investments [in the Afghan Mineral sector compared to those made in] other countries;
5. Monitoring the bidding process to ensure that it is conducted transparently and fairly in accordance with the provisions of this Law and relevant Regulations;
6. Approval of the Artisanal Mining License Procedures;
7. Establishing guidelines on matters related to environmental protection and community development, as necessary;
8. Ensuring coordination among Government institutions in relation to Mineral Activities; and
9. Fulfilling such other functions in accordance with the provisions of this Law and relevant Regulations.

(2) Any Commission decision shall be made by majority vote of all its members.



- (3) The rules for activities and conducting meetings of the Commission shall be set forth in separate Procedures.
- (4) If a member of the Commission has an interest in any matter to be considered by the Commission, that member shall officially disclose the nature of his or her interest to the Commission and shall abstain from attending the session; otherwise, the concerned member's vote shall be considered invalid in the Commission's decision on the subject matter.
- (5) Fixing the conditions and criterion for the percentage of the Royalty rate shall be set forth in separate Regulations<sup>1</sup>.

### **CHAPTER THREE: RESERVED, PROHIBITED, DESIGNATED AREAS AND RESTRICTED MINERALS**

#### **Article 11: Reserved Area**

The Ministry of Mines and Petroleum may, for the purpose of securing national interest, and implementing the Mineral Activities in the future, and based on the existing geological information, propose an area for endorsement to the Commission to be a "Reserved Area" that may or may not have a fixed term.

#### **Article 12: Prohibited Area**

- (1) The Ministry of Mines and Petroleum may, for the purpose of preserving the national interest (including the health and safety of the population, national security, securing the public order, the incompatibility of the Mineral Activities with other uses of the soil, land surface, underground resources, impacting/damaging the protection of the environment, archeological or cultural relics or other natural values, or in case the social welfare will be affected, that is determined by a research or recommendation supported by research or study of the relevant agency), after the endorsement of the Commission and approval of Council of Ministers, declare an area to be a Prohibited Area.
- (2) The details related to the determination of an area as a Prohibited Area, with respect to its duration for a fixed or non-fixed term, shall be set forth in relevant Regulations.

#### **Article 13: Designated Area**

The Ministry of Mines and Petroleum may, for the purpose of encouraging Exploration and Exploitation activities, in consultation with local community and with consideration of the public interest, declare an area with identification of its Mineral type to be a "Designated Area" for the licensing [granting Authorization] of Artisanal or Quarry and Construction Materials.

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<sup>1</sup> This Paragraph was amended on 10-Jan-2015



## **Article 14: Restricted Minerals**

- (1) The Ministry of Mines and Petroleum may, for the purpose of securing national interest and well-being, security, health and safety of the population and preservation of the environment, as the case may be, declare Minerals to be Restricted for a fixed or non-fixed term upon the consultation with the relevant agency and endorsement of the Commission.
- (2) All Radioactive Minerals and Rare Earth Elements are considered to be Restricted Minerals and any Exploration and Exploitation activities for such Minerals may be carried out only under a developmental, economic and technological program, based on a proposal of the Commission, endorsement of the Council of Ministers and approval of the National Assembly.
- (3) The manner of bidding and other affairs related to contracting of the Restricted Minerals shall be set forth in the Regulations.

## **Article 15: Record of affected lands**

The Ministry of Mines and Petroleum shall record the lands affected by the Mineral Activities or other aspects of Mineral Activities, within seven (7) days, in the Mining Cadaster. Such determination and declaration of the area and a list of such lands shall be made available for land owners, License and Authorization Holders and the general public.

# **CHAPTER FOUR: GRANT OF LICENSES or ENACTING CONTRACT**

## **Article 16: Eligibility for grant of a License and Entry into Contract**

- (1) Any person who meets the following qualifications may enter into a contract with the Ministry of Mines and Petroleum or obtain Licenses as stipulated in this Law:
  1. Any Afghan natural person who has attained the age of (18) years and has obtained an investment license.
  2. Any Afghan legal person established in accordance with the applicable laws of Afghanistan who has obtained an investment license.
  3. Any foreign legal person organized under the applicable Laws of the country of its citizenship that has obtained an investment License in Afghanistan in accordance with the applicable Law.
  4. Any person who demonstrates the capability of providing capital, machinery, equipment and the expertise required for the implementation of the License terms and conditions.
- (2) The following persons shall not be eligible to obtain Licenses set forth in this Law:
  1. The President, Vice-Presidents, Ministers, Chief Justice and members of Supreme Court, Attorney General, members of the National Assembly, Heads and members of the Independent Government Commissions, Governor of the Central Bank and General



Director of National Directorate of Security, Provincial Governors, Mayors, and General Directors of the Government Independent Agencies, advisors, experts and Deputy Ministers of the Ministry of Mines and Petroleum and their relatives up to the second degree of consanguinity or by marriage.

2. Judges, Prosecutors, Members of Provincial and District Councils, any Employee of the Ministry of Defense or Ministry of Interior Affairs or of the General Directorate of National Security, advisors, as well as experts and staff of the Commission, stipulated in Article nine (9) of this Law;
3. Any person who has been declared bankrupt and who continues to be bankrupt under the laws of Afghanistan;
4. Any person whose License has been prematurely revoked, based on Justifiable reasons, by the Ministry of Mines and Petroleum prior to the expiry of the License term.;
5. Companies in which the listed figures in Article (151) of the Constitution of Afghanistan, have obtained direct or indirect benefits;
6. A natural person who has been convicted [by a competent court of jurisdiction] to more than ten (10) years in prison or has been convicted of administrative corruption [who has covered his or her prison term] but not yet restored his or her prestige;
7. Any legal person which is under a liquidation process, unless the liquidation is for the restructuring of such legal person;
8. Any legal person that is subject to an order of dissolution issued by a competent court of jurisdiction;
9. Any legal person in which one or more of its major shareholders, member of executive board or member of its board of directors would be legally disqualified.
10. Where one or more major shareholders of a legal person has been convicted of violation of the provisions of this Law; and/or
11. Any major shareholder of a legal person or a member of its executive board is an existing employee of the Ministry of Mines and Petroleum.
- (3) Any person whose licence has been revoked, may not re-apply for all or part of its revoked Licences Area for two years, from the date of revocation;
- (4) Major share for the purpose of this Law means ten percent or more than ten percent total share of a company.
- (5) Any person stipulated in Section 1 and 2 of Paragraph (2) of this Article may obtain a License or Contract stipulated in this Law, five years after termination of their term [of tenure in an official position].
- (6) Any foreign legal person for the purpose of obtaining a License shall establish and maintain a permanent representative office in Afghanistan.
- (7) A Licence Holder shall keep and maintain all documents related to Mineral Activities in



an authorized agent representative office in Afghanistan in accordance with the relevant Regulations.

### **Article 17: Terms and Conditions for Granting License**

- (1) Any legal person may obtain a License set forth in this Law upon submitting the relevant documents.
- (2) Any domestic natural person may obtain an Artisanal Mining License and Authorization in accordance with the provisions of this Law.
- (3) An Artisanal Mining License and Authorization shall not be granted to a foreign person.

### **Article 18: License**

- (1) No person shall conduct Mineral and Mining activities unless that person has been granted a License or Authorization by, or has entered into a contract with, the Ministry of Mines and Petroleum.
- (2) A License, Authorization or a contract does not entitle its Holder to any right of ownership of land.
- (3) No landowner or lessee shall conduct any Mineral and Mining activities on relevant land, unless such landowner or lessee has been granted a License in accordance with the provisions of this Law.
- (4) Any License, or Authorization Holder or any contractor shall conduct its activities in accordance with the terms and conditions of its License, Authorization and/or contract.

### **Article 19: Types of License and its granting authorities**

- (1) Licenses for Mineral Activities under this law are as follows:
  1. Reconnaissance License
  2. Exploration License
  3. Exploitation License
  4. Small-Scale Mining License
  5. Artisanal Mining License
- (2) The Licenses specified in Paragraph (1) of this Article shall be granted by the Ministry of Mines and Petroleum in accordance with the provisions of this Law in the following manner:
  1. A Reconnaissance License shall be based upon application.
  2. An Exploration License, Exploitation License and Small Scale Mining License shall be based upon a bidding process.
  3. An Artisanal Mining License shall be based upon an application in accordance with the provisions of this Law and relevant Procedures.



- (3) The Ministry of Mines and Petroleum may, in case of justifiable reasons, grant both an Exploration License and an Exploitation License in a single bidding process upon the concurrence of the Commission and approval of the Council of Ministers.
- (4) The manner of any bidding process and other licensing related issues shall be set forth in the relevant Regulations.

## **Article 20: Authorization**

An Authorization [Authorization for Quarry and Construction Materials] shall be granted based upon application by the Ministry of Mines and Petroleum in accordance with the provisions of this Law.

## **Article 21: License Specifications**

- (1) The Licenses specified in this Law, shall be issued by the Ministry of Mines and Petroleum and, as the case may be, shall contain the following information:

1. Type of License;
2. Type of Mineral [the Mineral for which it was granted];
3. The name and address of the Holder;
4. Date of the grant of the License and the term for which it is granted;
5. A description of the License Area and its map;
6. The terms and conditions on which the License is granted;
7. The date on which the License was registered;
8. The Royalty rate
9. A schedule of Mineral Activities to be implemented including the commencement of such Activities;;
10. The amount of Surface Rent, [schedule for] making payments and to whom payments shall be made.
11. Authorized granting and approving authority ;
12. A Work program and budget;
13. A Certified copy of the environmental and social [management] plan; and
14. An Employment program for Afghan citizens.

- (2) Other specification of each License shall be set forth in the relevant Regulations.

## **Article 22: Validity of License**

A License, shall be issued upon its registration and payment of prescribed fees, in accordance with the provisions of this Law and shall be legally valid thereafter.



## Article 23: Minerals Development Contract

- (1) For the purpose of promoting economic development and large-scale investment [in the minerals sector in Afghanistan], the Ministry of Mines and Petroleum may, based on bidding and after endorsement of the Commission and approval of the Council of Ministers, enter into a Minerals Development Contract, including for the establishment of main infrastructure outside the contract Area, with an eligible person.
- (2) The holder of a Minerals Development Contract may be granted up to (5) Exploitation Licenses in the Area of the Exploration License of its Contract, in accordance with the provisions of this Law.
- (3) The contractor for the Minerals Development Contract shall not transfer or assign any rights and privileges of its Exploration License, Exploitation License, or the relevant contract to any other person without written consent of the Ministry of Mines and Petroleum, endorsement of the Commission and the approval of Council of Ministers.
- (4) Transfer and assignment can only be made to a person who has all the qualifications, capabilities and the requirements that the contractor had at the time of obtaining the License.
- (5) The Ministry of Mines and Petroleum shall prepare a Minerals Development Contract in accordance with the provisions of this Law and other legislative documents, and the Minerals Development Contract shall adhere to the following criteria:
  1. Establishment of a method for Government to acquire its portion [of the Mineral product] at market price;
  2. Management of fiscal affairs in accordance with the financial laws of Afghanistan;
  3. Designation of dispute resolution methods;
  4. Development of a Community Development Plan in accordance with the provision of this Law and relevant Regulations;
  5. Commitment to the development and use of infrastructure; and
  6. Designation of the life (the term) of the Minerals Development Contract.
- (6) The Ministry of Mines and Petroleum shall publish the terms and conditions of any Minerals Development contract, and other ancillary agreements within ten (10) days after entering into such Minerals Development Contract. Publishing the personal information and any other relevant information to the security of personnel and methods of operations is not allowed without a written agreement of the Parties.
- (7) The Bidding process and other affairs related to conclusion of a Minerals Development Contract shall be set forth in the Regulations.

## Article 24: Boundaries of License Area

- (1) The Boundaries of the Reconnaissance License Area shall be determined based on coordinates of cadastral blocks, and demarcation is not required.
- (2) The boundaries of an Exploration License, Exploitation License and Small-Scale Mining License Area shall be regulated based on the coordinates of cadastral blocks in accordance with the methods prescribed in the Regulations and demarcation such Area is carry out at the cost of the Holder.



- (3) Demarcation of Artisanal Mining License and Authorization Area shall be carried out by the Ministry of Mines and Petroleum as needed.

### **Article 25: Rights and obligations of License Holder**

- (1) In addition to rights and obligations under this Law and relevant Regulations, the License Holders shall comply with the following conditions:
1. Appointment of a manager of Mining Operations with sufficient professional education and experience;
  2. Providing the Ministry of Mines and Petroleum with its work program, budget, and other information needed by the Ministry.
  3. Notifying the Ministry of Mines and Petroleum of any amendments it seeks to make to its work program and budget. The Ministry of Mines and Petroleum shall make its decision as soon as possible whether to accept or reject the proposed amendments.
  4. Make all payments within the specified time.

### **Article 26: Change of control of a License**

- (1) A Holder of License shall notify the Ministry of Mines and Petroleum of any change in the authority of its controlling body, management or of any shareholder who holds a share of more than ten per cent (10%).
- (2) The changes set forth in Paragraph (1) of this Article shall enter into force upon satisfaction of the following conditions and the approval of the Ministry of Mines and Petroleum:
1. Adhering to the conditions and obligations of the License including implementing the work program and budget, submitting expenditure documents, reporting and a written notice of transfer of ownership or authority to the Ministry of Mines and Petroleum; and
  2. Ensuring that the transferee, has all the qualifications, capabilities and the legal requirements that the Holder had at the time of grant of License.

### **Article 27: Maintenance of Records (Documents)**

- (1) A Holder of a License shall maintain the documents related to the License [records] in accordance with the provisions of relevant Regulations and shall provide the Ministry of Mines and Petroleum with copies of them for inspection and evaluation purpose upon request.
- (2) A Holder of a License shall provide the Ministry of Mines and Petroleum with geological reports and reports on Mining Operations in accordance with the relevant Regulations.



- (3) A Holder shall maintain balance sheets, statements and books of accounts for Mineral Activities of each License.
- (4) The Holder of an Exploitation License and Small-Scale Mining License shall report the following to the Ministry of Mines and Petroleum within a specified period:
  1. The volume of work performed and the amount of Minerals extracted;
  2. A statement of amount of Royalty payable for each reporting period together with all related information, calculations and modifications;
  3. Submitting receipt of Royalty payment [which have been paid] in accordance with the provisions of this Law and relevant Regulations; and
  4. Necessary information on the implementation of terms and conditions of the Community Development Agreement [CDA].
- (5) The Holder of an Exploitation License and Small-Scale Mining License shall, after the end of each year, submit an annual report on their relevant activities to the Ministry of Mines and Petroleum that shall include:
  1. Information on the results of Mining Operations, volume of work, amount of production, waste, waste removal, statement of expenditures, costs, and persons employed, estimate of remaining Mineral deposit, and other required information;
  2. Statements on expenditures, report on health and safety records, reclamation and Rehabilitation of the Area;

## **Article 28: Discovery of New Minerals**

- (1) The Holder of an Exploitation License, Small-Scale Mining License, or Artisanal Mining License shall only mine those minerals for which the License is granted, and in case of discovery of any new Mineral in its License Area, the Holder shall notify the Ministry of Mines and Petroleum of such discovery.
- (2) Whenever the newly discovered Mineral is a radioactive or other restricted substance, the Holder in addition to reporting [to the Ministry], shall cease Mining Operations in that area and act in accordance with the provisions of the relevant Laws.
- (3) The Ministry of Mines and Petroleum may grant any Holder of an Exploitation License and/or Small-Scale License the permission to exploit the newly discovered minerals within their License Area, provided that the Holder has the working capability. In such event, the Royalty percentage [rate] for the newly discovered Mineral shall be determined based on the Mineral quality and value in accordance with the provisions of this Law and the relevant Regulations.
- (4) If the new Mineral is discovered within an Artisanal Mining License Area, the Ministry of Mines and Petroleum shall revoke the Artisanal Mining License upon the endorsement of Commission and provide the Holder with compensation in accordance with the provisions of this Law and Regulations. The Ministry, as the case may be, may tender the newly discovered Mineral.



## Article 29: Transfer of License<sup>2</sup>

- (1) The Holder of Exploration, Exploitation, and Small-Scale Mining Licenses shall not transfer all or part of its License privileges to another person before written approval of the Ministry of Mines and Petroleum; provided, however, that the transferee meets all those requirements set forth in this law, and accepts all obligations of the License holder and anticipated requirements in the relevant regulations.
- (2) The Reconnaissance and Artisanal Mining Licenses as well as Authorization for Quarry and Construction Materials shall not be transferred.

## Article 30: Relinquishment of a License Area

- (1) A Holder of a License may relinquish all or part of its License Area to the Ministry of Mines and Petroleum.  
A written application for the relinquishment shall be submitted to the Ministry of Mines and Petroleum not later than ninety (90) days prior to the date of relinquishment.
- (2) The Ministry of Mines and Petroleum may consent to the stipulated relinquishment in Paragraph (1) of this Article, in the following circumstances:
  1. In the event that the Holder has fulfilled his obligations set forth in this Law, Regulations and the License;
  2. In the event that the Holder has submitted documents and reports about its Mining Operations according to the provisions of this Law and relevant Regulations;
  3. In the event that, following relinquishment, the retained License Area is contiguous;
  4. In the event that the Holder has complied with its Mine closure plan.

## Article 31: Suspension of License

- (1) Licenses set forth in this law may, in whole or in part, be suspended as following:
  1. at the request of License Holder
  2. upon the decision of the Ministry of Mines and Petroleum.
- (2) A License Holder may request in writing suspension of all or part of its License activities, and shall in each case give the reasons for suspension with a minimum of thirty (30) days advance notice to the Ministry of Mines and Petroleum as follows:
  1. Where the Holder loses its technical and operational capacity described under the terms and conditions of the License, provided that the period of suspension shall not exceed (180) days.
  2. Where there has been a change in market factors that directly impacts the Mineral Activities.

<sup>2</sup> This Article was amended on 10-Jan-2015



(3) The Ministry of Mines and Petroleum may, based on the justifications of the License Holder or in the following circumstances based on its own discretion, decide to suspend a License :

1. Where the Holder, despite having received written notice, fails to implement the work program and budget in accordance with the terms and conditions of its License.
2. Where the Holder has violated all or some of the terms and conditions of its License;
3. Where the Holder fails to fulfill its financial obligations such as payment of Royalty, taxes, Surface Rent or any other financial obligation in accordance with the provisions of the Law [Financial Laws of Afghanistan] and the relevant Regulations;
4. Where the Holder is declared bankrupt and not able to fulfill its License commitments; and
5. Where the Holder intentionally submits a false statement to the Ministry of Mines and Petroleum with regard to the implementation and execution of its activities described in the License.

### **Article 32: Authorized authorities for suspending a License**

- (1) The Ministry of Mines and Petroleum may suspend a Reconnaissance License, Small-Scale Mining License, Artisanal License and Authorization upon occurrence of the circumstances set forth in Article 31 of this Law.
- (2) The Ministry of Mines and Petroleum may propose the suspension of an Exploration License, Exploitation License, or a Mineral Development Contract and Restricted Minerals with written justification to the Commission. The Commission may, upon review and analysis of the proposal, endorse or reject the proposal.
- (3) In case the Ministry of Mines and Petroleum's decision is to suspend the licence, because of any existing deficiencies, the Ministry may provide an opportunity to the Holder to remedy any such deficiency.
- (4) Where the License Holder, within the period stipulated in paragraph (3) of this Article, remedies any such deficiency the Ministry of Mines and Petroleum may decide not to suspend the License and notify the Holder of its decision in writing.

### **Article 33: Revocation of a License**

- (1) The Ministry of Mines and Petroleum may revoke any License issued under this Law for the following reasons:
  1. Persistent or serious violation of the terms and obligations of the License;
  2. Delay or suspension of activities as prescribed in the License without justifiable reasons;
  3. Non-payment of Royalties, taxes, Surface Rent or other financial obligations within the specified period;
  4. Where the Holder is declared to be bankrupt;
  5. Conduct involving serious violation of laws or violations of License obligations relating to the health and safety of labor, protection of the environment and/or protection of affected communities, including any material breach of a Community Development Agreement; and/or
  6. Conduct involving smuggling or the illegal sale of Minerals.



- (2) The Ministry of Mines and Petroleum may propose the revocation of an Exploration License, and Exploitation License to the Commission with written justifiable reasons. The Commission may, upon review and analysis of the proposal, endorse or reject the proposal.

Where the Commission endorses the proposal, the Ministry of Mines and Petroleum shall enter the matter into the specified form and register it in the relevant book. Where the Commission rejects the proposal, the Ministry shall inform the License Holder concerning the reasons for proposal's rejection and record the decision of the Commission in the registry book.

- (3) Prior to the revocation of a License pursuant to Paragraphs (1) and/or (2) of this Article, the Ministry of Mines and Petroleum, shall provide the Holder with an opportunity to remedy any deficiencies within a specified period and the Holder shall notify in writing the Ministry of accomplishing any such remedy.

If the Holder fails to remedy the deficiencies within the specified period, the Ministry of Mines and Petroleum may revoke the License. In case of any objection, the License Holder may refer to the Commission. In case the Commission rejects the objection, the Holder may refer the matter to the competent court.

- (4) The revocation of a License does not relieve the License Holder from its obligations under the License unless the License or the contract has been revoked based on the provision of Paragraph (4) of Article 28 of this Law.

- (5) In case of a License revocation, the Holder of a revoked License shall have up to six months from the date of receipt of written notice to remove equipment and machinery from the License Area or to sell them; in this case the State shall have the priority right to purchase such equipment from the Holder in accordance with the Regulations.

- (6) Whenever the License is revoked, after the prescribed time limit of Paragraph (5) of this Article, the immovable buildings, and installations constructed and built on the License Area shall become the property of the State

- (7) After revocation of a License, the License Holder shall deliver to the Ministry of Mines and Petroleum all records, plans, maps and other documents that relate to the License in accordance with the Regulations. A License Holder, who fails to fulfil this obligation, is subject to cash penalty under this Law.

- (8) The Ministry of Mines and Petroleum shall publish notification of revocation of any License in accordance with this Law.

### **Article 34: Preservation and Maintenance of Samples**

- (1) The Holder shall securely store and maintain in good condition all drilling samples in a manner that clearly identifies the date and location of its extraction, and provide the Ministry of Mines and Petroleum access to the drill core samples upon request. The amounts as may be required for assaying and testing, the drilling samples are exempted.

- (2) If the License is revoked or the project is ended, the existing samples shall become the property of the State and be transferred to the Ministry of Mines and Petroleum.



## CHAPTER FIVE: The Right of use of land

### Article 35: Acquisition or lease of land

- (1) A landowner may, without acquisition, lease the area of its land needed for Mineral Activities to the License Holder. The manner of leasing shall be set forth in the relevant Regulation.
- (2) The Ministry of Mines and Petroleum may, for the purpose of securing the public interest, expropriate the private land needed for Mineral Activities (when necessary) in accordance with the provisions of the law.

### Article 36: Use of land for Mineral Activities

- (1) The License Holder is entitled to use the Area defined in its License in accordance with provisions of this Law
- (2) The License Holder shall not use the Area defined in its License in the following circumstances unless approved by the Council of Ministers:
  1. In respect of part of a License Area dedicated for the purpose of securing any public interest;
  2. The area within fifty (50) meters of any land dedicated as a place for cemetery, a holy place or a place of religious or cultural significance;
  3. Land that is located within one hundred (100) meters of an oil or gas installation, pipeline or other relevant facilities;
  4. Land that is located within fifty (50) meters of any land reserved for the purpose of construction of any railway, highway or waterway;
  5. Land which is located within two hundred (200) meters of any town or village, unless it has acquired the written agreement of the Ministry of Urban Development Affairs or the Municipality in this regard; and
  6. Land which is dedicated as a protected area in accordance with the provisions of Law.
- (3) With respect to certain land as highlighted below, the Holder of a License shall notify in writing the owner or relevant administrations/agencies not less than seven (7) days prior to commence any Mineral Activities:
  1. Land that is located within two hundred (200) meters of any houses or building; or
  2. Land that is located within fifty (50) meters of agricultural land and or the land used for grazing.
- (4) If the landowner of land necessary for Mineral Activities does not consent to lease the land, the Ministry of Mines and Petroleum may secure the land for the use by the License Holder provided that the License Holder agrees to compensate the landowner in an amount as determined by an expert appraiser.
- (5) The License Holder may not use the License Area for purposes other than Mineral Activities.



**Article 37: Easement**

- (1) Where the License Holder, for the purpose of carrying out the Related Activities, requires the right of access to its License Area through private land that is located beyond the easement, it shall obtain the permission from the landowner to access the land or act in accordance with the provisions of Paragraph (4) of Article 36 of this Law.
- (2) The License Holder may use its easement on adjacent lands specified in Paragraph (1) of this Article for the term of the License.
- (3) The Ministry of Mines and Petroleum may, without limiting the right of access of a License Holder, also grant the right to use the land as described in Paragraph (1) of this Article to other persons with the consent of the License Holder.

**Article 38: Rights and Obligations of Surface Owner and Holder**

- (1) A landowner may not use the surface of land which is within an Area subject to a License for the purpose of cultivation, planting trees, waterway, grazing livestock, constructing buildings or infrastructures, except with written agreement of the Holder.
- (2) The Holder of a License shall conduct Mineral Activities in accordance with the provisions of this Law and avoid any unsafe [unprotected] activities, which may create hazardous waste dumps or other hazards likely to endanger the livestock, crops or any lawful activity of the landowner or local residents.

**Article 39: Compensation for disturbance of land**

- (1) If during the Mineral Activities, any damage is caused to the landowner's properties, the Holder shall be required to pay compensation in accordance with the applicable Laws.
- (2) If the Holder of a License fails to pay compensation as demanded by the landowner, or if the owner of the land is dissatisfied with any offer, such compensation may be determined by an expert appraiser. Where the parties may not reach any agreement, the issue shall be resolved by the competent court.

**Article 40: Resettlement**

Where, based on the results of the Environmental and Social Impact Assessment of the relevant authority, or the review of the Environmental and Social Impact Assessment Report, the Ministry of Mines and Petroleum in coordination with the relevant Governmental agencies determines that resettlement is a necessary action of last resort, the Holder shall, in consultation with the affected communities, prepare a Resettlement Action Plan for the affected communities, and provide enough financing to accomplish the resettlement process and the compensation of displaced individuals.



## **Article 41: Public Access to the Documents**

The Ministry of Mines and Petroleum shall facilitate access for members of the public to the Register of Licenses, Applications, the Cadastral Survey Maps, non-confidential reports and agreements submitted by the Holders of Licenses during normal business hours, and provide a copy of such documents upon public request upon payment of the prescribed fees.

## **CHAPTER SIX: RECONNAISSANCE LICENSE**

### **Article 42: Application Form (for a Reconnaissance License)**

- (1) An application form for the grant of a Reconnaissance License, including the following information, shall be submitted to the Ministry of Mines and Petroleum:
1. Name, address, certificate of incorporation and Articles of Incorporation of the company;
  2. Background, nationalities and contact information of each member of Executive Team, Board of Directors and major shareholder(s);
  3. A statement affirming that the applicant meets the eligibility requirements in accordance with the provisions of this Law;
  4. A statement demonstrating that the applicant has a professional and experienced team;
  5. Names, addresses and certificate of the required skills of the person responsible for supervising the Reconnaissance operations;
  6. Details of the proposed Reconnaissance area including its map;
  7. An Environmental and Social Impact Mitigation report;
  8. Detailed Reconnaissance program and expenditure commitment for the first year of the License and estimated program expenditure for the subsequent year;
  9. Details, in writing, on how the proposed work program will be financed;
  10. Proposals to employ Afghan citizens and procure goods, equipment and services from Afghanistan, considering the local community as a priority
  11. Information on any License previously held within Afghanistan by the applicant;
  12. Methods for conducting Reconnaissance including aerial survey; and
  13. Any additional information that the Ministry of Mines and Petroleum or the applicant may consider to be necessary.

### **Article 43: Reconnaissance License**

- (1) The Ministry of Mines and Petroleum may, after conducting the necessary evaluation and determining the capability and possibilities of the applicant, grant a Reconnaissance License to all or part of the area included in the application or reject the application. In case the application is rejected, the Ministry of Mines and Petroleum shall provide the applicant with written reasons for the rejection.
- (2) A Reconnaissance License shall be granted for up to two (2) years and may not be extended.



#### **Article 44: Reconnaissance License Area**

A Reconnaissance License Area shall consist of contiguous blocks such that its Area shall not exceed twenty thousand (20,000) square kilometers and its shape, orientation and dimensions shall be set forth in the Regulations.

#### **Article 45: Rights of Reconnaissance License Holder**

A Reconnaissance License Holder has the following rights within its License Area:

1. Access to its License Area;
2. Record images or take geophysical measurements of the Area in accordance with the provisions of applicable law;
3. Remove a reasonable amount of samples for testing and assaying in accordance with Regulations; and
4. Conduct other such activities as are necessary to carry out the Reconnaissance work program.

#### **Article 46: Obligations of Reconnaissance License Holder**

(1) The Holder of a Reconnaissance License shall have the following obligations:

1. Provide written notice to the landowner before commencing any Reconnaissance activities;
2. Consult with relevant authorities and communities about Reconnaissance activities as required;
3. Implement its approved work program and budget in accordance with standards and the provisions of this Law;
4. Provide to the Ministry of Mines and Petroleum the full data, results, explanation and description of any airborne geophysical survey done in connection with the Reconnaissance License Area within the agreed time after occupation of the Area;
5. Submit geological samples and other information to the Ministry of Mines and Petroleum in accordance with the Regulations;
6. Submit an itemization of direct expenses within the specified period to the Ministry of Mines and Petroleum at the end of each License year;
7. Store, maintain and rehabilitate the License Area in accordance with the applicable laws and environmental protection standards and compensate damages that result from Reconnaissance activities;
8. Remove and transfer camps, temporary installations or installed machinery within sixty (60) days after the end date of the License and rehabilitate any land surface which was damaged as a result of Reconnaissance related activities;

(2) Removal and transfer of any Mineral from a Reconnaissance Area for commercial purposes is prohibited. Taking samples for testing, assaying or valuating purposes is excluded from this provision.



- (3) A Holder of a Reconnaissance License may, subject to its License terms and conditions, only collect surface samples in accordance with its work program but shall not engage in any drilling, trenching, or extraction of Minerals.

## CHAPTER SEVEN: EXPLORATION LICENSE

### Article 47: Grant of Exploration License

- (1) After receiving proposals from bidders, the Ministry of Mines and Petroleum shall review them within three (3) months and forward its written findings to the Commission; the Commission shall decide whether to endorse, not to endorse (reject), or to amend the findings within thirty (30) days
- (2) Where the Commission endorses the proposal, the Ministry of Mines and Petroleum may propose it to the Council of Ministers for their approval. In case the Commission rejected, amended or did not approve a proposal, the Ministry Mines and Petroleum shall provide the bidder with the reasons in writing.
- (3) Where the Council of Ministers endorses the proposal, the Ministry of Mines and Petroleum shall issue an Exploration License to the winning bidder.
- (4) The Ministry of Mines and Petroleum, under the circumstances described in Paragraph (3) of Article (19) of this Law, shall take Paragraphs (1), (2) and (3) of this Article into consideration when granting the combined Exploration License and Exploitation License.

### Article 48: Duration of Exploration License

- (1) From the date of registry, the Exploration License period shall be for up to three (3) years and may be extended for two (2) additional consecutive terms on condition that the Holder has fulfilled its obligations under this Law, the Regulations and the terms and conditions of the License.
- (2) The Holder of an Exploration License may apply for an extension of the term of the Exploration License to Ministry of Mines and Petroleum not later than three (3) months before the expiration of the License. Where the Ministry Mines and Petroleum rejects the extension, the License is valid until its end of effective date.

### Article 49: Exploration License Area

- (1) An Exploration License Area shall be made up of adjacent blocks and the area of land on which an Exploration License may be granted shall not exceed two hundred and fifty (250) square kilometers. The Exploration License Area shape, dimensions and orientations shall be set forth in the Regulations.
- (2) In the case of first renewal of an Exploration License, the License Area shall be reduced not to exceed one hundred and twenty five (125) square kilometers and shall be composed of contiguous blocks.



- (3) An Exploration License Holder may, in accordance with the provisions of this Law and relevant Regulations, apply to the Ministry of Mines and Petroleum to enlarge the size of the Exploration License Area, provided that the sum of the area under enlargement application and the original License Area shall not exceed two hundred and fifty (250) square kilometers.

### **Article 50: Acquiring Multiple Exploration License**

The License Holder may, in accordance with the provisions of this Law, obtain up to ten (10) Exploration Licenses but the total area of the Licenses shall not exceed two thousand and five hundred (2,500) square kilometers.

### **Article 51: Rights of Exploration License Holder**

- (1) An Exploration License Holder is entitled to the following rights within its License Area in accordance with the provisions of this Law:
1. To have access to the License Area;
  2. To conduct activities to implement the Exploration program; collect surface soil, sediment or Mineral rock samples;
  3. To conduct geochemical and geophysical surveys;
  4. To sink or drill Exploration shafts or wells;
  5. To dig Exploration holes and trenches in order to extract samples;
  6. To take samples for the purpose of chemical analysis and assay and trial processing of Mineral resources as approved in the Exploration work program provided that carrying out these activities shall not exceed such limit as is reasonably required for determining Mining potential;
  7. To remove and export a reasonable number of samples as approved in the Exploration work program for testing and analysis in accordance with the provisions of the Law;
  8. To install equipment and machinery and erect temporary buildings, construct roads in accordance with the provisions of applicable laws;
  9. To utilize water as required to conduct Exploration activities in accordance with the provisions of applicable law; and
  10. To conduct other activities related to Exploration.

### **Article 52: Obligations of Exploration License Holder**

- (1) An Exploration License Holder has the following obligations:
1. Provide notice to the landowner before commencing Exploration operations;
  2. Comply with the annual expenditure requirements as included in the Exploration work program and budget;
  3. Consult with local government and community members about Exploration activities that require physical entry into the land within their jurisdiction;
  4. Compensate the landowner for any damage incurred to the land and other properties resulting from Exploration operations in the Exploration Area and rehabilitate and reconstruct the Exploration Areas in compliance with environmental requirements and standards;



5. Allow right of way, construction of water supply, canals, pipelines, sewers/drains, wires/transmission lines, public roads, rail, and public utility installations as shall not interfere with Exploration activities;
  6. Properly survey and mark all drill holes so that they may be located at a future date to the satisfaction of the Mining Inspectorate and rehabilitate any borehole or excavation made during the course of Exploration operations;
  7. Remove the waste, in consideration of environmental conditions, in accordance with the Waste Management Plan and in the administration of such Plan;
  8. Within sixty (60) days from the date of the expiration of the Exploration License, remove any temporary buildings, equipment or machinery erected or installed and make good to the satisfaction of the Mining Inspectorate any damage to the surface of the ground occasioned by the removal unless the Ministry of Mines and Petroleum decides otherwise in accordance with the provisions of this Law; and
  9. Submit a report of Exploration activities to the Ministry of Mines and Petroleum.
- (2) The Holder may not remove any Mineral from the Exploration License Area for commercial sale. Taking or removing any Mineral for the purpose of testing, analysis, determination of value, or marketing is excluded from this provision.
- (3) The Holder of an Exploration License shall, in accordance with the provisions of this Law and within an agreed upon time period after the end of each year as measured from the date of registry of the Exploration License, submit to the Ministry of Mines and Petroleum a detailed technical report of the results of work carried out in the preceding period together with a revised Exploration work program for the following year that shall include benchmarks for performance, timelines and an expenditure commitment to be spent in the implementation of the approved work program not including the purchase of land or buildings.
- (4) If the License Holder voluntarily or in accordance with the provisions of this Law surrenders part of the Exploration License Area to the Ministry of Mines and Petroleum, the License Holder shall provide relevant technical reports related to the surrendered area in a specified time.
- (5) Reports required under Paragraph (4) of this Article shall include an outline of completed activities, the results of exploratory activities that have commenced along with detailed maps and complete numbers including confidential information about surrendered area which was already mentioned in annual reports and other prepared reports.

### **Article 53: Conditions of License Extension**

- (1) Where, under the circumstances of Paragraph (3) of Article 19 of this Law, an Exploration License Holder is granted an Exploitation License over part of its Exploration License Area, the remaining part of its Exploration License Area shall continue in force until the term of the License expires or the area is surrendered.
- (2) Where an Exploration License is on the verge of expiration, and the grant of Exploitation License is under the evaluation process, the Exploration License term is deemed to be extended until such the Exploitation License is granted.



- (3) The Holder of an Exploration License shall, under the circumstances of Paragraph (3) of Article 19 of this Law, submit any application for Exploitation License not later than ninety (90) days before the expiration of the Exploration License term to the Ministry of Mines and Petroleum. The form and the contents of the application shall be set forth by the Ministry of Mines and Petroleum.
- (4) The agreed upon Royalty recorded in the Exploration License, shall also apply, without any changes, to the Exploitation License or the Small-Scale Mining License.

#### **Article 54: Priority Right of Exploration License Holder**

Where the Holder of Exploration License fails to win the bidding for the Exploitation License of the Area under its Exploration License, preferably, the Holder shall have the priority right to be granted the Exploitation License at the same amount as the winning bidder; otherwise, the winning bidder shall compensate all the expenses incurred by the Exploration License Holder during the course of Exploration, provided that these expenses shall have been reported to and certified by the Ministry of Mines and Petroleum. In this event, the winning bidder shall also pay an interest of 25 per cent for the cost incurred by the Exploration License Holder during the course of Exploration activities.

### **CHAPTER EIGHT: EXPLOITATION LICENSE**

#### **Article 55: Grant of an Exploitation License**

- (1) The Ministry of Mines and Petroleum shall, within four (4) months of receipt, review the bidders' proposals, and forward evaluation findings in writing to the Commission; the Commission shall decide whether to endorse, not endorse (reject) or modify the evaluation findings.
- (2) Where the Commission endorses the proposal, the Ministry of Mines and Petroleum shall forward it to the Council of Ministers for approval. In the event that the Commission rejects (does not endorse), or modifies the proposal, the Ministry of Mines and Petroleum provide the bidder with reasons in writing.
- (3) Where the Council of Ministers approves the proposal, the Ministry of Mines and Petroleum shall grant the Exploitation License to the winning bidder in accordance with the provisions of this Law.

#### **Article 56: Duration of an Exploitation License**

- (1) The duration of an Exploitation License shall not exceed thirty (30) years from the time of its registry, and shall be proportionate to the volume of deposit and estimated time for the extraction of minerals.
- (2) An Exploitation License may, after the expiration of its term, be extended for consecutive terms up to fifteen years (15) each or the period necessary to extract the remaining deposit.



- (3) The Holder of an Exploitation License shall submit an application for the extension of all or part of the License Area not less than ninety (90) days before its expiration, to the Ministry of Mines and Petroleum. The Ministry of Mines and Petroleum may extend all or part of the License in respect with the volume of the remaining Mine deposit provided that the License Holder, during the previous License period, was in compliance with the provisions of this Law, Regulations and terms and conditions of the Exploitation License.
- (4) Where a License Holder has made an application for an extension of the term of the Exploitation License, the rights of Exploitation License will continue in force with respect to the Area and Minerals, be applicable for up to one year or until the application is endorsed or rejected.
- (5) Where the Ministry of Mines and Petroleum rejects the application for extension, the original Exploitation License term shall remain valid until its expiration date in accordance with provisions of this Law.

### **Article 57: License Area**

- (1) An Exploitation License Area shall consist of adjacent cadastral blocks and the area of land over which an Exploitation License may be granted shall not exceed fifty (50) square kilometers or be less than one (1) square kilometer. The area's shape, orientation and dimension shall be regulated in the Regulations.
- (2) The area stipulated in Paragraph (1) of this Article may be less than (1) square kilometer considering the economic value of the Mineral to be exploited in accordance with the relevant Regulations.
- (3) The Holder of an Exploitation License may be granted up to ten Exploitation Licenses provided that the Holder is eligible and is in compliance with the provisions of this Law and the relevant Regulations.
- (4) Under the circumstances of Paragraph (3) of Article 19 of this Law, an Exploration License Holder may, in accordance with the provisions of this Law, be granted up to five (5) Exploitation Licenses provided that the Holder is eligible and is in compliance with the provisions of this Law and the relevant Regulations.
- (5) A License Holder may apply to the Ministry of Mines and Petroleum to expand the size of the Exploitation License Area in accordance with the provisions of this Law and Regulations provided that the total area under application and the Area under the existing License do not exceed fifty (50) square kilometers.

### **Article 58: Rights of an Exploitation License Holder**

An Exploitation License Holder, within its License Area and in accordance with the provisions of this Law, has the following rights:

1. To obtain access to the License Area;
2. To install and set up equipment, machinery, and construct infrastructure, plant and buildings for the purposes of Mining operations, storage, transporting, Processing,



smelting or refining the specified Minerals recovered by the Holder during Mining Operations;

3. To conduct further Exploration within the Exploitation License Area;
4. To construct any other facilities required for Processing including waste dumps and Tailings dams;
5. To take and remove rock, soil, and Minerals from the land before or after Processing in accordance with its work program;
6. To stack or dump Minerals and waste products in accordance with its Waste Management Plan, Environmental and Social Impact Assessment and Environmental and Social Management Plan;
7. To utilize water as required to conduct Exploitation activities in accordance with the provisions of relevant law; and
8. To conduct other activities related to Exploitation.

### **Article 59: Conditions for Commencing Activities**

Upon registration and confirmation that the following points are completed, the License Holder may commence Exploitation activities:

1. Endorsement by the Ministry of Mines and Petroleum of its work program and budget, health and safety plan, Rehabilitation and Mine closure [plan], and program for development;
2. Endorsement from the National Environmental Protection Agency of its environmental management and environmental and social negative impacts mitigation plans;
3. Endorsement of a lease agreement, to use the land for the duration and Area to which the License relates, by the Ministry of Mines and Petroleum;
4. Where necessary, approval of compensation and resettlement agreements by the Ministry of Mines and Petroleum;
5. Endorsement of permit for constructing infrastructure within the License Area by the Ministry of Mines and Petroleum;
6. Endorsement by the Ministry of Mines and Petroleum of the Community Development Agreement entered into by the Holder, relevant community and Government representatives, and other relevant parties; and
7. Confirmation of bank statement indicating that the License Holder has financial sources or bank guarantee held in an agreed upon bank escrow account in accordance with the provisions of Law.

### **Article 60: Obligations of an Exploitation License Holder**

The Holder of an Exploitation License shall have the following obligations:

1. Implement the work program and any other agreements on infrastructure as verified in the final feasibility study;
2. Obtain written approval from the Ministry of Mines and Petroleum of any modification to the work plan;
3. Give written notice to the landowner prior to commencing Mining operations or Mine development activities in the License Area;
4. Implement the Community Development Agreement as per the terms and conditions therein;



5. To finance the annual expenditure requirements as included in the Exploitation work program;
6. Allow right of way, construction of water supply system, canals, pipelines, sewers/drains, wires/transmission lines, public roads, rail, and other public utilities installations provided that they do not interfere with Mining operations;
7. Implement its reclamation and Mine closure plans in accordance with the provisions of this Law and relevant Regulations;
8. Removal of waste and Tailings in accordance with its Waste Management Plan; and
9. Removal and transfer of all temporary buildings, equipment or machinery that have been erected or installed and Rehabilitation of the surface of the land to the satisfaction of the Mining Inspectorate within two (2) months from the date of expiration of the License unless the Ministry of Mines and Petroleum decides otherwise.

## **CHAPTER NINE: SMALL-SCALE MINING LICENSE**

### **Article 61: Grant of a Small-Scale Mining License**

- (1) The Ministry of Mines and Petroleum shall evaluate the proposal and decide within two (2) months of receiving a proposal made by a bidder, whether to endorse, reject or modify the proposal.
- (2) Where the proposal specified in Paragraph (1) of this Article is endorsed, the Ministry of Mines and Petroleum shall grant a Small-Scale Mining License to the winning bidder subject to this Law; otherwise the Ministry, as the case may be, shall notify the bidder in writing on the proposal rejection.

### **Article 62: Duration of a Small-Scale Mining License**

- (1) A Small-Scale Mining License shall be for a period ten (10) years from the date of registration and is extendable.
- (2) The Holder of Small-Scale Mining License shall, in case some Mineral resource still remains and the Holder is interested to extend its License, submit an application to extend the License term three (3) months before the License expiration to the Ministry of Mines and Petroleum, with consideration of an estimate of Mining Exploitation period of the relevant Mineral deposit life.
- (3) The Ministry of Mines and Petroleum may extend the License term to be appropriate with volume of the remained deposits provided that the Holder is in compliance with all its obligations in this Law and Regulations and the License terms and conditions. A Small-Scale Mining License may be extended for subsequent terms, each not to exceed five (5) years.
- (4) Where a Holder has made an application for an extension of the term of the Small-Scale Mining License, the rights of the current Small-Scale Mining License shall continue in force until the end of License term.



### Article 63: License Area

- (1) The Area defined in a Small-Scale Mining License shall be of adjacent blocks and shall not exceed one (1) square kilometre and a depth of sixty (60) meters. The minimum size of the area and its shape, orientations and dimensions shall be set forth in the Regulations.
- (2) The Holder of a Small-Scale Mining License may, in accordance with the provisions of this Law and Regulations, submit an application to expand its License Area to the Ministry of Mines and Petroleum, provided that the Small-Scale Mining License Area shall not be increased more than one (1) square kilometer.

### Article 64: Rights of a Small-Scale Mining License Holder

A License Holder for Small-Scale Mining shall have the following rights within its License Area in accordance with the provisions of this Law:

1. To have access to the License Area;
2. To install and set up equipment, machinery, construct infrastructure and buildings for the purposes of Mining, storage, transporting, and Processing of minerals recovered during Mining operations;
3. To construct any facilities required for Processing including waste dumps and Tailings dams;
4. To take and remove rock, soil and minerals from the land before or after Processing in accordance with its work program;
5. To stack or dump a Mineral or waste product as included in its Waste Management Plan and Environmental and Social Negative Impacts Assessment and Environmental and Social Management Plan;
6. To utilize water as required to conduct Small-Scale Mining activities in accordance with provision of the Law; and
7. To conduct other activities related to Small-Scale Mining.

### Article 65: Obligations of a Small-Scale Mining License Holder

(1) A License Holder for Small-Scale Mining shall have the following obligations to:

1. Comply with its work program and budget approved by the Ministry of Mines and Petroleum;
2. Implement the plan to recruit Afghan citizens and to procure goods and equipment and services from Afghanistan;
3. Implement the Community Development Agreement in accordance with the provisions of the relevant Regulations;
4. Provide rights of way to establish of waterways, canals, pipelines, sewers/drains, wires/transmission lines, public roads, and other public utilities installations provided that they do not interfere with Mining Operations;
5. Remove and bury waste in accordance with its Waste Management Plan; and
6. Implement the plans, its Rehabilitation and Mine closure activities, in accordance with the provisions of this Law and Regulations.



- (2) Where the quantity of production, volume of extraction and Mining operation capacity of the Holder has exceeded the level of operation prescribed for a Small-Scale Mining operation in the License and the Mineral deposit is proven to be larger [than Small-Scale Mining], the Ministry of Mines and Petroleum may, upon endorsement of the Commission, revoke the Small-Scale Mining License and grant an Exploitation License in accordance with this Law and relevant Regulations..
- (3) Where the Holder of Small-Scale Mining License fails to win the bidding for Exploitation License stipulated in the Paragraph (2) of this Article, [where he/she fails to win but he/she is willing to match the winning bidder terms, he/she will be given preference] preferably the priority right for the grant of Exploitation License, taking winning bidder's amount into consideration, will be given to the Holder of Small-Scale Mining License.

### **Article 66: Conditions of commencing activities**

A Holder of a Small-Scale Mining License may commence Mineral Activities only upon registration of the License and confirmation that the following actions has been completed:

1. Approval of its Rehabilitation and Reclamation plan, Mine closure plan, health and safety plan, and development program by the Ministry of Mines and Petroleum
2. Obtaining a required permit from the National Environmental Protection Agency;
3. Confirmation of an agreement for land lease, compensation, resettlement or other agreement in place with land owners, and related institutions by the Ministry of Mines and Petroleum;
4. Approval by the Ministry of Mines and Petroleum of permits for construction of any infrastructure or other ancillary infrastructure within or outside the License Area;
5. Signed Community Development Agreement(s) between the Holder, community representatives, relevant government authorities and other relevant parties; and
6. Approval of bank statement indicating that the Holder has sufficient financial assets or has submitted bank guarantee to be held in an agreed upon bank escrow account as may be prescribed in accordance with the Laws.

## **CHAPTER TEN: ARTISANAL MINING LICENSE**

### **Article 67: Grant of an Artisanal Mining License**

- (1) An application for the grant of an Artisanal Mining License shall be made to the Ministry of Mines and Petroleum and shall include the following information:
  1. The name and address of a natural person; and/or
  2. The name and address of a legal person, and certification of incorporation including the names of major shareholders;
  3. A statement affirming that the applicant meets the eligibility requirements under this Law;
  4. The specified period of validity of the License;
  5. A detailed statement of work experience;
  6. A description and map of the Area;
  7. An Environmental and Social screening report as the case may be;



8. The type of Mineral or Minerals to be exploited;
  9. Details of any License previously held within Afghanistan by the applicant; and
  10. Any additional information that may be deemed necessary by the Ministry of Mines and Petroleum or the applicant.
- (2) The Ministry of Mines and Petroleum shall, within one month after receiving the application, evaluate and after proving the [applicant's] capacity, financial and technical capabilities and eligibility, decide whether to endorse, reject or modify the application.
  - (3) Where the Ministry of Mines and Petroleum endorses the application, the Ministry shall grant the Artisanal Mining License to the applicant in accordance with the provisions of this Law; otherwise, the Ministry will notify the applicant in writing [of the reasons for rejection].
  - (4) The Holder may be granted up to five (5) Artisanal Mining License that are not adjacent and up to two (2) Artisanal Mining License in an adjacent area provided that the Holder is eligible and in compliance with the provisions of this Law and relevant Regulations.

### **Article 68: Duration of an Artisanal Mining License**

- (1) An Artisanal Mining License shall be valid for five (5) years after its registration.
- (2) The Artisanal Mining License may, after its expiration, be extended for continuous terms up to five (5) years each until the end of the remaining deposit.
- (3) The Holder of an Artisanal License shall, three (3) months before the expiration of the License, submit an application to the Ministry of Mines and Petroleum to extend the License and include/consider an estimate of the remaining Mineral deposit.
- (4) The Ministry of Mines and Petroleum shall extend the License in accordance with the provisions of this Law.

Where a Holder of an Artisanal Mining License has made an application for an extension of the License period, the rights of the [original] License shall continue in force in respect of the land and Minerals that are the subject of the application until the application is determined or the expiration of the License period.

### **Article 69: License Area**

- (1) The area in respect of an Artisanal Mining License shall not exceed one (1) hectare, as adjusted to the cadastral block system.
- (2) An Artisanal Mining License Area may not be Expanded in size after its granting

### **Article 70: Restrictions on Artisanal Mining License**

- (1) An Artisanal Mining License may not be granted in the following circumstances:
  1. Where the area for which an application overlaps with the existing Artisanal Mining License Area or it is submitted for an area under an existing Artisanal Mining License Area.



2. Where Mining Operations in the application License Area is prohibited.
  3. Where the area for which the application for a an Artisanal Mining License is for the same area where an Exploration License, Exploitation License or Small-Scale Mining License has already been granted or application for Artisanal Mining License has already been registered but not yet been endorsed or rejected.
- (2) Whenever the submitted application overlaps with an existing Exploration License, Exploitation License or Small-Scale Mining License Area, the License can be granted in accordance with this Law and the relevant Regulations.

### **Article 71: Rights of an Artisanal Mining License Holder**

The Holder of an Artisanal License shall have the following rights within its License Area:

1. To obtain access to the License Area;
2. To install equipment and ordinary machinery and set up buildings and build roads in accordance with the provisions of this Law.
3. To process any Mineral extracted from operations within the License Area;
4. To take [and remove] rock, soil and Minerals from the land before or after Processing in accordance with the work program;
5. to stack or dump a Mineral or waste product;
6. to utilize water as required to conduct Artisanal Mining activities in accordance with the provisions of law; and
7. To conduct other activities related to Artisanal Mining.

### **Article 72: Obligations of an Artisanal Mining License Holder**

The Holder of an Artisanal License shall have the following obligations to:

1. Conduct Exploitation activities within the License Area in accordance with the provisions of this Law and relevant Regulation;
2. Comply with the work program;
3. Use the best extraction practices, and health and safety rules, and protect the environment including undertaking remedial work [Rehabilitation and Reclamation of the area];
4. Contribute toward community development and minimize negative social impacts where necessary; and
5. Unless this Law otherwise orders, remove within one month (1) from the date of the expiration of the Artisanal Mining License any installations, temporary buildings, equipment or machinery and rehabilitate the surface land to the satisfaction of the Mining Inspectorate.



## **CHAPTER ELEVEN: QUARRY AND CONSTRUCTION MATERIALS AUTHORIZATION**

### **Article 73: Application for Quarry and Construction Materials Authorization**

An application form for an Authorization that includes the following information shall be submitted to the Ministry of Mines and Petroleum in the capital [Kabul] and to its local provincial offices:

1. Name and address of the applicant;
2. A statement affirming that the applicant meets the eligibility requirements under this Law;
3. The proposed duration of the Authorization;
4. A detailed statement of previous relevant work experience;
5. Type of Minerals that are going to be extracted;
6. Details of any Authorization held within Afghanistan by the applicant; and
7. Any additional information that may be deemed necessary by the Ministry of Mines and Petroleum or the applicant.

### **Article 74: Grant of Quarry and Construction Materials Authorization**

- (1) The Ministry of Mines and Petroleum and its local authority shall, after receiving the application for Quarry and Construction Materials, evaluate the application; in case the applicant is eligible and has paid the required fees shall be granted the Authorization. Where the application is rejected, the applicant will be received written justification by Ministry of Mines and Petroleum.
- (2) The Holder may, in accordance with the provisions of this Law, be granted up to five (5) Quarry and Construction Materials Authorization that are not adjacent and up to two (2) Quarry and Construction Materials Authorization in an adjacent area provided that it is eligible and in compliance with the provisions of this Law.

### **Article 75: Duration of Quarry and Construction Materials Authorization**

- (1) A Quarry and Construction Materials Authorization shall be valid for five (5) years after its registration and may be extended for continuous terms up to five (5) years each.
- (2) The Holder of an Authorization shall, one (1) month before the expiration of the Authorization, submit an application to the Ministry of Mines and Petroleum in the capital (Kabul) or to its local provincial offices [to extend the Authorization]. Where the application is approved, the Authorization shall be extended; otherwise, the applicant will be notified in written justification.



**Article 76: Authorization Area**

- (1) The area in respect of a Quarry and Construction Materials Authorization shall not exceed one (1) hectare, and thirty (30) meters in depth;
- (2) A Quarry and Construction Materials Authorization Holder may, in accordance with the provisions of this Law, surrender all of its License Area to the Ministry of Mines and Petroleum, provided that the Holder has fulfilled its obligations in accordance with this Law, Regulations and terms and conditions of the Authorization.
- (3) The size of Authorization Area shall not be expanded after granting.

**Article 77: Restrictions on Quarry and Construction Materials Authorization**

- (1) A Quarry and Construction Materials Authorization may not be granted in the following circumstances:
  1. Where the area, or part of it, for which an application is submitted overlaps with the existing Quarry and Construction Materials Authorization;
  2. Where Mining operations in the area of application for Authorization is prohibited.
- (2) Where a new Mineral deposit is discovered within a Quarry and Construction Materials Authorization Area, and it is deemed by the Ministry of Mines and Petroleum that the national interest is better served by Exploitation of the deposit on an industrial scale, the Ministry of Mines and Petroleum may revoke the Quarry and Construction Materials Authorization in accordance with the provisions of this Law and relevant Regulations, and pay compensation to the Holder. The newly discovered Mineral may be tendered out by the Ministry of Mines and Petroleum in accordance with the provisions of this Law.

**Article 78: Rights of a Quarry and Construction Materials Authorization Holder**

The Holder of a Quarry and Construction Materials Authorization shall have the following rights within its Authorization Area:

1. To obtain access to the Authorization Area;
2. To install equipment, installations and ordinary machinery and erect buildings in accordance with the provisions of this Law;
3. To process any Mineral extracted from Mining activities within the Authorization Area.

**Article 79: Obligations of a Quarry and Construction Materials Authorization Holder**

The Holder of a Quarry and Construction Materials Authorization shall have the following obligations to:



1. Conduct Exploitation activities within the Authorization Area in accordance with the provisions of this Law and relevant Regulation;
2. Comply with the work program;
3. Use the best extraction practices, health and safety rules, and protect the environment; and
4. Contribute towards minimizing negative environmental and social impacts where necessary.

## **CHAPTER TWELVE: REGULATING FEES, TAXES, SURFACE RENTS AND ROYALTIES**

### **Article 80: Fees**

- (1) The type, amount and other matters relevant to non-recoverable fees for the issuance of Licenses, bidding documents, Authorization and other requirements shall be set forth in the Regulations.

### **Article 81: Taxes payment**

- (1) License and Authorization Holders, contractors, sub-contractors, advisors, experts and their employees shall be obliged to pay all applicable taxes, customs duties, and other taxes in accordance with the provisions of the applicable laws.
- (2) No License or Authorization Holder and contractor is obliged to pay land taxes.

### **Article 82: Surface Rent**

- (1) The Ministry of Mines and Petroleum, with the agreement of the Commission, may prescribe the rates of annual Surface Rent payable on per square kilometer of state owned land that may vary by License type as prescribed. Surface Rent payments are not recoverable by the Holder.
- (2) Reconnaissance activities shall not be subject to Surface Rent.

### **Article 83: Royalty**

- (1) A Holder of a License or Authorization shall be liable to pay a Royalty on Minerals and semi-processed or processed Minerals as may be prescribed in this Law and relevant Regulations.
- (2) Reconnaissance License and Exploration License activities shall not be subject to Royalty.



- (3) Royalty shall be paid in accordance with terms and conditions of License and Authorization and the provisions of this Law into a dedicated State Treasury account to the bank. Each Royalty payment of gross revenues shall be accompanied by details of the Mineral produced, sold or transported.
- (4) The Ministry of Mines and Petroleum shall inspect and examine any samples, books, records and accounts and obtain information necessary to ascertain the quantity or value of Mineral products necessary to verify the amount of any Royalty payable.

#### **Article 84: Allocation of a ‘Special Code’ (Allocation of a portion of State Revenue to Provincial Development)**

The Ministry of Finance shall, in addition to its annual national budget allocation, allocate 5 % of the overall revenue from a Mine or Mines, in a special code [budget code] or wealth fund, to the economic, social and environmental development purpose of the province or provinces where the Mines are located.

#### **Article 85: Recovery of debt**

A fee, Surface Rent, Royalty or other payments are public property and shall be submitted to the bank and made payable to the State Treasury Account. If the Holder denies or delays its payment, such payment may be recovered by authorized competent court as the debt of the Holder from its properties.

### **CHAPTER THIRTEEN: HEALTH AND SAFETY**

#### **Article 86: Obligation of License Holder related to the Health and Safety**

- (1) With respect to health and safety, a Holder of Exploration License, Exploitation License, Small-Scale Mining License and Artisanal Mining License shall have the following obligations:
  1. Appoint a person in charge responsible for ensuring health and safety working practices during Mineral Activities in the Mine Area;
  2. Prepare a Health and Safety Plan in accordance with the provisions of this Law and subject to the type of License which shall be made known to the employees and other individuals who enter the Mine Area;
  3. Provide and maintain safe and healthy working conditions for its workers, support workers, and any other staff or visitors;
  4. Provide safety training and necessary skills to the miners;
  5. Provide safety equipment, clothing, and tools as is necessary and to ensure that they are properly used by the miners;
  6. Provide grievance mechanism for employees; and
  7. Provide insurance for the Mining employees, Artisanal License Holders are exempted from this provision.



- (2) Upon the cessation of operation or Mine closure the License Holder shall, in compliance with its Mine closure plan, ensure that any open area, Tailings or water retention areas, any hazardous materials, infrastructure or equipment are safeguarded and take other necessary actions to ensure that the area is safe.

### **Article 87: Rights and Obligations of Employees**

- (1) Workers shall have the following rights and responsibilities with respect to health and safety to:
1. Leave a work environment which they find to be dangerous or unsafe;
  2. Refuse to carry out illegal Mining activities even at the order of their managers;
  3. Not carrying out Exploration or Exploitation activities that are in contradiction of the License, Authorization, contract or applicable laws;
  4. Use of reasonable equipment and safety work clothing;
  5. Notify a supervisor or Mine manager from the commitment of any crimes or dangerous situation at or near the Exploration Area or mine site;
  6. Not misuse equipment and machinery or otherwise cause damage to the Mining operation; and
  7. Other rights and obligations stipulated in the Labour Law [of Afghanistan].

### **Article 88: Reporting of Incidents**

- (1) A License Holder shall record and maintain the documents relevant to any incidents, loss of life, financial loss, and injury as a result of any Mineral Activities or Exploration and Mining Operation, and report any unsafe and unhealthy working conditions including recommendations to the Ministry of Mines and Petroleum for how to remove the conditions.
- (2) A License Holder shall promptly report any incident to the Ministry of Mine and Petroleum and, where applicable, cease the operations until safe conditions are restored.

## **CHAPTER FOURTEEN ENVIRONMENTAL PROTECTION AND COMMUNITY DEVELOPMENT**

### **Article 89: Environmental and Social Impact Assessment**

- (1) The License Holder shall comply with the conditions set forth in the License and other applicable laws and as the case may be, conduct an assessment of environmental and social impacts which shall include:
1. A detailed study of the natural and artificial environment of the License Area prior to any Mineral Activities, based on measurements and indices with respect to the quality of air and water, soil, trees, and animals, and other flora and fauna in order to provide a comprehensive environmental baseline to be measured from that time; and



2. An Environmental and Social Management Plan that includes a detailed description of reclamation activities and Mine closure including:
  - i. Detailed data regarding contaminating substances and resources;
  - ii. Identification of likely negative environmental impacts, including water, air and soil pollution damage to flora and fauna, and injection of poisonous and destructive substances into the environment;
  - iii. A review of the negative impacts of Tailings;
  - iv. Mitigation actions to be taken with respect to each environmental impact of each contaminating source;
  - v. The availability of equipment required to mitigate environmental impacts and measures to be taken to anticipate expected impacts;
  - vi. The timetable for implementation of the Plan;
  - vii. The Projected budget and its timetable to achieve environmental objectives;
  - viii. An introduction of employees responsible for implementation of environmental mitigation;
  - ix. An introduction of monitoring officer, the methodologies to be used for monitoring, and sources of funding for monitoring activities;
  - x. Meet with local communities and relevant government agencies in relation to environmental and social impacts; and
  - xi. Submission of an Environmental and Social Management Plan in accordance with the provisions of the Law.
- (2) Whenever the License Holder proposes to materially amend its work program, it shall provide sufficient reason to the relevant agency that it will implement an appropriate environmental and social management plan.

### **Article 90: Annual report on environmental and social impacts**

- (1) A License Holder shall provide an annual report [Environmental and Social Impact Assessment Report] to the Ministry of Mines and Petroleum, reviewing the current status [environmental and social impact assessment of the project].
- (2) The License Holder shall submit to both the Ministry of Mines and Petroleum and the National Environmental Protection Agency an annual Environmental and Social Management Plan Report that contains all of the required information and data.
- (3) The Ministry of Mines and Petroleum and the National Environmental Protection Agency may assess the report stipulated in the Paragraph (2) of this Article, if the report is not in compliance with the License or relevant Authorization terms, the Ministry of Mines and Petroleum may suspend the License or the Authorization until the deficiency is corrected.

### **Article 91: Financial Guarantee for environmental protection and Rehabilitation**

- (1) The License Holder shall, for the purpose of compliance with its environmental and social protection obligations, including Rehabilitation of the site, resettlement, community development, Mine closure and compensation of affected communities based



on the provisions of this Law and relevant Regulations, pay a financial guarantee in an amount as shall be determined under Paragraph (1) of Article (89) of this Law.

- (2) The amount of guarantee shall not be subject to any increase unless warranted by changing costs of performance of any condition, unforeseeable change in the Mineral Activities, change in the financial capacity of the License Holder or other conditions within the provisions of this Law and relevant Regulations.

## **Article 92: Community Development**

- (1) Community development is part of Mining Operations that shall be undertaken with a view to the joint interests of the License Holder and the local community provided such development is not against the provisions of the law.
- (2) Community development stipulated in Paragraph (1) of this Article, may be carried out for the purpose of assisting the local communities affected by Mineral Activities in order to promote sustainable local economic development, the general welfare and quality of life of the local communities, recognizing and respecting the rights, customs and traditions of local communities.
- (3) The Holder of an Exploitation License or a Small-Scale Mining License shall, in consultation with local communities and affected persons, prepare and implement a Community Development Agreement that shall include a detailed Environmental and Social Impact Assessment or Screening Report and an Environmental and Social Management Plan for the different phases of the Mining operations.
- (4) Funding and other affairs related to Community Development Agreement shall be set forth in the Regulations.
- (5) The Environmental, social, and community development reports and studies that are submitted by the License Holder are to be considered non-confidential.

## **CHAPTER FIFTEEN DISPUTE RESOLUTION**

### **Article 93: Dispute Resolution**

- (1) Where a dispute arises from Mineral Activities between a License Holder and State entities or between a License Holder and non-State actors, the parties may settle the dispute by mutual agreement or the authority defined in the contract for dispute resolutions. Where such authorities are not defined in the contract the parties may refer to one of the following:
  1. Arbitration by an expert upon the agreement of the parties;
  2. Assignment of a Dispute Resolution Panel of independent experts, selected by the Commission, that shall be comprised of not less than three (3) and more than five (5) members as follows:
    - i. One (1) Government representative where the Government is not a party to the dispute;



- ii. One (1) or two (2) independent eligible experts; and/or
- iii. One (1) or two (2) qualified Mining experts.

The fees of Panel members shall be paid as agreed by the Parties.

- (2) Whenever the party or parties do not consent to a decision made by experts , the parties may, within thirty (30) days of such determination refer the dispute to one of the following for final resolution:
  - 1. The Financial Dispute Resolution Commission as stipulated in the Da Afghanistan Bank Law ;
  - 2. The International Center for Settlement of Investment Disputes (ICSID);
  - 3. Arbitration under the United Nations Commission on International Trade Law (UNCITRAL); or
  - 4. An Afghan competent court of jurisdiction or any other court or arbitration authority to which the parties have agreed.
- (3) The decision made in Paragraph (2) of this Article shall be final and applicable.
- (4) Under the circumstances stipulated in Paragraphs (1) and (2) of this Article, the License shall remain valid until a decision on the matter of dispute is finalized or until the License expires, unless the License Holder requests to suspend its License or to surrender part of its obligation to the Ministry of Mines and Petroleum.

The Ministry of Mines and Petroleum may, as the case may be, based on the type and circumstances of the dispute make a determination to suspend the License, reduce the License Area or to revoke the License.

#### **Article 94: Dispute Resolution Committee**

A Dispute Resolution Committee shall, after the date this Law comes into effect, be established under the Ministry of Mines and Petroleum for the investigation and resolution of disputes related to the rights of conducting Mineral Activities. The composition of the Committee shall be recommended by the Ministry of Mines and Petroleum and approved by the Commission.

#### **Article 95: Right to Appeal**

Any applicant or License Holder may appeal any decisions made by any authorized bodies set forth in this Law. The procedures for appeal shall be set forth in the Regulations.



## CHAPTER SIXTEEN

### FINANCIAL GUARANTEES AND PROTECTION OF INVESTMENT

#### Article 96: Financial Guarantee

The License Holder shall deposit a financial guarantee in favor of the Ministry of Mines and Petroleum before commencing any Mineral Activity and Mining Operation, for compliance with the obligations set forth in its License. The amount, method of payment and any other affairs relevant to financial guarantee shall be set forth in the Regulation.

#### Article 97: Transferability of Capital

- (1) The License Holder may, for the purpose of acquiring goods and services in order to conduct its Mineral Activities, open a bank account in an Afghanistan local bank.
- (2) The License Holder shall apply the banking laws and legal documents of Afghanistan where it has fulfilled all its financial obligations and State required payments, it may carry out the following activities:
  1. Open up a bank account in Afghani and foreign currencies in Afghanistan-local banks,
  2. Import foreign currencies into the country to conduct Mineral Activities;
  3. Transfer foreign currencies abroad in order to pay foreign suppliers for goods and services necessary to conduct of Mineral Activities;
  4. Transfer foreign currencies abroad for the payment of dividends, profits or other amounts arising out of its Mineral Activities to non-resident shareholders;
  5. Transfer foreign currencies abroad for the repatriation of foreign capital invested in its Mineral Activities;
  6. Transfer foreign currencies abroad that have been obtained from the sale of contractual assets or of compensation of damages related to foreign investment; and
  7. Purchase Afghani and foreign currencies at the market rate of exchange for the purpose of performing of Mineral Activities.

#### Article 98: State Guarantees

The State, in accordance with the provisions of this Law and other relevant laws, guarantees to the License Holder as follows:

1. Freedom to organize their assets and businesses as the case may be;
2. Recruitment of subcontractor and personnel needed to carry out Mineral Activities, provided that priority shall be given to Afghan citizens with equal qualification in terms of education and experience;
3. Free movement of personnel of the License Holder and its subcontractors within Afghanistan in accordance with the provisions of the Law;
4. Freedom to import goods and services necessary for Mineral Activities;
5. Freedom to sell the products in the domestic markets and to export the products to international markets; and
6. Providing facilities for the purpose of acquiring the required documents needed for the foreign employees.



## CHAPTER SEVENTEEN: ANTI-CORRUPTION MEASURES

### Article 99: Prohibition of Favoring Government Staff (Unacceptable Practices)

Where an applicant, License Holder, Authorization or contractor, or any other person on behalf of them directly or indirectly provides any money or any other in-kind payments [with material or intellectual values] intended to as a gratuity, gift, fee or any other favor to any Afghan Government employee or any third party for the purpose of making that person grant any License, Authorization, or contract to the applicant or holder or other relevant facilities, it shall be considered a criminal act and the perpetrator shall be prosecuted under administration corruption provision.

### Article 100: Extractive Industries Transparent Initiative

The Ministry of Mines and Petroleum, the Ministry of Finance, License Holder, contractor and other relevant agencies shall, for the purpose of transparent management and effective Mining revenues, comply with the requirements and standards of the Extractive Industries Transparent Initiative.

## CHAPTER EIGHTEEN: OTHER MINERAL ACTIVITIES

### Article 101: Right of the owner or occupant of land

The owner or the occupant of land may, for the purposes of constructing buildings, roads or for agricultural purposes, use the construction materials that are obtained from its land.

### Article 102: Processing of minerals

- (1) Holders of an Exploitation License, Small-Scale Mining License and Artisanal License shall, in accordance with the provisions of this Law, undertake the Processing of the extracted minerals within Afghanistan.
- (2) Where the Processing of minerals, due to technical, economic, technological and environmental problems, is not possible to be performed within Afghanistan, Holders of Exploitation, Small-scale Licenses and Artisanal License may transfer the extracted minerals out of Afghanistan [for Processing purposes] in accordance with the provisions of the related Regulations.

### Article 103: Transportation and storage of products

A License Holder has the right to transport and store minerals originating from the License Area. Transportation or storage of products beyond the License Area shall be carried out in accordance with the relevant laws of Afghanistan and License conditions.

### Article 104: Sale and export of Mineral products

- (1) The Holder of an Exploitation License, Small-Scale Mining License and Artisanal Mining License may freely sell or export its minerals provided that the License Holder has



complied with all prescribed requirements including those with respect to the relevant regulation to domestic and foreign testing and assaying.

- (2) For the sale or export of Restricted Minerals, special Authorizations may be required as prescribed in law.

## **CHAPTER NINETEEN: INFRASTRUCTURES**

### **Article 105: Use of Infrastructure**

- (1) Whenever a Holder constructs roads, railways, power plants or other infrastructure inside or outside of its License Area, they may be used by the owners of the neighboring Mining, industrial and commercial establishments, subject to prior agreement with the License Holder .
- (2) Where the infrastructure is located within the Mining Area and is constructed by the License Holder, the appropriate permission to use must be obtained from the License Holder.
- (3) Where the infrastructure is located outside the Mining Area and is not constructed by the License Holder, the infrastructure shall be available for use by the public, Government and non-Government agencies.
- (4) At the request of a License Holder or other party, or when deemed warranted for public interest, the Ministry of Mines and Petroleum may intervene to resolve any disputes through dispute resolution authorities relating to the matters provided for in Paragraphs (1), (2), or (3) stipulated in this Article.

### **Article 106: Right of the State over Infrastructure**

- (1) All public utility infrastructure built by the License Holder shall become property of the State upon expiration or revocation of the License.
- (2) Processing plant, conveyor and other equipment used during Mineral Activities must be removed by the License Holder at its own cost, unless they have become the property of State in accordance with the provisions of this Law and relevant Regulations.

## **CHAPTER TWENTY: MISCELLANEOUS Provisions**

### **Article 107: Existing Licenses**

- (1) Any License granted or contract signed by the Ministry of Mines and Petroleum prior to the entry into force of this Law shall continue in force until its expiration or termination and they shall be regulated by the Law under which it was granted.
- (2) Where any License or contract stipulated in Paragraph one (1) of this Article expires, the License Holder or contractor may, on priority basis, apply to obtain a new License over



the same area or its enlargement thirty (30) days prior to expiration of its License or contract based on the provisions of this Law and relevant Regulations.

### **Article 108: Use of Explosives**

The License Holder and the contractor may use explosive materials during Exploration and Exploitation activities in accordance with the provisions of the law and the relevant Regulations.

### **Article 109: Discovery of Archeological and Cultural Relics**

- (1) If, in the course of Mining Operations, a Licence Holder or Authorization or a contractor discovers any signs or marks of historical and cultural works or other archaeological and cultural works, , it shall promptly notify the Ministry of Culture and Information through the Ministry of Mines and Petroleum about the discovery.
- (2) Where continued Exploration or Exploitation activities would likely damage the archeological items stipulated in Paragraph (1) of this Article, the Holder of License, Authorization or the contractor shall cease Mineral Activities at the site until the relevant agencies give permission to resume activities.
- (3) The Holder of any License, Authorization or contractor shall not move any of the items set forth in Paragraph (1) of this Article without the permission from the relevant authorities, but shall safeguard and maintain them until they are moved [by the relevant government officials].

If the relevant agency does not take action to transfer the found items within thirty (30) days from notification, the expenses incurred by the Holder of a License or Authorization or the contractor after (30) days shall be compensated by the relevant Government agency.

### **Article 110: Legal Violations**

- (1) Where any provision of this Law or the Regulations is contravened by the License or Authorization Holder, or the contractor, they shall compensate any damage and pay the penalty in accordance with the provisions of the Civil Law, Commercial Law and Criminal Law of Afghanistan.
- (2) Imposing of any damage compensation and assessing of fines required under Paragraph (1) of this Article shall, as the case may be, be under the authority of the Inspectorate of Mines and the competent court.
- (3) Where any action that is considered a crime is committed, payment of any damage compensation and/or any penalties does not prevent proceeding with any prosecution of the perpetrator.



### **Article 111: Local procurement of Local Goods and Services**

- (1) A License or Authorization Holder or contractor shall employ only Afghan nationals as skilled, unskilled and vocational labor in its Mineral Activities (projects) in accordance with the provisions of this Law.
- (2) A License or Authorization Holder or contractor shall, in its recruitment of experts, give priority to Afghan nationals having similar degree, skill and profession over foreign citizens.
- (3) A License Holder shall give priority to procure Afghan goods and services provided they are substantially equivalent or similar to foreign goods in terms of quantity, quality and price.

### **Article 112: Confidentiality**

- (1) Information, data and reports submitted or required by this Law shall be considered as non-confidential unless prescribed in this Law or relevant Regulations to be confidential.
- (2) Technical, geological and financial records and reports submitted under Article twenty seven (27) of this Law shall be treated as confidential and not be divulged without the written consent of the License or Authorization Holders or the contractor. Such information or reports that are considered confidential shall become non-confidential ten (10) years after creation and one (1) year after expiry or termination of the License, Authorization or the contract.
- (3) The information stipulated in Paragraph (2) of this Article may be disclosed before the period specified in law in the following:
  1. Where the disclosure is necessary based on the court order;
  2. Where an issue has arisen with a criminal basis and the disclosure is considered necessary for the purposes of a prosecution.

### **Article 113: Notices and Communications**

- (1) The License Holder and the contractor shall, for the purpose of providing point of contact in Afghanistan, have a certain and specific address in Afghanistan and provide it to the Ministry of Mines and Petroleum and shall notify the Ministry of Mines and Petroleum in writing within thirty (30) days of any change of address.
- (2) The Ministry of Mines and Petroleum shall publish notice of any suspension, surrender and revocation of any License and any expanding and extension matters in accordance with the relevant Regulations.

### **Article 114: Language (Applicable Language)**

- (1) Documents and correspondence, in addition to one of the two languages [of Afghanistan], Pashto and Dari, may be provided in English and the national (official) Language of the other party.



- (2) Any foreign language document that is submitted shall be accompanied by a translation into one of the two official languages of Afghanistan, Dari or Pashto, translated by a certified or authorized translator at the expense of the applicant. The translation is valid upon endorsement of the legal authorities.

#### **Article 115: Compliance with the Inspectorate instructions**

- (1) A License or Authorization Holder or contractor shall, for the purpose of preventing or removing the cause of any dangers resulting from Mineral Activities in regard to the health and safety of workers, protection of water reservoirs, and public utility infrastructure, comply with the legal/legitimate orders that are issued by the Inspectorate.
- (2) If a License or Authorization Holder or contractor fails to comply with the orders stipulated in Paragraph (1) of this Article and fails to take immediate corrective action, the corrections may be made and implemented by the relevant public authorities without consultation of the License or Authorization Holder or contractor, and any expenses incurred shall be collected from the License or Authorization Holder or the contractor.

#### **Article 116: Promulgation/adoption of Regulations**

The Ministry of Mines and Petroleum may, for the purpose of better implementing the provisions of this Law, propose Regulations and put in place Guidelines and Procedures provided that they do not contradict the provisions of this Law and the relevant Regulations.

#### **Article 117: Effective Date**

This Law shall enter into force as of the date of promulgation in the Official Gazette. Upon its enforcement, the Mineral Law of Afghanistan adopted and published in The Official Gazette Number (972) from the year 1387 (2009) and other provisions that are inconsistent with this Law shall be void.

**End.**

