

# **MINING REGULATIONS**

**February 14, 2010**

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# MINING REGULATIONS 2009

## CHAPTER I: GENERAL PROVISION

### Article 1 Basis

These Regulations have been enacted pursuant to Article 100 of the Minerals Law.

### Article 2 Objectives

The objectives of these Regulations are as follows:

- (1) The conservation, management, development and proper use of the mineral resources of the nation.
- (2) Promote the rational exploration, development, exploitation and mineral processing in a combined effort of the Government and Private Sector.
- (3) Enhancement of national growth in a way that effectively safeguards the environment and to the benefit of society.

### Article 3 Terminologies

- (1) The definitions in the 3<sup>rd</sup> Article of the Minerals Law have the same meaning in these Regulations.
- (2) The following definitions are added to these Regulations:
  1. Temporary Discontinuance: Means the planned or unplanned suspension of mining operations in a mine or part thereof and where the operations are likely to be resumed after certain time.
  2. Stoping: Means any underground excavations for removal of Ore and Minerals, (including extraction, splitting or reduction of pillars or blocks of minerals). Excavations for development are not included in this definition.
  3. Shaft: Means a vertical or inclined tunnel which extends from the surface of the ground or from one part of the tunnel below ground to another.
  4. Mine Development Plan: Means a plan prepared by the Preferred Bidder that addresses all aspects of the mineral activities and provides detailed plans, specifications, requirements and costs for each major component of the mineral activity. In addition, the Mine Development Plan shall incorporate the results of the Environmental and Social Impact Assessments prepared by Bidder to evaluate the effects of the mineral activities and determine appropriate and effective mitigation measures to be implemented by Bidder.

5. **Financial Security:** Means the amount of cash or bank credit that is paid by License Holder to the Ministry of Mines for the compensation of future damages.
6. **Mine Closure Plan:** Means a plan prepared by License Holder for the Closure, Restoration and Rehabilitation of a mine or part of a mine (after the stoping of the minerals, etc.) that meets the Ministry of Mines standards and guidelines.
7. **Development:** Means the excavation of tunnels towards the ore deposit or the removal of the waste above the Ore deposit that paves the way for minerals activity and exploitation.
8. **Drilling:** Means the boring of the holes in the alluvial materials, rocks or other constructions to obtain geological information and taking samples.
9. **Processing:** Means standardizing the mineral products or separation of the Gangue/Waste or upgrading of the quality, purification or purity of the minerals.

## **CHAPTER II: PROHIBITED AREA AND GOVERNMENT RESERVATIONS**

### **Article 4 Establishment, Removal or Modification of a Prohibited Area**

- (1) The Ministry of Mines shall, in all cases, conduct a public hearing to hear the views of provincial and local governmental authorities, concerned sectors, communities or individuals, and non-governmental organizations; and make decisions regarding the establishment, removal or modification of a Prohibited Area. The public shall be notified by publication in a newspaper of general circulation in the province, as well as by posting in all affected municipalities, at least thirty (30) days before said hearing is conducted.
- (2) With regard to the 1st Item of this Article Ministry of Mines shall make its recommendation concerning the establishment, removal and modification of the proposed Prohibited Area to the Ministerial Commission.
- (3) The Ministry of Mines shall periodically review the status of existing Prohibited Areas by detailed geological, mineral and ecological evaluation for the purpose of determining whether or not their continued existence is consistent with the 11<sup>th</sup> Article of Minerals Law.
- (4) In the declaration of an area as a Prohibited Area, all existing mineral Rights and ancillary Rights identified in a valid License or authorization shall continue to be valid, unless such mineral Rights are withdrawn or terminated in accordance with the procedures for the withdrawal or termination of mineral Rights set forth in Article 24 of the Minerals Law.

## **Article 5     Reservation Right**

In support of the Government's policy to promote the exploration, development, and utilization of the mineral resources of the country through the establishment of suitable conditions, the Ministry of Mines may reserve an area for future Minerals Activities.

### **CHAPTER III: MINERALS RIGHT BIDDING**

## **Article 6     Areas Open to Mineral Rights Bidding**

The following areas are open to Mineral Rights Bids:

- (1)     Public or private lands not covered by valid and existing mineral Rights or pending mineral Rights Bids;
- (2)     Lands covered by expired/abandoned/canceled mining Rights;
- (3)     Reservation sites identified in Article 5 of these Regulations.

## **Article 7     Areas Closed to Mineral Rights Bidding**

The areas closed to Minerals Rights bidding are according to Articles 11 and 64 Items 3 & 4 of the Minerals Law.

## **Article 8     Bidding Requirements**

Tenders of mining Rights shall be subject to the provisions of Article 15 of the Minerals Law and the requirements of these Regulations; with the exception of artisanal exploitation Authorizations and mineral processing Authorizations

## **Article 9     Announcement of Bidding**

- (1)     Announcements of bidding for Mineral Rights will be prepared by the Ministry of Mines. The announcement shall contain the following information:
  1. Basic information concerning the mineral right (Mineral type, deposit location, estimated size, type of mineral right, etc.);
  2. How to obtain the bidding documents;
  3. The deadline for the submission of Bids;
  4. The amount of Bid guarantee and method of payment;
  5. Whether the Bidding is subject to pre-qualification requirements;
- (2)     The announcement of bidding shall be published on the Ministry of Mines' website, National and International press and Media in Dari, Pashto and English languages by



the Department of Cadastre. The announcement will also be provided to local governmental authorities by letter.

#### **Article 10 Qualification Requirements of the Bidders**

- (1) Bidding for mineral Rights of large or very large mining contracts requires a pre-qualification evaluation of the bidders.
- (2) Prior to the initiation of bidding for mineral Rights, the Ministry of Mines shall decide on the requirements for pre-qualification such as the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, experience, business reputation and personnel.
- (3) All Bidders that satisfy the pre-qualification criteria of 2<sup>nd</sup> Item of this Article shall be invited to submit Bids and be provided with the bidding documents.

#### **Article 11 Bidding Documents**

- (1) Bidding documents shall be prepared by the Ministry of Mines and shall include:
  1. Instructions for the preparation and submission of Bids, and the date and place for opening the Bids;
  2. Technical specifications; performance criteria; requirements as to minimum work program; safety processes and methods; and environmental impact;
  3. Contents of the Contract;
  4. The Bid specifications and the Bid evaluation criteria;
  5. Any requirements for payments of security deposit or fees;
  6. Such other matters as decided by the Ministry of Mines;
- (2) Bidding documents shall be sent or provided to all prospective Bidders responding to the invitation to Bid. Bidders will be required to pay the applicable Bidding fees prior to receiving the bidding documents. The following is the amount of fees:
  1. The Bidding fee for a small scale mine form and bidding documents shall be up to USD 500 in Afghani currency;
  2. The Bidding fee for a medium scale mine form and bidding documents shall be up to USD 1,000 in Afghani Currency;
  3. The Bidding fee for a large scale mine form and bidding documents shall be USD 2,000 in Afghani currency;
  4. The Bidding fee for a very large scale mine form and bidding documents shall be USD 5,000 in Afghani Currency;
- (3) If a bidder requests further clarifications regarding the documents of 1<sup>st</sup> Item of this Article, the request must be received by the Ministry of Mines at least 14 days prior to

the deadline for the submission of Bids.

- (4) Responses to such requests for clarification, as well as any changes in the bidding documents, shall be communicated to the prospective Bidders in writing within 7 days after receipt of such requests. The Ministry of Mines may if necessary extend the deadline for submission of Bids.

## **Article 12 Contents of Bids**

- (1) Bidder's information shall include:
  1. The name, address and nationality of each Bidder;
  2. In the case of a Bidder organized as a corporation:
    - 1) Its place of registration or incorporation, its principal place of business, the names, addresses and nationality of the directors, principal officers and authorized signatories of the company and its capital structure;
    - 2) The corporate structure of the company;
    - 3) Financial information of the Bidder, including annual reports, audited balance sheets and profit and loss statements for the past three years; and any reports of relevance for the Mineral Activities which the Bidder may have filed with government agencies responsible for securities regulation during that period;
  3. How the Mineral Activities would be financed and method of performance security;
  4. The Bidder's previous experience and technical expertise in relevant Mineral Activities;
  5. A detailed description of the proposed exploration program, including minimum work obligations and estimated expenditures, if required by the Bidding documents;
  6. A description of the organization and expertise which the Bidder will have available in Afghanistan and elsewhere for activities in connection with the License Area for which the Bid is submitted;
  7. A description of the Bidder's experience and procedures that will apply for securing the health, safety and welfare of persons involved in or affected by the Mineral Activities;
  8. A description of the Bidder's experience and procedures that will apply for protecting the environment, preventing, minimizing and remedying pollution and other impacts from the Mineral Activities;
  9. Proposals with respect to the training of Afghan nationals and expenditures to be incurred therein;
  10. Any additional specific information identified in these Regulations for each type of License and authorization;

- (2) In the case of large and very large scale mine the Ministry of Mines may request additional information from the bidders.

### **Article 13 Requirements of the Bidding Procedure**

- (1) Tender proceedings for Mineral Rights shall be an open, transparent, competitive procurement system, based on effective budgetary and expenditure controls and reporting requirements designed to achieve efficiency, economy, the prevention of abuses, and a fair opportunity for participation by all prospective Bidders.
- (2) If a Bidder's qualifications changes materially after the Bidder has either submitted a Bid, submitted an expression of interest for pre-qualification or has been pre-qualified, the Bidder must promptly notify the Ministry of Mines of any and all such changes.
- (3) The Ministry of Mines, by taking into consideration the conditions and circumstances of the tendering proceeding of bidding shall determine a deadline for presenting of proposals.
- (4) Bids that are not submitted within the prescribed deadline for submission shall be returned unopened to the Bidder, as per the requirements of Item 1.
- (5) If one Bid only is received, the Ministerial Commission must make a decision, based on the contents of the proposal.
- (6) Once a sufficient number of responses are received, if necessary the Bid opening date and location shall be re-announced by Ministry of Mines and Bidders shall be invited to attend the Bid opening.

### **Article 14 Obligation of the Bidders**

Bidders shall not provide false information in order to influence the outcome of Bidding, or offer or give bribes either directly or indirectly to a procurement official, or engage in collusion to monopolize procurement procedures and to establish Bid elements at uncompetitive levels which prevents the promotion of a free, open and competitive procurement system.

### **Article 15 Opening of Bids**

- (1) Bids shall be opened as soon as possible after Bid submission, in a public proceeding and in accordance with the bidding documents. The opening of Bids shall be performed by evaluation board of the Ministry of Mines in the presence of Bidders or their representatives, all of whom shall be officially introduced to the Ministry of Mines prior to the day of the opening of Bids. The names and addresses

of all Bidders or legal representatives and the respective Bid elements shall be recorded in the minutes. Such minutes shall be signed by all participating Bidders or legal representatives.

- (2) Bids shall remain valid until a contract is concluded with the preferred Bidder in accordance with the terms set forth in the bidding documents. Unilateral withdrawal may cause forfeiture of any Bid security. The time of validity of a Bid may be extended with the agreement of the Bidder. In such case, the Bidder must obtain an extension of any required Bid security.

#### **Article 16 Evaluation of Bids**

- (1) Bids may only be considered insofar as the Bidder is qualified and eligible pursuant to Article 14 of the Minerals Law. All Bidders shall be treated fairly and without discrimination.
- (2) The award of Mining Contracts shall be made on the basis of factual and objective criteria, the Minerals Law and the requirements and conditions stated in the invitation for bid which may include the following criteria:
  1. The technical and managerial competence and experience of the Bidder;
  2. The financial resources available to the Bidder to carry out the proposed work program;
  3. The business competence, and legal and financial standing of the Bidder;
  4. The specific contents of the Bid received; including the proposed work programs and related financial commitments and other economic benefits to the extent such criteria are stipulated as subject for Bids in the invitation for bid and/or the invitation to pre-qualify;
  5. The extent to which the Bidder will contribute to the development of sustainable Afghan Mineral Activities;
  6. Such other criteria as may be stipulated in the invitation for bids.
- (3) The selection of a Preferred Bidder shall be based on the information given by the Bidders in the Bids.
- (4) The Ministry of Mines may seek clarifications of Bids in writing, and only written responses may be considered. The Ministry of Mines may not accept requests for changes in, or negotiate any terms of the Bids with the Bidders.

#### **Article 17 Rejections of Bids**

- (1) Bids that are not responsive to the requirements set forth in the Minerals Law, these Regulations and the bidding documents may be rejected.

- (2) The Ministry of Mines in consideration with evaluation board may reject all Bids at any time prior to the acceptance of a Bid and cancel the tender proceedings in the national interest.
- (3) The reason for rejecting all Bids, and for cancelling procurement proceedings, shall be noted in the record of the tender proceedings and be promptly communicated officially to the Bidders. The Ministry of Mines shall not be liable to a Bidder by reason of rejection of all Bids or cancellation of procurement proceedings.
- (4) If a decision to cancel the procurement proceedings is taken before the deadline for submission of Bids, any Bids received shall be returned unopened to the respective Bidders.
- (5) A Bidder shall be disqualified if it intentionally submits information concerning its eligibility and qualifications which is false. The Bidder may be disqualified if it through no fault of its own submits such information which is inaccurate or incomplete, and fails to correct such deficiencies promptly upon request by the Ministry of Mines.

#### **Article 18 Acceptance of Bid**

- (1) The evaluation board after evaluation of bids shall announce the Preferred Bidder and send a written notice of acceptance of the Bid to the Preferred Bidder.
- (2) The Ministry of Mines shall prepare a record of all documents pertaining to all Bids received. In addition, the Ministry of Mines shall prepare a report on the evaluation and comparison of Bids in accordance with the criteria set forth in the bidding documents. The evaluation report shall be so organized as to demonstrate clearly the quantitative and qualitative advantages and disadvantages of each responsive Bid, and shall include any dissenting opinions.
- (3) All documents pertaining to the Bid, the record and the report shall be kept at the Ministry of Mines for at least five years after finishing of contract of the mine activities. The record and report will, on request, be available for Bidders after a Bid has been accepted. The record and report will be prepared and disclosed in such manner as to avoid disclosure of confidential commercial information.
- (4) If the Preferred Bidder fails to conclude a mining contract in accordance with the terms set forth in the bidding documents, the Ministry of Mines shall offer the mining contract award to the Reserved Bidder, which shall be the Bidder that finished second in the ranking in the evaluation of Bids.

## **Article 19 Notice to successful Bidders**

- (1) Notice of the selection of the Preferred Bidder shall promptly be given by the Ministry of Mines to the other Bidders, specifying the name and address of the Preferred Bidder.
- (2) The Ministry of Mines shall upon request, communicate promptly to an unsuccessful Bidder the reason for the rejection of its Bid to pre-qualify, or of its Bid, at the expense of the Bidder.

## **Article 20 Mining Contracts**

- (1) The Department of Cadastre shall prepare the draft mining contract based on observance of identified Minerals Law and the Bid submitted by the Preferred Bidder. If the preferred bidder has consideration regarding the draft of the contract the Ministry of Mines shall set out senior employee committee for negotiations and after negotiation the mining contract for its rules of procedure shall be sent to Mining Cadastre.
- (2) Ministry of Mines with regard to the type and capital investment and in its limits of authority signs the contract, or proposes the contract to the assigned authorities.
- (3) If the contract according to the compliance of the law acquires the approval of parliament, after the approval of cabinet it is going to be sent to the parliament.
- (4) Modifications to mining contracts may be made in accordance with the procedures specified in the mining contracts and consistence of the requirements of the Minerals Law.

## **Article 21 Contract Registration and Publication**

- (1) The Ministry of Mines shall, no later than 10 (ten) days following the execution of any mining contract, publish an announcement on the government website summarizing the material terms of the mining contract, including a summary of the minimum work obligations, the rate of royalties, and other material revenues and benefits that the Government will derive from the mining contract.
- (2) The Ministry of Mines shall register the mining contract, the appropriate Licenses or Authorizations and their related documents within ten (10) days following the execution of any mining contract. Any amendment, extension, renewal or termination of such mining contracts shall be registered within a similar time limit.

## **CHAPTER IV: EXPLORATION LICENSES**

### **Article 22 Prohibition of Exploration**

- (1) Exploration is prohibited in the following Areas:
  1. Prohibited Areas as identified in the 11<sup>th</sup> Article of the Minerals Law;
  2. Perimeters subject to valid Mineral Rights;
- (2) Prior to commencing exploration activity, an explorer must submit a Declaration of Exploration Activity to the Ministry of Mines, utilizing the form obtainable from Ministry of Mines. The Declaration must include the explorer's complete reputation and a description and location of the area where exploration will occur. In addition, the explorer must obtain written consent from any affected landowners if exploration will affect their land.
- (3) All reports and data gathered during exploration shall be submitted to the Mining Inspectorate within 30 business days after completion of exploration.

### **Article 23 Issuance of Exploration License**

- (1) The Ministry of Mines prior to the commencement of exploration activities will issue an exploration License either in response to a proposal submitted by an eligible person or following the completion of a Bidding process conducted pursuant to Article 15 of the Minerals Law and the Bidding and contracting requirements set forth in Chapter III of these Regulations.
- (2) The decision whether to require bidding for an exploration License shall be made by the Ministry of Mines based upon its evaluation of the relevant, available information for the potential mineral deposit or deposits in the specific area, including information concerning the size, depth, location, quality, or value of the potential mineral deposit.
- (3) The Ministry of Mines may combine Bidding for an Exploration License with Bidding for an Exploitation License in a single Bidding process to known mineral deposits that require additional exploration to confirm the quality and quantity of the deposit prior to exploitation.

### **Article 24 Establishment of Exploration License Area**

- (1) The Ministry of Mines shall determine within five (5) business days from the receipt of a proposal for an Exploration License, if the area is available for exploration.
- (2) If the area pursuant to the 1<sup>st</sup> Item of this Article is available for exploration, the Ministry of Mines shall establish the accurate boundaries of the proposed Perimeter in relation to the Cadastral Mapping System and shall calculate the applicable surface Rights fees. The

Ministry of Mines shall also transmit a copy of the proposal to other relevant governmental ministries or agencies for their information.

- (3) If a portion of the proposed area is not available then the Ministry of Mines shall exclude the unavailable area from the perimeters of the Exploration License.

#### **Article 25 Announcement of an Exploration License**

- (1) If the Ministry of Mines decides to offer the proposed area for bidding, they shall announce the availability of bidding for the Exploration License within fifteen (15) business days of such determination. The bidding announcement shall contain the Name and address of the applicants; valid date of the License; extent of activity; location of the exploration License in relation to environmental restrictions; civil projects, etc. which are in proximity and other necessary information.
- (2) If the Ministry of Mines, in accordance with 1st Item of Article 23 of these Regulations, determines to grant an Exploration License without Bidding, the eligible person seeking the Exploration License shall submit the information specified in Article 26 of these Regulations; for the Ministry to review and approve; and pay the fees specified in Article 27 of these Regulations.

#### **Article 26 Application for an Exploration License**

- (1) The application for an Exploration License shall contain the following components:
  1. Financial bid;
  2. A proposal for a three-year Exploration Work Program (EWP, See Article 2e below) and related budget.
  3. A commitment to prepare an Environmental Impact Statement (EIS) and a Mitigation and Rehabilitation Plan (MRP); to be prepared in collaboration with and to be approved by the Ministry of Mines.
  4. Proof of technical competence including, but not limited to, qualifications and experience in mineral exploration and environmental management of the personnel who shall undertake the activities in accordance with the submitted EWP and MRP;
  5. Financial assurance to undertake the EWP and MRP;
  6. Business or corporate documentation confirming eligibility to hold an Exploration License;
  7. Other supporting papers as the Ministry of Mines may require.
- (2) The applicant for an Exploration License shall submit the following additional information (as well as that specified in the 1<sup>st</sup> Item of this Article):



1. A statement of the technical qualifications and financial resources of the Bidder.
2. If the Bid is on behalf of 2 or more persons, an explanation of each person's interest in the permit (including the percentage of the share of the permit that each person will hold).
3. A map of the permit area.
4. A summary of the geology, potential mineralization, and exploration and mining history of the permit area.
5. A statement of the proposed minimum work program that states its objectives, expenditure for the stage, the estimated expenditure for the proposed duration of the permit, indicates any review or decision points in the program that may lead to exploration continuing; the permit Holder applying for an extension of duration of the permit to appraise a discovery, the surrender of the permit, if the program depends on results from review or decision points, an outline of the likely course of exploration, identifies the technical rationale, milestones, and deliverables of the program, and identifies any ongoing work commitment options.
6. A statement of any other factors the Bidder considers relevant to support the Bid.

#### **Article 27 Fee payment**

- (1) In order to qualify, the Bidder (for an Exploration License) shall pay the following fee:
  1. The processing fee for a small scale Exploration License shall be up to USD 500 in Afghani Currency;
  2. The processing fee for a medium scale Exploration License shall be USD 1000 in Afghani Currency;
  3. The processing fee for a large scale Exploration License shall be USD 2000 in Afghani Currency;
  4. The processing fee for a very large scale Exploration License shall be USD 5000 in Afghani Currency;
- (2) The bond for an Exploration License shall be equivalent to five (5) percent of the value of the EWP. Bidders that are not selected at the completion of the Exploration License bidding process shall have their bonds returned by the Ministry of Mines within fifteen (15) business days.

#### **Article 28 Evaluation of Exploration License Bids**

- (1) Ministry of Mines shall commence its review of all Exploration License bids or proposals within fifteen (15) business days from the close of the Bid submission

deadline. The Ministry of Mines will endeavor to complete its review of Exploration License Bid packages within thirty (30) days of commencing its review.

- (2) The Ministry of Mines may request additional information during the course of its review, which the Bidder shall supply within the timeframes specified by the Ministry of Mines.

## **Article 29 Issuance and Registration of Exploration License**

Ministry of Mines shall issue the Exploration License within fifteen (15) business days from the date of receipt of the signed mining contract. In the case of a License renewal, the Ministry of Mines shall issue the renewed Exploration License within fifteen (15) business days from the determination that the renewal application satisfies the applicable requirements for renewal.

## **Article 30 Obligation of the Exploration Holder License**

- (1) The Holder of an Exploration License (besides the obligations identified in Article 28 of the Minerals Law) has the following obligations as well:
  1. Conservation of the relevant activities documents;
  2. The License Holder shall submit a brief quarterly report concerning its activities no later than 10 business days after the end of each quarter.
  3. Within thirty (30) business days of the anniversary date of License issuance, the License Holder shall submit an annual report to the Ministry of Mines and detailing its implementation of the EWP and its annual expenditures; in accordance with the reporting requirements of the 2nd Item of this Article (below). The report shall identify any discrepancies or deviations from the EWP and shall include, without limitation, survey results, laboratory reports, and geological reports/maps; for the review and verification by the Ministry of Mines.
  4. The License Holder shall submit a final report to the Ministry of Mines upon the expiration or relinquishment of the Exploration License within sixty (60) business days. The final report shall incorporate all of the License Holder's exploration Activities and Findings in the License area, and all geological and mineral resource information including sample locations, assay results, chemical analyses and assessment of the mineral potential.
  5. Within sixty (60) business days the License Holder shall submit an Evaluation report of minerals deposits, based on the activities and results that the License Holder achieved from the Licensed area during the exploration to the Ministry of Mines.
  6. Within sixty (60) business days the License Holder shall submit a report of the complete detailed expenditures incurred during exploration (as per the 3rd Item of this Article).

7. The License Holder shall collect and keep duplicate samples, sample batches and drill cores from within the Perimeter and shall make them available to the Geological Survey and shall submit such materials to the Geological Survey upon relinquishment, termination or expiration of the Exploration License. The Storage and supply of core and samples shall be performed as follows:
  - 1) Core must be arranged, in the precise order in which it was cut, in a core tray.
  - 2) Each section of core must be labeled clearly, with indelible ink or core blocks, to indicate depths and to show the upper and the lower ends of the core.
  - 3) Each tray must be labeled clearly on the outside of the tray to show:
    1. The depth of the upper and lower ends of the core;
    2. The name and number of the drill hole the core was obtained from;
    3. The name of the Holder;
    4. The License or Authorization to which the drill hole relates.
  - 4) If more than 1 core tray is required, trays must be numbered consecutively.
  - 5) The samples must be in durable rot-proof bags or containers, arranged in consecutive order, and stored in a suitable box.
  - 6) Each sample must indicate clearly the depth and location from which it was obtained.
  - 7) Each sample box must be clearly labeled, in indelible ink, on the outside to show:
    1. The sample designation and number;
    2. The name of the survey and number of samples collected;
    3. The name of the Holder;
    4. The License or Authorization to which the samples relate.
  - 8) If more than 1 box is required, the boxes must be numbered consecutively.
  - 9) Exploration activities shall be carried out in a manner that will, at all times, safeguard the environment.
  - 10) The Holder of an Exploration License shall not conduct exploration activities outside permit Area.
  - 11) The License Holder shall allow any authorized Ministry of Mines representative to inspect any exploration activities during normal operational hours upon the presentation of appropriate credentials.
  - 12) The License Holder shall pay such License and Surface Rights fees specified in these Regulations

- (2) The Exploration Report of recent activities shall contain the following subjects:
  1. The geological mapping that has been undertaken;

2. The number of geochemical samples obtained (see 4i below);
  3. The type and amount of geophysical work (see 4j below);
  4. The number of meters (percussion and coring) drilled (see 4l below);
  5. The number of bulk sampling pits and trenches excavated and the length of trenches excavated (see 4k below);
  6. The number and volume of bulk samples taken;
  7. The number and type of assays;
  8. whether any metallurgical test work was undertaken;
  9. whether any mine (technical) feasibility studies were carried out;
- (3) At the request of the Holder, the Ministry may approve an annual reporting period that differs from the year following the commencement (the anniversary of the commencement) of mineral activities.
- (4) The annual report of the mineral activities to the Ministry of Mines shall also contain the following information where applicable:
1. A full description of other activities undertaken that includes
    - 1) The type of activity and its location;
    - 2) Its start and finish dates.
  2. The method or methods; and equipment used.
  3. The method used to determine the position of the measurement or observation points (including accuracy estimates).
  4. The results obtained (including for each measurement or observation the value of it in terms of recognized physical units).
  5. Any interpretations of the data obtained.
  6. Records of data, including (if obtained or produced)
    - 1) The spatial reference for the data; and the original observational data;
    - 2) If the original data has been processed or corrected, a description of the method of processing or correction sufficient to enable the original observational data to be recovered.
  7. Any maps, Articles, or other documents produced;
  8. The full bibliographic details of any published material referenced in the report.
  9. A report relating to a geochemical survey must contain the following information;
    - 1) All assay and sample location numbers;
    - 2) Location measurements, which must include
    - 3) The spatial reference system (datum and projection if applicable) or the original observational data or, if the original data has been processed or corrected, a complete and adequate description of the method of processing or correction that enables the original data to be recovered;
    - 4) Details of the sampling procedures, including the type of material sampled and size and depth of samples;
    - 5) Observation logs and files, if appropriate.
    - 6) A description of the sample preparation, including the weight of the material analyzed the size of the fraction analyzed, the extent of milling

and any pre- concentration undertaken, including magnetic fraction, pan concentrate, or heavy mineral separation.

- 7) Details of analytical procedures, including the name of the laboratory, extraction or digestion techniques, the analytical methods of identifying the limits of detection and precision.
  - 8) Reference background values in the area surveyed.
  - 9) An interpretation report.
  - 10) Anomaly and location maps and profiles prepared as part of the survey.
  - 11) Any other specifically processed data, plots, or similar material.
  - 12) Details of quality assurance and quality control studies.
10. A report relating to a geophysical survey must contain the following information:
- 1) Specifications of the survey type and navigation used.
  - 2) The details of the survey parameters, including location; line spacing; ground clearance; water depth; in the case of an airborne survey, aircraft speed and flight lines; in the case of a marine survey, the vessel speed and sail lines; filter types; diurnal correction; electrode array; horizontal and vertical control; calibration of equipment; accuracy of the survey; corrections applied to the data; in the case of a satellite survey, the orbit details; the time of an observation or measurement.
  - 3) An interpretation of the data collected, including maps or plans, and the conclusions reached.
11. A report relating to a program of bulk sampling must contain the following information:
- 1) The location of the trench or pit expressed in terms of latitude and longitude and accompanied by geodetic datum; or expressed in terms of map grid co-ordinates and accompanied by map projection information.
  - 2) The location within the trench or pit of the spot or channel samples collected and, in the case of channel samples, the interval width.
  - 3) The geological description of all formations exposed.
  - 4) The assay results of samples or grade of mineral per bank cubic meter of alluvial material.
  - 5) The size of the bulk sample.
  - 6) An interpretation of the data collected and the conclusions reached.
12. A report relating to drilling and prospect-shaft sinking must contain the following information:
- 1) Details of the location of drill holes or shafts in terms of a projection published by the Geological Survey, or in terms of latitude and longitude. All spatial information (including any elevations) must identify the datum and, if applicable, the projection used.
  - 2) A grid plan, if a survey has been established as a location control for exploration or mining activities on the ground. The plan must show the grid orientation, the grid origin, and its relationship to a projection published by the Geological Survey.

- 3) For every drill hole or shaft, the following information: its depth, the angle of inclination and azimuth, its collar height relative to mean sea level and to the ground surface (if the hole or shaft is collared to the surface).
  - 4) The dates on which drilling operations started and finished.
  - 5) The drilling method used and the diameter of the drill holes.
  - 6) A description and results of all downhole surveys if obtained.
  - 7) A detailed record and description of all formations and structures penetrated.
  - 8) Downhole locations of all cores and other samples.
  - 9) The percentage of core recovered from each core interval. if obtained, core photographs, with each photograph labeled to show location and depth.
  - 10) All geophysical logs.
  - 11) An interpretation of the data collected and conclusions reached.
  - 12) For all drill holes in connection with coal, the top and bottom of each coal seam and the quality of each seam, including the results of analyses carried out.
  - 13) For all drill holes in connection with minerals other than coal, and if applicable, the width and assays of all zones, the results of all sample analyses.
  - 14) The grade of the mineral per bank cubic meter of any alluvial material sampled and the method used to calculate.
- (5) The Mining Inspectorate shall bi-annually review the performance and compliance status of the License Holder;
  - (6) The License Holder shall be entitled to Bid to obtain an Exploitation License for all or part of the Mineral Substances identified in the Exploration License;
  - (7) The License Holder may request that information presented in any report or data submitted by to the Ministry of Mines is confidential and upon the granting of such request, the Ministry of Mines shall keep the requested information confidential for a period of two years from License expiration, termination or relinquishment, whichever is earlier;

### **Article 31 Modification of Exploration License**

- (1) The conditions and requirements of a valid License may be modified by the Ministry of Mines during the term of the License. Modification procedures shall be specified in the License and may be initiated by the written request of the License Holder. Also requests for modifications may be submitted by the License Holder on a form supplied by the Ministry and accompanied by the required fee. The License Holder must provide the information specified below:
  1. The reference number of the License or Authorization concerned.

2. The particulars of the eligible person.
3. A statement of the duration of the extension sought.
4. The area of land to which the proposed extension of duration would apply (in hectares or square kilometers).
5. A map of the existing License Area showing the boundary of the area to which the proposed extension or duration relates.
6. The proposed minimum EWP to be carried out (it must contain sufficient information for the Ministry to confirm that the program will provide for the satisfactory exploration of the land for which the modification is sought), including:
  - 1) The objectives of the program;
  - 2) Details of any proposed stages;
  - 3) The proposed expenditure for each proposed stage;
  - 4) The results of exploration activities undertaken to date;
  - 5) An explanation of the geology and potential mineralization of the area;
  - 6) Demonstrate that all reporting obligations and expenditure levels have been met or if not what circumstances justified the non achievement;
  - 7) Details on how such an extension will facilitate a more rational carrying out of activities under the License.

### **Article 32 No Transfer or Assignment of Exploration Licenses**

Exploration Licenses may not be transferred or otherwise assigned without the written permission of the Ministry of Mines; except in the case of raising a mortgage for the purpose of funding exploration activities.

### **Article 33 Relinquishment of Areas Covered by Exploration License**

- (1) The License Holder may request, in writing, to relinquish some or all of the Mineral Rights granted by its Exploration License. This request shall be addressed to the Ministry of Mines and shall include the Exploration License registration number, the coordinates of the Perimeter being relinquished and the reasons for relinquishment. The relinquished Perimeter must be made up of whole quadrangles.
- (2) The Ministry of Mines shall review the relinquishment request, taking into consideration the requirements specified in Article 23rd of the Minerals Law. After verification and validation by the Ministry of Mines and upon compliance or satisfaction of all the License Holder's financial, fiscal, environmental, legal and reporting obligations at the time of relinquishment, the Ministry of Mines shall notify the License Holder of its acceptance of the relinquishment.

## **Article 34 Renewal of Exploration License**

- (1) Within sixty (60) business days of the expiration of an Exploration License, the License Holder may submit a request to renew to the Ministry, accompanied by the applicable renewal fee. In addition the License Holder shall submit five (5) sets (including one digital copy if possible) of the following documentation:
  1. Statement of justification for renewal;
  2. Comprehensive and validated technical report on the outcome of the three-year exploration program, including their environmental effects.
  3. Audited report of expenditures incurred during the exploration period;
  4. EWP and Budget for the three year renewal period;
  5. MRP for the three year renewal period;
  6. Documentation that the License Area of the Exploration License has been reduced by at least twenty-five percent (25%) and that this area has been removed from coverage in the Exploration License;
  7. Proof of financial capability and financial assurance to undertake
    - 1) exploration activities during the renewal period;
  
- (2) The Ministry of Mines may approve or refuse the renewal request after review and verification of the reports submitted in accordance with the 1<sup>st</sup> Item of this regulation. Any refusal to grant a renewal by the Ministry of Mines shall be in writing and shall clearly state the reasons for the refusal. The License Holder shall be entitled to appeal the Ministry of Mines' decision pursuant to the Minerals Law and the procedures established in these Regulations.
  
- (3) The renewal fee for an Exploration License is as follows:
  1. The renewal fee for a small scale Exploration License shall be up to USD 500 in Afghani currency.
  2. The renewal fee for a medium scale Exploration License shall be USD 1000 in Afghani currency.
  3. The renewal fee for a large scale Exploration License shall be USD 2000 in Afghani currency.
  4. The renewal fee for a very large scale Exploration License shall be USD 5000 in Afghani currency.

## **CHAPTER V: EXPLOITATION LICENSES**

### **Article 35 Issuance of Exploitation License**

The Ministry of Mines will issue an Exploitation License in provision with the Afghanistan Minerals Law at the conclusion of the bidding process and execution (signing) of the mining contract.



### **Article 36 Maximum Area Allowed**

Maximum area allowed in Exploitation License is not more than fifty (50) square kilometers and Ministry of Mines will delineate the area to be covered by the Exploitation License in the bidding documents.

### **Article 37 Bid requirements for Exploitation License**

- (1) Any person that meets the eligibility requirement established by Item 1 Article 14 of the Minerals Law and the specific conditions identified in the bidding documents can bid for an Exploitation License by submitting a proposal to Ministry of Mines, utilizing the bid forms obtainable from the Ministry of Mines, paying the required prescribed fees, and submitting five (5) sets (including one digital copy, if possible) of the following information and documentation:
  1. Financial proposal for the Mineral Rights according the terms specified in the invitation to Bid, as prepared by the Ministry of Mines. The financial proposal must include the amount and type of royalty per ton and amount of premium which the Bidder is willing to grant to the Government in exchange for the Mineral Rights and other concessions.
  2. A Commitment by the Bidders: if the Exploration License Holder does not win the Exploitation Rights Bid, the winner of the bid has to reimburse “actual exploration costs” For the purpose of this Article, these refer only to the costs which the Exploration License Holder incurred in making the original discovery which is the subject of the Exploitation Rights Bid and which has been reported to and confirmed by the Ministry of Mines.
  3. A Commitment by the Bidders: if the Exploration License Holder does not win the Exploitation Rights Bid, the winner of the bid has to pay a further amount of “fair profit”. This is a percentage of the actual exploration costs incurred by the Exploration License Holder, calculated by the size and type of mining contract entered into by the Government and the winner of the Bid, which is as follows:
    - 1) Small scale mining contracts, an amount equal to twenty percent (20%) of its actual exploration costs.
    - 2) Medium scale mining contracts, an amount equal to thirty percent (30%) of its actual exploration costs.
    - 3) Large scale mining contracts, an amount of equal to forty five (45%) of its actual exploration costs.
    - 4) Very large mining contracts, an amount equal to sixty percent (60%) of its actual exploration costs.Bidders shall propose a payment schedule to the Exploration License Holder; in their financial proposal.
  4. A commitment to prepare an Environmental Plan and evaluation of its impact according to provision of this regulation.

5. A commitment to prepare a Development Plan, if required by the Ministry of Mines, including proposed investments and any socio-economic contributions proposed for affected communities.
  6. Bankable Feasibility Study (the study must be at a level acceptable to a donor bank), if required by the Ministry of Mines.
  7. Proof of technical competence, expertise and track records in mining operations and environmental management of the senior technical and management personnel proposed to undertake the exploitation activities.
  8. Proof of financial capability and financial assurance to undertake the exploitation activities;
  9. Business or corporate documentation confirming eligibility to hold Mineral Rights.
- (2) If the Bidder conducts or has conducted mining operations in a foreign country, the Ministry of Mines shall confirm the status of the Bidder's activities in the foreign country through the Ministry of Foreign Affairs
- (3) For Bidders that hold existing mineral Rights, the following shall be submitted in addition to the Bid requirements which identified in section one of this Article, whenever applicable:
1. Certification that the Bidder's other mineral activities are in compliance with all applicable Laws and Regulations, including the payment of applicable royalties, taxes and surface Rights fees;
  2. A report on the status of mitigation and rehabilitation efforts in areas of existing exploration or exploitation activities
  3. Copies of annual activity reports
- (4) Other following document and papers as the Ministry of Mines may require :
1. A statement of the technical qualifications and financial resources of the Bidder.
  2. If the Bid is on behalf of 2 or more persons, an explanation of each person's interest in the permit (including the percentage of the share of the permit that each person will hold).
  3. A statement of the proposed work program that provides an overview of how the License Area will be worked that includes:
    - 1) The size, extent, type and location of the proposed mining operations;
    - 2) The proposed mining methods to be used;
    - 3) The proposed exploitation and production schedule;
    - 4) The expected production and long-term mining scheme for exploitation of mineable resource;
    - 5) The proposed start date for production;
    - 6) Any proposed exploration work;
    - 7) The proposed expenditure under the License; and
    - 8) If applicable, the point of valuation for calculation of royalty purposes.

### **Article 38 Application for an Exploitation License.**

The Bidder, either personally or through its duly authorized representative, can request for an Exploitation License application which shall be accepted only upon payment of the required Bid fees and Bid bonds to the Ministry of Mines.

The Bid fee for an Exploitation License is equivalent to 5000 USD in Afghani.

### **Article 39 Announcement of Exploitation License Bidding**

- (1) In accordance with the requirements of Article 9 of these Regulations, the Department of Cadastre shall issue an announcement of bidding for an Exploitation License for publication in press media and website posting. The announcement in addition to Article 9 Item 1, of these Regulations shall contain the type and location of the mineral deposit, duration of the proposed License, extent of exploitation activities to be undertaken, and a map showing the proposed Perimeter area in relation to environmental restrictions; civil projects, etc. which are in proximity and other necessary information.
- (2) The Ministry of Mines shall cause the publication of the announcement (Item 1 of this Article) for two (2) consecutive weeks in two (2) newspapers: one of general circulation published in Kabul and another published in the place, where the proposed Exploitation License area is located, and radio announcements shall be made daily for one (1) week on a local radio program.
- (3) Dependent upon the size, type and value of the mineral deposit covered by the Exploitation License, the Ministry of Mines may determine that the announcement shall be published in appropriate international publications.

### **Article 40 Evaluation of Exploitation License Bids**

- (1) The evaluation team shall commence Exploitation License Bid evaluation within thirty (30) business days of the Bid submission deadline and the evaluation team shall complete the review of the Exploitation License Bids within three (3) months of commencing its review.
- (2) The evaluation team may request additional relevant information during the course of its review, which the Bidder must supply within the timeframes specified by the evaluation team.

### **Article 41 Issue and Registration of Exploitation License**

The Department of Cadastre must complete registration and issuance of the Exploitation License within 3 business days after signing the contract and payment of the required fees.

## **Article 42 Responsibilities of Exploitation License Holder**

- (1) The Exploitation License Holder has the following responsibilities, in addition to responsibilities that mentioned in Article 36 of the Minerals Law:
1. The License Holder shall represent and warrant that it has, or has access to, all the financing and technical capability and technology required to promptly and effectively carry out the requirements of the Exploitation License
  2. The mining operations shall be conducted in accordance with the provisions of the Minerals Law and these Regulations;
  3. The License Holder shall give preference to goods and services produced and offered in Afghanistan of comparative quality and cost. In particular, the License Holder shall give preference to qualified Afghan construction enterprises, construction materials and skills available in Afghanistan, Afghan sub-contractors for road construction and transportation, and Afghan household equipment, furniture and food;
  4. The License Holder shall be obliged to give preference to Afghan nationals in all types of mining employment for which they are qualified ;
  5. Foreigner employment shall be limited to technologies requiring highly specialized training and experience;
  6. The License Holder shall be required to use effectively the best available and appropriate anti-pollution technology and facilities;
  7. The License Holder shall issue reports regularly to the Ministry of Mines of its mining operations, including all relevant exploration, mining and financial data. All records and files shall be open for inspection by the Mining Inspectorate;
  8. The License Holder shall pay surface Rights fees, taxes, royalties in accordance with the related legislative documents;
  9. The License Holder shall comply with any order issued under Minerals Law Article 36 Item 4;
  10. The License Holder shall confine its exploitation and mining operations to its License Area and shall not interfere with the Rights of other Mineral Rights Holders;
  11. The License Holder shall recognize and respect the Rights, customs and traditions of local communities;
  12. The License Holder shall contribute to the development of the host and neighboring communities of the mining area;
  13. The License Holder shall comply with its environmental protection obligations;
  14. The License Holder shall utilize appropriate and efficient mining and processing technologies;

- (2) Withdrawal by the License Holder from the Exploitation License shall not release it from any and all financial, environmental, legal and fiscal obligations under the License;
- (3) The License Holder must include the following information in its report (Item 1 part g of this Article) in addition to information which mentioned in Article 30, Item 3 of these Regulations:
  1. A summary of mine production for the past year;
  2. An estimate of planned mine production for the current year or, if no production is planned, a statement, with reasons to that effect;
  3. A summary of the exploitation and processing methods proposed to be employed at the operation in the current year;
  4. The proposed location, extent, direction of exploitation, and period of mining operation in the current year, including appropriate maps and plans necessary to enable a sound understanding of the proposed mining operations;
  5. In the case of underground operations, a copy of the most recently completed survey pick-up of all mine workings and development.
  6. Annual statements for such calendar year on expenditures, accidents and safety at the work site, and rehabilitation activities.
  7. An up-to-date estimate of the remaining mineable resource which may include
    - 1) Inferred, indicated, or measured estimates of the mineral resource; and
    - 2) Probable and proved estimates of the reserves.
  8. A summary of any exploration activity including the nature of these activities, drill logs, trenches sampled, results of any geological, geochemical, geophysical studies, samples analyzed in the past year.
  9. Copies of any reports as a result of exploration activities.
- (4) The License Holder shall immediately stop exploitation activities if historical or cultural artifacts are found. It shall notify the Ministry of Mines of such findings and shall not resume mining activities until authorized by the Mining Inspectorate;
- (5) The License Holder shall abide by such other terms and conditions not inconsistent with the Constitution, the Minerals Law and these Regulations, as well as those which the Ministry of Mines may deem to be for the national interest and public welfare.
- (6) The Department of Cadastre shall mentioned the responsibilities of this Article in the Exploitation Contract
- (7) The Ministry of Mines, if requested in writing by the License Holder or unilaterally within the limit of its authority, shall amend or propose changes to the terms and conditions of the License to the relevant authorities for their approval; within the validated period of License, on conditions that are not inconsistent with the provisions of Item 1 of this Article.

- (8) Written requests to the Ministry of Mines can be submitted for the modification of an Exploitation License, accompanied by the required fee and taking into consideration the following issues:
1. A statement of the reasons why, in the permit Holder's opinion, the Ministry should change the terms of the License including (where applicable):
  2. An explanation as to why the mineral deposit cannot be economically depleted before the current License expires;
  3. Estimates of the remaining mineable mineral resource, including
    - 1) Inferred, indicated, or measured estimates of the mineable resource; and
    - 2) Probable and proved estimates of the reserves;
  4. The work plan to be carried out during the proposed period, including details of any modifications to the existing work plan;
  5. Details of any proposed modifications to the exploitation schedule, production schedule, or proposed expenditure required to deplete the resource;

#### **Article 43 Transfer or Assignment of an Exploitation License**

- (1) An Exploitation License Holder can transfer their mineral right to another entity that satisfies the eligibility requirements for holding a Mineral Right, with the following conditions:
1. The Transferee provides comparable warranties or guarantees to fulfill the License obligations;
  2. The Transferee must be able to demonstrate the necessary technical and financial capabilities to undertake the approved work program and meet all the financial and other legal obligations imposed on the License Holder.
- (2) The Transferor shall submit a Notice of Proposed Transfer form and the prescribed fee to the Ministry of Mines, at least thirty (30) business days prior to the proposed transfer
- (3) The Notice shall provide sufficient information to establish the eligibility of the Transferee to hold the transferred License and shall be accompanied by a copy of the agreement between the parties concerning the transfer or assignment and by the Transferee's binding commitment to provide adequate warranties or guarantees to fulfill the License obligations.
- (4) The Notice form shall be obtainable from the Ministry of Mines. The Notice shall not be accepted unless accompanied by the applicable fee.
- (5) The Ministry of Mines shall review the Notice and its accompanying documentation within five (5) business days of receipt. Any transfer or assignment of Rights and obligations under any License shall be subject to the consent of the Ministry of Mines, which shall not be unreasonably withheld.

- (6) No transfer of a License shall be approved unless the Transferor/assignor has complied with all the terms and conditions of the Exploitation License and the provisions of the Minerals Law and these Regulations at the time of transfer/assignment. No transfer or assignment shall be approved unless the Transferee re-registers the transferred or assigned License with the Ministry of Mines and assumes all the obligations and responsibilities of the Transferor/assignor under the Exploitation License. If required, the Ministry of Mines may impose additional conditions for the approval of transfer/assignment of a License.
- (7) If the Ministry of Mines determines that the Transferee satisfies the conditions for transfer or assignment set forth in the Minerals Law and these Regulations, the Ministry of Mines shall notify the parties as to the effective date of the transfer and any conditions that may be attached to the transfer or assignment and shall register the transfer or assignment
- (8) If the Ministry of Mines determines that the proposed Transferee does not satisfy the applicable conditions, it shall promptly notify the parties of this determination in writing and shall include a written explanation of the basis for its negative determination. A negative determination by the Ministry of Mines shall not preclude the Transferor from submitting a revised Notice of Proposed Transfer that addresses the Ministry of Mines' concerns or from proposing an alternate Transferee.

#### **Article 44 Relinquishment of an Exploitation License area**

- (1) The License Holder may request, in writing, to relinquish all or a part of the Mineral Rights covering its Perimeter. This request shall be addressed to the Ministry of Mines and shall include the License registration number, the coordinates of the Perimeter being relinquished and the reasons for relinquishment. The relinquished Perimeter must be made up of whole quadrangles.
- (2) The Ministry of Mines shall review the relinquishment request, taking into consideration the requirements specified in Article 23 of the Minerals Law. Upon compliance of all the License Holder's financial, fiscal, environmental, legal and reporting obligations at the time of relinquishment, the Ministry of Mines shall notify the License Holder of its acceptance of the relinquishment.

#### **Article 45 Renewal of Exploitation License**

- (1) Within sixty (60) business days before the expiration of an Exploitation License, the License Holder may submit to the Ministry of Mines, a request to renew the Exploitation License accompanied by the prescribed renewal fee and five (5) sets (including one digital copy, if possible) of the following documentation:

1. Statement of justification for renewal;
  2. Comprehensive and approved technical report on the outcome of the exploitation activities to date, including their environmental effects and the following information:
    - 1) A statement of the reasons why, in the permit Holder's opinion, the Ministry should renew the License including:
    - 2) An explanation as to why the mineral deposit cannot be economically depleted before the current License expires;
    - 3) Estimates of the remaining mineable mineral resource which may include:
      1. Inferred, indicated, or measured estimates of the mineable resource;
      2. Probable and proved estimates of the reserves;
    - 4) The work plan to be carried out during the proposed renewal period, including details of any modifications to the existing plan program;
    - 5) Details of any proposed modifications to the mining schedule, production schedule, or proposed expenditure required to deplete the resource.
    - 6) Proof of financial capability and financial assurance to undertake exploitation activities for the renewal period;
    - 7) Exploitation Work Plan for the renewal period;
    - 8) Environmental Management Plan for the renewal period;
- (2) The Ministry of Mines may approve or refuse the renewal request of an Exploitation License in consideration of Item one of this Article;
- Any refusal to grant a renewal by the Ministry of Mines shall be in writing and shall clearly state the reasons for the refusal.
- The License Holder shall be entitled to appeal the Ministry of Mines' decision pursuant to the Minerals Law and the procedures established in these Regulations.
- The renewal fee for an Exploitation License is USD 5000 in Afghani.

## **CHAPTER VI: SMALL SCALE EXPLOITATION LICENSES**

### **Article 46 Small Scale Exploitation Licenses**

The small scale Exploitation License provisions set forth in this Chapter shall only apply to deposits of mineral substances for which large scale exploitation is not appropriate or economical. For the purposes of these Regulations, small scale exploitation shall be limited to Mineral Activity consisting of a single unit mining operation and having the following specifications:

- (1) Mineral activity will rely on manual or limited mechanized labor; and
- (2) Capital investment will not exceed five million United States Dollars (USD 5,000,000.) or equivalent.



#### **Article 47 Proposals for Small Scale Exploitation License Bids**

- (1) Bids for Small Scale Exploitation Licenses shall be filed with the procedures set forth in Chapter III of these Regulations.
- (2) The Bidder shall submit three (3) sets (including one digital copy, if possible) of the following information:
  1. A financial Bid, including proposed royalty;
  2. A proposal for a small scale exploitation work plan ;
  3. A commitment to prepare an Environmental Management Plan;
  4. Proof of technical competence for conducting small scale exploitation;
  5. Proof of financial capability and financial assurance to undertake the small scale exploitation activities; and
  6. Other supporting documentation as the Ministry of Mines may require;

#### **Article 48 Duration of Small Scale Exploitation License**

A Small Scale Exploitation License shall have an initial term not to exceed five (5) years from the date of registration by the Mining Cadastre. A Small Scale Exploitation License may be renewed for one renewal period. In the event that the License Holder determines that the extra amount of time is necessary to complete exploitation activities, the License Holder may request that its Small Scale Exploitation License be modified to a regular Exploitation License in accordance with the modification procedures specified in Article 51 of these Regulations.

#### **Article 49 Announcement of a Small Scale Exploitation License Bidding**

The Department of Cadastre shall publish an announcement of the Small Scale Exploitation License bidding in accordance with the requirements of Article 9 of these Regulations.

#### **Article 50 Evaluation of Small Scale Exploitation License Bids**

- (1) The evaluation of Small Scale Exploitation License Bids shall be undertaken in accordance with the Article 40 of these Regulations. The Ministry of Mines shall endeavor to complete its evaluation with one (1) month of commencing its review. The Ministry of Mines' inability to complete its review within this time period shall not constitute approval of the Bid.
- (2) The evaluation team may request additional information during the course of its review, which the Bidder shall supply within the timeframes specified by the Ministry.

## **Article 51 Responsibilities of a Small Scale Exploitation License Holder**

- (1) In addition to the applicable responsibilities for Exploitation Licenses specified in Article 42 of these Regulations, the following responsibilities shall be included into Small Scale Exploitation Licenses,
  1. No extraction, removal and/or disposition of mineral substances shall be allowed within a distance of one (1) kilometer from the boundaries of reservoirs established for public water supply, historical and cultural sites or of any public or private works or structures, unless the prior clearance of the concerned governmental authorities or owner is obtained;
  2. No extraction, removal and/or disposition of mineral substances outside the area specified in the Small Scale Exploitation License;
  3. The License Holder shall assume full responsibility and be liable for damages to private and/or public property that may be caused by its activities;
- (2) A Small Scale Exploitation License shall be subject to revocation and termination as provided for in these Regulations.
- (3) The License Holder shall maintain records of the quantity of mineral substances removed or extracted from the area as well as the quantity disposed of or sold, their selling prices, the names and addresses of the persons or parties to whom the same were sold or disposed of. These records shall be open at all times for review by the Ministry of Mines, and failure to make these records available shall constitute a basis under these Regulations for termination of the License.
- (4) The Ministry of Mines, if requested in writing by the License Holder or unilaterally within the limit of its authority, shall amend or propose changes to the terms and conditions of the License to the relevant authorities for their approval; within the validated period of License and payment of the fee.
- (5) If the conditions of a Small Scale deposit (as defined by the Minerals Law) have changed such that a regular Exploitation License becomes appropriate, the modification may be processed by the Ministry of Mines without additional public bidding.
- (6) In the event that new mineral substances, not covered by the Small Scale Exploitation License are discovered, the Ministry of Mines may treat the new mineral substances as a new deposit and may proceed in accordance with Article 15 of the Minerals Law and Chapter III of these Regulations.
- (7) A prescribed form from the Ministry of Mines can be used for modifying the License, accompanied by the required fee and the information specified in Article 37 Item 1 of these Regulations.

## **CHAPTER VII: EXPLORATION AUTHORIZATIONS FOR QUARRY RESOURCES**

### **Article 52 Quarry Exploration Authorizations**

- (1) Exploration Authorizations for building materials, construction stone, sand, marble, aggregate, salt other construction material and quarry resources must be obtained from the Ministry of Mines in accordance with the Minerals Law prior to the commencement of any such exploration activities.
- (2) Landowners or occupants of land can obtain quarry exploration authorization without bidding process in condition of non –commercial purposes. In such cases, the landowner or occupant of the land shall be pay the required fee, submit copy of all information and document (one digital copy, if possible) to Ministry of Mines and in case of exploitation, shall be mentioned the amount of proposed royalties to Ministry of Mines. Request of quarry exploration authorization for commercial purpose shall be evaluated by Ministry of Mines in accordance with order of these regulation ,and issue the authorization in accordance with the Article 44 of the Minerals Law and chapter 3 of these Regulations .
- (3) An Exploration Authorization Bid may be filed by the Bidder either personally or through its duly authorized representative with the Ministry of Mines. The Bid shall be accepted only upon payment of the required fee to the Ministry of Mines, depending on the value of the potential deposit as follows:
  1. The processing fee for a Small Scale Exploration Authorization shall be up to USD 500 equivalent in Afghani;
  2. The processing fee for a medium scale Exploration Authorization shall be USD 1000 equivalent in Afghani;
  3. The processing fee for a large scale Exploration Authorization shall be USD 2000 equivalent in Afghani;
  4. The processing fee for a very large scale Exploration Authorization shall be USD 5000 equivalent in Afghani;
- (4) The maximum area for which an Exploration Authorization may be granted shall not exceed four (4) square kilometers;
- (5) The processing fee for non-commercial quarry activities is half the fee mentioned in Item 3 of this Article;

### **Article 53 Responsibilities and Conditions of an Exploration Authorization**

- (1) Quarry Exploration Authorization Holders have the following responsibilities in addition to Article 42 of the Minerals Law;
  1. The Authorization Holder shall comply with the minimum expenditure commitment specified in the work plan;
  2. Exploration activities shall be carried out in a manner that will, at all times, safeguard the environment;
  3. The Holder of an Exploration Authorization shall not conduct exploration activities outside of the Authorization Area;
  4. The Authorization Holder shall allow any authorized Ministry of Mines' representative to inspect and control any exploration activities during normal operational hours upon the presentation of appropriate credentials;
  5. The Authorization Holder shall pay such surface Rights and other fees specified in Chapter 11 of the these Regulations
  6. The Authorization may contain such other conditions as may be imposed by the Government;
  
- (2) The Authorization Holder shall submit a final report to the Ministry of Mines upon the expiration or relinquishment of the Exploration Authorization. The final report shall incorporate all of the Authorization Holder's findings in the Authorization area, including sample locations, assay results, chemical analyses and assessment of the mineral potential. The final report shall also include complete detailed expenditures incurred during exploration;
  
- (3) The Ministry of Mines, if requested in writing by the Authorization Holder or unilaterally within the limit of its authority, shall amend or propose changes to the terms and conditions of the Authorization to the relevant authorities for their approval; within the validated period of Authorization, on conditions that are not inconsistent with the provisions of Item 1 of this Article. A prescribed form from the Ministry of Mines can be used for modifying the Authorization, accompanied by the required fee and the information specified in Article 37 Item 4 of these Regulations.

### **Article 54 No Transfer or Assignment of Quarry Exploration Authorizations**

Exploration Authorizations may not be transferred or otherwise assigned to other person, but can used as a mortgage for the funding of mineral activities;

### **Article 55 Relinquishment of Areas Covered by Quarry Exploration Authorization**

- (1) The Authorization Holder may request, in writing, to relinquish some or all of its Mineral Rights. This request shall be addressed to the Ministry of Mines and shall include the Exploration Authorization registration number, the coordinates of the Perimeter being relinquished and the reasons for relinquishment. The relinquished Perimeter must be made up of whole quadrangles.
- (2) The Ministry of Mines shall review the relinquishment request, taking into consideration the requirements specified in Article 23 of the Minerals Law. Upon compliance of all the Authorization Holder's financial, fiscal, environmental, legal and reporting obligations at the time of relinquishment, the Ministry of Mines shall notify the Authorization Holder of its acceptance of the relinquishment.

### **Article 56 Renewal of Exploration Authorizations**

- (1) Within thirty (30) business days before the expiration of an Exploration Authorization, the Authorization Holder may submit to the Ministry of Mines, a Bid to renew the Exploration Authorization accompanied by three sets (including one digital copy, if possible) of the following documentation:
  1. Statement of justification for renewal;
  2. Report on the outcome of the approved exploration plan;
  3. Report of expenditures incurred during the exploration period;
  4. Exploration Work Plan and budget for the renewal period;
  5. Rehabilitation and harm reduction plan for the renewal period;
  6. Documentation that the surface area covered by the Exploration Authorization has been reduced by at least twenty-five percent (25%) and that the area removed from coverage in the Exploration Authorization constitutes a contiguous area of known and identifiable boundaries;
- (2) The Ministry of Mines, considering Item 1 of this Article, can approve or refuse the renewal request. Any refusal to grant a renewal by the Ministry of Mines shall clearly state the reasons for the refusal. The Authorization Holder shall be entitled to appeal the Ministry of Mines' decision pursuant to Chapter 11 of the Minerals Law and the procedures established in these Regulations.

## **CHAPTER VIII: EXPLOITATION AUTHORIZATIONS FOR QUARRY RESOURCES**

### **Article 57 Types of Exploitation Authorization**

- (1) Any person that meets the eligibility requirements established by Article 14 of the Minerals Law and the specific conditions identified by the Ministry of Mines in the bid documents may submit a Bid to the Ministry of Mines for a Quarry Exploitation Authorization for the extraction, removal and disposition of quarry resources covering an area of not more than two (2) square kilometers for a Permanent Quarry Exploitation Authorization or one (1) hectare for a Temporary Quarry Exploitation Authorization. Bidding for Quarry Exploitation Authorizations shall be conducted in accordance with Article 15 of the Minerals Law and Chapter III of these Regulations. .
- (2) Any person that meets the eligibility requirements established by Article 14 of the Minerals Law and the specific conditions identified by the Ministry of Mines in the bid documents may submit a Bid to the Ministry of Mines for a Tailings Exploitation Authorization for the extraction, processing and sale of Mineral Substances from an Artificial Deposit. Bidding for Tailings or Artificial Deposit Exploitation Authorizations shall be conducted in accordance with Article 15 of the Minerals Law and Chapter III of these Regulations. Tailings or Artificial Deposits located within the Perimeter of an existing Exploitation License which does not authorize the License Holder to exploit the Tailings or Artificial Deposit shall be subject to public bidding in accordance with Article 15 of the Minerals Law and Chapter III of these Regulations. Tailings Exploitation Authorizations shall be for an area upon which Tailings or Artificial Deposits are located and shall be valid for a period of ten years from the date of registration with the Ministry of Mines and renewable as of right for consecutive five year periods until the Tailings or Artificial deposit is exhausted. Renewal of Tailings Exploitation Authorizations shall only be allowed if the Authorization Holder has complied with all the terms and conditions of the Authorization, the Minerals Law and these Regulations.
- (3) Artisanal Exploitation Authorizations are not subject to public bidding. Any Eligible Person or its authorized representative may apply to the Ministry of Mines for an Artisanal Exploitation Authorization for extraction of mineral deposits in condition for which the purpose of industrial or semi-industrial exploitation should be non commercial. For the purposes of these Regulations, artisanal exploitation shall be limited to non-industrial mineral activity confined to a Perimeter that has a maximum area of two thousand (2,000) square meters. The Bid fee for an Artisanal Exploitation Authorization shall be up to USD 200 equivalent to Afghani and Ministry of Mines can withdraw the authorization in accordance with the Minerals Law Article 54

### **Article 58 Bid conditions for Exploitation Authorizations**

Any eligible person may submit a proposal for an Exploitation Authorization to the Ministry of Mines, utilizing the format required by the Ministry of Mines, paying the required fees, and submitting five (5) sets (including one digital copy, if possible) of the information and documentation.

## **Article 59 Review of Exploitation Authorization Proposals**

Proposals for Exploitation Authorizations shall be processed in accordance with the procedures established in Chapter V of these Regulations for Exploitation Licenses.

## **Article 60 Responsibilities of an Exploitation Authorization Holder**

- (1) The Exploitation Authorization Holder has the following responsibilities;
  1. No extraction, removal and/or disposition of authorized mineral resources shall be allowed within a distance of one (1) kilometer from the boundaries of reservoirs established for public water supply, cultural and historical sites or of any public or private works or structures, on condition that the prior clearance of the concerned governmental authorities or owner is obtained;
  2. The extraction, removal and/or disposition of quarry materials or tailings shall be confined within the Perimeter specified in the Exploitation Authorization, the boundaries of which are established on the ground with prominent marks.
  3. The Authorization Holder shall assume full responsibility and be liable for damages to private and/or public property that may be caused by its Mineral Activities;
  4. The Authorization Holder shall manage its operations in a technically and environmentally responsible manner to achieve a safe, non-polluting and self-sustaining post disturbance landform;
  5. The Authorization Holder shall take in consideration the established law, rule and regulation regarding the standards, health and safety of workers;
  6. The Authorization Holder shall not interfere with the Rights of other License or Authorization Holders;
  7. The Authorization Holder shall recognize and respect the Rights, customs and traditions of local communities;
  8. Mineral activity shall be in accordance with the Minerals Law and these Regulations.
- (2) The Authorization Holder shall immediately stop its activities if cultural or historic artifacts are found. It shall notify the Mining Inspectorate of such findings and shall not resume its activities until authorized by the Mining Inspectorate; and
- (3) An Exploitation Authorization shall be subject to cancellation, revocation and termination as provided for in these Regulations.
- (4) Within thirty (30) business days of the anniversary of the granting of the Authorization, the Authorization Holder shall submit to the annual summary

report on mining activities to Ministry of Mines , including the information required in Article 42 Item 3;

- (5) The Ministry of Mines, if requested in writing by the Authorization Holder or unilaterally within the limit of its authority, shall amend or propose changes to the terms and conditions of the Authorization to the relevant authorities for their approval; within the validated period of Authorization, on conditions that are not inconsistent with the provisions of Item 1 of this Article. A prescribed form from the Ministry of Mines can be used for modifying the Authorization, accompanied by the required fee and the information specified in Article 37 Item 4 of these Regulations
- (6) Department of Cadastre shall record the responsibilities of this Article in the Exploitation Authorization Contract.

#### **Article 61 Recordkeeping**

The Authorization Holder shall maintain records of the quantity of mineral substances removed or extracted from the area as well as the quantity disposed of or sold, their selling prices, the names and addresses of the persons or parties to whom the same were sold or disposed of. These records shall be open at all times for review by the Ministry of Mines, failure to do so will result in termination of the exploitation authorization.

#### **Article 62 Exploitation Authorization Renewal**

- (1) Within sixty (60) business days before the expiration of its Exploitation Authorization, the Authorization Holder may submit a renewal request to the Ministry of Mines accompanied by three (3) sets (including a digital copy, if possible) of the following document and information :
  1. Statement of justification for renewal, including a reserves statement;
  2. A report on the outcome of the operations, including their environmental effects;
  3. Proof of financial capability and financial assurance to conduct exploitation activities;
  4. Evidence of payment of applicable fees, taxes and royalties;
  5. A Work Plan for the renewal period, including environmental protection and restoration measures;
  6. Other supporting papers as the Ministry of Mines may require or the Bidder may submit.



- (2) After review and verification by the Ministry of Mines of the foregoing requirements, the Ministry of Mines may grant the renewal and amend the conditions of the Authorization accordingly.

### **Article 63 Transfer or Assignment of Exploitation Authorization**

- (1) An Exploitation Authorization may be transferred or assigned to another entity that satisfies the eligibility requirements for holding a Mineral Right, as follows conditions:
  1. Transferee provides comparable warranties or guarantees of performance of License obligations.
  2. The Transferee must be able to demonstrate the necessary technical and financial capabilities to undertake the approved work program and meet the required financial obligations.
- (2) The Transferor shall submit a Notice of Proposed Transfer to the Ministry of Mines, at least thirty (30) business days prior to the proposed transfer
- (3) The Notice shall provide sufficient information to establish the eligibility of the Transferee to hold the transferred Authorization and shall be accompanied by a copy of the agreement between the parties concerning the transfer or assignment and by the Transferee's binding commitment to provide adequate warranties or guarantees of performance of Authorization obligations.
- (4) The Notice shall be obtainable from the Ministry of Mines. The Notice shall not be accepted unless accompanied by the applicable fee.
- (5) The Ministry of Mines shall review the Notice and its accompanying documentation within five (5) business days of receipt. Any transfer or assignment of Rights and obligations under any Authorization shall be subject to the consent of the Ministry of Mines, which shall not be unreasonably withheld.
- (6) No transfer or assignment of an Authorization shall be approved unless the Transferor/assignor has complied with all the responsibilities and conditions of the Authorization and the provisions of the Minerals Law and these Regulations at the time of transfer/assignment. No transfer or assignment shall be approved unless the Transferee re-registers the transferred or assigned Authorization with the Ministry of Mines and assumes all the obligations and responsibilities of the Transferor/assignor under the Authorization. In case of need the Ministry of Mines may impose additional conditions for the approval of transfer/assignment of an Authorization.
- (7) If the Ministry of Mines determines that the Transferee satisfies the conditions for transfer or assignment set forth in the Minerals Law and these Regulations, the Ministry

of Mines shall notify the parties as to the effective date of the transfer and any conditions to be attached to the transfer or assignment and shall register the transfer or assignment.

- (8) If the Ministry of Mines determines that the proposed Transferee does not satisfy the applicable conditions, it shall promptly notify the parties of this determination in writing and shall include a written explanation of the basis for its negative determination. A negative determination by the Ministry of Mines shall not preclude the Transferor from submitting a revised Notice of Proposed Transfer that addresses the Ministry of Mines' concerns or from proposing an alternate Transferee.

#### **Article 64 Withdrawal from an Exploitation Authorization**

- (1) The Authorization Holder may, by giving due notice at any time during the term of the Authorization, apply to the Ministry of Mines for the withdrawal of the Authorization due to causes which, in the opinion of the Authorization Holder.
- (2) The Ministry of Mines shall consider the notice and issue its decision within a period of thirty (30) business days. The Ministry of Mines shall not authorize withdrawal from an Exploitation Authorization unless the Authorization Holder has met all its financial, fiscal, environmental and legal obligations at the time of withdrawal.
- (3) Withdrawing from an Exploitation Authorization does not release the Authorization Holder from any obligations of Minerals Law and this regulation.

### **CHAPTER IX: AUTHORIZATION FOR PROCESSING OR TRANSFORMATION**

#### **Article 65 Processing or Transformation of Minerals**

- (1) No person shall engage in the processing or transforming of minerals without obtaining a Processing Authorization from the Ministry of Mines. Any person presently engaged in mineral processing shall secure a Processing Authorization within six (6) months from the effective date of these Regulations.
- (2) For the purposes of these Regulations, Exploitation Authorizations which contain specific provisions addressing mineral processing are deemed to include Processing Authorizations. In this case, and for small-scale miners, there is no need for the Processing Authorization mentioned in Item 1 of this Article; the processing of the mineral ores and minerals shall be done in accordance with the relevant authorization.

- (3) The term of a Processing Authorization shall be for a period of five (5) years from date of issuance thereof, renewable for like periods but not to exceed a total term of thirty (30) years.

#### **Article 66 Application for Processing Authorization**

- (1) An application for a Processing Authorization shall be filed with the Ministry of Mines by an eligible person either personally or through its duly authorized representative. An application for a Processing Authorization will only be accepted upon payment of the required fees to the Ministry of Mines. Any application with incomplete mandatory requirements shall not be accepted.
- (2) As part of its application, the applicant must submit five (5) sets of the following information, prepared by a Competent Person:
  1. Location map of the area of the proposed processing plant;
  2. Feasibility Study including work programs, plant site, mill and plant layout/design, details of technology to be employed in the proposed operation, anti-pollution devices/measures as well as the plant capacity;
  3. Environmental Management Plan;
  4. Proof of technical competence including, among others, curricula vitae and track records in mineral processing and environmental management of the senior technical and management personnel who shall undertake the operation;
  5. Proof of financial capability and financial assurance to undertake the processing activities identified in the application;
  6. Other supporting papers as the Ministry of Mines may require.

#### **Article 67 Processing and Issuance of a Processing Authorization**

- (1) Within five (5) business days from receipt of the application, the **Evaluation team** shall initially review the application for completeness. If they determine that the application is incomplete, the Ministry of Mines will return the incomplete application to the applicant with a written explanation of the application's deficiencies. If the application is deemed to be complete, the Ministry of Mines will commence its detailed evaluation and review of the application. The Ministry of Mines will endeavor to complete its review of the Processing Authorization application within sixty (60) business days of commencing its review.
- (2) The Evaluation team may request additional information during the course of its review, which the applicant shall supply within the timeframes specified by the Ministry of Mines.

- (3) Upon approval of the application, the Ministry of Mines shall immediately notify the applicant of its approval. If the application is rejected by the Ministry of Mines, the Ministry of Mines shall provide the applicant with a written explanation of the grounds for rejection of the application and provide the applicant with an opportunity for a hearing on the rejected application.
- (4) The Department of Cadastre shall register the approved Processing Authorization within fifteen (15) business days from approval and shall officially release the Processing Authorization to the License Holder after registration.

#### **Article 68 Terms and Conditions of a Processing Authorization**

- (1) A Processing Authorization shall contain the following terms and conditions:
  1. The processing of minerals shall be done in accordance with the provisions of these Regulations and the Authorization cannot be transferred or assigned to another person;
  2. The Authorization Holder shall assume full responsibility and be liable for damages to private and/or public property caused by its operations under the Processing Authorization;
  3. The Authorization Holder shall submit production and activity reports to the Department of Inspectorate within the Ministry of Mines.
  4. The Authorization Holder shall effectively use best available anti-pollution technology and facilities to protect the environment.
  5. The Authorization Holder shall conduct its operations in accordance with the provisions of the Minerals Law and these Regulations;
  6. The Authorization Holder shall pay fees, rentals or surface right fees, taxes and royalty accordance to the related legislative documents;
  7. The Authorization Holder shall conform to laws and Regulations regarding, related work standards, health and safety and medical equipments;
  8. The Authorization Holder shall give preference to Afghan workers in all types of employment for which they are qualified.
  9. Foreign employment shall be limited to technologies requiring highly specialized training and experience. In every case where foreign technologies are utilized and where foreign executives are employed, an effective program of training understudies shall be undertaken;
  10. The Authorization Holder shall utilize appropriate and efficient mineral processing technology;
  11. The Authorization Holder shall observe any other conditions as requested by the Ministry of Mines.
  12. The Authorization Holder shall give preference to goods and services produced and offered in Afghanistan of comparative quality and cost. In particular, the Authorization Holder shall give preference to qualified Afghan construction enterprises, construction materials and skills available

in Afghanistan, Afghan sub-contractors for road construction and transportation and Afghan household equipment, furniture and food;

- (2) The conditions and requirements of a valid Authorization may be modified by the Ministry of Mines during the term of the Authorization. Modification procedures shall be specified in the Authorization and may be initiated (a) by the written request of the Authorization Holder or (b) by the Ministry of Mines. Requests for modifications shall be submitted to the Ministry of Mines using the given form from the Ministry of Mines.
- (3) The Authorization shall be subject to cancellation, revocation and termination as provided for in Article 24 of the Minerals Law;
- (4) Withdrawal by the Authorization Holder from the License shall not release it from written obligations of Minerals Law and these Regulations;
- (5) The written report specified under Item 1 c of this Article shall conform to Article 42 Item 3.

#### **Article 69 Renewal of Processing Authorization**

- (1) Within sixty (60) calendar days before the expiration of the Processing Authorization, the Authorization Holder may submit a request for renewal to the Ministry of Mines. The request must be accompanied by five (5) sets (including one digital copy, if possible) of the following information:
  1. Statement of justification for renewal;
  2. Comprehensive technical report on the outcome of the operations, including their environmental effects;
  3. Proof of financial capability and financial assurance to undertake processing activities;
  4. Processing Work Plan and duration of renewal.
  5. Other supporting papers as the Ministry of Mines may require.
- (2) The evaluation team shall commence its review of the request with five (5) business days of receipt. The evaluation team shall endeavor to complete its review and issue its decision on the request no later than thirty (30) business days from commencing its review.

#### **Article 70 Revocation and Termination of a Processing Authorization**

- (1) The Processing Authorization may be canceled, revoked, or terminated, after due process, by the Ministry of Mines based on the following grounds:
  1. Failure to comply with the terms and conditions of the Processing Authorization;

2. Violation of any provision of the Minerals Law or these Regulations;
  3. Failure to pay the taxes and fees due the Government for two (2) consecutive years;
  4. Any misrepresentation in any statement made in the Authorization or those made later in support thereof;
  5. When national interest and public welfare so require or for environmental protection or ecological reasons.
- (2) Revocation termination or cancellation of a Processing Authorization shall not release the License Holder from any and all legal obligations of Minerals Law and these Regulations.

## **CHAPTER X: SURFACE RIGHTS AND RELATIONS**

### **Article 71 Adjacent Mineral Activities**

When Perimeters are adjacent or are so situated that it is necessary to build, construct or install common infrastructures including but not limited to roads, railroads, or electric transmission lines, the affected License or Authorization Holders shall enter into a cost sharing agreement under which each party will be required to pay its pro rata share of construction, operations and maintenance costs. Participation in such cost sharing agreements is mandatory under the Minerals Law. Disputes arising in connection with such cost sharing agreements shall be subject to dispute resolution accordance to provisions of Minerals Law and these Regulations.

### **Article 72 Rights of Way**

- (1) The Holder of a Mineral Right shall have the right of way over the Perimeters of adjacent or neighboring Mineral Rights for the purpose of and to the extent necessary to conduct its Mineral Activities.
- (2) Prior to exercising its right of way, the Holder of a Mineral Right must give written notice to the adjacent or neighboring Holders at the address registered with the Ministry of Mines.
- (3) In the event that a Holder of a Mineral Right will exercise its right of way across adjacent or neighboring Perimeters on a regular or continuous basis, the Holders of the Mineral Rights shall enter into an agreement specifying the conditions of use of the right of way and any measures that may be necessary to protect the Perimeter or Mineral Activities of the adjacent or neighboring Holder of a Mineral Right. Such an agreement shall be registered with the Ministry of Mines.

- (4) Any damage done to adjacent or neighboring Perimeters or Mineral Activities in the exercise of a right of way by the Mineral Rights Holder shall be compensated in accordance with agreed upon compensation terms specified in a right of way agreement. In the event that compensation not mentioned in the agreement then the size of the damage calculate and prepared by the Ministry of Mines.

## **CHAPTER XI: ROYALTIES AND FEES**

### **Article 73 Obligation to Pay Mineral Royalties**

- (1) The obligation to pay mineral royalties is imposed on Holders of Exploitation Licenses and on Holders of Authorizations for the Exploitation of Quarries, Tailings, or Artisanal Mining that mine or otherwise exploit Mineral Substances. Holders of Exploration Licenses or Authorizations for Quarry Exploration may also be required to pay royalties if included as a condition of the mineral right.
- (2) The obligation to pay mineral royalties commences as of the first date of commercial production, unless provided otherwise by a specific mining contract.
- (3) Royalties shall be paid in United States Dollars or such other currency as may be mutually agreed and shall be paid on or before the last day of the month following each calendar quarter. Each payment shall be accompanied by a statement in reasonable detail showing the basis of computation of royalties due in respect of shipments or sales made during the preceding calendar quarter.

### **Article 74 Efficient Recovery of Mineral Substances**

- (1) Holders must conduct their Mineral Activities to ensure that any mining, processing or treatment of ore prior to domestic sale or export shipment meets such generally accepted international standards as are economically and technically feasible.
- (2) Holders must undertake to use all reasonable efforts to optimize the mining recovery of ore from proven reserves and metallurgical recovery of Mineral Substances from the ore provided it is economically and technically feasible to do so, and shall submit documents to the Ministry of Mines.
- (3) If in the opinion of the Ministry of Mines, a Holder is failing without good cause to recover Mineral Substances in accordance with paragraph (4) of this Article, it may give notice in writing of such deficiency to the Holder. Within three (3) months of the receipt of this notice, the Holder shall either:

1. Commence work to improve its mining method, treatment and processing facilities accordance to the technical and economical report to the reasonable satisfaction of the Ministry provided that the Holder shall in no event be obliged to conduct mining, processing or treatment activities otherwise than as provided in its feasibility study.
  2. Submit to the Ministry of Mines evidence justifying its performance. In the event that the Ministry of Mines remains unsatisfied with the Holder's performance, the Ministry of Mines shall have the right to commission independent technical studies to determine a fair average recovery rate taking into account the nature of the proven reserve and the ore and the economic and technical feasibility of achieving increased recovery by the Holder. Such studies shall be carried out by internationally recognized consultants appointed by the Government and agreed to by the Holder.
  3. If the said consultants find that the performance of the Holder's operations is not satisfactory, then the cost shall be borne by the Holder. If it is found that the performance of the Holder's obligation is satisfactory, then the cost shall be borne by the Government.
  4. If following the completion of such studies, the Holder fails within a reasonable period to achieve the recovery rate indicated by such studies, the Government shall have the right to increase the royalty applicable to the Mineral Substances delivered for export shipment or domestic sale in proportion to the extent that the recovery of such Mineral Substances by the Holder falls short of the fair average rate indicated by such studies. However, at no time shall the payment of such increased royalty, free the Holder from the obligation to perform in a manner consistent with its feasibility study and Mine Development Plan.
- (2) The Holder shall furnish regular written reports to the Ministry of Mines pertaining to the calculation of royalties. If the Holder fails to furnish a return to the Ministry of Mines before an applicable deadline, the Ministry of Mines can give written notice of to the Holder of the missed deadline; otherwise the Ministry of Mines may impose a fine on the Holder accordance to the provisions of Minerals Law and Regulations.

#### **Article 75 Surface Rights Fees**

- (1) An annual surface Rights fee shall be collected from the Holders of Mineral Rights in accordance with the following schedule:
1. For Exploration Licenses and Authorizations:
    - 1) For the initial term: USD 5.00 per hectare in Afghani
    - 2) For the initial renewal term: USD 10.00 per hectare in Afghani
    - 3) For subsequent renewal terms: USD 15.00 per hectare in Afghani
  2. For Exploitation Licenses and Authorizations:
    - 1) For Metallic and Non-Metallic Minerals, USD 25.00 per hectare in Afghani
    - 2) For Quarry Minerals, USD 25.00 per hectare in Afghani



- 3) For Gemstones, USD 35.00 per hectare in Afghani
- (2) The Ministry of Mines is authorized to increase surface Rights fees when the national interest and public welfare so require.

**Article 76 Manner and Place of Payment of Surface Rights Fees**

- (1) Surface Rights fees (as per Article 75) shall be paid annually on the anniversary of the date the Mineral Right is registered with the Department of Cadastre and on the same date every year thereafter.
- (2) The Ministry of Mines shall collect surface Rights fees and deposit such fees in the State Revenue Account/State Treasury. If the fee is not paid on the date specified, the License or Authorization Holder shall pay a surcharge of two (2) percent per month for one year after the due date of the amount due in addition to the surface Rights fees. After one year, failure to pay surface Rights fees shall constitute grounds for the revocation of mineral Rights.

**Article 77 Miscellaneous Fees**

The Ministry of Mines may impose other fees and additional charges in accordance with the provisions of the Minerals Law and these Regulations;

**CHAPTER XII: WITHDRAWAL AND TERMINATION OF MINERAL RIGHTS**

**Article 78 Procedures for Withdrawal or Termination**

- (1) Any License or Authorization issued in accordance with these Regulations is subject to withdrawal or termination for any of the reasons specified in Article 24 of the Minerals Law.
- (2) Prior to withdrawal or termination, the Ministry of Mines shall give the License or Authorization Holder at least thirty (30) calendar days notice of its intent to withdraw or terminate the Mineral Right. The notice shall be in writing and shall specify the grounds for withdrawal or termination. In the event that the Holder of a Mineral Right corrects the deficiencies and rectifies the grounds for the proposed withdrawal or termination within the fixed date then the withdrawal will not be actioned.

- (3) If the Holder of the License and Authorization is not satisfied with decision of the Ministry of Mines to withdraw or terminate they can refer to Authority Court in accordance with the provisions of Law. The License or Authorization Holder shall be entitled to appeal the Ministry of Mines' decision to withdraw or terminate its Mineral Right. Such an appeal shall be conducted in accordance with the dispute resolution provisions set forth in these Regulations.

#### **Article 79 Effect of Withdrawal or Termination**

Withdrawal or termination shall not release the License or Authorization Holder from any and all obligations it may have under its License or Authorization, the Mining Contract or its obligations to protect the environment and rehabilitate areas impacted by its mineral activities, existing at the time of relinquishment or termination. Upon withdrawal or termination, the License or Authorization Holder shall comply with the requirements set forth in Article 24 of the Minerals Law pertaining to the removal of equipment or structures.

Upon withdrawal or termination, the area covered by the withdrawn or terminated Mineral Right shall become available for public bidding in accordance with the requirements of Chapter III of these Regulations and Article 15 of the Minerals law.

### **CHAPTER XIII: EXTENDING MINERAL RIGHT PERIMETERS**

#### **Article 80 Identification of Perimeters**

- (1) A system for identifying Perimeters in relation to the national mining cadastral grid shall be established by the Department of Mining Cadastre. The boundaries of a Perimeter shall be in the form of a polygon of specified or infinite depth consisting of quadrangles subject to the limits established by existing boundaries such as the boundary of a Prohibited Area.
- (2) In cases where such boundaries are not attainable due to geographic features, environmental considerations, existence of adjoining valid mining Rights or concessions, other areas closed to mining locations, settlement of conflicts and other justifiable considerations that render it impractical to conform to such requirements, the boundaries shall be defined by specific technical description by the Department of Mining Cadastre.

#### **Article 81 Survey and Marking of Perimeters**

- (1) A proposal to obtain mineral Rights shall include a survey of the proposed Perimeter boundary.

- (2) The survey shall be conducted by a Licensed surveyor or other party recognized by the Ministry of Mines as competent to conduct such surveys. The surveyor may be an independent contractor or employed by the Bidder.
- (3) Marking of the surveyed perimeters will be in accordance to the procedure given from the Ministry of Mines, taking into consideration the provisions of these Regulations.

## **CHAPTER XIV: MINERAL RIGHTS RECORDING**

### **Article 82 Receiving Information or Regulating Documents**

Department of Cadastre shall regulate all the documents and information relating to the Holder of a Mineral Rights in accordance with the provisions of the Minerals Law and this registration shall be recorded daily in the Mining Registry Book.

### **Article 83 Registration and Filing Procedures**

- (1) The Department of Cadastre shall collect, register and save copies of all Mineral Rights documents in a designated filing system according to Article 87 of these Regulations which includes the control of these documents.
- (2) The Department of Cadastre shall prepare an annual document inventory report which shall serve as a guide for easy retrieval and reconstruction of file in case of loss or damage.

### **Article 84 Mineral Rights Management System**

- (1) In order to facilitate the mechanical processing and recording of bids, applications, requests, mining contracts, Licenses and Authorizations and provide a systematic basis for the management of data relating to these documents, a computer-based Mining Rights Management System shall be established and maintained by the Department of Cadastre which may be updated and improved as the need arises.
- (2) This system should be capable of building up a national database and producing reports and maps that may be required by the Ministry of Mines or requested by its clients.

## **Article 85 Mineral Gazette Publication**

- (1) To provide an official medium for releasing information on mining policy issuances of the Government, mining Laws and Regulations, current listing of mining Rights and their locations on the map, other official acts affecting mining and other information relevant to mineral resources development, a Mineral Gazette of nationwide circulation shall be organized and established by the Ministry of Mines.
- (2) The establishment of this Gazette and other related matters will be regulated and arranged in a separate procedure from the Ministry of Mines.

## **CHAPTER XV: ENVIRONMENTAL AND SOCIAL PROTECTION**

### **Article 86 ESP Documentation Requirements for Exploration Licenses and Authorizations**

- (1) Pursuant to the requirements of Article 77 of the Minerals Law, before commencing mineral activities that may impact the environment, the Holder of an Exploration License or Quarry Exploration Authorization must submit the following plans and documentation to Ministry of Mines for approval:
  1. A Mitigation and Rehabilitation Plan that provides a detailed description of the area to be impacted by mineral activities.
  2. An analysis of the reasonably anticipated environmental and social impacts of the exploration activities.
  3. A description, including cost estimates and schedules, of specific measures to prevent, reduce or mitigate the environmental and social impacts of the proposed mineral activities.
  4. Measures to rehabilitate the impacted area following completion of exploration activities.
  5. A Program for Work, and budget of expenditures to be made during the License or Authorization term.
  6. Financial assurance documentation at a minimum, the financial assurance must be adequate to cover the cost of the Mitigation and Rehabilitation Plan and the commitments contained in the Program for Work, Budget, Minimal Annual Spending, and Protection of the Affected Communities.
- (2) If the Holder of an Exploration License or Authorization can demonstrate that the requirements established in Item 1 of this Article are too burdensome or expensive to

satisfy due to the size, type or value of the mineral activity being proposed; it may request a waiver of these requirements if supported by the Ministry of Mines.

- (3) Pursuant to Item (2) of this Article the Ministry of Mines shall consider the waiver request as part of its review in determining whether to grant an Exploration License or Authorization. In the event that the Ministry of Mines determines that the waiver request cannot be granted, the Ministry of Mines shall notify the Holder of this determination and the Holder may provide additional documentation and reasons.

### **Article 87 ESP Documentation Requirements for Exploitation Licenses and Authorizations**

- (1) Pursuant to the requirements of Article 78 of the Minerals Law, as part of its Bid, a Bidder for an Exploitation License or an Exploitation Authorization must submit proposals to prepare the following plans and documentation to Ministry of Mines for approval and commit to their implementation upon approval:
  1. An Environmental Screening Report/Environmental Impact Assessment (“EIA”). An EIA shall include:
    - 1) A description of the natural and human environment to be affected by the proposed exploitation activity;
    - 2) An identification and analysis of the type, duration, and intensity of potential environmental and social impacts of the proposed exploitation activity, including cumulative impacts of other mineral activities in the vicinity of the proposed exploitation activity;
    - 3) An identification of appropriate mitigation measures to address the identified impacts of the proposed exploitation activity;
  2. An Environmental Management Plan which shall describe how the License or Authorization Holder will address the anticipated impacts of the proposed exploitation activities through the implementation of appropriate and coordinated environmental management mechanisms. Environmental Management Plans shall be based on international best practice and shall describe in detail how the License or Authorization Holder will conduct its construction, operation, closure and rehabilitation of its exploitation activities and associated impacted land. In particular, an environmental management plan shall:
    - 1) Describe specific measures to address identified environmental, human health and social impacts of the exploitation activities identified in the EIA, including measures to avoid or minimize impacts associated with construction and operation of the exploitation activities.
    - 2) Making use of proper and effective natural procedures consistent with the requirements of these Regulations for protection of water and soil quality;
    - 3) Present a mine closure plan.

- 4) Establish a monitoring program with regularly scheduled compliance assessment and reporting to Ministry of Mines to ensure implementation of and compliance with the Environmental Management Plan.
3. A Development Plan which shall establish appropriate sustainable development and social protection programs and structures, taking into account international best practice. A Development Plan should propose approaches for ensuring adequate housing, sanitation, roads, medical facilities, power and water supply, educational facilities, religious facilities and recreational opportunities. A Development Plan should also address economic development, employment and job creation in local communities, taking into account employment requirements established under the Minerals Law. Finally, a Development Plan must establish funding and implementation commitments.
- (2) If the Holder of an Exploitation License or Authorization who can demonstrate that the requirements established in Item 1 of this Article are too burdensome or expensive to satisfy due to the size, type or value of the mineral activity being proposed, it may request a waiver of some or all of these requirements if supported by the Ministry of Mines.
  - (3) Pursuant to Item 2 of this Article the Ministry of Mines shall consider the waiver request as part of its review in determining whether to grant an Exploitation License or Authorization. In the event that the Ministry of Mines determines that the waiver request cannot be granted, the Ministry of Mines shall notify the Holder of this determination and provide the Holder with additional time to complete and submit any additional documentation required by the Ministry of Mines.

## **CHAPTER XVI: SUBSTANTIVE ENVIRONMENTAL AND SOCIAL PROTECTION REQUIREMENTS**

### **Article 88 International Best Practice Obligation**

- (1) To the extent practicable, all mineral activities undertaken pursuant to Licenses and Authorizations issued in accordance with these Regulations must be conducted in conformance with acknowledged international best practice standards for environmental and social protection, including internationally recognized standards promoting sustainable development. This obligation shall not apply where specific applicable environmental or social protection standards have been promulgated by the Ministry of Mines
- (2) The Ministry of Mines may periodically adopt or revise substantive environmental or social protection standards established in these Regulations. Such revised standards shall be incorporated into Licenses and Authorizations in accordance with these Regulations.

### **Article 89 Financial Assurance for Reclamation and Environmental Remediation**

- (1) License and Authorization Holders shall establish and maintain adequate financial assurance to ensure the rehabilitation, management and remediation of adverse environmental impacts associated with mineral activity. Financial assurance must be provided for by one or more of the following methods:
  1. A trust fund in a format approved by the Ministry of Mines;
  2. An irrevocable letter of credit or financial guarantee from an Afghanistan registered bank or any other bank or financial institution approved by the Ministry of Mines;
  3. Insurance in a format and in an amount approved by the Ministry of Mines;
  4. A performance bond in a format and in an amount approved by the Ministry of Mines;
- (2) The amount of financial assurance will vary depending on the stage, size, and other circumstances of the Mineral Activities, but in any case must be sufficient to cover all of the following potential classes of costs:
  1. Costs to rehabilitate areas disturbed by mineral activities and offsite environmental and social impacts of the activities;
  2. Costs of implementing all mitigation and rehabilitation requirements and commitments. In this regard, the amount of financial assurance will be count based on expense.
- (3) A License or Authorization Holder must review the amount of the financial assurance annually and report the results of its review to the Ministry of Mines. The Ministry of

Mines shall review the financial assurance information provided by the License or Authorization Holder and determine whether the amount of financial assurance is sufficient. If the annual review indicates that the amount of the financial assurance is inadequate to cover mitigation, rehabilitation, and remediation obligations, the License or Authorization Holder must submit updated financial assurance in an adequate amount within thirty (30) work days.

#### **Article 90 Air Quality Control**

- (1) The Holder of a License or Authorization is charged with: a duty to adopt necessary measurements for the control of Air Quality; is prevented from discharging unauthorized substances; and developing procedures to manage tailings deposits and other works related to minerals activities.
- (2) Application of Item 1 of this Article will be in accordance to the procedures arranged by the Ministry of Mines with the agreement of National Environment Protection Agency.

### **CHAPTER XVII: COMPENSATION**

#### **Article 91 Compensation for Damages from Mineral Activities**

- (1) The Holder of a Mineral Right is liable to pay compensation for damages caused by its Mineral Activities. Compensable damages include, but are not limited to, damages caused by mineral activities to human life and health; lands, agricultural crops and forest products; cultural and human resources; and infrastructure. For the purposes of these Regulations, an application for compensation shall be considered as a type of dispute subject to resolution under the dispute resolution provisions established in Chapter 19 of these Regulations.
- (2) The following are qualified to apply for compensation for damages:
  1. Any individual, in the event of loss or damage to his or her life, personal safety or property;
  2. Any owners of damaged private lands, structures or infrastructures;
  3. Any agricultural lessor, lessees and share tenants for damage to crops or livestock.
- (3) An application for compensation for damages under these Regulations shall be filed with the Ministry within thirty (30) calendar days from the occurrence of the damage. Applications should be supported by the following documents:
  1. Documentation of the damage claimed by the applicant;
  2. Proof of ownership of the damaged property;



3. Other information that may be required by the Ministry of Mines.

## **Article 92 Evaluation of Claims for Damages**

- (1) The following guidelines shall apply in the evaluation of claims for damages under these Regulations:
  1. Damages to human health and life shall be compensated at an amount as provided for in related legislative documents;
  2. Damages caused to agricultural lands, which render such lands useless for the traditional purpose for which they were intended for, may be compensated at an amount equivalent to either one of the following, whichever is lower:
    - 1) The fair market value of the lands as per tax declaration; or
    - 2) The cost of rehabilitation of the land;
  3. Damages to agricultural lands resulting in partial loss of productivity may be compensated at an amount equivalent to the costs of rehabilitation;
  4. Damages to industrial and residential lands may be compensated at an amount equivalent to the costs of rehabilitation;
  5. Damages resulting in total or partial loss of agricultural crops, forest products and/or livestock resources may be compensated at an amount equivalent to the loss of projected net income there from;
  6. Damages to infrastructures may be compensated at an amount equivalent to the costs of rehabilitation or reconstruction;
- (2) The amount of compensation for damages which include in Item 1 of the Article shall be based on the amount claimed or the amount assessed, whichever is lower.

## **CHAPTER XVIII: VIOLATIONS and their VERIFICATIONS**

### **Article 93 Verification**

- (1) If the Holder of Licenses and Authorizations who violates any provision of the Minerals Law or these Regulations, including any terms or conditions of any Licenses or Authorizations issued pursuant to these Regulations the Ministry of Mines shall examine the matter. Where a violation is proved, in addition to the payment of any compensation due and a monetary penalty; his License or Authorization will either be revoked or more restrictions assigned to it.
- (2) As per Item 1 of this Article the Ministry of Mines shall serve a written Notice to the alleged violator, either personally or to his address, and the notice shall include.
  1. Explanations related to the violation

2. Setting a date and time for verifying the violation
- (3) If the alleged violator avoids attending the meeting, his License or Authorization will be suspended or revoked and his financial assurance is not refundable.

#### **Article 94 False Statements**

- (1) Any person who knowingly, presents any false Bid, declaration, or evidence to the Ministry of Mines or publishes or causes to be published any prospectus or other information containing any false statement relating to Mining Rights, Mineral Substances, Mineral Activities, Mining Contracts or Licenses or Authorizations issued by the Ministry of Mines shall be subject to a fine.
  1. The fine for false statements related to Small Scale Mines Contracts shall not exceed USD 1000 in Afghani.
  2. The fine for false statements related to Medium Scale Mines Contracts shall not exceed USD 3000 in Afghani.
  3. The fine for false statements related to Large Scale Mines Contracts shall not exceed USD 5000 in Afghani.
  4. The fine for false statements related to Very Large Scale Mines Contracts shall not exceed USD 10,000 in Afghani.
- (2) Any person undertaking exploration work without the necessary Exploration License or Authorization shall subject to a fine in addition to payment of any compensation due not exceeding USD 100,000 in Afghani.
- (3) Any person extracting or otherwise exploiting Mineral Substances without an Exploitation License or Authorization shall be subject to a fine in addition to payment of any compensation due not exceeding USD 200,000 in Afghani. Continuing violations shall be subject to a further fine not exceeding USD 10,000 in Afghani for every day or part of a day during which the violation continues.
- (4) Any person who processes Mineral Substances without a Processing Authorization shall be subject to a fine, in addition to payment of any compensation due, not exceeding USD 200,000 in Afghani.
- (5) Any person who attempts the survey, without taken into consideration Item 2 of Article 81 of these Regulations, shall be subject to a fine not exceeding USD 2,000 in Afghani.
- (6) In case of continuing violations included in Items 1,2,4,5 of this Article the alleged violator shall be subject to pay twice as much the anticipated fine.

## **Article 95    Violations of the Terms and Conditions of a License**

- (1) Any License or Authorization Holder who willfully violates or neglects to comply with the terms and conditions of its approved License or Authorization or fails to implement any written instruction received from the Mining Inspection Department shall be subject to a fine as follows.
  1. For Small Scale Mining Contracts, up to USD 10,000 in Afghani.
  2. For Medium Scale Mining Contracts, up to USD 20,000 in Afghani.
  3. For Large Scale Mining Contracts, up to USD 50,000 in Afghani.
  4. For Very Large Scale Mining Contracts, up to USD 100,000 in Afghani.
- (2) Continuing violations shall be subject to a further fine not exceeding USD 10,000 in Afghani for every day or part of a day during which the violation continues.

## **Article 96    Violation of Environmental Regulations**

- (1) Any License or Authorization Holder who willfully violates or grossly neglects to comply with the terms and conditions of its approved Environmental Management Plan shall be subject to a fine as follows.
  1. For Small Scale Mining Contracts, up to USD 10,000 in Afghani.
  2. For Medium Scale Mining Contracts, up to USD 25,000 in Afghani.
  3. For Large Scale Mining Contracts, up to USD 50,000 in Afghani.
  4. For Very Large Scale Mining Contracts, up to USD 100,000 In Afghani.
- (2) Any person who intentionally or negligently commits any act or is responsible for an omission which damages, degrades, or threatens human health or the environment shall be liable for the costs of restoration and remediation.

## **CHAPTER XIX: RESOLUTION OF DISPUTES**

### **Article 97    Submission of Disputes**

- (1) Any party to a dispute arising in connection with Mineral Activities may, within three calendar months of the date of the event creating the dispute, submit the dispute to the Ministry of Mines for resolution, the request for dispute resolution must be accompanied by delivered assurance documents to one of the nationalized bank in the name of the Ministry of Mines as follows.
  1. For Small Scale Mining Contracts, up to USD 2000 in Afghani.
  2. For Medium Scale Mining Contracts, up to USD 4000 in Afghani.
  3. For Large Scale Mining Contracts, up to USD 6000 in Afghani.
  4. For Very Large Scale Mining Contracts, up to USD 8000 In Afghani.

- (2) The request must clearly state the nature of the dispute, identify the adverse parties in the dispute and identify the relief requested. The request must be accompanied by any supporting written documentation that the party believes is relevant to the resolution of the dispute.
- (3) Immediately upon receipt of a request for dispute resolution, the Ministry of Mines shall transmit copies of the request to all parties identified in the request for dispute resolution and require them to respond to the request within one month of the transmittal date.
- (4) The response should state the respondent's position concerning the dispute and must include a statement that the responding party either agrees to an administrative settlement or arbitration or refuses to participate in such procedures. In addition, the response should be accompanied by any written documentation that the respondent believes explains its position concerning the dispute. If the respondent refuses, the Ministry of Mines will communicate this refusal to the party requesting dispute resolution and inform the party that under the Minerals Law, the party must seek judicial resolution of the dispute. If the responding party agrees to dispute resolution in accordance with these Regulations, the Ministry of Mines shall establish a schedule for resolving the dispute. Pending the dispute resolution process, no party, including the State, shall take any action to affect the existing Rights of the parties.
- (5) Disputes shall be resolved on the basis of the written documentation and, if available, the administrative record related to the dispute. For the purposes of this Chapter, written documentation shall include, but not be limited to, any and all written materials prepared and submitted by the disputants, and any Bids, plans, correspondence, Licenses and Authorizations, inspection reports, or other records maintained by the Ministry of Mines related to the Mineral Activities that are the subject of the dispute.
- (6) If the parties agree to an administrative resolution of the dispute, the dispute shall be submitted to the Ministry of Mines official(s) designated to hear and resolve disputes arising in connection with Mineral Activities. The designated official shall present his decision to Ministry of Mines as a document within thirty (30) days after reviewing the given documents, and if necessary hearing the statements of the disputants.
- (7) If the parties agree to arbitration to resolve the dispute, the parties may either select or retain an independent arbitrator to resolve the dispute in accordance with the laws of Afghanistan or request that the Ministry of Mines convene a panel of arbitrators to arbitrate the dispute. The Ministry of Mines' panel shall consist of three (3) members, one of which must be a Licensed Mining Engineer, Geologist or a professional in a related field duly designated by the Minister. The Panel shall render its decision in writing to the Ministry of Mines within thirty (30) days, after the submission of the case by the parties for decision.

### **Article 98 Arbitration Decision**

The Arbitration decision include in Article 107 of these Regulations is final; unless an appeal is filed with the appropriate judicial authorities within fifteen (15) business days.

## **CHAPTER XX: MISCELLANEOUS PROVISIONS**

### **Article 99 Sale of Minerals Produced**

- (1) The Holders of Quarry Exploitation Authorizations, Tailings Exploitation Authorizations or Artisanal Authorizations shall be entitled to sell or export their products in accordance with the requirements of applicable Laws and Regulations,
- (2) Terms and Conditions for selling and exporting production as per Item 1 must be included in the relevant License or Authorization Contract.

### **Article 100 Enactment of Procedures**

For the better implementation of the provisions of these Regulations, the Ministry of Mines shall enact and implement procedures, instructions and special guidelines that shall not be inconsistent with the Minerals Law and these Regulations.

### **Article 101 Effective Date**

These Regulations shall take effect one month following official Gazette publication.