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CHAPTER ONE: GENERAL PROVISIONS

Article 1: The Legal Basis

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

Article 2: Objectives

The objectives of this Law are to regulate Mineral Activities in respect of Minerals in Afghanistan in a manner which:

1. Promotes the economic self-sustainability of Afghanistan through the development of its mining industry;
2. Secures optimal revenue for the State from the conduct of Mineral Activities in Afghanistan;
3. Ensures Mineral Activities are conducted in accordance with best practice;
4. Fosters domestic and international investment in the mining industry in Afghanistan;
5. Minimises, manages and mitigates adverse environmental and social impacts;
6. Facilitates local community participation in the mining industry and the use of domestic and local goods and services; and
7. Promotes peace, security and stability including by the control of Afghanistan's mineral wealth.

Article 3: Names

- (1) Ministry of Mines and Petroleum will hereafter be called Ministry.
- (2) Cabinet of the Islamic Republic of Afghanistan will hereafter be called Cabinet.

Article 4: Definitions

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

1. "**Mineral**" means any naturally occurring substance which may be recovered from land or water but excludes soil, water, liquid hydrocarbons or natural gas;
2. "**Mineral Activities**" means Reconnaissance, Exploration, Exploitation or Ancillary Activities;
3. "**Reconnaissance**" means aerial, geological, geophysical, geochemical, seismological and hydro-geological surveys, geological mapping and soil and rock-chip sampling;
4. "**Exploration**" means any activity conducted for the purpose of identifying the Mineral composition of land or waters or assessing the feasibility of Mining and Processing Minerals the subject of the Licence Area, including:
 - aerial, geological, geophysical, geochemical, seismological and hydro-geological surveys;

- geological mapping;
 - soil and rock-chip sampling;
 - drilling and assaying; and
 - trenching and test-pitting;
5. "**Exploitation**" means Mining and Processing;
 6. "**Ancillary Activities**" means activities conducted outside the Licence Area which are necessary or convenient for the conduct of Exploration or Mining within the Licence Area but excludes Exploration and Mining;
 7. "**Mining**" means any activity which is necessary or expedient for the purpose of extracting Minerals from land or water including:
 - excavation and the harvesting of evaporites; and
 - mine development and mine closure and rehabilitation;
 8. "**Small-scale Minerals**" means all Minerals except:
 - Restricted Minerals;
 - iron ore, coal, manganese and copper; and
 - any other Minerals prescribed in the Regulations;
 9. "**Processing**" means any activity which is necessary or expedient for the purpose of beneficiating Minerals to produce a Product including crushing, screening, washing, leaching, electro-winning, concentrating, smelting and refining;
 10. "**Mining Concession**" is a written agreement entered into by the State and a Concession Holder in connection with the conduct of Mineral Activities which:
 - provides for the grant of an Exploitation Licence; or
 - provides for the grant of an Exploration Licence and a right of priority for the grant of an Exploitation Licence;
 11. "**Concession Holder**" means a party to whom a Mining Concession is granted;
 12. "**Licence**" means an Exploration Licence, an Exploitation Licence or a Small-scale Mining Licence that is granted in accordance with the provisions of this Law;
 13. "**Licence Holder**" means the Person in whose name a Licence is registered in accordance with the provisions of this Law;
 14. "**Licence Interest**" means a proprietary interest in a Licence including a share of ownership, a mortgage or other security interest and a sub-licence;
 15. "**Investment Licence**" means a licence issued by the Afghanistan Central Business Registry which identifies that the Person is engaged in mining industry activities;

16. "**Exploration Licence**" means a licence granted under Article 28(1) and Article 28(1), which authorises Exploration in respect of large-scale mining projects in accordance with this Law;
17. "**Exploitation Licence**" means a licence granted under Article 28(3), Article 28(3) or Article 28(9), which authorises Exploitation in respect of large-scale mining projects in accordance with this Law;
18. "**Small-scale Mining Licence**" means a licence granted under Article 29, which authorises Exploration and Exploitation in respect of small-scale mining projects, including artisanal operations, in accordance with this Law;
19. "**Transitional Licence**" means:
 - any licence granted or contract entered into by the Ministry in respect of mineral rights prior to the commencement of this Law; and
 - any licence granted or contract entered into by the Ministry in respect of mineral rights pursuant to a bidding process initiated prior to but not completed prior to the commencement of this Law;
20. "**Processing Permit**" means a permit issued in accordance with the Regulations which authorises the holder to conduct Processing on land other than a Licence Area;
21. "**Product**" means Primary Product, Secondary Product or Tertiary Product;
22. "**Primary Product**" means any natural aggregate of Mineral extracted from the ground by Mining but not processed other than by crushing or screening and includes ore;
23. "**Secondary Product**" means a product including concentrate, doré and any other metallurgical products designated in the Regulations which are produced by Processing Primary Product to achieve the concentration of Minerals prescribed in the Regulations;
24. "**Tertiary Product**" means a product including refined metals which is produced by Processing Secondary Product including by smelting or refining to achieve the concentration of Minerals prescribed in the Regulations;
25. "**Person**" means a natural person or a Legal Entity;
26. "**Legal Entity**" means any artificial legal entity incorporated under the laws of Afghanistan or the laws of a foreign country;
27. "**Private Company**" means a Legal Entity that is not listed on a public stock exchange;
28. "**Publicly Listed Company**" means a Legal Entity that is listed on a public stock exchange;
29. "**Politically Exposed Person**" means:
 - the President, the Vice-President or a Minister; a member of the Supreme Court; judges of the Commercial Court; a member of the National Assembly; an employee of the Ministry; a member of the Mining Technical Committee; an employee of the President's Office; a member of the High Economic Council; a member of the National Procurement Commission; an employee of the National Procurement Authority; an advisor to the Ministry or the Mining Technical Committee; a senior ranking member

of the military; a senior diplomat; a governor; a mayor; deputy Ministers and deputy of governmental entities during their term of office and three years thereafter. A Direct Relative of the Politically Exposed Persons mentioned in this Article is only considered a Politically Exposed Person when the mentioned person is serving his/her term of office.

- Directors (grade 2 and above) at government ministries, independent authorities and State-Owned Corporations during their term of office. Direct Relatives of the persons mentioned are not to be considered Politically Exposed Persons;
30. "**Direct Relative**" means a person who is a family member including a spouse, parent, child, sibling, grandchild, niece, nephew, uncle, aunt or parent, sibling or child by marriage;
 31. "**Owner**" means a Person who ultimately enjoys a share of ownership or control whether formally or informally and whether directly or indirectly, including by holding shares in a Legal Entity or as beneficiary of a trust;
 32. "**Majority Owner**" means a Person who holds more than a 50% share of ownership or controls more than 50% of the voting power of a Legal Entity, whether formally or informally and whether directly or indirectly including indirectly by holding shares in a Legal Entity or as beneficiary of a trust;
 33. "**Substantial Owner**" means a Person who holds 5% or more of the ownership or controls 5% or more of the voting power of a Publicly Listed Company, whether formally or informally and whether directly or indirectly, including by holding shares in a Legal Entity or as beneficiary of a trust;
 34. "**Beneficial Ownership**" means the natural persons who ultimately enjoy a share of ownership or control whether formally or informally and whether directly or indirectly, including by holding shares in a Legal Entity or as beneficiaries of a trust but shall be deemed not to extend to Persons who hold shares in a Publicly Listed Company provided that the Listing Details are identified;
 35. "**Change of Control**" means any change of Beneficial Ownership which results in a Person acquiring 50% or more of the ownership or 50% or more of the voting power of a Legal Entity, including indirectly by holding shares in a Legal Entity or as beneficiaries of a trust;
 36. "**Audited Accounts**" means accounts of the Gross Revenue received from the sale or other disposal of Product by the Licence Holder during the Reporting Year which have been prepared and externally audited in accordance with the Regulations;
 37. "**Cadastral Survey Map**" means a topographical map of Afghanistan;
 38. "**Capability Statement**" means a document summarising the technical and financial capacity of the applicant which complies with the requirements prescribed in the Regulations;
 39. "**Community Development Plan**" means a plan directed to discharging the Licence Holder's obligations under Article 66(1) and which complies with the requirements prescribed in the Regulations;
 40. "**Compliance Officer**" means an employee of the Ministry appointed under Article 56(1);

41. "**Construction Materials**" means rock, limestone, gravel, aggregate or sand and other Minerals that are used in construction works and any other Minerals prescribed as construction materials in the Regulations;
42. "**Environmental Bond**" means financial assurance provided by a Licence Holder as security for the commitments made in an Environmental Management Plan in a form determined and a quantum calculated in accordance with the Regulations;
43. "**Environmental Management Plan**" means a plan which is directed to discharging the Licence Holder's obligations under Article 63(2) and which complies with:
 - the requirements prescribed in the Regulations; and
 - if either an environmental impact statement or a comprehensive mitigation plan is required by NEPA under the Environment Law, the prescribed requirements of that document;
44. "**Environmental Permit**" means a permit granted under Article 16 of the Environment Law;
45. "**Environmental Report**" means a report summarising for the relevant period compliance with the Environmental Management Plan, any incidents of non-compliance, any consequential impacts on the environment and any mitigation measures adopted and which complies with the requirements prescribed in the regulations;
46. "**Equipment**" means any hand-held or mobile equipment, tools or machinery used in connection with the conduct of Mineral Activities;
47. "**Exploration Program**" means a program of Exploration activities and associated expenditure which the Licence Holder commits to undertake on the Licence Area and which includes an itemised summary of the nature, scope, location, timing, duration and cost of the Exploration activities proposed to be conducted during each year of the Exploration Licence and which complies with the requirements prescribed in the Regulations and which is approved upon grant of the Exploration Licence under Article 28(3) or the subsequent approval of a variation under Article 33;
48. "**Exploration Report**" means a report which:
 - summarises the Exploration undertaken during the Quarter;
 - summarises the results of the Exploration in respect of the Minerals for which the Licence was granted;
 - provides any results relevant to an assessment of whether an economically significant deposit of other Minerals exists; and
 - complies with the requirements prescribed in the Regulations;
49. "**Fees**" means the fees payable to the State by bidders, Concession Holders, Licence Holders and applicants for Licences in respect of the administrative processes under this Law which are prescribed by the Regulations;
50. "**Feasibility Study**" means a report which provides a comprehensive assessment of the technical and financial feasibility of Mining and Processing of Minerals from the Licence Area and which complies with the requirements prescribed in the Regulations;

51. "**Gross Revenue**" means the gross proceeds received from the sale or other disposal of the Product without discount or deduction;
52. "**Health and Safety Plan**" means a plan which is directed to discharging the Licence Holder's obligations under Article 69(1) and which complies with the requirements prescribed in the Regulations;
53. "**Improvement**" means any house, building or cultivated land;
54. "**Infrastructure**" means buildings, processing plants, ore handling facilities, conveyors, power generation facilities, transmission lines, roads, railways, pipelines, bores, tailings dams, communications facilities and other infrastructure prescribed in the Regulations;
55. "**Large-scale Mining Area**" means an area declared under Article 19(1)1 of this Law;
56. "**Licence Area**" means the area of land the subject of a Licence in which a Licence Holder may conduct Mineral Activities according to the provisions of this Law;
57. "**Listing Details**" means the name and address of the public stock exchange and the stock exchange code of the Publicly Listed Company;
58. "**Local Content Plan**" means a plan which is directed to discharging the Licence Holder's obligations under Article 65(1) and which complies with the requirements prescribed in the Regulations;
59. "**Market Value**" means the fair market value of the Product sold or otherwise disposed of calculated at the point of sale in accordance with the Regulations including by reference to benchmarks prescribed in the Regulations;
60. "**Mine Development Report**" mean a report which:
 - identifies any non-compliance by the Licence Holder with the conditions of the Exploration Licence and the terms of the Mining Concession;
 - summarises the evaluation of the Feasibility Study and the Mining Proposal;
 - summarises key commitments made in respect of the Exploitation phase; and
 - recommends conditions relating to the Mining Proposal to be imposed upon the Exploitation Licence;
61. "**Mining Proposal**" means a detailed proposal to undertake Exploitation activities and associated expenditure which the Licence Holder commits to undertake on the Licence Area during the term of the Exploitation Licence which includes:
 - a detailed estimate of the Mineral resource prepared to an international standard;
 - a detailed mine plan;
 - a forecast of estimated production of Minerals for the projected life of the mine;
 - a description of all Infrastructure to be constructed;
 - an estimate of the capital cost of the development of Infrastructure; and

- any other information prescribed by the Regulations, and which is approved by grant of the Exploitation Licence under Article 28(3), by the High Economic Council under Article 28(8) or the subsequent approval of a variation under Article 33;
62. "**Mining Technical Committee**" means the committee established under Article 7 with the functions conferred by Article 8;
63. "**Municipal Incentive Fund**" means the fund constituted under the Municipal Law;
64. "**Ombudsman**" means the person appointed under Article 62(1);
65. "**Performance Bond**" means financial assurance provided by a Licence Holder as security for the commitments made in an Exploration Program or a Mining Proposal in a form determined and a quantum calculated in accordance with the Regulations;
66. "**Prohibited Area**" means an area declared under Article 19(1)3;
67. "**Provincial Development Fund**" means a fund established and managed by the Independent Directorate of Local Governance to support development in the province in which the relevant Licence is situated;
68. "**Public Official**" means:
- an employee of the Ministry;
 - a member of the Mining Technical Committee;
 - a member of the High Economic Council;
 - a member of Cabinet;
 - a member of the National Procurement Commission; or
 - an employee of the National Procurement Authority;
69. "**Radioactive Minerals**" means Minerals which contain at least 0.05 per cent of radioactive elements;
70. "**Rare Earth Elements**" means the following chemical elements: Scandium (Sc), Yttrium (Y), Lanthanum (La), Cerium (Ce), Praseodymium (Pr), Neodymium (Nd), Promethium (Pm), Samarium (Sm), Europium (Eu), Gadolinium (Gd), Terbium (Tb), Dysprosium (Dy), Holmium (Ho), Erbium (Er), Thulium (Tm), Ytterbium (Yb) and Lutetium (Lu);
71. "**Reporting Year**" means the 12-month period commencing on grant or the anniversary of grant of the Licence;
72. "**Restricted Minerals**" means:
- Radioactive Minerals;
 - Rare Earth Elements; and
 - Beryllium (Be), Lithium (Li) and;
 - Any other Minerals prescribed in the Regulations;

73. "**Restricted Minerals Program**" means a comprehensive development, economic and technological program governing the conduct of Mineral Activities in respect of the Restricted Minerals and the export and use of the Restricted Minerals which addresses any matters prescribed in the Regulations;
74. "**Royalty**" means the sum payable by a Licence Holder to the State in respect of the Product recovered from the Licence Area which is sold or otherwise disposed of during the Quarter calculated in accordance with Article 51(2) in respect of the first sale or disposal of the Product;
75. "**Royalty Value**" means the sum calculated in accordance with Article 51(3);
76. "**Royalty Report**" means a report which summarises:
- the quantity of the Minerals recovered from the Area during the Quarter;
 - the quantity of the Minerals sold or otherwise disposed of during the Quarter;
 - the specifications of Minerals sold or otherwise disposed of;
 - the identity of the party to whom the Minerals were sold or otherwise disposed to;
 - the Gross Revenue received from the sale or other disposal of the Minerals during the Quarter; and
 - the Market Value of the Minerals sold or otherwise disposed of during the Quarter;
77. "**Small-scale Infrastructure**" means buildings, roads, water pipelines and any Infrastructure prescribed in the Regulations;
78. "**Small-scale Mining Area**" means an area declared under Article 19(1)2;
79. "**Small-scale Work Program**" means a program of Exploration and Exploitation activities and associated expenditure which the Licence Holder commits to undertake on the Licence Area during the term of a Small-scale Mining Licence and which complies with the requirements prescribed in the Regulations and which is and which is approved by grant of the Small-scale Mining Licence under Article 29(7) or the subsequent approval of a variation under Article 33;
80. "**Surface Rent**" means the annual sum payable by the Licence Holder to the State or the owner or occupant of the Licence Area which is prescribed in the Regulations;
81. "**Technical Report**" means a report summarising the Mineral Activities undertaken during the relevant period which includes details of the expenditure incurred and complies with the requirements prescribed in the Regulations;

CHAPTER TWO: ADMINISTRATIVE FUNCTIONS

Article 5: Functions of the Ministry

(1) The Ministry shall have the following functions:

1. providing support to the Mining Technical Committee under Article 8(2);
2. declaring or cancelling the declaration of Large-scale Mining Areas, Small-scale Mining Areas and Prohibited Areas under Article 19;
3. granting Licences under Article 28 and Article 29;
4. granting or refusing variations to Exploration Programs, Mining Proposals or Small-scale Work Programs under Article 33;
5. assessing and approving or rejecting Local Content Plans, Community Development Plans and Health and Safety Plans under Article 65, Article 66 and Article 70;
6. maintaining the Register and Cadastral Survey Map under Article 21 and Article 22;
7. administering Licences including exercising powers under Article 31, Article 32, Article 37, Article 38 and Article 39;
8. administering Mining Concessions under Article 40(8);
9. issuing export policies under Article 36;
10. managing records under Article 24;
11. publishing information under Article 25 and Article 62;
12. preparing model forms of Mining Concessions under Article 40;
13. conducting bidding process for the award of and executing Mining Concessions under Article 41 and Article 46;
14. rejecting or accepting tender proposals under Article 43;
15. collecting Royalties under Article 49(2);
16. holding and administering Performance Bonds and Environmental Bonds under Article 53, Article 54 and Article 55;
17. monitoring and enforcing compliance with this Law and conditions of Licences under Article 52, Article 53, Article 56, Article 57, Article 58, Article 59, Article 60, Article 61 and Article 62; and
18. negotiating Mining Concessions to replace a Transitional Licence under Article 74

(2) The Ministry has the following responsibilities:

1. Implementation and execution of this Law and regulating the mineral activities.
2. Preparing an annual plan for implementation and execution of this Law and submitting the plan for the approval of the High Economic Council.

3. Planning and submitting the policies, procedures, and guidelines for the approval of the High Economic Council.
- (3) The plan referred to in Article 5(2)2 includes:
1. details of any Large-scale Mining Areas, Small-scale Mining Areas or Prohibited Areas;
 2. a schedule of bidding processes for the award of Mining Concessions;
 3. any other significant activities or initiatives to be undertaken by the Ministry; and
 4. any other matters prescribed in the Regulations.
- (4) In preparing the annual plan referred to in Article 5(2)2, the Ministry shall consult with:
1. the Mining Technical Committee;
 2. other relevant Ministries and Government bodies; and
 3. the local community affected by any proposed Large-scale Mining Area or a Small-scale Mining Area in the manner prescribed in the Regulations.

Article 6: Geological Survey

- (1) The functions of the Geological Survey shall include:
1. conducting Reconnaissance;
 2. analysing data generated by Reconnaissance, Exploration and Mining including geological, geophysical, geochemical, seismological and hydro-geological data;
 3. maintaining the Cadastral Survey Map; and
 4. compiling and maintaining a public database of geological information about Afghanistan including exploration data.
- (2) For better execution of the Geological Survey functions, the Deputy Ministry responsible for the Geological Survey shall be established within the Ministry.
- (3) The Geological Survey may, by its employees or contractors, enter on to any land for the purposes of conducting Reconnaissance.

Article 7: Mining Technical Committee

- (1) An independent Mining Technical Committee shall be established which shall comprise:
1. the Deputy Minister responsible for the Geological Survey or his or her delegate; and
 2. the Deputy Minister of Technical Affairs or his or her delegate; and
 3. five (5) appointed members, of which:
 1. at least two (2) must have geological, exploration or mining expertise;
 2. at least one (1) must have legal expertise; and

3. at least one (1) must have financial expertise.
- (2) In order to be eligible to be an appointed member of the Mining Technical Committee, a person must:
 1. be a citizen of Afghanistan (except where a citizen of Afghanistan with the required expertise cannot be identified, in which case citizens of other countries may be appointed);
 2. have obtained higher education qualifications, at the minimum a Masters degree;
 3. have ten (10) years of relevant work experience;
 4. be of good reputation;
 5. be not less than thirty (30) years of age;
 6. have no convictions by a court for crimes against humanity, criminal acts or deprivation of civil rights; and
 7. have not previously served a term as an appointed member of the Mining Technical Committee, except a reduced term under Article 7(4)1 or Article 7(4)2.
 - (3) The appointed members of the Mining Technical Committee after selection by the selection committee comprising representatives of the Ministry, the Independent Administrative Reforms and Civil Service Commission, the Ministry of Finance, the Ministry of Economy and the President's Office, shall be appointed by the President following a selection process which involves:
 1. the identification of candidates by an international and domestic search; and
 2. announcing the candidates list by a selection committee.
 - (4) Appointed members of the Mining Technical Committee shall serve in the first round for the hereunder mentioned terms upon establishment of the Mining Technical Committee:
 1. two (2) members shall be appointed for a term of two (2) years;
 2. two (2) members shall be appointed for a term of three (3) years; and
 3. one (1) member shall be appointed for a term of four (4) years.
 - (5) The appointed members of the Mining Technical Committee for the next rounds will be appointed for a period of four years.
 - (6) The President shall appoint one member of the Mining Technical Committee to act as Chairperson for a period of two (2) years.
 - (7) The appointed members of the Mining Technical Committee will be paid a full-time salary determined by Cabinet which shall be paid from the Ministry's budget.
 - (8) All decisions of the Mining Technical Committee shall be made in presence of the majority members and by simple majority vote.
 - (9) A meeting of 5 members of the Mining Technical Committee shall constitute a quorum.

- (10) In the event of a casual vacancy in the office of a member of the Mining Technical Committee, the Mining Technical Committee may discharge functions provided there is quorum.
- (11) Minutes shall be kept of meetings of the Mining Technical Committee.
- (12) Meetings of the Mining Technical Committee shall be conducted in accordance with any procedures prepared by the Mining Technical Committee and approved by the High Economic Council.
- (13) Members of the Mining Technical Committee shall comply with the Asset Declaration Law as if those persons held a position referred to in Article 8 of the Asset Declaration Law.

Article 8: Functions of the Mining Technical Committee

- (1) The Mining Technical Committee shall have the following functions:
 1. making recommendations in respect of a declaration or cancellation of Large-scale Mining Areas, Small Scale Mining Areas and Prohibited Areas under Article 19;
 2. evaluating Feasibility Studies and Mining Proposals and issuing Mine Development Reports under Article 28(7);
 3. evaluating applications for the grant of Small-scale Mining Licences and making recommendations in respect of any conditions relating to Small-scale Work Programs under Article 29;
 4. making recommendations in respect of variations to Exploration Programs, Mining Proposals or Small-scale Work Programs under Article 33;
 5. making recommendations in respect of the export policies under Article 36;
 6. making recommendations in respect of the use of existing Infrastructure under Article 37;
 7. evaluating tender proposals and issuing evaluation reports under Article 44 and Article 45;
 8. determining any short-fall that is due in relation to a Royalty under Article 52(6);
 9. making recommendations in respect of the suspension and revocation of Exploration Licences and Exploitation Licences under Article 59 and Article 60; and
 10. making recommendations in relation to the execution of Mining Concessions to replace a Transitional Licence under Article 74.
- (2) The Ministry shall provide support to the Mining Technical Committee and assist it in discharging its responsibilities under Article 8(1) including by:
 1. collating and summarising relevant information;
 2. preparing preliminary draft papers;
 3. providing technical information upon request; and
 4. providing all necessary administrative support.

Article 9: Functions of the High Economic Council

- (1) The High Economic Council shall have the following functions under this Law:
1. approving procedures for the conduct of meetings of the Mining Technical Committee under Article 7(12);
 2. endorsing Restricted Minerals Programs under Article 18;
 3. endorsing or rejecting the declaration or cancellation of Large-scale Mining Areas, Small Scale Mining Areas and Prohibited Areas under Article 19;
 4. providing approval to the Ministry to negotiate Mining Concessions to replace Transitional Licences under Article 74;
 5. approving or rejecting Mining Proposals and determining any conditions relating to the Mining Proposal under Article 28(8);
 6. recommending the grant or refusal of Small-scale Mining Licences under Article 29(6);
 7. approving or refusing variations to Exploration Programs, Mining Proposals or Small-scale Work Programs under Article 33;
 8. approving export policies under Article 36;
 9. approving model forms of Mining Concessions under Article 40;
 10. approving or rejecting the award of Mining Concessions or terminating bidding processes under Article 45(1) and Article 45(5);
 11. approving guidelines prepared under Article 28(12) and Article 47(3);
 12. determining the quantum of Performance Bonds under Article 53;
 13. approving the suspension and revocation of Exploration Licences and Exploitation Licences under Article 59 and Article 60;
 14. approving the compulsory acquisition of land under Article 71; and
 15. approving the negotiation and execution of a Mining Concession to replace a Transitional Licence under Article 74.

Article 10: Functions of the National Procurement Authority

- (1) The National Procurement Authority shall have the following responsibilities and powers under this Law:
1. monitoring bidding processes in accordance with Article 47(1);
 2. preparing an audit report under Article 47(1)2;
 3. preparing guidelines under Article 28(12) and Article 47(3); and
 4. making recommendations to the Ministry under Article 47(3) in relation to practices and procedures for bidding processes.

- (2) The National Procurement Authority does not have any duties or powers in respect of the bidding process, except to the extent provided in this Law.

Article 11: Functions of the National Procurement Commission

- (1) The sole responsibility and power of the National Procurement Commission under this Law shall be approving the award of the Mining Concession or terminating the bidding process under Article 45(2) and Article 45(6).
- (2) The National Procurement Commission does not have any duties or powers in respect of the bidding process initiated under Article 41 except to the extent provided in this Law.

Article 12: Functions of the Cabinet

- (1) Cabinet shall have the following functions under this Law:
 1. determining the salaries of appointed members of the Mining Technical Committee under Article 7(7);
 2. approving Restricted Minerals Programs under Article 18;
 3. approving or rejecting the declaration or cancellation of Large-scale Mining Areas, Small-scale Mining Areas and Prohibited Areas under Article 19; and
 4. endorsing or rejecting the award of Mining Concessions or terminating bidding processes under Article 45(2) and Article 45(6).

Article 13: Conflict of Interests and Corrupt Practices

- (1) If a Public Official has a direct or indirect pecuniary or other personal interest in the exercise of any responsibility or power under this Law which could impact the exercise of impartial judgement in relation to the exercise of that responsibility or power, the Public Official must immediately disclose the nature of that interest to the decision making body and not participate in the exercise of that responsibility or power.
- (2) A Person shall not offer, promise or provide or cause to be offered, promised or provided to a Public Official any payment, benefit or any other advantage with the intention of improperly influencing the performance of a function under this Law.
- (3) A Public Official shall not request, solicit, accept or cause to be requested solicited or accepted a payment, benefit or any other advantage with the intention that the performance of a function under this Law is improperly influenced.
- (4) A Politically Exposed Person must not be an Owner of a Concession Holder, a Licence Holder or the holder of a Transitional Licence.
- (5) It shall be an offence, which may be referred for prosecution under Article 61, to contravene this Article 13.

Article 14: Participation in the Mining Industry

- (1) Within 12 months of the commencement of this Law, the Ministry must take all steps within its power which are necessary to:
 1. vest ownership and control of Mazar-e-Sharif Fertilizer and Power Plant in a limited liability company owned partly or wholly by the State;

2. vest ownership and control of North Coal Enterprise in a limited liability company owned partly or wholly by the State;
 3. vest ownership and control of Afghan Gas Enterprise in a limited liability company owned partly or wholly by the State; and
 4. vest ownership and control of Jabal-al-Saraj Cement Enterprise in a limited liability company owned partly or wholly by the State.
- (2) Upon the divestment of the State owned industries under Article 14(2), the Ministry must not undertake Mineral Activities, save that the Ministry may undertake or engage any Person to undertake Reconnaissance for the purpose of a declaration under Article 19 or initiating a bidding process under Article 41 in respect of any land that is not within a Restricted Area.

CHAPTER THREE: FRAMEWORK FOR ALLOCATION OF MINERAL RIGHTS

Article 15: Ownership Of Minerals

- (1) All Minerals existing in their natural state are the property of the State.
- (2) All Minerals extracted under a Licence in accordance with the conditions of the Licence (in any form of Product) are the property of the Licence Holder.

Article 16: Prohibition on Illegal Mining

- (1) Subject to Article 74, Mineral activities must be undertaken in accordance with this law.
- (2) Subject to Article 74, Exploration and Mining may only be undertaken under a Licence in accordance with the conditions of the Licence.
- (3) A Licence is not required for Processing or Ancillary Activities but Processing may be undertaken under an Exploitation Licence or a Small-scale Mining Licence.
- (4) Subject to Article 75(3), it shall be an offence which may be referred for prosecution under Article 61, to carry on illegal mining contrary to Article 16(1) and Article 16(2).

Article 17: Eligibility

- (1) The following Persons are not eligible to participate in bidding processes initiated under Article 41 to enter into Mining Concessions or to hold Licences:
 1. natural persons who:
 - have not attained the age of 18 years;
 - are not residents of Afghanistan;
 - are declared bankrupt;
 - do not hold an Investment Licence;
 - have been convicted of a contravention of this Law or had a Licence cancelled for non-compliance within the previous 3 years;

- have been convicted of an offence in relation to bribery or corruption within the previous 10 years;
 - are Politically Exposed Persons; or
 - are acting on behalf of a Politically Exposed Person, whether formally or informally, including under a trust arrangement.
2. Legal Entities who:
- are being liquidated or wound-up in insolvency;
 - do not hold an Investment Licence;
 - have been convicted of a contravention of this Law or had a Licence cancelled for non-compliance within the previous 3 years; or
 - have been convicted of an offence in relation to bribery or corruption within the previous 10 years;
3. Private Companies who:
- have an Owner who has been convicted of a contravention of this Law or had a Licence revoked for non-compliance within the previous 3 years;
 - have an Owner who has been convicted of an offence in relation to bribery or corruption within the previous 10 years; or
 - have an Owner who is a Politically Exposed Person.
4. Publicly Listed Companies who:
- have a Substantial Owner who has been convicted of a contravention of this Law or had a Licence revoked for non-compliance within the previous 3 years;
 - have a Substantial Owner who has been convicted of an offence in relation to bribery or corruption within the previous 10 years; or
 - have a Substantial Owner who is a Politically Exposed Person.
- (2) The following Persons are not eligible to hold Small-scale Mining Licences:
1. natural persons who are not citizens of Afghanistan; and
 2. Legal Entities that are not incorporated under the laws of Afghanistan; or
 3. Legal Entities who have a Majority Owner that is not a citizen of Afghanistan or incorporated under the laws of Afghanistan.
- (3) If a participant in a bidding process initiated under Article 41, a Concession Holder or a Licence Holder ceases to be eligible under Article 17(1) or Article 17(2), that Person must immediately advise the Ministry in writing in which case, the Ministry may:
1. reject that Person's Tender proposal under Article 43(5); or
 2. terminate the Mining Concession under Article 40(9); or

3. revoke the Licence under Article 60(1).
- (4) A person who becomes an Owner of a Private Company that is a Concession Holder, a Licence Holder or the holder of a Transitional Licence must notify the Ministry within 30 days.
- (5) A person who becomes a Substantial Owner of a Publicly Listed Company that is a Concession Holder, a Licence Holder or the holder of a Transitional Licence must notify the Ministry within 30 days.
- (6) A Legal Entity participating in a bidding process initiated under Article 41 who does not have an office or place of business in Afghanistan at the time the bidding process is initiated must establish an office or place of business in Afghanistan prior to executing a Mining Concession in accordance with Article 46(1).

Article 18: Restricted Minerals

Unless a Restricted Minerals Program has been approved by Cabinet with the prior endorsement of the High Economic Council following consultation with the National Security Council:

1. the Ministry may not undertake a bidding process for the award of a Mining Concession in respect of the Restricted Minerals under Article 41;
2. the Ministry may not grant a Licence in respect of the Restricted Mineral under Article 28 or Article 29; and
3. a Licence Holder may not undertake Mineral Activities in respect of the Restricted Minerals.

Article 19: Designation of Areas

- (1) The Ministry may, upon the recommendation of the Mining Technical Committee and with the approval of Cabinet, declare land to be either:
 1. a Large-scale Mining Area;
 2. a Small-scale Mining Area; or
 3. a Prohibited Area.
- (2) The declaration of a Small-scale Mining Area must specify:
 1. the Small-scale Minerals for which Small-scale Mining Licences in the relevant Small-scale Mining Area may be granted;
 2. the maximum area of Small-scale Mining Licences in the relevant Small-scale Mining Area which shall not exceed one (1) square kilometre; and
 3. the maximum depth of Small-scale Mining Licences in the relevant Small-scale Mining Area which shall not exceed 60 metres.
- (3) Land may not be declared to be a Prohibited Area unless it is considered in the public interest to prohibit Mineral Activities on the land having regard to factors such as national security, health and safety, environmental protection, the preservation of archaeological or cultural sites, the incompatibility of Mineral Activities with other land uses and any other factors prescribed in the Regulations.

- (4) The Ministry may, upon the recommendation of the Mining Technical Committee and with the approval of Cabinet and the prior endorsement of the High Economic Council, cancel a declaration of land under Article 19(1).

Article 20: Allocation of Mineral Rights

- (1) In respect of a Large-scale Mining Area, the Ministry may:
 1. initiate a bidding process for the award of a Mining Concession under Article 41; and
 2. grant Exploration Licences and Exploitation Licences under Article 28 in accordance with the terms of the Mining Concession; and
- (2) In respect of a large-scale Mining area the ministry may not grant Small-scale Mining Licences under Article 29.
- (3) In respect of a Small-scale Mining Area, the Ministry may grant Small-scale Mining Licences in respect of the Small-scale Minerals under Article 29; and
- (4) In respect of a Small-scale Mining Area, the Ministry may not:
 1. initiate a bidding process for the award of a Mining Concession under Article 41; or
 2. grant Exploration Licences and Exploitation Licences under Article 28.
- (5) In respect of a Prohibited Area, the Ministry may not:
 1. conduct Reconnaissance;
 2. undertake a bidding process for the award of a Mining Concession under Article 41; or
 3. grant Licences under Article 28 or Article 29.

CHAPTER FOUR: REGISTER AND TRANSPARENCY

Article 21: Register

- (1) The Ministry shall cause to be maintained a register, which records the details prescribed in the Regulations of all:
 1. Large-scale Mining Areas;
 2. Small-scale Mining Areas;
 3. Prohibited Areas;
 4. applicants for Licences;
 5. applications for Licences and Beneficial Ownership of applicants;
 6. granted Licences including details of the Licence specifications referred to in Article 27(2);
 7. approved Exploration Programs, Mining Proposals and Small-scale Work Programs;

8. Local Content Plans, Community Development Plans, Health and Safety Plans and Environmental Management Plans;
 9. Exploration Reports, Technical Reports, Environmental Reports and Royalty Reports;
 10. Licence Holders and Beneficial Ownership of Licence Holders;
 11. applications for and decisions in respect of Changes of Control of Licence Holders;
 12. the transfer of Licences and Licence Interests including applications for and decisions in respect of approval therefor;
 13. applications for and decisions in respect of the renewal and relinquishment of Licences;
 14. bidders and Beneficial Ownership of bidders;
 15. Mining Concessions;
 16. Concession Holders and Beneficial Ownership of Concession Holders;
 17. any compliance notice issued in respect of Licences under Article 57(1);
 18. any enforcement action taken in respect of Licences under Article 57; and
 19. licences and contracts granted prior to the commencement of operation of this Law.
- (2) The content of the Register shall be publicly available in accordance with the Regulations.

Article 22: Cadastral Survey Map

- (1) The Ministry shall cause to be maintained a Cadastral Survey Map.
- (2) The Cadastral Survey Map shall be publicly available in accordance with the Regulations.

Article 23: Notices and Communications

- (1) All notices, documents and correspondence issued by the Ministry to applicants, Licence Holders, bidders and Concession Holders will be deemed to have been received if delivered to the postal address in Afghanistan or the email address recorded in the Register.
- (2) Applicants, Licence Holders, bidders and Concession Holders are responsible for ensuring that the address recorded in Register is correct.

Article 24: Retention of Records, Exploration Data and Samples

- (1) The Ministry shall retain all documents relating to the following subject for a minimum of 10 years:
 1. bidding processes from the date of completion of the bidding process;
 2. Mining Concession from the date of termination or expiry of the Mining Concession; and
 3. Licence from the date of expiry, relinquishment or revocation of the Licence.
- (2) Licence Holders shall retain, for a minimum of 10 years from the date of expiry, relinquishment or revocation of a Licence, all documents:

1. relating to the Licence; and
 2. evidencing the information contained in any Royalty Reports.
- (3) Licence Holders shall retain all exploration data and all Mineral samples and drill core until the expiry or revocation of the Licence at which time all Mineral samples and drill core and a copy of all exploration data must be provided to the Geological Survey.

Article 25: Public Transparency

- (1) The Ministry must publish the following document in their website:
1. copies of all Mining Concessions and details of the Beneficial Ownership of the Concession Holder within 14 days of execution or assignment of the Mining Concession;
 2. copies of all Licences and details of the Beneficial Ownership of the Licence Holder within 14 days of grant or transfer of the Licence;
 3. copies of all tender notices; and
 4. copies of all audit reports prepared by the National Procurement Authority in relation to bidding processes initiated under Article 41.
- (2) Within 60 days after the expiry of each Quarter, the Ministry must publish a report of the Beneficial Ownership of all Concession Holders and all Licence Holders.
- (3) Within 60 days after the expiry of each Quarter, the Ministry must publish a revenue collection report which summarises:
1. the quantity, type and grade of Minerals recovered from each Licence and all Product sold during each Quarter; and
 2. the revenue which has been accounted for in accordance with Article 49 in respect of each Licence during each Quarter.
- (4) Within 90 days after the expiry of each year, the Ministry must publish a report which summarises:
1. the total mining revenue which has been accounted for in accordance with Article 49 during the year;
 2. funds appropriated to the Provincial Development Fund during the year under Article 50;
 3. provincial development undertaken utilising funds from the Provincial Development Fund under Article 50; and
 4. community initiatives implemented under Article 66.
- (5) Documents published under this Article 25 shall be published on the Ministry's website and in accordance with the Regulations in Dari or Pashto in English as soon as reasonably practicable thereafter.
- (6) Copies of the following documents shall be publicly available in accordance with the Regulations:
1. approved Exploration Programs, Mining Proposals and Small-scale Work Programs;

2. approved Local Content Plans, Community Development Plans, Health and Safety Plans and Environmental Management Plans; and
 3. Exploration Reports, Technical Reports, Environmental Reports and Royalty Reports.
- (7) Documents shall not be exempt from publication or public availability by reason that some of the content is confidential.

CHAPTER FIVE: LICENCES

Article 26: Licences

- (1) There shall be three types of licences:
 1. Small-scale Mining Licence;
 2. Exploration Licence; and
 3. Exploitation Licence.
- (2) Artisanal mining and other Mineral Activities that satisfy the requirements under Article 26(3) shall be conducted under a Small-scale Mining Licence.
- (3) Small-scale Mining Licences may only be granted under Article 29:
 1. to Afghan Persons who are eligible under Article 17(2);
 2. in respect of a Small-scale Mining Area designated under Article 19(1);
 3. in respect of the Small-Scale Minerals designated under Article 19(2)1 in accordance with Article 34(5);
 4. in respect of an area not greater than the maximum area designated under Article 19(2)2;
 5. in respect of a depth not greater than the maximum depth designated under Article 19(2)3; and
 6. in respect of operations that can be undertaken using Small-scale Infrastructure and Equipment which has an aggregate capital cost or value which does not exceed the sum prescribed in the Regulations in accordance with Article 34(5)4 and Article 35(4)9.
- (4) An Exploration Licence may only be granted:
 1. to a Concession Holder in accordance with the terms of the Mining Concession; and
 2. under Article 28(1) and Article 28(2) of this Law.
- (5) An Exploitation Licence may only be granted:
 1. to a Concession Holder in accordance with the terms of the Mining Concession; and
 2. under Article 28(3), Article 28(1) or Article 28(9).

Article 27: Nature of a Licence and Licence Specifications

- (1) A Licence constitutes a proprietary interest but does not confer an interest in land.
- (2) Every Licence shall be issued in a form which includes the following specifications:
 1. the type of Licence;
 2. the type of Mineral for which the Licence is granted;
 3. the name and address of the Licence Holder;
 4. the date on which the Licence was granted;
 5. the term of the Licence;
 6. a description of the Licence Area and a map depicting the Licence Area;
 7. the rights conferred by the Licence;
 8. conditions to which the Licence is subject; and
 9. any other specifications prescribed in the Regulations.
- (3) A Licence is valid and effective upon:
 1. the issue of the Licence to the Licence Holder;
 2. the recording of the Licence in the Register; and
 3. the publication of the Licence under Article 25.

Article 28: Grant of Exploration Licences and Exploitation Licences

- (1) Upon execution of a Mining Concession which provides for the grant of an Exploration Licence and a right of priority for the grant of an Exploitation Licence, the Ministry must, upon provision of any necessary Performance Bond and satisfaction of any conditions precedent in the Mining Concession, grant the Exploration Licence subject to the conditions specified in the Mining Concession including conditions relating to the Exploration Program.
- (2) Ministry must grant an Exploration License after receiving of the Performance Bond and satisfaction of any mentioned conditions precedent in the Mining contract.
- (3) Upon execution of a Mining Concession which provides for the grant of an Exploitation Licence, the Ministry must, upon provision of any necessary Performance Bond and satisfaction of any conditions precedent in the Mining Concession, grant the Exploitation Licence subject to the conditions specified in the Mining Concession including conditions relating to the Mining Proposal.
- (4) Ministry must grant an Exploitation License after receiving of the Performance Bond and satisfaction of any mentioned conditions precedent in the Mining contract.
- (5) A Mining Concession Holder who has a right of priority for the grant of an Exploitation Licence and who seeks the grant of an Exploitation Licence in accordance with a Mining Concession must lodge with the Ministry:

1. a Feasibility Study;
 2. a Mining Proposal;
 3. a proposed Environmental Management Plan;
 4. a proposed Local Content Plan;
 5. a proposed Community Development Plan; and
 6. a proposed Health and Safety Plan.
- (6) Upon lodgement of the Mining Proposal under Article 28(5), the Ministry must consult with the local community in the manner prescribed in the Regulations and other relevant Ministries and Government bodies in relation to any conditions relating to the Mining Proposal and prepare a report summarising the consultation.
- (7) The Mining Technical Committee is obliged to consider the consultation report prepared by the Ministry, evaluate the Feasibility Study and the Mining Proposal, assess commitments made in the documents referred to in Article 28(5) in respect of the Exploitation phase; and provide a Mine Development Report to the High Economic Council.
- (8) Having considered the Mine Development Report, the High Economic Council may:
1. refuse to approve the Mining Proposal if the Licence Holder has failed to comply with the terms of the Mining Concession or this Law in any material respect; or
 2. approve the Mining Proposal and determine any conditions relating to the Mining Proposal to be imposed upon the Exploitation Licence including any Performance Bond required under Article 53.
- (9) Upon approval of the Mining Proposal, the Ministry must, upon provision of any necessary Performance Bond, grant the Exploitation Licence subject to the conditions specified under the Mining Concession and the conditions relating to the Mining Proposal imposed by the High Economic Council.
- (10) Where a Licence Holder has lodged a Mining Proposal and that Exploration Licence is due to expire, the Exploration Licence will continue in force until that Mining Proposal is approved or refused.
- (11) Where the Holder of an Exploration Licence is granted an Exploitation Licence the Exploration Licence shall continue in force in respect of the portion of the Licence Area that is not the subject of the Exploitation Licence and the Exploration Licence shall be revoked in respect of the portion of the Licence Area that is the subject of the Exploitation Licence.
- (12) The National Procurement Authority shall in consultation with the Ministry, prepare for approval by the High Economic Council, guidelines which specify target time-frames for the steps comprising the grant of an Exploitation Licence under Article 28(5) to Article 28(9).
- (13) The Ministry and the Mining Technical Committee shall endeavour to discharge their responsibilities under Article 28(5) to Article 28(9) within the target time-frames specified in the guidelines.

Article 29: Applications for Small-scale Mining Licences

- (1) An application for a Small-scale Mining Licence shall contain the following information:

1. name and address of the applicant;
 2. if the applicant is a Legal Entity, the Beneficial Ownership of the applicant;
 3. a description and plan of the Licence Area;
 4. the Small-scale Minerals for which the Licence is sought;
 5. a Capability Statement;
 6. a Small-scale Work Program;
 7. a proposed Environmental Management Plan; and
 8. any other information prescribed in the Regulations.
- (2) An application for a Small-scale Mining Licence shall be lodged in the Ministry office prescribed in the Regulations.
- (3) The Ministry shall ensure that the date and time of lodgement of an application for a Small-scale Mining Licence is:
1. verified in accordance with the Regulations;
 2. recorded on the application and in the Register; and
- (4) Subject to Article 75 and Article 74(3) and Article 74(3), applications for Small-mining Licences in respect of common land are determined independently in accordance with the time and date of lodgement.
- (5) The Mining Technical Committee must prepare a report:
1. summarising whether:
 1. the application had priority under Article 29(4);
 2. the application complied with this Law; and
 3. having regard to the Capability Statement, the applicant has the ability to effectively implement the Small-scale Work Program and the proposed Environmental Management Plan; and
 2. recommending the conditions relating to the Small-scale Work Program to be imposed upon the Small-scale Mining Licence.
- (6) The Ministry shall, on a monthly basis, provide the reports of the Mining Technical Committee to the High Economic Council which shall, having considered the reports, approve:
1. the refusal of the application for the Small-scale Mining Licence if the High Economic Council is not satisfied that the application had priority under Article 29(4) or the application complied with this Law; or the applicant has the ability to effectively implement the Small-scale Work Program and the Environmental Management Plan; or
 2. the grant of the application for the Small-scale Mining Licence subject to conditions including conditions relating to the Small-scale Work Program.

- (7) The Ministry shall grant or reject the application for the Small-scale Mining Licence in accordance with the recommendation of the High Economic Council.

Article 30: Maximum area, Depth and Number of Licences

- (1) The boundaries of Licences shall be described in the manner prescribed in the Regulations by reference to the coordinates of the cadastral blocks in the Cadastral Survey Map.
- (2) The area of an Exploration Licence shall not exceed a total area of 250 square kilometres and be reduced in area by 50% by partial relinquishment as a condition of renewal and always comprise adjacent cadastral blocks.
- (3) The area of an Exploitation Licence shall not exceed the area reasonably required for the conduct of Exploitation Activities.
- (4) The area of a Small-scale Mining Licence shall not exceed the area specified in the declaration of the Small-scale mining Licence under Article 19(2).
- (5) The depth of a Small-scale Mining Licence shall not exceed the depth specified in the declaration of the Small-scale mining Licence under Article 19(2).
- (6) A Licence Holder may not be granted an Exploration License:
1. if collectively the Licence Holder or a Majority Owner of the Licence Holder holds or is a Majority Owner of Legal Entities that hold 5 or more Exploration Licences; or
 2. if collectively the Licence Holder or a Majority Owner of the Licence Holder holds or is a Majority Owner of Legal Entities that hold adjacent Exploration Licences which have an aggregate area which exceeds the maximum area under Article 30(2);
- (7) A Licence Holder may not be granted a Small-scale Mining License:
1. if collectively the Licence Holder or a Majority Owner of the Licence Holder holds or is a Majority Owner of Legal Entities that hold 5 or more Small-scale Mining Licences; or
 2. if collectively the Licence Holder or a Majority Owner of the Licence Holder holds or is a Majority Owner of Legal Entities that adjacent Small-scale Mining Licences which have an aggregate area which exceeds the maximum area under Article 29(4).

Article 31: Duration of Licence

- (1) An Exploration Licence shall be granted for an initial term of 3 years and up to 2 additional terms of 3 years with the approval of the Ministry.
- (2) An Exploitation Licence shall be granted for a term of 30 years and additional terms of up to 15 years with the approval of the Ministry.
- (3) A Small-scale Mining Licence shall be granted for a term of 5 years and additional terms of up to 5 years with the approval of the Ministry.
- (4) The Licence Holder shall apply for an extension of the term of a Licence not less than 90 days prior to the expiry of the current term.
- (5) The Ministry shall not approve the extension of the term of a Licence unless the Ministry is satisfied that:

1. the Licence Holder has complied in all material respects with this Law;
 2. in the case of an Exploration Licence or an Exploitation Licence, the Licence Holder has complied in all material respects with the terms of the Mining Concession; and
 3. in the case of an Exploration Licence, the Ministry has approved the relinquishment of 50% of the Licence Area in accordance with Article 32.
- (6) Where a Licence Holder has applied for an extension of the term of a Licence and that Licence is due to expire, the Licence will continue in force until that application is determined.

Article 32: Relinquishment of a Licence

- (1) A Licence Holder may relinquish a Licence or part of a Licence with the prior written approval of the Ministry.
- (2) The Ministry shall not approve the relinquishment of a Licence or part of a Licence unless the Ministry is satisfied that:
 1. the Licence Holder has complied in all material respects with this Law; and
 2. the Licence Holder has complied with its commitments under the Environmental Management Plan in respect of the land being relinquished.

Article 33: Variation of Exploration Programs, Mining Proposals and Small-scale Work Programs

- (1) A Licence Holder may apply for variation to an Exploration Program, Mining Proposal or Small-scale Work Program by lodging a proposed amended Exploration Program, Mining Proposal or Small-scale Work Program with the Ministry.
- (2) The Ministry may, with the prior recommendation of the Mining Technical Committee and the approval of the High Economic Council, grant or refuse the variation of an Exploration Program, Mining Proposal or Small-scale Work Program.

CHAPTER SIX: RIGHTS AND CONDITIONS OF LICENCES

Article 34: Rights Conferred by Licences

- (1) An Exploration Licence authorises the Licence Holder to undertake the following activities on the Licence Area in accordance with the conditions of the Exploration Licence:
 1. conduct Exploration in accordance with the Exploration Program in respect of the Minerals specified in the Licence;
 2. access the land with such personnel and Equipment as may be necessary or expedient for the purposes of conducting Exploration;
 3. remove samples of Minerals from the Licence Area for the purpose of Exploration up to the maximum amount prescribed in the Regulations;
 4. construct and use Infrastructure for the purpose of conducting Exploration; and
 5. extract and use surface and ground-water for the purpose of conducting Exploration, subject to compliance with the requirements of the Water Law.

6. The maximum amount of the Mineral sample which will be transferred pursuant to Article 34(1)3, prescribed in the regulation.
- (2) Subject to Article 74(5), the rights conferred by Article 34(1) are exclusive rights.
- (3) An Exploitation Licence authorises the Licence Holder to undertake the following activities on the Licence Area in accordance with the conditions of the Exploitation Licence:
1. conduct Exploitation or further Exploration in accordance with the Mining Proposal in respect of the Minerals specified in the Licence;
 2. access the land with such personnel and Equipment as may be necessary or expedient for the purposes of conducting Exploitation or further Exploration;
 3. remove samples of Minerals from the Licence Area for the purpose of Exploration;
 4. construct and use Infrastructure for the purpose of conducting Exploitation or further Exploration;
 5. extract and use surface and ground-water for the purpose of conducting Exploitation or further Exploration, subject to compliance with the requirements of the Water Law;
 6. stockpile Minerals and dispose of waste or tailings; and
 7. subject to Article 36, remove from the Licence Area for the purpose of commercial sale any Product extracted from the Licence Area.
- (4) Subject to Article 74(5), the rights conferred by Article 34(3) are exclusive rights.
- (5) A Small-scale Mining Licence authorises the Licence Holder to undertake the following activities on the Licence Area in accordance with the conditions of the Small-scale Mining Licence:
1. conduct Exploration and Exploitation in accordance with the Small-scale Work Program in respect of the Small-scale Minerals specified in the Licence;
 2. access the land with such personnel and Equipment as may be necessary or expedient for the purposes of conducting Exploration or Exploitation;
 3. remove from the Licence Area samples for the purpose of testing and analysis;
 4. construct and use Small-scale Infrastructure for the purpose of conducting Exploration or Exploitation;
 5. extract and use surface and ground-water for the purpose of conducting Exploration or Exploitation, subject to compliance with the requirements of the Water Law;
 6. to stockpile Small-scale Minerals and dispose of waste or tailings; and
 7. subject to Article 36, remove from the Licence Area for the purpose of commercial sale any Product derived from Small-scale Minerals extracted from the Licence Area.
- (6) Subject to Article 74(8), the rights conferred by Article 34(5) are exclusive rights.

Article 35: Licence Conditions

- (1) The Licence Holder must comply with the conditions of the Licence.
- (2) An Exploration Licence shall be subject to the following conditions:
 1. the Licence Holder shall not sell any Product extracted from the Licence Area;
 2. any conditions specified in the Mining Concession;
 3. the Licence Holder shall notify the Ministry of any change of Beneficial Ownership;
 4. the Licence Holder shall implement the Exploration Program and comply with any undertakings contained in the Exploration Program including the annual expenditure requirements specified in the Exploration Program unless a temporary exemption is granted in accordance with the Regulations;
 5. the Licence Holder shall pay the Surface Rent;
 6. the Licence Holder shall lodge a Technical Report with the Ministry within 30 days of the end of each Reporting Year;
 7. the Licence Holder shall lodge an Environmental Report with the Ministry and NEPA within 30 days of the end of each Reporting Year;
 8. the Licence Holder shall lodge an Exploration Report with the Ministry within 30 days of the end of each Quarter (irrespective of whether Exploration was conducted during the Quarter);
 9. the Exploration Licence Holder shall not commence ground-disturbing work until the Licence Holder has provided the Environmental Bond to the Ministry in accordance with Article 54(1);
 10. the Exploration Licence Holder shall prior to commencing ground-disturbing work obtain an Environmental Permit and comply with any conditions imposed upon the Environmental Permit;
 11. The Exploration Licence Holder shall prior to commencing ground-disturbing work lodge with the Ministry and obtain approval of an Environmental Management Plan and comply with any undertakings contained in or conditions imposed upon approval of the Environmental Management Plan;
 12. The Exploration Licence Holder shall prior to commencing ground-disturbing work lodge with the Ministry and obtain approval of a Local Content Plan and comply with any undertakings contained in or conditions imposed upon approval of the Local Content Plan;
 13. the Exploration Licence Holder shall prior to commencing ground-disturbing work, lodge with the Ministry and obtain approval of a Health and Safety Plan; and comply with any undertakings contained in or conditions imposed upon approval of the Health and Safety Plan; and
 14. the Exploration Licence Holder shall obtain a permit under Article 36 prior to constructing any Infrastructure.

- (3) An Exploitation Licence shall be subject to the following conditions:
1. any conditions specified in the Mining Concession;
 2. the Licence Holder shall notify the Ministry of any change of Beneficial Ownership;
 3. the Licence Holder shall implement the Mining Proposal and comply with any undertakings contained in the Mining Proposal unless a temporary exemption is obtained in accordance with the Regulations;
 4. the Licence Holder shall comply with any further conditions imposed by the High Economic Council under Article 28(8)2;
 5. the Licence Holder shall pay the Surface Rent and the Royalty;
 6. the Licence Holder shall lodge a Technical Report with the Ministry within 30 days of the end of each second Quarter;
 7. the Licence Holder shall lodge an Environmental Report with the Ministry and NEPA within 30 days of the end of each second Quarter;
 8. the Licence Holder shall lodge a Royalty Report with the Ministry within 30 days of the end of each Quarter (irrespective of whether Exploitation was conducted during the Quarter);
 9. the Licence Holder shall not commence ground-disturbing work until the Licence Holder has provided the Environmental Bond to the Ministry in accordance with Article 54(1);
 10. the Licence Holder shall lodge Audited Accounts with the Ministry within 90 days of the end of each Reporting Year;
 11. the Exploitation Licence Holder shall prior to commencing ground-disturbing work, obtain an Environmental Permit; and comply with any conditions imposed upon the Environmental Permit;
 12. the Exploitation Licence Holder shall prior to commencing ground-disturbing work, lodge with the Ministry and obtain approval of an Environmental Management Plan; and comply with any undertakings contained in or conditions imposed upon approval of the Environmental Management Plan;
 13. the Exploitation Licence Holder shall prior to commencing ground-disturbing work, lodge with the Ministry and obtain approval of a Local Content Plan; and comply with any undertakings contained in or conditions imposed upon approval of the Local Content Plan;
 14. the Exploitation Licence Holder shall prior to commencing ground-disturbing work, lodge with the Ministry and obtain approval of a Health and Safety Plan; and comply with any undertakings contained in or conditions imposed upon approval of the Health and Safety Plan;
 15. the Exploitation Licence Holder shall prior to commencing ground-disturbing work, lodge with the Ministry and obtain approval of a Community Development Plan; and comply with any undertakings contained in or conditions imposed upon approval of the Community Development Plan; and

16. the Exploitation Licence Holder shall obtain a permit under Article 36 prior to constructing any Infrastructure.
- (4) A Small-scale Mining Licence shall be subject to the following conditions:
1. the Licence Holder must notify the Ministry of any change of Beneficial Ownership;
 2. the Licence Holder shall implement the Small-scale Work Program and comply with any undertakings contained in the Small-scale Work Program unless a temporary exemption is obtained in accordance with the Regulations;
 3. the Licence Holder shall comply with any conditions imposed under Article 29;
 4. the Licence Holder shall pay the Surface Rent and the Royalty;
 5. the Licence Holder shall lodge a Technical Report with the Ministry within 30 days of the end of each Reporting Year;
 6. the Licence Holder shall lodge an Environmental Report with the Ministry and NEPA within 30 days of the end of each Reporting Year;
 7. the Licence Holder shall lodge an Exploration Report with the Ministry within 30 days of the end of each Quarter during which Exploration is conducted (irrespective of whether Exploration was conducted during the Quarter);
 8. the Licence Holder shall lodge a Royalty Report with the Ministry within 30 days of the end of each Quarter (irrespective of whether Exploitation was conducted during the Quarter);
 9. the Licence Holder shall not use Small-scale Infrastructure and Equipment on a Licence which has an aggregate capital cost or value which exceeds the amount prescribed in the Regulations;
 10. the Licence Holder shall not commence ground-disturbing work until the Licence Holder has provided any required Environmental Bond to the Ministry in accordance with Article 54(1);
 11. the Small-scale Mining Licence Holder shall prior to commencing ground-disturbing work, obtain an Environmental Permit; and comply with any conditions imposed upon the Environmental Permit;
 12. the Small-scale Mining Licence Holder shall prior to commencing ground-disturbing work, lodge with the Ministry and obtain approval of an Environmental Management Plan and comply with any undertakings contained in or conditions imposed upon approval of the Environmental Management Plan; and
 13. the Licence Holder shall obtain a permit under Article 37 prior to constructing any Small-scale Infrastructure.

Article 36: Export and Use of Product

- (1) The Ministry may, upon the recommendation of the Mining Technical Committee and with approval of the High Economic Council issue an export policy for particular Minerals which:
 1. prohibits the export of Product if it is economically feasible to undertake further processing of the Product within Afghanistan; or

2. regulates the export of Product.
- (2) If there is an applicable export policy, Product may not be exported from Afghanistan except in accordance with the export policy.
- (3) Restricted Minerals shall not be used or exported except in accordance with an applicable Restricted Minerals Program.

Article 37: Infrastructure

- (1) A Licence Holder must construct any Infrastructure required in connection with its Mineral Activities unless:
 1. the Ministry, having obtained the recommendation of the Mining Technical Committee, approves the use of existing or shared Infrastructure in accordance with the Regulations; and
 2. the Licence Holder has reached agreement with the owner or co-owners of that Infrastructure for that Infrastructure to be used in connection with the Mineral Activities.
- (2) A Licence Holder may apply for and the Ministry may grant a permit in accordance with the Regulations which authorises the construction of Infrastructure.
- (3) Subject to Article 37(4), a Licence Holder must remove any Infrastructure constructed on the Licence Area:
 1. prior to the expiry of the Licence under Article 31 or the relinquishment of the Licence under Article 32; or
 2. within 90 days of the revocation of the Licence under Article 60.
- (4) If the Ministry considers that any Infrastructure constructed on the Licence Area is of public utility for purposes other than the conduct of Mineral activities, the Ministry may, at any time prior to the expiration, relinquishment or revocation of the Licence, give notice to the Licence Holder that ownership of the Infrastructure will vest in the State upon the expiration, relinquishment or revocation of the Licence, in which case the Licence Holder must not remove the Infrastructure under Article 37(3).

CHAPTER SEVEN: DEALINGS

Article 38: Change of Control of Licence Holder

- (1) A Licence Holder must obtain the written approval of the Ministry to any Change of Control of the Licence Holder in accordance with the Regulations.
- (2) If a Change of Control of a Licence Holder occurs prior to the Licence Holder obtaining the written approval of the Ministry, the Licence shall be deemed to be suspended until the Ministry approves the Change of Control.
- (3) The Ministry shall approve a Change of Control if the Ministry is satisfied that:
 1. the Licence Holder has complied in all material respects with this Law;
 2. in the case of an Exploration Licence or an Exploitation Licence, the Licence Holder has complied in all material respects with the terms of the Mining Concession; and

3. in the case of an Exploration Licence or an Exploitation Licence, upon the Change of Control, the Licence Holder will have adequate technical and financial capacity.

Article 39: Transfer of Licence or Interest in a Licence

- (1) A Licence Holder shall not transfer a Licence or a Licence Interest unless:
 1. the Licence Holder has obtained the prior written approval of the Ministry in accordance with the Regulations; and
 2. in the case of an Exploration Licence or an Exploitation Licence, the Licence Holder has complied with any additional requirements under the Mining Concession.
- (2) The Ministry shall approve the transfer of a Licence or a Licence Interest if the Ministry is satisfied that:
 1. the Licence Holder has complied in all material respects with this Law;
 2. in the case of an Exploration Licence or an Exploitation Licence, the Licence Holder has complied in all material respects with the terms of the Mining Concession; and
 3. in the case of an Exploration Licence or an Exploitation Licence, the transferee has adequate technical and financial capacity.

CHAPTER EIGHT: MINING CONCESSIONS AND BIDDING PROCESSES

Article 40: Mining Concessions

- (1) A Mining Concession may only be entered into:
 1. following negotiations to replace a Transitional Licence under Article 74(5); or
 2. the conduct of a bidding process initiated under Article 41.
- (2) A Mining Concession shall:
 1. be consistent with the provisions of this Law;
 2. be based on the relevant model form of Mining Concession, subject to any departures identified in the tender proposal or agreed during the tender process;
 3. be consistent with the tender proposal;
 4. record the applicable Royalty in accordance with this Law;
 5. require the Concession Holder to notify the Ministry of any change of Beneficial Ownership of the Concession Holder; and
 6. include a provision in relation to domestic security which requires a Concession Holder to:
 1. undertake a security risk assessment in respect of the Licence Area;
 2. prepare a security plan in consultation with the Ministry;
 3. implement the domestic security plan; and

4. bear the costs of implementing the domestic security plan.
- (3) In the case of a Mining Concession for the grant of an Exploitation Licence, the Mining Concession shall:
1. provide that the Ministry must grant the Exploitation Licence immediately upon execution of the Mining Concession subject to provision of any necessary Performance Bond and satisfaction of any conditions precedent in the Mining Concession;
 2. require the Concession Holder to implement and comply with the Mining Proposal and any other commitments made in respect of the Exploitation phase; and
 3. specify the Performance Bond required in respect of the commitments in the Mining Proposal.
- (4) In the case of a Mining Concession which provides for the grant of an Exploration Licence and a right of priority for the grant of an Exploitation Licence, the Mining Concession shall:
1. provide that the Ministry must grant the Exploration Licence immediately upon execution of the Mining Concession subject to provision of any necessary Performance Bond and satisfaction of any conditions precedent in the Mining Concession;
 2. require the Concession Holder to implement and comply with the Exploration Program and any other commitments made in respect of the Exploration phase;
 3. specify the Performance Bond required in respect of the commitments in the Exploration Program; and
- (5) Based on Article 40(4) the Ministry must grant the Exploitation License provided that:
1. the Concession Holder has complied with the terms of the Mining Concession and this Law in all material respects;
 2. the Concession Holder has lodged a Feasibility Study and Mining Proposal with the Ministry; and
 3. the High Economic Council has approved the Mining Proposal and determined any conditions relating to the Mining Proposal to be imposed upon the Exploitation Licence.
- (6) Without limitation, a Mining Concession may, but is not required to, include provisions relating to:
1. stabilization in the event of future legislative reform;
 2. the development and funding of public works by the Concession Holder;
 3. payments due to the State under the Mining Concession;
 4. the financial guarantee of the Concession Holder's obligations under the Mining Concession;
 5. the assignment of the Mining Concession; and
 6. dispute resolution.
- (7) A Mining Concession shall not fetter the exercise of executive power under this Law.

- (8) The Ministry shall be responsible for administering Mining Concessions on behalf of the State including:
1. ensuring the State's obligations under the Mining Concession are discharged;
 2. exercising the State's rights under the Mining Concession;
 3. monitoring compliance with the Concession Holder's obligations under the Mining Concession; and
 4. issuing default notices and exercising contractual remedies in respect of non-compliance by the Concession Holder including terminating the Mining Concession.
- (9) The Ministry may, with the prior recommendation of the Mining Technical Committee and approval of the High Economic Council, terminate the Mining Concession:
1. in accordance with the terms of the Mining Concession; or
 2. if the Concession Holder ceases to be eligible under Article 17(1).
- (10) The Ministry shall prepare for the approval of the High Economic Council:
1. a model form of Mining Concession which provides for the grant of an Exploitation Licence; and
 2. a model form of Mining Concession which provides for the grant of an Exploration Licence and a right of priority for the grant of an Exploitation Licence.

Article 41: Initiation of Bidding Processes

- (1) The Ministry may conduct bidding processes for the award of a Mining Concession in respect of land within a Large-scale Mining Area.
- (2) A bidding process for the award of a Mining Concession may be initiated by the publication of a notice on the Ministry's website, international websites, local and national newspapers, and if required international newspapers, which shall include the following information:
1. whether the bidding process is in respect of a Mining Concession which provides for:
 1. the grant of an Exploitation Licence; or
 2. the grant of an Exploration Licence and a right of priority for the grant of an Exploitation Licence;
 2. the land the subject of the bidding process;
 3. applicable pre-qualification criteria and a summary of the process and deadline for pre-qualification to participate in the bidding process;
 4. the deadline for the submission of tender proposals which shall be not less than 30 days after the notice; and
 5. the amount of any bid security required to be submitted by bidders.

Article 42: Participation in Bidding Process

- (1) The Ministry shall ensure that a bidding process for the award of a Mining Concession:
 1. provides a fair opportunity for participation with all bidders who are eligible to hold a Licence under Article 17(1) and who satisfy any applicable pre-qualification criteria being invited to submit a proposal; and
 2. is conducted in an open and transparent manner.
- (2) The Ministry shall provide all participating bidders with a request for proposal which includes:
 1. the applicable tender evaluation criteria;
 2. information in relation to the opportunity;
 3. a copy of the model form of Mining Concession;
 4. the form and quantum of any necessary Performance Bond; and
 5. details of any other bidding requirements.

Article 43: Tender Proposals

- (1) A tender proposal shall be submitted in the form required by the Regulations and the request for proposal.
- (2) A tender proposal shall contain the following information:
 1. details of the Beneficial Ownership of the bidder;
 2. a proposed Environmental Management Plan;
 3. a proposed Local Content Plan;
 4. a proposed Health and Safety Plan;
 5. a departure table identifying any proposed variations to the model form of Mining Concession; and
 6. information relevant to the tender evaluation criteria.
- (3) In the case of a bidding process in respect of a Mining Concession which provides for the grant of an Exploration Licence and a right of priority for the grant of an Exploitation Licence, besides the mentioned conditions in Article 43(2) a tender proposal shall include the Exploration Program.
- (4) In the case of a bidding process in respect of a Mining Concession for the grant of an Exploitation Licence, besides the mentioned conditions in Article 43(2) a tender proposal shall include:
 1. a Mining Proposal; and
 2. a proposed Community Development Plan;

- (5) The Ministry may reject a tender proposal at any time if:
 1. the tender proposal is not submitted within the specified timeframe;
 2. the tender proposal does not satisfy any of the bidding requirements;
 3. the bidder is not eligible or ceases to be eligible under Article 17(1);
 4. the bidder engages in collusion with another bidder; or
 5. the bidder breaches any applicable laws related to bribery and corruption including the provisions of Article 13 of this Law; or
- (6) The Ministry may request clarification in relation to a bidder's tender proposal or further information in relation to any matter referred to in a bidder's tender proposal, including any proposed variations to the model form of Mining Concession identified in the departures table submitted as part of the tender proposal; and
- (7) The Ministry must provide all accepted tender proposals to the Mining Technical Committee.
- (8) The Ministry shall provide all necessary support to the Mining Technical Committee in accordance with Article 8(2) in relation to its evaluation of those tender proposals.

Article 44: Process for Evaluation of Bids

- (1) The Mining Technical Committee must evaluate the bids:
 1. in the case of a bidding process in respect of a Mining Concession which provides for the grant of only an Exploitation Licence, by having regard to:
 1. the Mining Proposal; and
 2. commitments made in the documents referred to in Article 43(2)2, Article 43(2)3, Article 43(2)4, Article 43(2)5, Article 43(4)1 and Article 43(4)2 in respect of the Exploitation phase;
- (2) The Mining Technical Committee in the case of a bidding process in respect of a Mining Concession which provides for the grant of an Exploration Licence and a right of priority for the grant of an Exploitation Licence, by having regard to:
 1. the Exploration Program; and
 2. commitments made in the documents referred to in Article 43(2)2, Article 43(2)3, Article 43(2)4 and Article 43(2)5 in respect of the Exploration phase but not to any commitments in respect of the Exploitation phase; and
- (3) The Mining Technical Committee must evaluate the bids by applying the specified tender evaluation criteria.
- (4) The Mining Technical Committee may direct the Ministry to request clarification in relation to a bidder's tender proposal or further information in relation to any matter referred to in a bidder's tender proposal, including any proposed variations to the model form of Mining Concession identified in the departures table submitted as part of the tender proposal;

- (5) The Mining Technical Committee may delegate responsibility for any negotiations in respect of any proposed variations to the model form of Mining Concession; and
- (6) The Mining Technical Committee may:
 1. must, having evaluated the tender proposals:
 1. prepare an evaluation report which summarises its evaluation of the tender proposals; and
 2. recommend a preferred bidder and a reserved bidder.

Article 45: Process for award of Mining Concessions

- (1) Having considered the evaluation report prepared by the Mining Technical Committee, its recommendation in respect of the preferred bidder, the terms of the proposed Mining Concession with the preferred bidder and the audit report prepared by the National Procurement Authority, the High Economic Council must assess the financial and technical merit of the preferred bidder's tender and may:
 1. approve the award of the Mining Concession to the preferred bidder;
 2. approve the award of the Mining Concession to the preferred bidder, on condition that a variation of the terms of the Mining Concession is agreed;
 3. reject the award of the Mining Concession to the preferred bidder; or
 4. terminate the bidding process.
- (2) Having received unconditional approval from the High Economic Council and considered the audit report prepared by the National Procurement Authority under Article 47(1)2 and the terms of the proposed Mining Concession with the preferred bidder, the National Procurement Commission:
 1. must approve the award of the Mining Concession to the preferred bidder if it is satisfied that the bidding process met the objectives under Article 42(1) and complied with this Law and that the terms of the Mining Concession comply with this Law; or
 2. may terminate the bidding process if it is not satisfied.
- (3) Having received approval from the High Economic Council and the National Procurement Commission and considered the evaluation report prepared by the Mining Technical Committee and its recommendation in respect of the preferred bidder, Cabinet may:
 1. endorse the award of the Mining Concession to the preferred bidder;
 2. reject the award of the Mining Concession to the preferred bidder; or
 3. terminate the bidding process.
- (4) If the High Economic Council or Cabinet rejects the award of the Mining Concession to the preferred bidder or if the preferred bidder fails to execute the Mining Concession, the Mining Technical Committee must recommend the reserve bidder.
- (5) Having considered the evaluation report prepared by the Mining Technical Committee, its recommendation in respect of the reserve bidder, the terms of the proposed Mining Concession with the reserve bidder and the audit report prepared by the National Procurement Authority,

the High Economic Council must assess the financial and technical merit of the reserve bidder's tender and may:

1. approve the award of the Mining Concession to the reserve bidder;
 2. approve the award of the Mining Concession to the reserve bidder, on condition that a variation of the terms of the Mining Concession is agreed; or
 3. terminate the bidding process.
- (6) Having received unconditional approval from the High Economic Council and considered the audit report prepared by the National Procurement Authority under Article 47(1)2 and the terms of the proposed Mining Concession with the reserve bidder, the National Procurement Commission:
1. must approve the award of the Mining Concession to the reserve bidder if it is satisfied that the bidding process met the objectives under Article 42(1) and complied with this Law and that the terms of the Mining Concession comply with this Law; or
 2. may terminate the bidding process if it is not satisfied.
- (7) Having received approval from the High Economic Council and the National Procurement Commission and considered the evaluation report prepared by the Mining Technical Committee and its recommendation in respect of the reserve bidder, Cabinet may:
1. endorse the award of the Mining Concession to the reserve bidder; or
 2. terminate the bidding process.

Article 46: Execution of Mining Concession

- (1) Upon endorsement of the award of the Mining Concession by Cabinet, the Minister shall execute the Mining Concession on behalf of the State and procure that the successful bidder executes the Mining Concession.
- (2) A Mining Concession is valid and effective upon the recording of the Mining Concession in the Register and the publication of the Mining Concession under Article 25(1).
- (3) Upon the request of an unsuccessful bidder, the Ministry must provide a tender debrief to the unsuccessful bidder.
- (4) At a tender debrief, the Ministry shall advise how the bidder's tender proposal was evaluated against the applicable tender evaluation criteria;
- (5) The Ministry shall not disclose any information about competing bids or the evaluation of competing bids.

Article 47: Role of National Procurement Authority

- (1) The National Procurement Authority must:
 1. monitor each bidding process and assess whether:
 1. the bidding process complied with this Law;
 2. the extent to which the objectives referred to in Article 42(1) are achieved; and

3. the extent to which the target time-frames in the tender guidelines were achieved; and
 2. prepare an audit report which summarises its assessment of the bidding process and provide it to the National Procurement Commission for consideration under Article 45(2).
- (2) The Ministry and the Mining Technical Committee must cooperate with the National Procurement Authority in undertaking its functions under Article 47(1)1 and provide any information requested by the National Procurement Authority.
- (3) The National Procurement Authority shall in consultation with the Ministry, prepare for approval by the High Economic Council, guidelines which specify target time-frames for the steps comprising the tender process.
- (4) The National Procurement Authority shall make recommendations to the Ministry in relation to practices and procedures to better achieve efficiency, transparency and compliance in bidding processes initiated under Article 42(1) including to facilitate the use of information technology in bidding processes.
- (5) The Ministry and the Mining Technical Committee shall endeavour to discharge their responsibilities under this Article 40 within the target time-frames specified in the tender guidelines.

CHAPTER NINE: MINING REVENUE

Article 48: Taxes

- (1) Licence Holders shall not be liable to pay land tax by reason that they are Licence Holders.
- (2) Subject to Article 48(1), Licence Holders and their contractors, advisors and employees shall be liable to pay all applicable taxes and duties in accordance with the law of Afghanistan.

Article 49: Accounting of Mining Revenue

- (1) All revenue payable under this Law including Royalties, Surface Rent, Fees and penalties shall be:
 1. paid into the general revenue account of the State; and
 2. allocated a code in the State's revenue accounts to identify it as mining revenue and the Licence to which it relates.
- (2) The Ministry shall be responsible for collecting all Royalties, Surface Rents, Fees and penalties payable under this Law and may, without limitation, refer the matter to the Attorney-General for recovery action.
- (3) All Royalties, Surface Rents, Fees and penalties payable under this Law may be recovered as a debt due.

Article 50: Provincial Development Fund

- (1) 5% of revenue paid into the general revenue account of the State under this Law in accordance with Article 49 in connection with Exploration Licences and Exploitation Licence shall be appropriated annually into the Provincial Development Fund.

- (2) 8% of revenue paid into the general revenue account of the State under this Law in accordance with Article 49 in connection with Small-scale Mining Licences shall be appropriated annually into the Provincial Development Fund.
- (3) The Independent Directorate of Local Governance shall, in accordance with the Regulations, ensure that revenue appropriated into the Provincial Development Fund is:
 1. invested in initiatives for the benefit of the province in which the relevant Licence is situated in accordance with an economic development plan prepared by the responsible Ministry; or
 2. transferred to the Municipal Incentive Fund and invested in initiatives for the benefit of Municipalities in the province in which the relevant Licence is situated.

Article 51: Royalties

- (1) A Licence Holder shall, within 30 days of the end of each Quarter:
 1. lodge a Royalty Report with the Ministry (irrespective of whether Exploitation was conducted during the Quarter); and
 2. pay any Royalty due in respect of that Quarter.
- (2) The Royalty shall be calculated:
 1. in the case of Construction Materials which have a royalty rate prescribed in the Regulations, by reference to the fixed sum per unit volume of the specified Mineral;
 2. otherwise by reference to the following percentage of the Royalty Value of the specified Product:

Primary Product -	7.5%;
Secondary Product -	5%; and
Tertiary Product -	2.5%.
- (3) The Royalty Value shall be the Gross Revenue, unless the Gross Revenue is materially less than the Market Value including because the transaction for the sale or disposal of the Product was not a genuine arms-length transaction, in which case the Royalty Value shall be the Market Value.
- (4) The Licence Holder shall be responsible for determining if the Gross Revenue is materially less than the Market Value and this shall be disclosed in the Royalty Report but may be verified by the Ministry by conducting an audit in accordance with Article 52.
- (5) The applicable royalty rates specified in any Transitional Licence will continue to apply until:
 1. the Transitional Licence expires or is terminated in accordance with that law; or
 2. the Transitional Licence is converted to a Small-scale Mining Licence under Article 74(3) or a Mining Concession under Article 74(5).
- (6) The Royalty will be payable in respect of Product based on the Article 51(2)2, irrespective of whether the Product is derived from Minerals specified in the Licence.

Article 52: Royalty Audit

- (1) If the Audited Accounts disclose that there has been a shortfall in the payment of the Royalty, the Licence Holder shall pay the shortfall within 28 days.
- (2) The Ministry may at any time and must at the request of the Mining Technical Committee conduct an audit to determine whether the content of a Royalty Report is true and accurate including whether the Gross Revenue is materially less than the Market Value including because the transaction for the sale or disposal of the Product was not a genuine arms-length transaction.
- (3) The Licence Holder must provide any information or documents requested by the Ministry for the purpose of the audit.
- (4) If the Ministry finds that there been a shortfall in the payment of the Royalty, the Ministry shall issue a notice to the Licence Holder which identifies the shortfall and invites the Licence Holder to provide a submission within 28 days as to why the short-fall should not be paid.
- (5) The Ministry shall provide a report of the royalty audit to the Mining Technical Committee which includes a copy of any submission provided by the Licence Holder.
- (6) If the Mining Technical Committee determines that there has been a shortfall in the payment of the Royalty:
 1. the Ministry shall demand payment of the short-fall; and
 2. the Licence Holder shall pay the shortfall within 28 days.
- (7) If the information contained in a Royalty Report is inaccurate or misleading or there is a shortfall in the payment of the Royalty, the Licence Holder shall be liable for a penalty in accordance with the Regulations.
- (8) It shall be an offence which may be referred for prosecution under Article 61, to knowingly provide inaccurate or misleading information in a Royalty Report.

CHAPTER TEN: FINANCIAL ASSURANCE, COMPLIANCE AND ENFORCEMENT

Article 53: Performance Bonds

- (1) Performance Bonds may be required for Exploration Licences or Exploitation Licences but not for Small-scale Mining Licences.
- (2) Required Performance Bonds must be provided prior to grant of the Exploration Licence or Exploitation Licence.
- (3) The form and quantum of a required Performance Bond shall be specified in the Mining Concession.

Article 54: Environmental Bonds

- (1) Environmental Bonds shall be required for Exploration Licences and Exploitation Licences and may be required for Small-scale Mining Licences.
- (2) Required Environmental Bonds must be provided prior to the conduct of ground-disturbing work on the Licence Area.

- (3) The form and quantum of a required Environmental Bond shall be determined by the Ministry:
1. in accordance with the Regulations;
 2. having regard to the Environmental Management Plan; and
 3. in consultation with the NEPA.

Article 55: Consequences of Non-Compliance

- (1) If a Licence Holder is in non-compliance with a condition of a Licence, the Ministry may:
1. impose a penalty under Article 58;
 2. suspend the Licence under Article 59; and
 3. revoke the Licence under Article 60.
- (2) If a Licence Holder is in non-compliance with a commitment in the Exploration Program or a Mining Proposal, the Ministry may, in addition to the powers in Article 55(1), call on the Performance Bond.
- (3) If a Licence Holder is in non-compliance with a commitment in the Environmental Management Plan, the Ministry may, in addition to the powers in Article 55(1):
1. call on the Environmental Bond; and
 2. undertake remedial works and recover the cost thereof as a debt due from the Licence Holder.
- (4) If a Person contravenes a provision of this Law or provides false information to the Ministry, the Ministry may:
1. impose a penalty under Article 58; and
 2. refer the matter for prosecution under Article 61.

Article 56: Ministerial Monitoring

- (1) The Ministry shall be responsible for monitoring compliance with this Law and with the conditions of Licences and shall appoint a Compliance Officer to each Licence.
- (2) Compliance Officers may:
1. inspect the Licence Area;
 2. require any Person to produce documents or provide information; or
 3. require any Person to attend to be examined in relation to any matter.
- (3) Any Person who fails to cooperate with or hinders the Compliance Officer in the performance of their duties shall be liable for a penalty under Article 58.

Article 57: Enforcement Action

- (1) Except in circumstances posing an immediate risk to the environment or safety, prior to taking any enforcement action under Article 55, the Ministry must issue a compliance notice to the Licence Holder or Person which identifies the alleged non-compliance and proposed enforcement action and invites the Licence Holder or Person to provide a submission within 28 days as to why the enforcement action should not be taken.
- (2) In determining whether to take enforcement action under Article 55, the Ministry must consider:
 1. the materiality of non-compliance;
 2. any submissions received from the Licence Holder or Person in response to the compliance notice issued under Article 57(1); and
 3. any other matters prescribed in the Regulations.

Article 58: Imposition of Penalty

- (1) The Ministry may, by notice to a Licence Holder or Person, impose a penalty in respect of any non-compliance with this Law or the conditions of a Licence up to the maximum sum prescribed in the Regulations which shall be paid within 28 days.
- (2) If the penalty is imposed on a Licence Holder and the Licence Holder does not pay the penalty within 28 days, the Ministry may suspend the Licence under Article 59.

Article 59: Suspension of Licence

- (1) The Ministry may, by notice to a Licence Holder, suspend a Licence on the basis of a continuing non-compliance with this Law or a condition of the Licence in which case the Licence Holder may not conduct any Mineral Activities under the Licence.
- (2) Prior to issuing a notice of suspension in respect of an Exploration Licence or an Exploitation Licence, the Ministry must obtain a recommendation from the Mining Technical Committee and the approval of the High Economic Council.
- (3) If the Licence Holder remedies the non-compliance, the Ministry may by notice to the Licence Holder lift the suspension.
- (4) If a suspension has not been lifted within 12 months, the Ministry may revoke the Licence under Article 60.
- (5) Any Licence Holder who conducts Mineral Activities on the Licence Area in contravention of a suspension notice shall be liable for a penalty under Article 58 or referral of the matter for prosecution under Article 61.

Article 60: Revocation of Licence

- (1) The Ministry may, by notice to a Licence Holder, revoke a Licence:

1. in the event of a material non-compliance with this Law or a condition of the Licence;
 2. upon termination of the Mining Concession under which an Exploration Licence or an Exploitation Licence is granted; or
 3. if the Licence Holder ceases to be eligible under Article 17(1) or Article 17(2).
- (2) Prior to issuing a notice of revocation in respect of an Exploration Licence or an Exploitation Licence, the Ministry must obtain a recommendation from the Mining Technical Committee and the approval of the High Economic Council.
- (3) Any Licence Holder who conducts Mineral Activities on the Licence Area following revocation of the Licence shall be liable for a penalty under Article 58 or referral of the matter for prosecution under Article 61.
- (4) A former Licence Holder whose Licence has been revoked may access the Licence Area for 90 days from the date of revocation of the Licence for the sole purpose of removing any Infrastructure or Equipment owned by the Licence Holder.

Article 61: Prosecution

The Ministry may refer to the Attorney General for prosecution any offence which is prescribed in this Law or the Regulations.

Article 62: Community Monitoring and Compliance Reporting

- (1) The Ministry shall appoint an Ombudsman in accordance with the Regulations.
- (2) The Ombudsman shall:
 1. comply with any procedures prescribed in the Regulations;
 2. invite and receive submissions from the local community in relation to any concerns in connection with the conduct of Mineral Activities;
 3. maintain a record of local community submissions; and
 4. refer any potential issues of non-compliance to the Compliance Officer.
5. The Ombudsman shall publish an annual report summarising:
 1. local community submissions received during the year; and
 2. enforcement action taken under Article 53 during the year.

CHAPTER ELEVEN: ENVIRONMENTAL MANAGEMENT

Article 63: Environment Law

- (1) A Licence Holder shall comply with the Environment Law.
- (2) A Licence Holder shall, to the extent practicable, avoid, minimise, mitigate and remediate impacts to the environment caused by the conduct of Mineral Activities including by rehabilitating the land the subject of the Licence Area.

Article 64: Environmental Management Plan

- (1) NEPA shall assess whether:
 1. a proposed Environmental Management Plan complies with the requirements prescribed in the Regulations; and
 2. the implementation of the proposed Environmental Management Plan will discharge the Licence Holder's obligations under Article 63(2).
- (2) NEPA may:
 1. approve the Environmental Management Plan;
 2. require amendments to the Environmental Management Plan; or
 3. impose conditions on the approval of the Environmental Management Plan.
- (3) If either an environmental impact statement or a comprehensive mitigation plan is required by NEPA under the Environment Law, the Environmental Management Plan shall satisfy that requirement.

CHAPTER TWELVE: LOCAL CONTENT AND COMMUNITY DEVELOPMENT

Article 65: Local Content

- (1) A Licence Holder of an Exploration Licence or an Exploitation Licence shall endeavour to:
 1. maximise the engagement of local community personnel and Afghan personnel in connection with Mineral Activities on the Licence;
 2. give first priority to the employment of local community personnel and second priority to the employment of Afghan personnel, provided that suitably qualified personnel are available; and
 3. give priority to the procurement of Afghan goods and services, provided that goods and services of competitive quality and price are available.
- (2) The Ministry shall assess whether:
 1. a proposed Local Content Plan complies with the requirements of the Regulations; and
 2. the implementation of the proposed Local Content Plan will discharge the Licence Holder's obligations under Article 65(1).
- (3) The Ministry may:
 1. approve the Local Content Plan;
 2. require amendments to the Local Content Plan; or
 3. impose conditions on the approval of the Local Content Plan.

Article 66: Community Development Plan

- (1) A Licence Holder of an Exploitation Licence shall endeavour to contribute to the economic and social welfare of the local community including by:
 1. providing or contributing to the provision of infrastructure and essential services;
 2. providing or contributing to the provision of education and training;
 3. assisting the development of local businesses; and
 4. supporting other community initiatives.
- (2) A Licence Holder of an Exploitation Licence shall consult with the Ministry and the local community in identifying opportunities for the Licence Holder to contribute to the welfare of the local community and prepare a proposed Community Development Plan having regard to that consultation.
- (3) The Ministry shall assess whether:
 1. the proposed Community Development Plan complies with the requirements of the Regulations; and
 2. the implementation of the proposed Community Development Plan will discharge the Licence Holder's obligations under Article 66(1).
- (4) The Ministry may:
 1. approve the Community Development Plan;
 2. require amendments to the Community Development Plan; or
 3. impose conditions on the approval of the Community Development Plan.

CHAPTER THIRTEEN: HEALTH AND SAFETY

Article 67: Specific Duties

- (1) A Licence Holder shall, in addition to complying with its obligations under the Labor Law:
 1. provide appropriate training to all personnel engaged in Minerals Activities on the Licence Area to ensure that they undertake their duties in a safe manner;
 2. provide appropriate safety equipment to all personnel engaged in Minerals Activities on the Licence Area; and
 3. comply with any other health and safety requirements prescribed in the Regulations.
- (2) A Licence Holder shall ensure that explosives are used in accordance with the requirements prescribed in the Regulations.

Article 68: Reporting of Incidents

- (1) A Licence Holder shall immediately report to the Ministry any incident which:

1. causes a loss of life or harm to the health of personnel; or
2. involves a significant risk of loss of life or harm to the health of personnel.

Article 69: Health and Safety

- (1) A Licence Holder of an Exploration Licence or an Exploitation Licence shall provide a safe working environment for all personnel engaged in Mineral Activities on the Licence so that personnel are not exposed to risk of loss of life or harm to their health.
- (2) A Licence Holder of an Exploration Licence or an Exploitation Licence shall appoint a safety officer who is responsible for ensuring that the Licence Holder discharges its obligations under Article 69(1).

Article 70: Health and Safety Plan

- (1) The Ministry shall assess whether:
 1. a proposed Health and Safety Plan complies with the requirements prescribed in the Regulations; and
 2. the implementation of the proposed Health and Safety Plan will discharge the Licence Holder's obligations under Article 69(1).
- (2) The Ministry may:
 1. approve the Health and Safety Plan;
 2. require amendments to the Health and Safety Plan; or
 3. impose conditions on the approval of the Health and Safety Plan.

CHAPTER FOURTEEN: ACCESS TO LAND AND COMPENSATION

Article 71: Concurrent Land Uses

- (1) Where a Licence is granted in respect of land which is owned or occupied by another Person:
 1. in respect of land within 250 meters of an Improvement:
 1. the Licence Holder shall obtain the consent of the owner or occupier prior to undertaking Mineral Activities
 2. the Licence Holder pay the owner or occupier compensation for any loss suffered by the owner or occupier as a result of the conduct of the Mineral Activities; and
 3. if the owner or occupier does not consent, the land may, with the prior approval of the High Economic Council on the grounds that it is in the public interest, be compulsorily acquired under the Appropriation Law; or
 2. in respect of land which is not within 250 meters of an Improvement:
 1. the Licence Holder shall consult with the owner or occupier in order to avoid or minimise any conflict between the Mineral Activities and the activities of the owner or occupier; and

2. to the extent that the conflict between the Mineral Activities and the activities of the owner or occupier cannot be avoided as a result of consultation the Mineral Activities may be conducted in priority
 3. the Licence Holder shall pay the owner or occupier compensation for any loss suffered by the owner or occupier as a result of the conduct of the Mineral Activities.
- (2) Compensation for a loss suffered by the owner or occupier as a result of the conduct of the Mineral Activities shall be calculated in accordance with the Regulations and, if not agreed by the Licence Holder and the owner or occupier of the land, referred to the Valuation (Pricing) Committee established under the Appropriation Law for determination in accordance with the Regulations.

Article 72: Processing and Ancillary Activities

A Person may undertake Processing or Ancillary Activities on land which is not the subject of a Licence provided that:

1. the Person owns the land or holds a lease over the land.
2. In the case of performing Processing Activities, the person obtains a processing permit.

Article 73: Archaeological and Cultural Relics

- (1) If in the course of conducting Mineral Activities, a Licence Holder discovers an archaeological or cultural relic or site, the Licence Holder shall immediately:
 1. notify the Ministry and the Ministry of Culture and Information; and
 2. cease conducting Mineral Activities in proximity to the archaeological or cultural relic or site until the Ministry grants approval for the recommencement of Mineral Activities which may require compliance with additional conditions.
- (2) The Ministry of Culture and Information must, within 3 months, provide a report to the Ministry in relation to the archaeological or cultural relic or site and any additional conditions that must be complied with by the Licence Holder.

CHAPTER FIFTEEN: MISCELLANEOUS PROVISIONS

Article 74: Transitional Licences

- (1) Subject to Article 13(4), Article 13(5), Article 17(4), Article 17(5) and this Article 74, this Law does not apply to Transitional Licences.
- (2) Subject to Article 74(11), a Transitional Licence shall continue in force in accordance with the law under which it was granted until:
 1. the Transitional Licence expires or is terminated in accordance with that law; or
 2. the Transitional Licence is converted to a Small-scale Mining Licence under Article 74(3) or a Mining Concession under Article 74(5).
- (3) If the holder of the Transitional Licence has a right to renew the term of the Transitional Licence, the holder of the Transitional Licence may, prior to the expiry of the Transitional

Licence, apply for one or more Small-scale Mining Licences under Article 29 in respect of the land the subject of the Transitional Licence.

- (4) In the case of lodgement of proposals in accordance to Article 74 (3), the following shall be observed:
 1. the holder of the Transitional Licence has priority for the grant of the Small-scale Mining Licence;
 2. the application for the grant of the Small-scale Mining Licence shall be processed in accordance with this Law;
 3. the Transitional Licence shall continue in force until that application is determined; and
 4. the Transitional Licence shall be revoked upon grant of the Small-scale Mining Licence.
- (5) With the prior approval of the High Economic Council, the Ministry may:
 1. negotiate a Mining Concession with the holder of a Transitional Licence to replace the Transitional Licence; and
 2. delegate responsibility for those negotiations.
- (6) The Ministry shall not execute a Mining Concession negotiated under Article 74(5) which involves a departure from the model form of Mining Concession without the prior approval of the High Economic Council having considered a recommendation from the Mining Technical Committee.
- (7) An Exploration Licence or an Exploitation Licence may be granted in respect of Transitional Licence but the Licence Holder shall not conduct any Mineral Activities in respect of the land the subject of that Transitional Licence unless:
 1. written agreement is reached with the holder of that Transitional Licence by which the holder consents to the conduct of those Mineral Activities; or
 2. that Transitional Licence expires or is terminated.
- (8) A Small-scale Mining Licence may not be granted in respect of land the subject of a Transitional Licence save to the holder of the Transitional Licence under Article 74(1) unless written agreement is reached with the holder of that licence by which the holder of the Transitional Licence consents to grant.
- (9) This Law does not apply to a bidding process for the award of a contract in respect of mineral rights initiated prior to but not completed prior to the commencement of this Law.
- (10) A bidding process initiated prior to but not completed prior to the commencement of this Law shall, subject to Article 74(11), be conducted and a contract awarded in accordance with the Minerals Law which was applicable to that bidding process prior to the commencement of this Law, unless the bidding process is terminated by the Ministry.
- (11) For the purpose of Article 74(2) and Article 74(10), any reference to:
 1. the "Inter-Ministerial Commission" in the Minerals Law 2010 published in Official Gazette Number (972) or a Transitional Licence shall be deemed to be a reference to the High Economic Council;

2. any reference to the "Commission" in the Minerals Law 2014 published in Official Gazette Number (1143) or a Transitional Licence shall be deemed to be a reference to the High Economic Council; and
 3. any reference to the "Council of Ministers" in the Minerals Law 2014 published in Official Gazette Number (1143) or a Transitional Licence shall be deemed to be a reference to Cabinet.
- (12) Until the first 3 members have been appointed to the Mining Technical Committee under Article 7(3) which enables quorum to be achieved under Article 7(9), the functions of the Mining Technical Committee shall be discharged by the Minister.

Article 75: Artisanal and Illegal Mining

- (1) If a Person was undertaking Mineral Activities without a Transitional Licence prior to the commencement of this Law, upon declaration of a Small-scale Mining Area in respect of the land the subject of those Mineral Activities:
 1. that Person has priority to the grant of a Small-scale Mining Licence in respect of that land, provided that a Small-scale Mining Licence has not been granted to another Person in respect of that land; and
 2. that Person may lodge an application for a Small-scale Mining Licence under Article 29 in respect of that land together with a statement in accordance with the Regulations substantiating the undertaking of those Mineral Activities.
- (2) An application for the grant of the Small-scale Mining Licence under Article 75(1) shall be processed in accordance with this Law provided that:
 1. the report of the Mining Technical Committee under Article 29(5) shall also summarise whether the Person was undertaking Mineral Activities on the land prior to the commencement of this Law; and
 2. the High Economic Council shall approve refusal of the application unless it is satisfied that the Person was undertaking Mineral Activities on the land prior to the commencement of this Law.
- (3) If, prior to commencement of this Law, a Person was undertaking Mineral Activities without a Transitional Licence, and that Person applies for one or more Small-scale Mining Licences in respect of the land the subject of those Mineral Activities within 12 months of the declaration of a Small-scale Mining Area in respect of that land, that Person shall not be prosecuted for undertaking those Mineral Activities prior to the grant of the Small-scale Mining Licence.

Article 76: Promulgation of Regulations

- (1) Regulations may be made in respect of the following matters:
 1. the manner by which the Ministry shall consult with the local community as required under this Law;
 2. the designation of Large-scale Mining Areas; Small-scale Mining Areas and Prohibited Areas;
 3. additional factors to be considered in the designation of a Prohibited Area;

4. prescribing types of Minerals as Restricted Minerals;
 5. prescribing types of Minerals as Small-scale Minerals;
 6. prescribing types of Minerals as Construction Materials;
 7. prescribing metallurgical products as Secondary Product;
 8. prescribing concentration of Minerals for Secondary Product and Tertiary Product;
 9. the designation of Infrastructure and Small-Scale Infrastructure;
 10. the maximum aggregate capital cost or value of Small-Scale Infrastructure or Equipment;
 11. the necessary content of:
 1. Exploration Programs, Feasibility Studies, Mining Proposals, Restricted Minerals Programs and Small-scale Work Programs and Capability Statements; and
 2. Local Content Plans, Community Development Plans, Health and Safety Plans and Environmental Management Plans; and
 3. Exploration Reports, Technical Reports, Environmental Reports and Royalty Reports;
 12. additional matters to be included in the Ministry's annual plans;
 13. additional specifications to be included in Licences;
 14. additional information required for an application for the grant of a Small-scale Mining Licence;
 15. the procedure and relevant considerations for the approval of an application for a Small-scale Mining Licence;
 16. the procedures and grounds for the grant of a temporary exemption from the implementation of Exploration Programs, Mining Proposals or Small-scale Works Programs;
 17. additional conditions to be imposed upon the grant of Licences;
 18. the obligation of a Licence Holder of a Small-scale Mining Licence to continuously work the land the subject of the Licence Area;
 19. the manner in which the boundaries of a Licence are to be described;
 20. further procedures and requirements for the bidding process;
 21. pre-qualification criteria for participating in the bidding process;
 22. tender evaluation criteria;
 23. requirements and procedures for bid securities;
 24. the procedure and relevant considerations for the approval of:
 - extensions of term of Licences;
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- relinquishment of Licences.
 - transfer of Licences or Licence Interests;
 - Change of Control of Licence Holders;
 - the export of unprocessed Product from Afghanistan;
 - the use of existing Infrastructure;
 - permits authorising the construction of Infrastructure; and
 - permits authorising Processing on land that is not the subject of a Licence;
25. the amount of Surface Rent payable for each type of Licence based on the area of that Licence;
 26. Fees payable to the State by bidders, Concession Holders, Licence Holders and applicants for Licences in respect of the administrative processes under this Law;
 27. the requirements for preparation and auditing of Audited Accounts;
 28. the procedure for the publication of documents required to be published by the Ministry;
 29. details required to be recorded on and the procedure for public access of the Register;
 30. the maintenance of and the procedure for public access of the Cadastral Survey Map;
 31. accounting procedures in respect of the allocation of codes to mining revenue received by the State under this Law;
 32. the procedure and relevant considerations for the determination of market value of Minerals including applicable benchmarks;
 33. the Royalty payable in respect of Construction Materials;
 34. the procedure and relevant considerations for the determination of Performance Bonds;
 35. the procedure and relevant considerations for the determination of Environmental Bonds;
 36. the procedure and relevant considerations for the determination of compensation to be paid to an owner or occupier of land;
 37. relevant considerations for the Ministry in determining whether to take enforcement action;
 38. maximum penalties in respect of any non-compliance with this Law or a condition of a Licence;
 39. offences for non-compliance with this Law or the Regulations and maximum sentences for those offences;
 40. additional health and safety obligations including requirements for the use of explosives;
 41. practices and procedures to be followed by the Ombudsman;

42. the necessary content of a statement substantiating the conduct of unlicensed Mineral Activities; and
43. any other matters for the purpose of better implementing the provisions of this Law.

Article 77: Effective Date

This Law shall enter into force as of the date of promulgation in the Official Gazette. Upon this Law entering into force, the Mineral Law of Afghanistan adopted and published in Official Gazette Number [insert] from the year [insert] and other provisions that are inconsistent with this Law shall be void save insofar as they continue to apply to Transitional Licences under Article 74.

End.