



Dated *October 05/* 2018



(1) THE MINISTRY OF MINES AND
PETROLEUM OF THE GOVERNMENT OF
THE ISLAMIC REPUBLIC OF
AFGHANISTAN

and

(2) AFGHAN GOLD AND MINERALS
COMPANY

MINING CONTRACT
relating to Balkhab Project

PAJHWOK
Afghan News

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THIS MINING CONTRACT (as amended, modified or supplemented from time to time in accordance with the terms hereof, this "Contract") is dated **October 05/** 2018 and made between:

1. **THE MINISTRY OF MINES AND PETROLEUM OF THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF AFGHANISTAN** (the "MoMP"); and
2. **AFGHAN GOLD AND MINERALS COMPANY** (the "Company") which is duly authorized and constituted under the laws of the Islamic Republic of Afghanistan having its registered office at Hakim Nasir Khesraw Balkhi Building, Charahi Sarsabzi, Taimany, Kabul, Afghanistan, and qualified to do business in the State under AISA License #D3863.

BACKGROUND:

- A. All naturally occurring minerals on the surface or subsurface of the territory of Afghanistan are the exclusive property of the State.
- B. The Company desires to conduct Mining Activities in the Mining Area and for this purpose participated in the Tender Process relating to the award of licenses to conduct mining exploration and exploitation activity within the Mining Area.
- C. The Company has been selected as the successful bidder under the Tender Process to carry out the Mining Activities within the Mining Area.
- D. The Company is entitled to obtain the right to prospect, explore, exploit, process, transform, transport, export, market and sell Mineral Substances within the Mining Area as contemplated by the Tender Process.
- E. The Company intends to develop and operate the Project in a manner which will ensure its long term sustainability as well as protecting the natural environment of the State, and promoting social and economic growth in the State.
- F. This Contract is entered into in accordance with the requirements of the Tender Process and Applicable Law.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL RIGHTS AND OBLIGATIONS CONTAINED IN THIS CONTRACT AND OF OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES HEREBY AGREE AS FOLLOWS:



PART 1
DEFINITIONS AND INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

"Affiliate" means an entity that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with the Company;

"Afghan Public Protection Force" means the entity established by the Ministry of the Interior of the State for the purpose of providing security for projects located within the State which are deemed by the Ministry of the Interior of the State to be of national interest together with any successor of such entity which may be in existence from time to time;

"Afghani" means the lawful currency from time to time of the State;

"Agreed Environmental and Social Standards" means:

- (a) any Environmental Law or Social Law from time to time as in effect and having application to the Company or the Project;
- (b) the World Bank Group Environmental Health and Safety Policies as from time to time in effect;
- (c) the World Bank Group/IFC Environmental, Health and Safety Guidelines as from time to time in effect;
- (d) the IFC Performance Standards on Social and Environmental Sustainability as from time to time in effect;
- (e) the Equator Principles as from time to time in effect;
- (f) the Environmental Management Plan;
- (g) the Closure Plan;
- (h) the Social Impact Assessment and Action Plan; and
- (i) the Environmental Impact Assessment;

"Anticorruption Laws" has the meaning assigned to that term in Clause 14.2 (*Transparency obligations of the Company*);

"Applicable Accounting Standards" means generally accepted IAS accounting principles and IFRS reporting standards;

"Applicable Law" has the meaning ascribed to that term in Clause 32 (*Applicable Law*) and shall, for the avoidance of doubt, include the Minerals Law and the Mining Regulations;

"Approval" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration;

"Baseline Environmental Assessment" means a report containing a description of the Environment in the Project area prior to the commencement of any Mining Activities, including the then existing flora and fauna, soil air quality, underground and surface water, landscape aesthetics, farming conditions and socio-economic conditions in local communities;

"Business Day" means a day (other than a Friday) on which banks are open for general business in Kabul;

"Central Bank" means Da Afghanistan Bank;

"Closure Guarantee" has the meaning assigned to that term in Clause 19.3 (*Guarantee for closure expenses*);

"Closure Plan" means the plan to be produced and submitted to the MoMP by the Company under Clause 6.7 (*Closure Plan*) and in accordance with the Minerals Law and Mining Regulations as such plan may be amended from time to time in accordance with this Contract;

"Commercial Production" means the period during which the Project shall have been developed to the stage where the Mine is producing Mineral Substances on a continuous economically feasible basis in substantially the manner contemplated by the Feasibility Study (and in any event on a basis not less efficient than any standard required to be satisfied in order for commercial production to be deemed to have commenced for purposes of the Minerals Law);

"Commission" means the Commission established pursuant to Article 9 of the Minerals Law;

"Community Development Agreement" has the meaning assigned to that term in Clause 21.1 (*Community Development Agreement*);

"Company" has the meaning assigned to that term in the preamble;

"Confidential Information" has the meaning assigned to that term in Clause 30.2(b) (*Certain information confidential*);

"Constitution" means the constitution of the State ratified on 26 January, 2004;

"Construction Period" means the period commencing on the date of award of the Exploitation Licence and ending on the Date of Commencement of Commercial Production;

"Consultation" means an open, inclusive, and non-coercive process, conducted in the native language of the participants, for the exchange of information, ideas and viewpoints about the potential benefits and impacts of the Project. Any consultation shall strive to include, in socially and culturally acceptable forms, all social elements in the area affected by the subject matter under consideration, including both men and women;

"Contract" has the meaning ascribed to that term in the preamble;

"Control" means the power of one person to:

- (a) vote more than fifty percent, (50%) of the issued share capital of, or the voting power in, a second person; or
- (b) direct, or cause the direction of, the management, business or policies of such second person whether through the ability to exercise voting power, by contract or otherwise;

and the terms "Controlled" and "Controlling" shall have correlative meaning;

"Convention" has the meaning assigned to that term in Clause 33.4(a) (*ICSID arbitration*);

"Date of Commencement of Commercial Production" means the last day of the first period during which, for a continuous period of ninety (90) days (excluding planned operational downtime), the Mine is producing Mineral Substances at a rate and in a volume which is not less than sixty per cent (60%) of the design capacity of the plant and facilities at the Mine as reflected in the Feasibility Study;

"Dispute" has the meaning assigned to that term in Clause 33.2(a) (*Notice of Dispute*);

"Dispute Notice" has the meaning assigned to that term in Clause 33.2(a) (*Notice of Dispute*);

"Dollar" and the sign "U.S.\$" means the lawful currency of the United States of America from time to time;

"Early Warning" has the meaning assigned to that term in Clause 33.1(a) (*Early Warning Procedure*);

"Early Warning Meeting" has the meaning assigned to that term in Clause 33.1(b) (*Early Warning procedure*);

"Effective Date" shall mean 2018, which shall be the date on which this Contract, endorsed by the Commission and approved by the Council of Ministers, is signed by the duly authorised representatives of the MoMP and the Company;

"EITI" means the Extractive Industries Transparency Initiative;

"EITI Principles and Criteria" means the Principles and Criteria of the Extractive Industries Transparency Initiative (as published on www.eiti.org) as the same may be amended, re-enacted or replaced from time to time;

"Environment" means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:

- (a) air (including air within natural or man-made structures, whether above or below ground);

- (b) water (including territorial and inland waters, water under or within land and water in drains and sewers); and
- (c) land (including land under water).

and "Environmental" shall have a corollary meaning;

"Environmental Impact Assessment" means the impact assessment required to be produced and submitted to the MoMP by the Company under Clause 6.3(a) (*Environmental Impact Assessment and Environmental Management Plan*) and in accordance with the Minerals Law, Mining Regulations and Environmental Code;

"Environmental Law" means any applicable law or regulation (including the Environmental Law of the State (Official Gazette No. 912, dated 25 January, 2007)) which relates to:

- (a) the pollution or protection of the Environment;
- (b) the conditions of the workplace; or
- (c) the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment including any waste;

"Environmental Management Plan" means the plan required to be produced and submitted to the MoMP by the Company under Clause 6.3(b) (*Environmental Impact Assessment and Environmental Management Plan*) and in accordance with the Minerals Law and Mining Regulations as such plan may be amended from time to time in accordance with this Contract;

"Environmental Protection Agency" means the National Environmental Protection Agency of the State established under the applicable Environmental Law of the State;

"Equator Principles" means those principles entitled "A financial industry benchmark for determining, assessing and managing social & environmental risk in project financing", dated July, 2006, and adopted by various banks and financial institutions (as published on www.equator-principles.com) as the same may be amended, re-enacted or replaced from time to time;

"Exploitation" means any activity (excluding construction activities during the Construction Period) by means of which exploration, pre-production development and extraction of minerals takes place from an identified deposit by means of open pit or underground operations from a deposit or an artificial deposit for its processing, marketing or selling;

"Exploitation Licence" means any licence for carrying out Exploitation within the Mining Area and granted to the Company pursuant to the Minerals Law;

"Exploitation Licence Application Documents" has the meaning assigned to that term in Clause 6.1 (*Application for Exploitation Licence*);

"Exploitation Phase" means the period commencing on the date the relevant Exploitation Licence is granted to the Company and expiring in accordance with the terms of that Exploitation Licence;

"Exploration" means any activity carried out to discover minerals in an area in order to demarcate the quality and quantity of the reserves contained within such area, or to evaluate the possibilities of its Exploitation;

"Exploration Licence" means any licence for carrying out Exploration within the Mining Area and granted to the Company pursuant to the Minerals Law;

"Exploration Phase" means the period commencing on the date the Exploration Licence is granted to the Company and expiring in accordance with the terms of the Exploration Licence;

"Feasibility Study" means the study required to be produced and submitted to the MoMP by the Company under Clause 6.2 (*Feasibility Study*) as such study may be amended from time to time in accordance with this Contract;

"Financial Year" means, subject to Clause 12.3(a) (*Reporting Periods and Local Language Requirements*) a period of twelve (12) months ending on 31 December;

"Financing Plan" means the plan required to be produced and submitted to the MoMP by the Company under Clause 6.5 (*Financing Plan*) as such plan may be amended from time to time in accordance with this Contract;

"Force Majeure" means:

- (a) any event or circumstance which is unforeseeable or unavoidable and which the affected party could not reasonably be expected to control by acting prudently and reasonably in accordance with Good Industry Practice, but excluding the events and circumstances listed at paragraph (c);
- (b) subject to paragraph (c), and to the extent that the requirements of paragraph (a) are met, Force Majeure shall include:
 - (i) wars, insurrections, riots, civil disturbances and acts of terrorism;
 - (ii) blockades, embargoes, strikes and other labour conflicts which are industry or country wide and not specific to the Company or its Affiliates;
 - (iii) the discovery of cultural or historical artefacts which, pursuant to an approval for suspension granted by the MoMP, leads to the suspension of a material portion of Mining Activity at the Project;
 - (iv) epidemics; and
 - (v) earthquakes, storms, floods, fire, lightning or other adverse weather conditions; and
- (c) the following shall in particular not constitute Force Majeure:

- (i) economic hardship or a change in market conditions;
- (ii) events or circumstances which make the performance of an affected party's obligations more onerous;
- (iii) wars, insurrections, riots, civil disturbances and acts of terrorism, unless they directly affect the Mining Area or Mining Activities or constitute a material escalation of the same relative to the circumstances as at the Effective Date;
- (iv) the existing conditions of the Mining Area, including the existence of unexploded munitions (except that it shall be Force Majeure where, in accordance with Applicable Law, the Company has provided the MoMP with sufficient funds for the removal of unexploded munitions within the Mining Area and the MoMP has not, in accordance with its obligations under Applicable Law, arranged for such removal);
- (v) the usual long winter weather conditions occurring in the region of the Mining Area; and
- (vi) any other event that, at the time it occurs, does not strictly comply with the definition of Force Majeure under paragraph (a).

"Geological Survey" means the Afghanistan Geological Survey operating within the MoMP;

"Good Industry Practice" means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected to be applied by a skilled and experienced person engaged in the international mining industry in jurisdictions generally where significant mining activity takes place and, in the case of any Environmental or Social aspect of the development and operation of the Project, shall mean conformity with international best practice standards for Environmental and Social protection, including internationally recognised standards promoting sustainable development (and including compliance with the Agreed Environmental and Social Standards);

"Government" means the ministers who work under the chairmanship of the president of the State;

"ICSID" has the meaning assigned to that term in Clause 33.4(a) (*ICSID Arbitration*);

"Independent Expert" means (a) an internationally recognised mining consultant firm or individual competent in the field of the development, construction and operation of mining projects; (b) an internationally recognised mining consulting firm or individual competent on international mineral markets and prices, or (c) an internationally recognised Environmental and/or Social consultancy firm or individual competent in the field of international mining operations, as appropriate, in each case as the Parties may agree in writing, or failing such agreement within thirty (30) days, as shall be appointed for this purpose on the application of either Party by the International Centre for Expertise in accordance with the provision for the

appointment of experts under the Rules for Expertise of the International Chamber of Commerce;

"International Labour Conventions" means any conventions promulgated under the authority of the International Labour Organization or any similar body;

"Licence Interests" means, in relation to a Licence, the rights and obligations thereunder and the rights and obligations under this Contract insofar as they relate to that Licence;

"Licences" means the Exploration Licence(s) and the Exploitation Licence(s);

"Life of Mine Plan" means the plan required to be produced and submitted to the MoMP by the Company under Clause 6.6 (*Life of Mine Plan*) as such plan may be amended from time to time in accordance with this Contract;

"Mine" means collectively, all properties, assets or other rights, whether real or personal, tangible or intangible, now owned or leased or hereafter acquired by or for the benefit of the Company which assets are used or intended for use in or forming part of the Project (and, for the avoidance of doubt, shall include:

- (a) the ore deposits referred to in the Licences; and
- (b) all associated beneficiation facilities, together with all plant sites, waste dumps, ore dumps, crushing circuits, abandoned heaps, power supply systems and ancillary and infrastructure facilities);

"Mineral Substances" means the Principal Metal and any other naturally occurring substance which has economic value and contains one or more minerals in amorphous or crystalline form, solid, liquid or gaseous and does not include hydrocarbons, water, coal, bituminous sand, bituminous clay and quarry materials;

"Minerals Law" means, on the Effective Date, The Minerals Law of the State (Official Gazette No. 1143 dated 25 Asad 1393) and thereafter and from time to time, such law as the same may be modified, re-enacted or substituted from time to time after the Effective Date;

"Mining Activities" means, subject to compliance with Applicable Law and this Contract, all work related to the various phases in the mineral development process, including exploration, mineral deposit evaluation, mine construction, mine development, mining, the reclamation or rehabilitation of and remediation of land, the extraction, beneficiation, refining, transportation, handling, storage and marketing of a mineral substance extracted, the processing of mine tailings and all other activities necessary or convenient to carry out the Company's rights and obligations under this Contract, but not including work performed for others;

"Mining Area" means (a) during the Exploration Phase, the area specifically delineated in Schedule 1 to this Contract, and (b) during an Exploitation Phase, the area specifically delineated for Exploitation in an Exploitation Licence;

"Mining Cadastre" means the cadastre established within the MoMP in accordance with the Minerals Law;

"Mining Regulations" means the Mining Regulations promulgated pursuant to the Minerals Law (Official Gazette No. 1007 dated 25 Dalwa 1388) as such regulations may be modified, re-enacted or substituted from time to time after the Effective Date;

"MoMP" has the meaning assigned to that term in the preamble;

"NEPA Licence" means the environmental permit required to be issued by the National Environmental Protection Agency of the State in connection with the Exploration Phase pursuant to the applicable Environmental Law of the State;

"Notice of Transfer" has the meaning assigned to that term in Clause 29.1(c) (*Third Party Assignment*);

"OECD" means the Organisation for Economic Co-operation and Development;

"Parties" means the MoMP and the Company and their permitted successors and assigns;

"Position Notice" has the meaning assigned to that term in Clause 33.3(c) (*Technical Dispute Resolution Procedure*);

"Prevailing Market Rate of Exchange" means, in relation to the conversion of one currency into or from Afghanis, the established rate at which the Central Bank buys or, as the case may be, sells such currency on the relevant date of conversion (as currently published at <http://www.centralbank.gov.af/forenexchange.php>). If the Central Bank does not have an established exchange rate for such currency, such currency shall be converted into Afghanis in the following manner:

- (a) based on the market value of the foreign exchange in the country where it was received at the time it was received, the foreign exchange in question is converted into Dollars or another currency in which the Central Bank trades; and
- (b) the figure so obtained in terms of Dollars or other currency is then converted into Afghanis;

"Principal Metal" means copper;

"Processing" means ore dressing or metallurgical processes applied to ore or other Mineral Substances which results in producing products for sale including crushing, concentration, beneficiation, washing, and refining;

"Project" means the conduct of Mining Activity in relation to the production of Mineral Substances from the Balkhab copper deposit located in the Province of Sar-I-Pul and Balkh, including the construction of all properties, assets, facilities, infrastructure or other rights, whether real or personal, tangible or intangible, now owned or leased or hereafter acquired by or for the benefit of the Company which assets are used or intended to be used in forming part of such project;

"Proposal" means the proposal for the development of the Project submitted by the Company on 23 July, 2012 in response to the Request for Proposal;

"Request for Proposal" means the "Request for Proposal" issued by the MoMP pursuant to "The Request for Expressions of Interest" in connection with the proposed development of the Project initiated by the MoMP on or about 6 December 2011;

"Royalty Rate" has the meaning assigned to that term in Clause 8.1 (*Royalty Rate*);

"Rules" has the meaning assigned to that term in Clause 33.5(a) (*UNCITRAL Arbitration*);

"Social Impact Assessment and Action Plan" means the plan required to be produced and submitted to the MoMP by the Company under Clause 6.4 (*Social Impact Assessment and Action Plan*) as such plan may be amended from time to time in accordance with this Contract;

"Social" means the inter-relationship between humans and the effect of Mining Activities on humans, in each case in connection with the Project;

"Social Law" means any applicable law, rule or regulation which relates to:

- (a) labour or employment;
- (b) social security;
- (c) the regulation of industrial relations (between government, employers and/or employees);
- (d) the protection of occupational and public health and safety;
- (e) the regulation of public participation;
- (f) the protection and regulation of ownership of land rights (both formal and traditional), immovable goods and intellectual and cultural property rights;
- (g) the protection and empowerment of indigenous peoples or ethnic groups;
- (h) the protection, restoration and promotion of cultural heritage;
- (i) all other laws, rules and regulations and procedures providing for the protection of employees and citizens;
- (j) any International Labour Conventions signed and ratified by Afghanistan; and
- (k) any United Nations treaty, convention or covenant on human rights signed and ratified by Afghanistan;

"State" means the Islamic Republic of Afghanistan;

"State Official" means anyone who is an elected, appointed or career official, or employee, of any central or local government, central or local government-owned or central or local government-controlled enterprise, company or organisation, who is an individual acting for any such a central or local government, enterprise, company, agency or organisation, official of a political party or candidate for political office;

"Surface Rights Fees" has the meaning assigned to that term in Clause 7.1 (*Amount of Surface Rights Fees*);

"Tax" means any levy imposed by the State under Applicable Law on income, goods and services (including customs and similar duties), and the employment, health and welfare of persons;

"Tax Code" means the Income Tax Law of the State (Official Gazette No. 976, dated 28 Hut 1387);

"Tax Law" means Applicable Law of the State pertaining to any Tax (including the Tax Code) and any subsidiary and associated legislation or regulation;

"Technical Dispute" has the meaning assigned to that term in Clause 33.3(a) (*Technical Dispute Resolution Procedure*);

"Tender Process" means the tender process relating to permission to conduct Mining Activities in relation to the Mining Area as conducted pursuant to the Request for Proposal;

"Term" has the meaning assigned to that term in Clause 2.1 (*Term of this Contract*);

"Transferred Exploitation Licence" means the Licence Interests in an Exploitation Licence that have been transferred to a third party pursuant to Clause 29.1 or 29.2;

"Transferee" has the meaning assigned to that term in Clause 29.1(b) (*Third Party Assignment*); and

"Transformation" means any industrial process which changes the form and nature of a processed mineral or prepares finished or semi-finished products for sale.

1.2 Interpretation

- (a) Unless a contrary indication appears, a reference in this Contract to:
- (i) the singular includes the plural and vice-versa;
 - (ii) Clause and Schedule headings are for ease of reference only and do not affect the interpretation of this Contract;
 - (iii) a Clause and Schedule refers to a Clause, or Schedule, of, in or to this Contract;
 - (iv) this Contract includes all Schedules to this Contract;
 - (v) an agreement, instrument or other document includes the same as amended, novated, supplemented or replaced from time to time;
 - (vi) a court is to a court of the State;
 - (vii) any legislation or legislative provision (including the Minerals Law and the Mining Regulations) includes any statutory modification or re-

enactment of, or legislative provision substituted for, and any subordinated legislation issued under, that legislation or legislative provision;

- (viii) a person includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
 - (ix) a regulation includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
 - (x) a time of day is a reference to Kabul, Afghanistan time;
 - (xi) a day, quarter or year is, as may be relevant, to a calendar day, calendar quarter or calendar year and all references to months shall be based on the solar calendar specified in Article 18 of the Constitution;
 - (xii) the singular number includes the plural number and vice versa;
 - (xiii) any gender includes any other genders; and
 - (xiv) an encumbrance includes a mortgage, charge, pledge, lien or any other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.
- (b) The expressions "including", "includes" and "include" have the meaning as if followed by "without limitation".
 - (c) No rule of construction is to apply to the disadvantage of a party on the basis that that party drafted the whole or any part of this Contract.
 - (d) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
 - (e) Relative to the determination of any period of time "from" means "from (and including)" and "to" means "to (but excluding)".

1.3 Destination Schedule

Schedule 2 (*Destination Schedule*) contains a description of certain provisions of the Minerals Law and Mining Regulations as in effect on the Effective Date and the location in which such provisions are addressed in this Contract. This Schedule is included for convenience only and is without prejudice to Clause 3.6 (*Primacy of Licences and Applicable Law*).



1.4 Existing rights

The rights, obligations and liabilities of the Company and the MoMP subsisting prior to the Effective Date under Applicable Law or permits, licences or approvals issued thereunder, except as superseded herein, shall continue and bind both the Company and the MoMP during the term of this Contract.



PART 2
TERM OF CONTRACT AND GRANT OF LICENCES

2. TERM AND PHASES

2.1 Term of this Contract

This Contract shall be effective as of the Effective Date and shall remain in effect, initially for the term of any Exploration Licence and, subsequently, for the term(s) of any Exploitation Licence(s) unless it is terminated earlier in accordance with the terms of this Contract (the "**Term**"). This Contract shall be renewed if either any Exploration Licence or any Exploitation Licence is renewed in accordance with Clause 2.2 (b) or (c) (*Phases*), respectively, and on terms and conditions that the Parties may then agree upon to reflect then-existing and foreseeable conditions in connection with the Project; provided, however, that this Contract (as previously renewed, if applicable) shall remain in effect during the period during which the Parties are negotiating the terms of any such renewal.

2.2 Phases

(a) This Contract applies to the Exploration Phase and, if an Exploitation Licence(s) is granted pursuant to Clause 2.3(b) (*Licences*), the Exploitation Phase(s).

(b) Exploration Phase

The Exploration Phase shall be for a period of three (3) years commencing from the date of registration of the Exploration Licence by the Mining Cadastre in accordance with the Mining Regulations. To the extent permissible under Applicable Law, the Company may renew each Exploration Licence for two (2) consecutive periods of three (3) years in accordance with the Minerals Law and the Mining Regulations. If and to the extent that all the conditions for the renewal of the Exploration Licence in the Applicable Law have been satisfied the MoMP agrees that it shall procure the grant of such renewal, to the extent permitted, and in accordance with, Applicable Law.

(c) Exploitation Phase

If an Exploitation Licence is granted pursuant to Clause 2.3(b) (*Licences*) the Exploitation Phase shall be for a period of thirty (30) years commencing from the date of registration of Exploitation Licence(s) by the Mining Cadastre in accordance with the Mining Regulations. To the extent permissible under Applicable Law, the Company may renew an Exploitation Licence for consecutive periods of five (5) years each provided that there remains commercial quantities of undeveloped Mineral Substances in the Mining Area at the end of the preceding period. Any such renewal shall be in accordance with the Minerals Law and the Mining Regulations. If and to the extent that all the conditions for the renewal of the Exploitation Licence in the Applicable Law have been satisfied the MoMP agrees that it shall procure the grant of such renewal, to the extent permitted, and in accordance with, Applicable Law. To the extent permitted by Applicable Law the Company may apply for

multiple Exploitation Licences in respect of the Mining Area covered by an Exploration Licence.

2.3 Licences

(a) Exploration Licence

The MoMP shall, within thirty (30) Business Days of the granting of a NEPA Licence in connection with the Exploration Phase, issue and register an Exploration Licence to the Company in accordance with the Mining Regulations to enable it to carry out Exploration activity within the Mining Area in accordance with Applicable Law and this Contract.

(b) Exploitation Licence

The Parties acknowledge that the Tender Process governed the grant to the Company of both an Exploration Licence and an Exploitation Licence in accordance with Article 19(3) of the Minerals Law. Accordingly, following Exploration within the Mining Area in accordance with this Contract and Applicable Law the Company shall be entitled to apply to the MoMP for an Exploitation Licence(s) in relation to the Mining Area. There shall be no further bidding process involved. It is acknowledged and agreed by the Parties that the Company intends to apply for one or more Exploitation Licence(s) in the event that its Exploration during the Exploration Phase indicates that there is a mineral deposit in the Mining Area which is capable of being commercially exploited. Subject to the terms and conditions of Clause 6.8 (*Grant of Exploitation Licence*) the MoMP shall forthwith issue and register an Exploitation Licence to the Company in accordance with the Applicable Law and Mining Regulations.

3. GRANT OF MINING RIGHTS

3.1 Grant of Exploration rights

Upon the grant of the Exploration Licence, but subject to Clause 3.6 (*Primacy of Licences and Applicable Law*), the MoMP grants to the Company during the Exploration Phase such rights as are referred to in the Exploration Licence, subject to the terms of this Contract, to conduct Exploration in accordance with Applicable Law and this Contract including the following activities:

- (a) exclusively carry out Exploration activity within the Mining Area;
- (b) construct and build installations, facilities and infrastructure required for Exploration (including houses, buildings, amenities and incidental facilities for the use of the Company, its contractors, agents and their employees in carrying out Exploration activity);
- (c) take samples of the Mineral Substances found within the Mining Area in order to carry out analyses or industrial assays in the laboratory of the Company's choice, subject to the provisions of the Minerals Law;

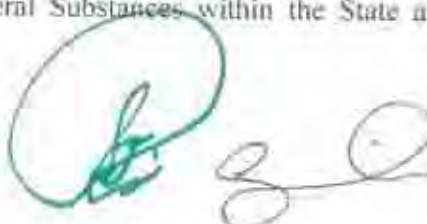
- (d) use products extracted at the time of Exploration, subject to the prior declaration of such products to the MoMP; and
- (e) conduct all other Mining Activity during the Exploration Phase as is necessary or advisable to carry out the Company's rights and obligations under this Contract and the Exploration Licence and engage in all other activities as are reasonably necessary or advisable to carry out the Project consistent with Good Industry Practice.

The MoMP confirms that no other licence has been granted to any other third party to carry out any Exploration activity or other Mining Activities within the Mining Area.

3.2 Grant of Exploitation rights

Upon the grant of an Exploitation Licence, but subject to Clause 3.6 (*Primacy of Licences and Applicable Law*), the MoMP grants to the Company during the Exploitation Phase such rights as are referred to in the Exploitation Licence, subject to the terms of this Contract, to conduct Exploitation in accordance with Applicable Law and this Contract including the following activities:

- (a) carry out, within the Mining Area, exploration, development, construction and Exploitation works in connection with Mineral Substances;
- (b) exploit tailings and artificial deposits of Mineral Substances located within the Mining Area;
- (c) establish processing plants for carrying out Processing or Transformation of Mineral Substances;
- (d) proceed with Processing or Transformation of Mineral Substances;
- (e) store products on specific sites or locations from where they are to be transported;
- (f) have priority in the exercise of its rights under this Contract, to the extent necessary for Mining Activity, over any other permit, concession, grant or any other activity of whatever nature granted or issued in the Mining Area before or after the date of this Contract;
- (g) make all necessary excavations to mine the Mineral Substances and, subject to submission of updated documents if necessary, to re-work mine tailings and dumped materials;
- (h) conduct all other Mining Activity as is necessary or convenient to carry out the Company's rights and obligations under this Contract and the Exploitation Licence and engage in all other activities as are reasonably necessary or convenient to carry out the Project consistent with Good Industry Practice;
- (i) market, sell, export and transport Mineral Substances within the State and internationally, at market prices.



- (j) subject always to the provisions of Clause 17.2 (*Access to Infrastructure*) and Applicable Law construct, erect, maintain and use, any and all facilities, infrastructure, buildings, structures, plants, machinery, equipment, railroads, roadways, pipelines, electrical power and communication lines and facilities, conveyors, stockpiles, waste piles, reservoirs, tailing impoundments and facilities, settling ponds, and all other improvements, property and fixtures used in connection with Mining Activities, or for any activities incidental thereto (including any houses, buildings, amenities and incidental facilities for the use of the Company, its contractors, agents and their employees and their immediate families), or for any of the rights or privileges of Company under this Contract;
- (k) deposit earth, rocks, waste, low-grade ore and materials onto the surface of Mining Area;
- (l) drill wells for water and lay and maintain all water lines as may be necessary or convenient for the conduct of Mining Activities;
- (m) install high voltage electrical transmission and substation facilities as required for the conduct of Mining Activities, including towers, conductors, transformers, switches and other ancillary facilities;
- (n) subject always to the provisions of Applicable Law repatriation of capital and remittance of profits, dividends and interest on loans; and
- (o) use water and wood for Mining Activities in accordance with the Minerals Law.

3.3 Grant of access rights

In addition to the rights set out in Clauses 3.1 and 3.2, but subject to Clause 3.6 (*Primacy of Licences and Applicable Law*).

- (a) to the extent available to it under Applicable Law the MoMP hereby:
 - (i) grants to the Company the right to occupy the land within the Mining Area for such purposes as may be reasonably required for the conduct of Mining Activities contemplated by this Contract; and
 - (ii) subject always (where applicable) to the rights of landowners and occupiers under Applicable Law agrees to use reasonable efforts to facilitate access by the Company to, or rights of occupation in, the Mining Area for such purposes over land within or outside the Mining Area and without prejudice to the foregoing, if negotiations between the Company and the relevant landowners and occupiers for such access or occupation are not successful after a reasonable period then the MoMP shall take such action, as might be available to it to facilitate discussions with a view to the grant of such rights by the private landowners and occupiers to the Company and if necessary shall, to the extent such action is available to it under Applicable Law, facilitate the grant of such rights to the Company in accordance with

the procedures and process set forth in Applicable Law (including the payment by the Company of compensation to the relevant landowners and/or occupiers);

- (b) to the extent permitted under Applicable Law the Company shall have the right of way to the Mining Area through adjacent or neighbouring areas over which mining or other rights may have been granted to third parties by the MoMP in order to conduct Mining Activities. The Company shall give a written notice to the holders of such rights at their address registered with the MoMP before exercising its right of way;
- (c) in the event that the Company proposes to exercise its right of way across such adjacent or neighbouring areas on a regular basis, it shall in accordance with the Applicable Law, enter into an agreement specifying the conditions of use of the right of way and any measures that may be necessary to protect the Mining Area of such adjacent or neighbouring licence holder. Such an agreement shall be registered with the MoMP;
- (d) the Company shall make satisfactory arrangements for payment of a fair and reasonable compensation for any actual or prospective damage to any crops, buildings, trees or works within the Mining Area or to adjacent areas caused by its Mining Activities in accordance with the Applicable Law. The MoMP shall work with the landowners or occupiers and the Company to agree the compensation to be paid in accordance with Applicable Law; and
- (e) if the Company while exercising its right of way through an adjacent area causes damage to such an area then the Company shall be liable to compensate the owner of such area in accordance with agreed compensation terms specified in a right of way agreement. If no such terms are agreed then the amount of the compensation shall be calculated and determined by the MoMP in accordance with the Applicable Law.

3.4 Exclusivity

Subject to the rights granted to individuals by the MoMP in connection with artisanal mining activities pursuant to Applicable Law or any other artisanal mining activity consented to by the Company;

- (a) the rights granted to the Company herein to conduct Mining Activities are exclusive within the Mining Area and include the exclusive right to mine and market Mineral Substances extracted from the Mining Area; and
- (b) the MoMP undertakes not to grant any rights to prospect for or to mine Mineral Substances in the Mining Area or market minerals from the Mining Area to any third party during the Term of this Contract.

The MoMP undertakes to prevent artisanal miners and other settlers from entering the Mining Area where such entry would materially adversely affect the rights granted to the Company herein to conduct Mining Activities exclusively within the Mining Area, but is not obligated to use force to do so.

3.5 Legal Title To Mineral Substances

The MoMP agrees that the Company will acquire ownership of the Mineral Substances from the State upon extraction of the Mineral Substances from the land in the Mining Area.

3.6 Primacy of Licences and Applicable Law

The right of the Company to conduct Exploration and Exploitation at the Project shall be governed by the Exploration Licence and (if issued) the Exploitation Licence and (in each such case) Applicable Law. In the event of any inconsistency between the terms and conditions of (a) this Contract, on the one hand, and (b) the provisions of Applicable Law or any Licence on the other, the latter shall govern. The Parties acknowledge the relevant provisions of the Minerals Law and agree that (c) in the event of any inconsistency between the Minerals Law or the Mining Regulations and any international treaty relating to Mining Activity to which Afghanistan has agreed to be bound by, the latter shall govern, and (d) in the event of any inconsistency between the Minerals Law or the Mining Regulations and any Applicable Law relating to the standards and the obligations to protect the environment and social conditions, the latter shall govern.

4. MINING RIGHTS AREA

4.1 Maximum size of the Mining Area

- (a) The maximum area of the plot for which an individual Exploration Licence may be granted shall not exceed two hundred and fifty (250) square kilometres.
- (b) At the time of renewal of an Exploration Licence, the surface area of the Mining Area shall be reduced by not less than twenty five percent (25%) of the total area for which the Exploration Licence was initially granted, provided that in the case of a first renewal of the Exploration Licence the surface area of the Mining Area following such renewal shall not exceed one hundred and twenty five (125) square kilometres and shall be composed of contiguous blocks as required by Article 49 of the Minerals Law. The Company shall have the right to define the area that it wishes to retain while making an application for renewal of the Exploration Licence in accordance with the Mining Regulations.
- (c) The portion of the Mining Area covered by an Exploitation Licence shall correspond to that defined in the Feasibility Study submitted by the Company in connection with its application for the Exploitation Licence, but shall in no event exceed fifty (50) square kilometres.
- (d) In accordance with the Minerals Law it is hereby confirmed that the Mining Area does not overlap with any area covered by any other mining rights granted by the MoMP to any other third party.
- (e) The perimeter of the Mining Area covered by any Licence shall be determined in accordance with Applicable Law, including the Minerals Law.

4.2 Relinquishment of Mining Area

The Company may by written notice to the MoMP relinquish the whole or any part of a Licence in respect of the Mining Area in accordance with the provisions of the Minerals Law and the Mining Regulations.

5. EXPLORATION PHASE

5.1 Company's obligations prior to conducting Exploration activities

As soon as reasonably practicable and in any event (save to the extent prevented by Force Majeure), within six (6) months of the Effective Date (or as is otherwise agreed by MoMP at its sole and absolute discretion) and prior to commencing Exploration at the Mining Area, the Company shall:

- (a) submit a statement of proposed Exploration activity to the MoMP in a form satisfactory to the MoMP. Such a declaration must include a description and location of the area where such activity will occur;
- (b) as required by Article 89(1)I of the Minerals Law and Article 86 of the Mining Regulations submit:
 - (i) a Baseline Environmental Assessment together with an analysis of the reasonably anticipated Environmental and Social impacts of the Exploration activities in accordance with Applicable Law;
 - (ii) a report including cost estimates and schedules, of specific measures to prevent, reduce or mitigate the Environmental and Social impacts of the proposed Exploration activity;
 - (iii) a report to the MoMP setting out measures to rehabilitate the impacted area following completion of Exploration activity;
 - (iv) a programme for Exploration work, and budget of expenditures to be made during the term of the Exploration Licence, such programme and budget to be consistent with any schedule and quantum of Exploration activity agreed in connection with the Tender Process;
 - (v) documents evidencing financial assurance (including the initial bond required to be issued pursuant to Clause 16.10 (*Security for Performance*)) in respect of the Exploration Phase for a minimum amount to cover the cost of the commitments for the first 12 months (year 1) contained in the programme for Exploration activity; and
- (c) to the extent required by the Environmental Law:
 - (i) apply for a NEPA Licence;
 - (ii) prepare an environmental impact statement and a mitigation and rehabilitation plan relating to the Exploration Phase; and

- (iii) prepare an analysis of the environmental and social impact of the Exploration activities.
- (d) The Parties acknowledge that where practicable the preparation and lodgement of a document may discharge one or more of the obligations under Clauses 5.1(b)(i) to (b)(iii) and 5.1(c).
- (e) Within 15 months of the commencement of the Exploration Phase, the Company must submit documents evidencing financial assurance (including bonds required to be issued pursuant to Clause 16.10 (*Security for Performance*)) for a minimum amount to cover the cost of commitments contained in years 2 and 3 of the programme for Exploration activity and of any rehabilitation or other action relating to the prevention, reduction or mitigation of Environmental and Social impacts.

5.2 Company's obligations to explore

The Company shall, in addition to its obligations contained in Applicable Law and elsewhere in this Contract, have the following obligations during the Exploration Phase:

- (a) to submit all reports and data gathered during the Exploration Phase to the MoMP within thirty (30) Business Days of completion of Exploration activities at the Mining Area;
- (b) to pay surface rights fees for the Mining Area in accordance with the Minerals Law, the Mining Regulations and Clause 7 (*Surface Rental*) of this Contract;
- (c) to commence Exploration activity at the Mining Area within six (6) months of the date on which the Exploration Licence has been registered with the Mining Cadastre;
- (d) to comply with all Applicable Laws including Applicable Laws regarding health, safety of labour, human rights, use of water, protection of the Environment and protection of affected communities, flora and fauna;
- (e) to submit to the MoMP any changes to the programme and budget for Exploration activity submitted in accordance with Clause 5.1(b)(iv) (*Company's obligations prior to conducting Exploration activities*); provided, however, that no such change shall in any way contemplate a less extensive programme for Exploration work than any programme agreed in connection with the Tender Process;
- (f) to maintain written records of its Exploration activities, and to submit its reports to the Geological Survey as required in the Mining Regulations;
- (g) to comply with the customs law when it sends any samples abroad for assaying and to submit a description of any such sample, indicating the number, volume and weight, to the Geological Survey;
- (h) to submit the following reports to the MoMP in accordance with the Mining Regulations and in a form and substance satisfactory to the MoMP:

- (i) a quarterly report concerning its activities no later than ten (10) Business Days after the end of each quarter;
 - (ii) an annual report, within thirty (30) Business Days of each annual anniversary of the date of issue of the Exploration Licence, detailing its implementation of the Exploration work programme and its annual expenditure;
 - (iii) a final report within sixty (60) Business Days of the expiration or relinquishment of the Exploration Licence;
 - (iv) an evaluation report of mineral deposits, based on the activities and results that the Company achieved during the Exploration Phase within sixty (60) Business Days of the expiration of the Exploration Licence; and
 - (v) a report of the complete detailed expenditures incurred during exploration within sixty (60) Business Days of the expiration of the Exploration Licence;
- (i) to collect and keep duplicate samples and sample batches within the Mining Area and provide them to the Geological Survey in accordance with the Mining Regulations;
 - (j) to allow any authorised representative of the MoMP to inspect any Exploration activity during normal business hours;
 - (k) to allow the MoMP to bi-annually review the performance and compliance by the Company of its obligations during the Exploration Phase as set forth in this Contract and in Applicable Law;
 - (l) to continue and conduct Exploration work in a manner which is consistent with the programme and budget submitted in accordance with Clause 5.1 (*Company's obligations prior to conducting Exploration activities*) as the same may be amended pursuant to the provisions of this Clause 5.2;
 - (m) to pay taxes, fees and all other amounts when due in accordance with the Minerals Law, the Mining Regulations, Applicable Law and this Contract; and
 - (n) to comply with all obligations prescribed by Applicable Law in respect of Exploration, including without limitation Article 52 of the Minerals Law.

6. EXPLOITATION PHASE

6.1 Application for Exploitation Licence

At any time during the duration of an Exploration Licence, when the Company shall have determined that the Mining Area contains a deposit which is capable of being commercially exploited, then, pursuant and subject always to Applicable Law as from time to time in effect, the Company shall be entitled to apply for the issue of an Exploitation Licence in connection with the Mining Area pursuant and subject to Applicable Law. In connection with such application, the Company shall submit the

following documents to the MoMP, (collectively, the "Exploitation Licence Application Documents"):

- (a) the Feasibility Study;
- (b) the Environmental Impact Assessment;
- (c) the Environmental Management Plan;
- (d) the Social Impact Assessment and Action Plan;
- (e) the Financing Plan;
- (f) the Life of Mine Plan;
- (g) the Closure Plan And
- (h) any other documents that the MoMP may reasonably request in accordance with the Mining Regulations and Minerals Law.

The Exploitation Licence Application Documents shall be submitted in electronic format. In addition at least five (5) printed and bound copies of the same shall be submitted.

6.2 Feasibility Study

In connection with any application by the Company for an Exploitation Licence the Company shall produce a study relating to the feasibility of the conduct of Exploitation within the Mining Area prepared by (i) an independent third-party agreed to by the Parties in writing or (ii) by the Company and verified by an Independent Expert, on the basis of sound engineering and economic principles in accordance with Good Industry Practice. The Feasibility Study shall include those elements as the Parties may agree, but shall in any event include the following:

- (a) a description and plan of the area over which Exploitation Licence is sought;
- (b) an estimate of minable reserves and resources in accordance with internationally accepted standards; provided, however, if the Exploitation activity contemplated by the Feasibility Study is for a mining plant processing less than one million (1,000,000) tonnes per annum then such estimate shall be in accordance with standards reasonably acceptable to the MoMP; and provided, further, however, that at the earlier of: (i) three years after commencement of such processing; or (ii) expansion of Exploitation activity in excess of such level, the Company shall promptly submit to the MoMP a revised estimate of minable reserves and resources in accordance with internationally accepted standards;
- (c) a market study for all of the Mineral Substances to be produced in the Mining Area;
- (d) an evaluation of the known deposits within the boundaries of the Mining Area, as well as the Mineral Substances which can be exploited in the Mining Area;

- (e) a description of the technology processes to be used, in each case with the results of any laboratory or other tests designed to identify technologically appropriate methods for processing the ore or ores involved;
- (f) an initial mine plan indicating expected recovery rates;
- (g) a general description of requirements associated with obtaining required permits, including the estimated cost of compliance and implementation of the Environmental Management Plan and Social Impact Assessment and Action Plan;
- (h) (i) a description, plans and list of the proposed Project facilities (to include all infrastructure and associated facilities (such as power, communication, transportation, roads, and fresh and reclaimed water), the main structures and the machinery and equipment, (ii) a specification of the raw materials and services (including electrical requirements and water) required, and (iii) an assessment of the potential for sharing such facilities and services with other users in ways that promote sustainable development of the communities in and around the Mining Area and/or local areas (as applicable);
- (i) an organisation chart and requirements for personnel;
- (j) schedules to initiate construction and construction timetables;
- (k) plans for electricity supply for Mining Activities, including reliability and cost of services that includes an assessment of the potential for sharing electrical supplies and infrastructure with other users in ways that promote sustainable development of the communities in the Mining Area;
- (l) plans for disposal of tailings from the ore processing plants and of waste rock and materials from Mining Activities;
- (m) a description of plans for any potential reprocessing of materials or tailings;
- (n) estimates, intended to be accurate to within fifteen percent (15%), of capital costs and operation costs;
- (o) an economic evaluation and financial analysis (including an estimated rate of return of investment and cash flow for the various phases of Exploitation), including probable future capital investments and an analysis of the financial viability of the Project during the Exploitation Phase;
- (p) a plan for the development of, and access to, infrastructure required and necessary for the development of the Project and in a manner which is consistent with the obligations of the Company contained in Clause 17 (Infrastructure);
- (q) the estimated Date of Commencement of Commercial Production;
- (r) a detailed schedule for the performance of all planned activities during the Construction Period; and

- (s) plans for the development, construction and operation of plants for the processing and final beneficiation (refining) of Mineral Substances extracted from the Mining Area to the extent that it is commercially feasible and reasonable for the Company to develop, construct and operate the same during the Exploitation Phase.

6.3 Environmental Impact Assessment and Environmental Management Plan

In connection with any application by the Company for an Exploitation Licence the Company shall produce:

- (a) an assessment of the impact of the proposed Exploitation activity on the Environment prepared in accordance with Applicable Law and based on sound engineering and economic principles, and having regard to Good Industry Practice and the Agreed Environmental and Social Standards, establishing a baseline of Environmental conditions existing at the Effective Date, and assessing the Project-related Environmental effects and impacts. The Environmental Impact Assessment shall include the requirements specified by the Minerals Law and Mining Regulations and shall in any event include:
 - (i) a description of the natural and human Environment that will be affected by the proposed Exploitation activity;
 - (ii) an identification and analysis of the type, duration and intensity of potential Environmental and Social impacts of the proposed Exploitation activity, including cumulative impacts of other mineral activities in the vicinity of the proposed Exploitation activity; and
 - (iii) an identification of appropriate mitigation measures to address the identified impacts of the proposed Exploitation activity; and
- (b) a plan for the management of Environmental matters at the Project (which if prepared by the Company is verified by an Independent Expert with relevant Environmental expertise) based on the Environmental Impact Assessment and sound engineering and economic principles, and having regard to Good Industry Practice and the Agreed Environmental and Social Standards. The Environmental Management Plan shall, upon request by the MoMP, be made publicly available in a language and in a form that is accessible to affected communities in the Mining Area, and shall be placed in the document files identified in Clause 30.1 (*Public documents*). The Environmental Management Plan shall be updated prior to any major change to the Life of Mine Plan. The Environmental Management Plan shall include those elements as the Parties may agree, but shall in any event include the following:
 - (i) measures that the Company intends to use to mitigate adverse consequences of the development of the Project as described in the Feasibility Study;
 - (ii) specific measures to address identified Environmental, human health and Social impacts of the Exploitation activities identified in the Environmental Impact Assessment, including measures to avoid or

minimise impacts associated with construction and operation activity in relation to the development of the Project;

- (iii) a monitoring programme with regularly scheduled compliance assessment and reporting to the MoMP to ensure implementation of and compliance with the Environmental Management Plan;
- (iv) plans and programmes for the management, remediation, rehabilitation and control of all Environmental aspects of the Project, including:
 - (A) a plan to avoid, minimise, mitigate, rehabilitate and offset, where appropriate, impacts on biological diversity within the Mining Area;
 - (B) a plan consistent with the requirements of Clause 19.2 (*Closure Plan and closure obligations*);
 - (C) a plan for preventing, minimising or mitigating adverse Environmental impacts to rivers and other potable water and ensuring that pollution does not cause unnecessary harm or destruction to human or animal life or fresh water fish or vegetation;
 - (D) opportunities for the improved management and conservation of natural resources in the Mining Area;
 - (E) a plan to avoid or minimise greenhouse gas air emissions from the Project taking into account economically and commercially feasible technology; and
 - (F) a plan to effectively manage soil resources to allow future use of the surface land consistent with the proposed post Exploitation land use;
- (v) a description of the actions to be taken during any periods of temporary closure or cessation of operations and for the closure activities to be performed should closure be required prior to completion of the planned mine life of the Project;
- (vi) a plan and programme for concurrent reclamation;
- (vii) a plan and programme to restore all mined areas to a final landform that is safe, stable, and suitable for the proposed post Exploitation land use; and
- (viii) a plan and programme regarding the intended post Exploitation land use in the Mining Area.

6.4 Social Impact Assessment and Action Plan

In connection with any application for an Exploitation Licence the Company shall produce an impact assessment and action plan relating to Social issues in connection

with the Project in accordance with Good Industry Practice and the Agreed Environmental and Social Standards, which shall include those elements as the Parties may agree, but shall in any event include the following:

- (a) provisions to prevent or minimise the potential adverse impact of Mining Activities on the individuals and communities resident in and around (i) the Mining Area and (ii) areas affected by the processing or transport of Mineral Substances whether using Company owned infrastructure or infrastructure provided by the State or third parties;
- (b) provisions to prevent or minimise interference with the living conditions of the population settled within the Mining Area and surroundings in a manner which is recognised by the laws of the State, and to cause the Company's employees and contractors to respect the customs of the local populations;
- (c) provisions to mitigate negative social impacts on the local community, including housing, sanitation and public health measures of any temporary or permanent work force engaged by the Company;
- (d) provisions (with guidance from IFC Performance Standards, where appropriate or relevant) to:
 - (i) avoid or minimise displacement of persons or involuntary resettlement wherever feasible;
 - (ii) make satisfactory arrangements for payment of fair and reasonable compensation for any prospective damage to any crops, buildings, trees or works;
 - (iii) compensate the holders for the use of the surface area, where the surface rights to any land within the Mining Area are held or owned by local or indigenous or tribal populations as recognised by Applicable Law, at a rate agreed by the holder and the Company;
 - (iv) recognise the rights of surface right owners and occupiers settled in a manner which is recognised by the laws of the State, the rights of indigenous or tribal populations, or other communities in the Mining Area, to continue utilising land within the Mining Area for subsistence purposes, including grazing livestock, using water, cultivating crops, hunting game, and collecting fruits and fuel wood, provided that such subsistence use would not be unsafe and does not substantially interfere with Mining Activity;
 - (v) provisions for developing a plan of resettlement if at any point a resettlement of the local population appears to be necessary in order to enable the efficient development of the Mining Area, having regard to the requirements of IFC Performance Standards including provisions to:
 - (A) conduct full Consultation with local governments and representatives of communities who may be displaced or

relocated, with the goal of developing a resettlement programme to which they consent;

- (B) mitigate adverse social and economic impacts by ensuring that resettlement activities are implemented with appropriate disclosure of information and Consultation;
 - (C) improve, replace or restore the livelihoods of displaced persons to ensure in all material respects the availability of means of livelihood adequate to maintain an appropriate quality of life in the community; and
 - (D) improve, replace or restore living conditions among displaced persons through provision of adequate housing with security of tenure at resettlement sites;
- (vi) a procedure where, if the surface of the Mining Area is occupied by artisanal miners or persons conducting small scale mining activity, the Company shall (except for any lawful artisanal mining activity of the nature referred to in Clause 3.4. (*Exclusivity*)) treat such persons as displaced persons and implement the resettlement under the provisions of paragraph (v) above, including a procedure to ensure that the resettlement plan is developed in Consultation with those artisanal miners or persons conducting small scale mining activity; provided, however, that the Company shall not be liable to compensate or resettle any artisanal miners who first occupy the Mining Area after the Effective Date; and provided further, however, that the Company shall ensure that information regarding the occurrence of the Effective Date is well documented and disseminated throughout the Mining Area in a culturally accepted manner; and
- (vii) a plan for the transition of the Mining Area to a post Exploitation economy; and
- (e) a plan to establish appropriate sustainable development and social protection programmes and structures including the following:
- (i) approaches to provide adequate housing, sanitation, roads, medical facilities, power and water supply, educational facilities, religious facilities and recreational opportunities; and
 - (ii) measures to be adopted for economic development, employment and job creation in local communities, taking into account employment requirements established under Applicable Law.

6.5 Financing Plan

In connection with any application for an Exploitation Licence the Company shall provide a plan relating to the financing of the Project during the Exploitation Phase including such provisions as the Company may determine consistent with its

commercial requirements and Good Industry Practice. The Company shall be responsible for raising all of the financing necessary to implement the Financing Plan.

6.6 Life of Mine Plan

In connection with any application for an Exploitation Licence the Company shall provide a plan of the proposed work programme that provides an overview of how the Mining Area will be exploited, which shall include those elements as the Parties may agree but shall in any event include the following:

- (a) the size, extent, type and location of the proposed Mining Activities;
- (b) the proposed mining methods to be used;
- (c) the proposed exploitation and production schedule;
- (d) the expected production and long-term mining scheme for Exploitation within the Mining Area;
- (e) the proposed Date of Commencement of Commercial Production;
- (f) any proposed further Exploration work; and
- (g) the proposed expenditure for the Exploitation Phase.

6.7 Closure Plan

In connection with any application for an Exploitation Licence the Company shall provide a plan and programme with respect to the closure of the Project and rehabilitation of the Mining Area. The Closure Plan shall address the anticipated Environmental, Social and economic state of the Mining Area during the next five (5) year period of Mining Activities, and shall be prepared in Consultation with communities in the Mining Area. It shall be consistent with any Community Development Agreements, and prepared in a manner which is consistent with guidance provided by the planning for integrated mine closure toolkit and related guidance published by the International Council on Mining and Metals.

6.8 Grant of Exploitation Licence

- (a) The MoMP shall review the Exploitation Licence Application Documents as promptly as reasonably possible after receipt and to provide comments thereon to the Company together with details of any failure to conform to Applicable Law, the Proposal (modified in any manner requested by the Company and agreed to by the MoMP) or the terms of this Contract. The Company shall correct any failures to conform to Applicable Law, the Proposal or the terms of this Contract, or shall submit the matter for resolution pursuant to Clause 33 (*Dispute Resolution Mechanism*).
- (b) The MoMP may provide notice to the Company requesting such revisions to any of the Exploitation Licence Application Documents as are reasonable to contribute to the efficient development of locally required infrastructure and to assist other national and local needs, provided that such requested revisions

shall relate to the Project and shall be utilised by the Company in the Mining Area, and provided further that such requested revisions shall not materially impact the economic returns of the Company in connection with the proposed development of the Project. If the MoMP provides notice of such requested revisions within one hundred and twenty (120) days after receipt of the Exploitation Licence Application Documents, the Company and the MoMP shall meet within sixty (60) days of the MoMP's written notification to the Company as to any requested revisions so that the parties may negotiate revisions to the relevant Exploitation Licence Application Documents. The Parties shall establish a time frame within which to revise the relevant documents, which time frame shall not exceed one hundred and eighty (180) days from the MoMP's notice to the Company as to the requested revisions. If the Parties are unable to reach agreement within such time frame, the matter may be referred by either Party for resolution pursuant to Clause 33 (*Dispute Resolution Mechanism*).

- (c) No Exploitation Licence may be issued until the Exploitation Licence Application Documents have been finalised and agreed in accordance with the provisions of Clauses 6.8(a) and 6.8(b). Within sixty (60) days of the finalisation and agreement of the Exploitation Licence Application Documents in accordance with Clauses 6.8(a) and 6.8(b) but subject always to clause 3.6 (*Primacy of Licenses and Applicable Law*), the MoMP shall issue to the Company an Exploitation Licence for the Mining Area that was the subject of the licence application filed by the Company in accordance with this Contract and the Minerals Law. No Exploitation activities may be commenced until all of the conditions set out in Article 59 of the Minerals Law have been satisfied.

It is acknowledged by the Parties that the development of the Project is necessarily a long term process and that, if an Exploitation Licence is granted, not all circumstances and events relating to the Exploitation Phase are capable of being addressed in this Contract as originally in effect on the Effective Date. Accordingly, in connection with the award of the Exploitation Licence, the Parties will enter into good faith negotiations with a view to entering into such amendments or modifications to this Contract as might be necessary in order to reflect any specific technical aspects of developing the Project during the Exploitation Phase which are not adequately reflected in this Contract as originally executed. No such amended or modification shall, or shall be required to be entered into to the extent the same (i) would not be consistent with the terms and conditions applicable to the development of the Project agreed at the conclusion of the Tender Process, or (ii) would adversely impact the commercial return on the Project to the State, or (iii) are in any way inconsistent with the provisions of Part 6 (*Environmental and Social Obligations*).

6.9 Exploitation Phase Obligations

The Company shall have the following obligations during the Exploitation Phase:

- (a) to pay Surface Rights Fees for the Mining Area and taxes, fees and royalties and all other amounts in accordance with the Minerals Law, the Mining Regulations, Applicable Law and this Contract;

- (b) to commence Exploitation by no later than three (3) months after the date of registration of the Exploitation Licence by the Mining Cadastre or such other date as is agreed to by the MoMP;
- (c) to continue Exploitation of the deposits within the Mining Area in accordance with the Exploitation Licence Application Documents. Any deviation of the work from such documents shall require the approval of the MoMP acting in accordance with the Minerals Law and Mining Regulations and other Applicable Law;
- (d) to comply with all Applicable Laws, regulations and this Contract regarding health, safety of work, human rights, use of water, protection of the Environment and protection of affected communities;
- (e) to maintain written records of its documents and activities and to facilitate access to the same for inspection by the MoMP, and to, not less than quarterly, submit periodic progress reports to the MoMP, including a description of its activities, investments, production, sales, revenue, estimated reserves data and such other information as may be required in the Minerals Law and Mining Regulations or reasonably requested by the MoMP;
- (f) to conduct the Mining Activities in accordance with the provisions of the Minerals Law, including without limitation Article 60 of the Minerals Law and the Mining Regulations and including compliance with all obligations under the Mining Regulations, including without limitation the obligations set out in Article 42 of the Mining Regulations;
- (g) to give preference to goods and services produced and offered in Afghanistan in the manner set forth in Clause 16.11 (*Use of local goods and services*);
- (h) to give preference to Afghan nationals in all types of mining employment for which they are qualified and to limit foreigner employment only to works requiring industry specific training and experience in circumstances where Afghan nationals with such industry specific training and experience are not available;
- (i) to use an appropriate anti-pollution technology and facilities in accordance with Good Industry Practice and Applicable Law;
- (j) to recognise and respect the rights, customs and traditions of local communities;
- (k) to utilise appropriate and efficient mining and processing technologies; and
- (l) to immediately suspend the relevant portion of Exploitation activities if historical or cultural artefacts are found which might be damaged or otherwise adversely impacted by such activity. The Company shall notify the MoMP within five (5) Business Days of becoming aware of such findings and shall not resume such Exploitation activities until the MoMP is satisfied that the relevant artefacts will not be so damaged or otherwise adversely impacted.

6.10 Requirement to obtain Permits

Where the Company is required under this Contract or Applicable Law to obtain a permit, licence or approval (including any from the National Environmental Protection Agency of the State in connection with either of the Exploration Phase or the Exploitation Phase), the Company shall obtain the necessary permit, licence or approval from the appropriate Government agency prior to proceeding with or undertaking the activity authorised by the permit, licence or approval.

6.11 Requirement to update plans

The Company shall from time to time update each of the Feasibility Study, Environmental Management Plan, Social Impact Assessment and Action Plan and Financing Plan, in each case:

- (a) periodically on not less than an annual basis;
- (b) promptly upon the occurrence of any material event or circumstance which renders any such plan as currently in effect materially inaccurate; and
- (c) as may be required from time to time to ensure compliance with Applicable Law.

6.12 General obligations

The Company shall, subject to Applicable Law (and in all cases in accordance with Good Industry Practice):

- (a) conduct all Mining Activities in a prudent, diligent, and efficient manner. All operations and activities under this Contract shall be conducted so as to minimise waste or loss of natural resources, protect natural resources against unnecessary damage, and in a manner intended to minimise pollution and contamination of the Environment;
- (b) take measures to prevent and control fires and to identify and notify immediately the proper governmental authorities of any fire that occurs within the Mining Area and which it is aware of;
- (c) take measures to avoid damage to the properties of the State and third parties located within the Mining Area;
- (d) install and utilise such recognised modern safety devices and observe such recognised modern safety precautions as are provided in the Mining Regulations and this Contract;
- (e) observe internationally recognised modern measures for the protection of the general health and safety of its employees and of all other persons contracted by it and having legal access to the Mining Area; and
- (f) at all times maintain in full force and effect, at its expense, insurance on arm's length terms from insurers or re-insurers with a rating of A or better from Standard & Poor's Rating Services (or a comparable rating from any

internationally recognised credit rating agency) with respect to the properties, personnel, liabilities and operations relating to the Project of the type and in amounts, on policy terms and with limits at least as favourable to the Company and the State as is customary under Good Industry Practice.

6.13 Construction

- (a) During the Construction Period the Company shall submit to the MoMP on a quarterly basis, an updated schedule showing progress and any changes in the milestones or critical paths for the construction of the Project.
- (b) Within sixty (60) days of the issue of the Exploitation Licence the Company shall commence and diligently continue construction of the Project until its completion in accordance with the Feasibility Study and any non-material changes resulting from engineering and other studies conducted by the Company after completion of the Feasibility Study.



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PART 3
FISCAL AND FINANCIAL PROVISIONS

7. SURFACE RENTAL

7.1 Amount of Surface Rights Fees

The Company shall pay to the MoMP an annual surface rights fee in accordance with the Mining Regulations and the following schedule (the "**Surface Rights Fees**");

- (a) For Exploration Licences with effect from the grant thereof:
 - (i) For the initial term: USD 5 per hectare of land included in the Mining Area not the subject of an Exploitation Licence;
 - (ii) For the initial renewal term: USD 10 per hectare of land included in the Mining Area not the subject of an Exploitation Licence;
 - (iii) For subsequent renewal terms: USD 15 per hectare of land included in the Mining Area not the subject of an Exploitation Licence.
- (b) For Exploitation Licences:
 - (i) For metallic and non-metallic minerals: USD 25 per hectare of land included in the Mining Area the subject of that Exploitation Licence;
 - (ii) For gemstones: USD 35 per hectare of land included in the Mining Area the subject of that Exploitation Licence,

or, in any such case at such other rates as may from time to time be stipulated under the Minerals Law, the Mining Regulations or Applicable Law.

7.2 Payment of Surface Rights Fees

The Surface Rights Fees shall be paid annually on the anniversary of the date the relevant Licence is registered with the Mining Cadastre. If the Surface Rights Fees are not paid on the due date, the Company shall pay a penalty at the rate of two (2) percent per month (compounded) on the overdue amount from the due date up to the date of actual payment. If the failure to pay the Surface Rights Fees continues for a continuous period of one (1) year then the MoMP reserves the right to terminate the relevant Licence and this Contract. All Surface Rights Fees shall be paid in Afghanis.

8. ROYALTIES

8.1 Royalty Rate

- (a) The Company shall pay to the Government a royalty on all Principal Metal produced from the Mining Area at the fixed rate (the "**Royalty Rate**") of:
 - (i) 9.3% where the Commercial Product is an ore;

- (ii) 7% where the Commercial Product is a concentrate produced by Beneficiation using facilities constructed by or on behalf of the Company in accordance with the Feasibility Study under Clause 6.2(s); or
 - (iii) 4.5% where the Commercial Product is a refined metal produced by Beneficiation using facilities constructed by or on behalf of the Company in accordance with the Feasibility Study under Clause 6.2(s).
- (b) Except as set forth in Clause 8.1(c) the Royalty Rate shall be applied to the total Gross Market Value of all Contained Metal comprising Principal Metal within the Commercial Product.
- (c) The Royalty Rate in respect of any Commercial Product (i) sold for final Beneficiation (refining) within Afghanistan shall be based on the Net Smelter Return payable to the Company in connection with such sale, and (ii) which is subject to final Beneficiation (refining) within Afghanistan on a Toll Treatment basis shall be based on the Contained Metal before any charge for the Toll.
- (d) Except in connection with the payment of a royalty calculated in accordance with Clause 8.1(c), no deductions shall be allowed in determining any royalty paid under this Contract.
- (e) The amount calculated pursuant to clause (b) or clause (c) shall be determined as set forth in Clause 8.3 (*Payment and calculation of royalty*).

As used in this Clause 8,

"Beneficiation" means the process of upgrading a mineral product into a more concentrated form through a physical or chemical process.

"Commercial Product" means that material containing the Principal Metal or other Mineral Substance in mineral or pure form created from the final process of mining and Beneficiation that takes place in Afghanistan in any given calendar quarter, or any product stockpiled ahead of final Beneficiation in Afghanistan for more than two (2) calendar quarters other than material planned for temporary stockpiling in accordance with the Feasibility Study. Waste Material and Tailings will not be included as Commercial Product for purposes of stockpiling or production until such time as such materials are scheduled to undergo Beneficiation or re-processing.

"Contained Metal" means the gross amount of Principal Metal or other Mineral Substance contained within the total mass of the Commercial Product (such amount to be calculated as the total mass multiplied by the average grade as defined by chemical assay in accordance with Good Industry Practice).

"Gross Market Value" of any amount of Principal Metal produced during any calendar quarter shall be determined using the daily average closing seller

price of three (3) month copper contracts on the London Metals Exchange during such calendar quarter.

"Mill Cut-off Grade" is the level of contained Principal Metal or other Mineral Substance within a material below which it is not economically feasible to process. The Cut-off Grade is as defined within the Feasibility Study but will change from time to time in relation to the economic climate or otherwise.

"Mine Cut-off Grade" is the level of contained Principal Metal or other Mineral Substance within a material below which it is not economically feasible to mine and process. The Cut-off Grade is as defined within the Feasible Study but will change from time to time in relation to the economic climate or otherwise.

"Net Smelter Return" or "NSR" means the net revenue, (based on the definitions outlined in the relevant smelter/refinery contract - which are likely to be based upon the value of the Contained Metal minus Treatment Charges and Refining Charges) that an owner of a mine receives from the sale of its Commercial Product.

"Production" means the process by which a Commercial Product is created from Beneficiation of material mined under the relevant Exploitation Licence (including material taken from a stockpile) and in this Clause 8 "produced" shall be construed accordingly.

"Refining Charge" or "RC" means the price paid by the Company to the processor of refining the Contained Metals to produce a saleable metal.

"Tailings" means the waste product from the Beneficiation of a mineral product as defined in the Feasibility Study that may contain a level of mineralisation of the Principal Metal that is not initially considered to be economically extractable as defined in the Feasibility Study.

"Toll Treatment" means the process when a mine provides Product to a smelter for Beneficiation but retains ownership of the final product. The smelter will charge the mine a toll ("Toll") per tonnage processed.

"Treatment Charge" or "TC" means the charge paid by the Company to have its concentrate treated through smelting to produce saleable metal. This is typically quoted in US\$ per ton of concentrate, and is theoretically a function of the cost of smelting. In practice, it fluctuates as a function of the supply/demand balance in the concentrate market.

"Waste Material" means that material defined within the Feasibility Study which may contain a level of mineralisation of the Principal Metal that is below the Mine Cut-off Grade or if already mined, below the Mill Cut-off Grade and is therefore not initially considered to be economically extractable as defined within the Feasibility Study and is removed in order to access economically extractable ore material.

8.2 Royalty on other Mineral Substances

- (a) If Mineral Substances other than the Principal Metal are produced from the Mining Area, the Company shall pay a royalty on all such Mineral Substances produced from the Mining Area. The royalty rate shall be as provided for by Applicable Law, or in the absence of Applicable Law shall be agreed between the MoMP and the Company following good faith negotiations and the other provisions of this Clause 8 shall apply thereto mutatis mutandis save where otherwise agreed between the Parties. The value of such Mineral Substances shall be based on the international fair market value of such Mineral Substances, determined, in the absence of published international market prices for such Mineral Substances, in such manner as agreed by the Parties.
- (b) Royalties shall not be payable or paid on stone, sand, gravel or other construction materials produced in the Mining Area and used internally by the Company in construction of any of its facilities or infrastructure for the Project.

8.3 Payment and calculation of royalty

- (a) The obligation to pay mineral royalties commences as soon as Mineral Substances are being produced at the Project.
- (b) Royalties shall be paid in US\$ or such other currency as may be mutually agreed and shall be paid on or before the last day of the month following each calendar quarter in respect of which Mineral Substances have been produced at the Project. Each payment shall be accompanied by a statement in reasonable detail showing the basis of computation of royalties due in respect of shipments or sales made during the preceding calendar quarter.
- (c) The Company shall submit to the MoMP a production statement in accordance with Applicable Law, and if no timeline is specified by the MoMP to provide such production statements then not later than thirty (30) days after the end of the calendar quarter in which production commences and thereafter not later than thirty (30) days after the end of each subsequent calendar quarter during the term of this Contract. The production statement must be prepared in accordance with Applicable Law, if any, and Good Industry Practice, and shall contain the following particulars:
 - (i) the quantity and quality of Mineral Substances produced and sold;
 - (ii) the size of Mineral Substances stocks held at the beginning of the calendar quarter;
 - (iii) the size of Mineral Substances stocks held at the end of the calendar quarter; and
 - (iv) the calculation of the royalty due on such Mineral Substances produced and sold, in accordance with Clause 8.1 (*Royalty: Rare*) and, if applicable, Clause 8.2 (*Royalty on other mineral materials*).

- (d) The MoMP may give notice specifying other particulars relating to Project operations necessary for calculation of the royalty be included in the production statement and the Company must comply with any such request.

8.4 Final payment of royalty

The final royalty payable under this Contract must be paid no later than thirty (30) days after the last day of the month in which final settlement is made by the purchaser of the Mineral Substances produced and sold or otherwise disposed of by the Company.

8.5 Efficient recovery

- (a) The Company shall conduct its Mining Activities to ensure that any mining, processing or treatment of ore prior to domestic sale or export shipment meets such generally accepted international standards as are economically and technically feasible.
- (b) If in the reasonable opinion of the MoMP the Company is not extracting, removing or disposing and/or processing the Mineral Substances in the manner contemplated in the Feasibility Study and/or as required by Applicable Law then the MoMP may give notice in writing of such deficiency to the Company. The Company shall within three (3) months of the receipt of such a notice:
- (i) commence work to improve its mining method, treatment and/or processing facilities to the reasonable satisfaction of the MoMP provided that the Company shall in no event be obliged to conduct mining, processing or treatment activities otherwise than as provided in the Feasibility Study; and
 - (ii) submit to the MoMP evidence justifying its performance.
- (c) In the event that the MoMP remains unsatisfied with the extraction, removal, disposal and/or processing of Mineral Substances after the procedures set forth above in this Clause 8.5 have been followed it shall have the right to commission independent technical studies to determine a fair average recovery rate taking into account the nature of the proven reserves and the ore and the economic and technical feasibility of achieving increased recovery by the Company. Such studies shall be carried out by an Independent Expert appointed by the MoMP and agreed to by the Company (such agreement not to be unreasonably withheld or delayed).
- (d) If the said consultants find that the Company's performance is not satisfactory, then the cost for such studies shall be borne by the Company. If it is found that the Company's performance is satisfactory, then the cost of such studies shall be borne by the MoMP.
- (e) If following the completion of such studies, the Company fails within a reasonable period to achieve the recovery rate indicated by such studies, the MoMP shall have the right to increase the royalty applicable to the Mineral

Substances delivered for export shipment or domestic sale in proportion to the extent that the recovery of such Mineral Substances by the Company falls short of the fair average rate indicated by such studies. The payment of such increased royalty shall not in any manner absolve the Company from its obligation to carry out the Mining Activities in a manner consistent with the Feasibility Study and the other Exploitation Licence Application Documents.

8.6 Disputes regarding Royalty Payments

The Parties agree to submit any dispute arising out of or in connection with calculation of the royalties payable under this Contract in accordance with procedures applicable to a Technical Dispute provided for in Clause 33.3 (*Technical Dispute Resolution Procedure*). Any additional amount payable to the Government or any overpayment refundable to the Company, as determined by the Independent Expert, shall be paid no later than thirty (30) days after the written decision of the Independent Expert is delivered to both Parties. All royalty payments paid in accordance with any such written decision of the Independent Expert will be considered final and in full satisfaction of all obligations of the Company; provided, however, that a Party may submit any continuing dispute it may have in connection with such decision to arbitration in accordance with Clause 33.4 (*ICSID Arbitration*) or Clause 33.5 (*UNCITRAL Arbitration*). Pending resolution of any dispute in connection with the calculation of royalties as aforesaid, payment of royalties shall be made into an escrow account on terms and conditions, and pursuant to documentation, acceptable to the MoMP.

9. CUSTOMS DUTIES

9.1 Customs Duties

- (a) Subject to Clause 16.11 (*Use of local goods and services*) the Company shall be permitted to import into the State, subject to payment of all applicable customs duties, levies, tariffs, and similar or related charges as specified under Applicable Law, all the supplies, goods, materials, fuel, machinery, equipment and consumer goods necessary to properly carry out the Project in its own name or in the name of contractors, sub-contractors or other persons acting on behalf of the Company in connection with the development or operation of the Project. In accordance with the provisions of the Tax Law as in effect on the Effective Date, and if such provisions shall not be amended in the future, the Company shall be entitled to apply for an exemption of import duty in Afghanistan in respect of machinery which is not more than five (5) years old and which is described in detail in documentation submitted to the relevant taxation authority prior to the commencement of each of the Exploration Phase and the Exploitation Phase as may be relevant.
- (b) The Government may provide procedures to expedite the admission, clearance, and verification of use by the State's authorised customs, foreign investment authority, or mining authority representatives, as applicable, of all imports by the Company.
- (c) The Company, its purchasers and transporters shall have the right, subject to payment of all applicable customs duties, levies, tariffs and similar or related

charges as specified under Applicable Law as in effect from time to time, to export freely and at any time the quantities of Mineral Substances produced from the Mining Area.

10. TAXATION

10.1 Taxation - General

- (a) The Company shall be subject to all Tax Law in force in the State and shall pay income tax, customs duties and other Taxes in accordance with the Minerals Law and other relevant Applicable Law, except where it is subject to any relief from the applications of the provisions of a particular Applicable Law pursuant to a validly granted authority under the Minerals Law or under any other Applicable Law. The Parties expressly agree that (except as subsequently elected by the Company in accordance with Applicable Law relating to the imposition of Tax) upon the grant of the Exploitation Licence the Company shall qualify for treatment as a Qualified Extractive Industries Taxpayer under (and as defined in) the Tax Code (and, for the avoidance of doubt, references in this Contract to the Date of Commencement of Commercial Production shall be solely for the purposes of this Contract and shall not in any way affect the method of determining the commencement of commercial production for purposes of determining the permissible deduction of pre-production costs within the meaning of the Tax Code).
- (b) The Company shall prepare its balance sheets and other financial statements for each of its Financial Years in accordance with the requirements of Tax Law and with Applicable Accounting Standards.
- (c) As soon as practicable after the annual financial statements of the Company are available for each Financial Year, but not later than the first financial quarter of the following Financial Year, the Company shall submit to the MoMP an investment report using a format consistent with Good Industry Practice.
- (d) Each year's financial statements shall be accompanied by a certificate of the chief financial officer of the Company (or, if the Company is incorporated in Afghanistan, its general director) to the effect that during the year then ended the Company was in compliance with the requirements of this Contract and Tax Law.
- (e) Each year's financial statements shall be accompanied by a listing of all transactions with Affiliates of the Company reflected in such financial statements, identifying the amount of the transaction, the Affiliate involved, and the nature of the transaction. The Company shall maintain contemporaneous documentation of each such transaction with any such Affiliate evidencing the pricing of the transaction, including all documentation required by Tax Law or any regulations issued thereunder.
- (f) Each year's financial statements shall be accompanied by a certificate of the chief financial officer of the Company (or, if the Company is incorporated in Afghanistan, its general director) to the effect that with respect to goods or

services covered by any pricing agreement in effect between Company and any Affiliate of the Company during the relevant period, the Company's transfer prices during such year were computed in accordance with the requirements of such pricing agreement and with respect to goods or services sold or provided in a transaction between the Company and an Affiliate of the Company which are not covered by such pricing agreement, the prices thereof imposed during the relevant period were computed in accordance with Tax Law.

10.2 Withholding tax obligations

The Company shall comply with all Applicable Law in effect from time to time requiring the withholding of taxes on payments or disbursements made to any person, whether or not resident or domiciled in the State including physical persons or entities related to, or employed by, Company or any of its Affiliates.

11. PAYMENTS

11.1 Foreign currency remittance and availability

- (a) Except in the case of generally applicable exchange controls imposed on a non-discriminatory basis during a limited time period of genuine fiscal emergency, the Government confirms that interest, dividends and all other payments for goods and services are freely remittable from the State.
- (b) The Company has the right to establish, maintain and hold funds in bank accounts in Afghanis and/or Dollars in the State as well as in bank accounts in foreign currency located outside the State; provided, however, that the Company shall create one or more separate segregated accounts for the purposes of facilitating the payment and receipt of monies relating to the Project and shall ensure that such accounts are used for no other purposes whatsoever (including for the purpose of receiving revenue generated by the Company from Mining Activities in Afghanistan from sources other than the Project).
- (c) The Company has the right to freely repatriate abroad without any barriers and to freely dispose of all proceeds (including by way of dividend or other form of distribution) received within the State from the sale, exchange or export of Mineral Substances, and any other payments (including loan principal and interest) to be made abroad.
- (d) Any obligation originally stated in Afghanis shall be converted to Dollars at the Prevailing Market Rate of Exchange.
- (e) For purposes of determining compliance by the Company of required payments in Afghanis under Applicable Law (including any law determining minimum wages), the amount of any payment by the Company made in Dollars shall be converted to Afghanis at the Prevailing Market Rate of Exchange as of the date of payment.

- (f) The Company shall have the right to remit and receive in Dollars all payments of dividends, interest, finance charges, principal, management fees and other payable items arising from, as a result of, or related to the operations of the Project.
- (g) All remittances and receipts of such payments as referred to in Clause 11.1(f) shall be free of any (i) penalties in connection with such remittances or receipts, (ii) any required total or partial surrender, exchange or confiscation of Dollars received to be remitted, and (iii) any other direct or indirect restriction on such remittances or receipts.
- (h) The Parties acknowledge that the Company may, subject to the provisions of the Minerals Law, the Mining Regulations and other Applicable Law:
 - (i) obtain, hold, deal with and disburse funds in such manner, currencies and places as it, in its absolute discretion, determines;
 - (ii) freely import into the State funds necessary to properly carry out the Project and the conduct of Mining Activities in accordance with Applicable Law;
 - (iii) remit foreign currency accruing to or earned by it outside the State into the State; and
 - (iv) remit proceeds (in currency or otherwise) and repatriate capital (in cash or assets) outside the State.
- (i) Any amounts received and expenditure made in Afghanis or in Dollars shall be converted from Afghanis into Dollars or from Dollars into Afghanis on the basis of the Prevailing Market Rate of Exchange.
- (j) Any amounts received and expenditure made in currencies other than Dollars or Afghanis which are converted into Dollars or Afghanis must be so converted into Dollars or Afghanis on the basis of the Prevailing Market Rate of Exchange.
- (k) The Company shall comply with all financial reporting and approval requirements applicable to companies in Afghanistan.

11.2 Payments and exchange rates

- (a) Unless otherwise specified in this Contract, payments to the Government may be made in Dollars or other foreign currency which is freely convertible directly by the Central Bank for the account of the Government.
- (b) The payment of the Company's direct obligations to the Government for taxes and duties shall be in Afghanis, unless the Parties otherwise agree. However, the Company shall make payments of sums it collects on behalf of the Government, including taxes withheld from the salaries or wages of the employees of the Company and any other sums payable to other persons from which a portion is required by Applicable Law to be withheld or retained by

the Company on behalf of the Government, in the currency in which such salaries or wages or such other payments are made.

- (c) All of the Company's accounting under this Contract shall be in such currency or currencies as the Parties may from time to time agree.
- (d) The Company shall make all payments to be made by it hereunder or otherwise to the Government without any deduction for Tax or any other amount, unless such a deduction is required by law. If any such deduction is required by law to be made by the Company (other than any such deduction which has been, or is required to be, paid to the State) the amount of the payment due from the Company shall be increased to an amount which (after the making of such deduction) leaves an amount equal to the payment which would have been due if no such deduction had been required.



PART 4
REPORTING AND INSPECTION

12. FINANCIAL RECORDS AND STATEMENTS, REPORTING

12.1 Financial records and financial statements

- (a) The Company is responsible for maintaining accurate accounting records in accordance with Good Industry Practice in a currency agreed upon by the Parties, in order to comply with Applicable Law and this Contract and to support all fiscal returns or any other accounting reports required by the MoMP in relation to the Project.
- (b) The Company shall keep physically within the State complete, accurate and up to date technical and commercial books and records of all Mining Activities in relation to the Project, including:
 - (i) details of all revenues and expenditures;
 - (ii) details of the production of Mineral Substances and the shipment and sales thereof;
 - (iii) all maps, geological, geophysical, mining, technical and other data, records and interpretations;
 - (iv) Mineral Substances analyses; and
 - (v) samples and reports connected with and arising from such Mining Activities.
- (c) The Company shall supply and file such technical and commercial information, reports, returns and statements at such times and in such form as may be required by Applicable Law.
- (d) All books and records shall be maintained and made available for inspection by an auditor appointed under and in accordance with this Contract for the Term of this Contract, or, if longer, the relevant period required by Applicable Law.
- (e) The Company shall maintain all financial, employment, commercial and other books and records and comply with all other reporting and filing obligations under Applicable Law and shall conduct its activities, and shall report, in accordance with Applicable Law, regulations and directives.

12.2 Reporting

- (a) The Company shall deliver to the MoMP within ninety (90) days after the end of each of its Financial Years:
 - (i) a balance sheet of the Company, as at the end of such Financial Year, and



- (ii) statements of income, changes in shareholders' equity and cash flows of the Company, for such year,

setting forth in each case in comparative form the figures for the previous Financial Year, all in reasonable detail, and certified by the chief financial officer of the Company (or, if the Company is incorporated in Afghanistan, its general director), as having been prepared in accordance with Applicable Accounting Standards consistently applied except as otherwise noted,

- (b) Such financial statements shall be accompanied by an opinion thereon of independent public accountants of recognised international standing, which opinion shall state that such financial statements present fairly, in all material respects, the financial position of the companies being reported upon and their result of operations and cash flows and have been prepared in conformity with Applicable Accounting Standards, consistently applied except as otherwise noted, that the examination of such accounts in connection with such financial statements has been made in accordance with generally accepted auditing standards, and that such audit provides a reasonable basis for such opinion in the circumstances.
- (c) Each year's financial statements shall be accompanied by a listing of all transactions with Affiliates of the Company, or any of its respective shareholders, whether or not reflected in such financial statements, identifying the amount of the transaction, the Affiliate involved, the shareholder of which such entity is an Affiliate, and the nature of the transaction, certified by the chief financial officer of the Company (or, if the Company is incorporated in Afghanistan, its general director) as being correct and complete. Transactions of the same type with the same entity that are individually immaterial may be aggregated rather than separately listed. The Company shall maintain contemporaneous documentation of each such transaction with an Affiliate evidencing that the pricing of the transaction was negotiated at arms-length.
- (d) If the MoMP determines that it is necessary for it to cause an independent review or audit of the Company's own records or books (or those of any Affiliate outside of Afghanistan which are reflected or contained within any financial statements delivered pursuant to this Clause 12.2 and which is involved in the development or operation of the Project or in any investment of funds or repatriation of profit or revenue in connection therewith) the Company shall cooperate to provide the MoMP with copies of the information, books and records needed to complete the review or audit. Any independent audit of the nature referred to in this Clause 12.2(d) shall be conducted by independent public accountants of recognised international standing. If any independent review or audit of the nature referred to in this Clause 12.2(d) is required by the MoMP as a consequence of the qualification of any audited financial statements of the Company (other than a "going concern" qualification) or otherwise as a result of any irregularity in such financial statements identified by the MoMP then, subject to the following sentence, the Company shall bear the cost of such independent audit. If the MoMP deems it necessary for any part of such audit to be performed outside of Afghanistan, the cost of associated travel will be borne by the MoMP except to the extent that the Company is unable to provide the information,

books or records needed to complete the audit in Afghanistan, in which case the Company shall bear both the reasonable travel cost of a reasonable number of auditors selected by the MoMP to travel to the place where such information, books and records may be obtained and their accommodation costs for a reasonable amount of time necessary to complete their review.

- (e) The Company shall promptly upon request provide the MoMP with copies of all insurance policies maintained in accordance with this Contract.
- (f) Within sixty (60) days of each third anniversary of the Effective Date, the Company shall provide the MoMP with a report of an independent internationally recognised insurance consultant reasonably acceptable to the MoMP to the effect that the insurance obtained and maintained by the Company in relation to the Project complies with the requirements of this Contract.
- (g) The Company shall promptly upon request provide the MoMP with copies of all statements relating to bank accounts maintained by it.
- (h) The Company shall:
 - (i) provide the MoMP (with a copy to the Ministry of Finance) with copies of all contracts of the Company with contractors providing services in relation to the Project together with copies of the licenses issued to such contractors authorising them to conduct business in Afghanistan (or, if not registered to conduct business in Afghanistan, with details of the beneficial owners of such contractors; and
 - (ii) provide the MoMP (with a copy to the Ministry of Finance) with a list of (i) all entities or persons who have any direct beneficial ownership interest, and (ii) all entities or persons who directly or indirectly have in aggregate ten (10) per cent, or more beneficial ownership interest in the outstanding share capital of the Company (or, if the shares of the Company are publicly listed on a stock exchange located in an OECD country, a list of such entities or persons owning five per cent (5%) or more of the outstanding share capital of the Company).
- (i) The Company shall, in connection with the occurrence of the Effective Date deliver to the MoMP a copy of its constituent documents (including any shareholders, joint venture, consortium or similar agreement which the Company has entered into or to which it is subject). The Company shall from time to time promptly provide the MoMP with copies of any amendment implemented in connection with any such item of documentation.
- (j) The Company shall provide such other reports and information as may be required under Applicable Law within the time frames specified in any relevant Applicable Law.



12.3 Reporting Periods and Local Language Requirements

- (a) The Company shall maintain records, and report to the MoMP, on the basis of the financial year specified in Applicable Law (being on the Effective Date a period of twelve (12) months ending on 21 December); provided, however, that financial statements delivered pursuant to Clause 12.2(a) (*Reporting*) may, in circumstances where the Company is not incorporated in Afghanistan, be prepared on the basis of its financial year ending on the date up to which its accounts are prepared.
- (b) All records maintained by the Company, and all reports and other information submitted by the Company to MoMP under this Contract, shall be maintained and submitted in one or more of the official languages of the State.

13. INSPECTION

13.1 MoMP Access to Project

The MoMP and its authorised representatives may enter the Mining Area and any other place of business of the Company to inspect its operation at any time as well as from time to time during regular business hours. The Company shall render all necessary assistance to enable the representatives to inspect technical and financial records relating to the Company's operation as well as the operational aspects of the Project and shall give the said representatives such information and access as they may request. The said representatives shall conduct such inspection at their own risk and shall avoid interference in the normal operations of the Company.

The Company acknowledges the right of the MoMP to issue orders in the manner contemplated by Clause 16.4(a) (*Compliance with instructions for MoMP*) as a result of any observation made by any representative of the MoMP during any visit to the Project.

13.2 Inspection

- (a) The MoMP has the right to audit the Company's accounts, books and records maintained under this Contract and Applicable Law for each calendar year within two (2) years from the end of each such calendar year. Any such audit requested by, and officially approved by, the MoMP will (save as set out below) be at the Company's sole cost and risk, performed by and through a technical inspector or an independent professionally qualified auditor, completed within twelve (12) months of its commencement, and conducted in a manner which will result in the minimum amount of inconvenience to the Company. While the MoMP has the right to request an audit of the Company's accounts, if no sufficient cause exists such as a qualification of the audit results, then the cost of such audit shall be borne by the MoMP.
- (b) The MoMP's inspector or auditor appointed pursuant to Clause 13.2(a) shall have the right in connection with such audit, to visit and inspect, during normal business hours on any Business Day, all sites, plants, facilities, warehouses and offices of the Company directly or indirectly serving its

activities under this Contract and to visit and question personnel associated with those activities in accordance with Applicable Law.

- (c) The MoMP shall, and shall ensure that any inspector or auditor shall, use such information only for the purpose for which it was disclosed and not for any other purpose and shall keep confidential all information provided to it or any of its agents, advisors, representatives, officers, directors or employees by or on behalf of the Company or otherwise obtained by it or any of its agents, advisors, representatives, officers, directors or employees in connection with the audit which relates to the Company or the business of the Company.



PART 5
OTHER RIGHTS AND OBLIGATIONS

14. MUTUAL OBLIGATIONS

14.1 Parties' commitment to protecting human rights

- (a) The Parties each commit themselves to the protection and promotion of the human rights of all individuals affected by the Project, as those rights are articulated in the United Nations' 1948 Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, and Applicable Law.
- (b) In all dealings between security departments of the Company and the police, military, or other security organs of the Government, the Parties each undertake to comply with Applicable Law.
- (c) The Company shall ensure that its operational policies reflect the responsibility to respect human rights and that the policies have the objectives of preventing, mitigating and remediating any potential or actual negative human rights impacts from Mining Activity.
- (d) The Company shall recognise and respect the rights, customs and traditions of local communities;
- (e) The Company shall remediate any negative human rights impacts from its operations or relationships as soon as is practicable, including through, as appropriate: (i) providing adequate compensation or other appropriate remedy to any victim of the negative impact; (ii) removing or altering the cause of the negative impact so as to avoid further negative impacts of the same type; (iii) revising its operational policies and manuals to seek to prevent a recurrence of the actions or failures to act leading to the violation; and (iv) such other actions as may be necessary to avoid similar negative impacts in the future.
- (f) The MoMP and the Company shall strive to cooperate to the maximum extent possible to ensure the implementation of this Clause 14.1. They shall seek the cooperation of local communities for this purpose.

14.2 Transparency obligations of the Company

The Company, its officers, directors and employees acknowledge and agree that they are subject to the anti-bribery and anti-corruption provisions of the Minerals Law and the relevant provisions of other Applicable Law (collectively, "Anticorruption Laws"); and shall conduct their activities in accordance with their obligations under the Anticorruption Laws.

14.3 Other applicable norms

- (a) The Parties acknowledge and agree that this Clause 14.3 and all payments made by the Company, or any of its contractors, subcontractors, officers or directors to agencies or officials of the Government at any level shall be public

information and made public in accord with the EITI Principles and Criteria. The MoMP shall collect, not less than annually, and publish reports concerning Government revenues and other direct or indirect economic benefits received by the Government from Mining Activities in accordance with international best practices based on the EITI Principles and Criteria.

- (b) The MoMP shall be authorised to, for the purposes of preparing such reports, require the Company and all Government or public agencies and public officers to, not less than annually, submit data, including production, financial data, and other direct or indirect economic benefits received by them and all amounts paid by them in connection with Mining Activities.
- (c) The Company and the Government shall implement the EITI Principles and Criteria and, where appropriate, the Company shall contribute to the Government's implementation of the EITI Principles and Criteria by becoming a supporting company of the EITI.
- (d) The Company and the Government shall each comply with requirements of the EITI Principles and Criteria with respect to all payments and reporting to be made by either of them pursuant to this Contract. Breach by one Party of these provisions shall not excuse compliance by the other Party.

15. GOVERNMENT ASSURANCES AND OBLIGATIONS

15.1 Approvals

The Government undertakes, so far as possible and in accordance with the terms of this Contract and Applicable Law, to expeditiously provide or, to the extent within its power and capacity, facilitate, all necessary licences, approvals and assistance for the development and operation of the Project and as otherwise may be reasonably required by the Company in relation to the rights granted to it under this Contract.

15.2 Government guarantees

Subject to compliance with the Minerals Law, the Mining Regulations and other Applicable Law, the Government guarantees to the Company:

- (a) the right to organise its assets and its businesses as it deems fit;
- (b) the right to employ sub-contractors and to recruit personnel needed to carry out Mining Activities, provided that priority shall be given by the Company to employing local persons with equal or better qualifications;
- (c) access to raw materials and water within the Mining Area, subject to compliance with Applicable Law;
- (d) free movement of personnel of the Company and those of its sub-contractors within the State in compliance with Applicable Law; and
- (e) subject to Clause 16.11 (*Use of local goods and services*) the freedom to import goods and services necessary for Mining Activities.

15.3 Expropriation

The Mineral Substances extracted or the assets used by the Company in conducting Mining Activities during the terms of the Exploration Licence and the Exploitation Licence may not be compulsorily expropriated by the Government except in circumstances of public necessity. In the case of any such expropriation the Government shall promptly pay fair, adequate and effective compensation to the Company in accordance with Applicable Law and any international treaties to which the State is a party.

15.4 Non-discriminatory treatment

The Government shall not adopt any provision of Applicable Law that imposes a material financial burden or material other burden solely on the Company or any of its Affiliates, whether or not such provision specifically identifies the Company or any of its Affiliates as the target thereof, provided that this provision shall not apply to any Applicable Law reasonably intended to protect the safety, health, welfare or security of the State or citizens thereof, to protect the Environment or any historic or cultural artefacts or to fulfil the State's international obligations.

15.5 Role of Government in financing

- (a) The Government acknowledges the Financing Plan, but is not obliged to provide any funds or credits, issue guarantees or otherwise become liable directly or indirectly for any financing of the Project.
- (b) The Government shall promptly consider requests for approvals concerning the financing contemplated by the Financing Plan and shall not unreasonably withhold or delay those approvals.

15.6 Expatriates

Subject to Clauses 6.9(h) (*Exploitation Phase Obligations*) and 16.11 (*Use of local goods and services*), the Government shall issue such permits as may be required to allow expatriates employed by the Company freely to enter into, work and reside in Afghanistan in connection with the operations of the Project, and to depart from Afghanistan, so long as they conduct themselves in accordance with Applicable Law.

16. COMPANY RIGHTS AND OBLIGATIONS

16.1 Affiliated Company Transactions

- (a) Sales, leases, licences and other transfers of goods and services between the Company and its Affiliates shall be at an arm's-length fee basis negotiated between the parties in substantial accordance with the substantive principles and guidelines set forth in the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations published by the OECD in 2010 (referred to at www.oecd.org/ctp/tp/guidelines) or subsequent substantive guidelines having a similar purpose and agreed to by the Parties.
- (b) Any discounts or commissions allowed in transactions between the Company and its Affiliates shall be no greater than the then current market rate so that

such discounts or commissions will not reduce the net proceeds below those which it would have received if the parties had not been Affiliates. Upon request of the MoMP, the Company shall provide to the MoMP documentation of the prices, discounts and commissions, and a copy of all contracts and other relevant documentation related to transactions with Affiliates.

- (c) The Company shall sell the Mineral Substances in accordance with generally accepted international business practices, at commercially reasonable prices, and on commercially reasonable terms compatible with world market conditions in the circumstances then prevailing.
- (d) Without prejudice to the reporting and other requirements of this Contract, the Company may market and export without further reference to the MoMP all Mineral Substances and shall have sole control and management of sale of such Mineral Substances, including the forward selling of such Mineral Substances, and shall assume all risks therefore, provided that the Company sells its products on arms' length terms.

16.2 Security/Afghan Public Protection Force

The Company understands and agrees that it shall conduct (at its own expense) a security assessment of the Mining Area and, in consultation with Government, prepare a security plan to protect Company employees and maintain security within the Mining Area for the duration of the Project. The Company shall implement the security plan at its own cost including, without limitation, by entering into a contract with the Afghan Public Protection Force for the provision of security in accordance with that plan. The Company shall bear the cost of the services provided by the Afghan Public Protection Force.

16.3 Development Obligations

- (a) The Company shall exercise its rights and obligations under this Contract according to the terms hereof and consistent with Good Industry Practice and Applicable Law.
- (b) The Company shall construct and provide the required facilities and develop the Project with due diligence, efficiency and economy in accordance with the Proposal and the Exploitation Licence Application Documents.
- (c) The Company shall use commercially reasonable efforts to optimise the recovery of Mineral Substances and to produce and market Mineral Substances removed from the Mining Area at rates contemplated by the Feasibility Study. All Mining Activity shall be conducted consistent with Good Industry Practice, Applicable Law and the Exploitation Licence Application Documents.
- (d) The Company may not make any material changes to operations detailed in any Exploitation Licence Application Document unless it first submits those changes to the MoMP for comment and approval following the same procedure set forth in Clauses 6.8(a) and 6.8(b) (*Grant of Exploitation*

Licence) in connection with the initial approval of such Exploitation Licence Application Document.

16.4 Compliance with instructions from the MoMP

- (a) The Company shall comply with the measures which are ordered by the MoMP (including the cessation of activity) with a view to preventing or removing the causes of any danger which Mining Activities inflict on the public health, safety of work, protection of water resources and public utility infrastructure.
- (b) If the Company does not comply with such requirements and take urgent corrective action, the corrections shall be made and implemented by the relevant Government authorities without consultation with the Company, and any expense incurred by the relevant Government authority shall be borne by the Company.

16.5 Labour Standards

- (a) The Company shall adhere to provisions of Applicable Law on labour.
- (b) The Company, its Affiliates, contractors and subcontractors shall observe guidance provided by Good Industry Practice, as well as internationally recognised labour standards in relation to all International Labour Organisation agreements to which the State is a Party, and shall respect as provided therein the right of its employees to organise.
- (c) The Company shall not utilise forced labour, nor shall the Company utilise child labour, as outlined in the International Finance Corporation Policy Statement on Forced Labor and Harmful Child Labor of March 1998. The Company shall ensure that its Affiliates, contractors and subcontractors shall conform to the standards set forth in the immediately preceding sentence.

16.6 Health and Safety

- (a) The Company shall observe Good Industry Practice for the protection of the general health and safety of its employees and of all other persons contracted by the Company having legal access to the Mining Area.
- (b) The Company shall install and utilise such recognised modern safety devices and observe such recognised modern safety precautions as are provided and observed under Good Industry Practice. The Company shall maintain in a safe and sound condition for the duration of this Contract all infrastructure and equipment constructed or acquired in connection with the Project and required for ongoing operations.
- (c) The Company shall prepare and publish a health and safety plan and make each of its employees, and all people present at the Project, aware of the same.
- (d) The Company shall ensure that all explosives used in connection with the Project are stored, maintained and used in accordance with the Mining Regulations and other Applicable Law.

- (e) The Company shall train its employees in accordance with generally accepted health and safety procedures and practices.

16.7 Expatriate Staffing

The Company shall, subject to the other provisions of this Contract (including Clauses 6.9(h) (*Exploitation Phase Obligations*) and 16.11 (*Use of local goods and services*)), be entitled to employ expatriates in accordance with Applicable Law for the efficient conduct of the operations of the Project in Afghanistan.

16.8 Accuracy of Information

The Company shall ensure that all factual information hereafter furnished by or on behalf of the Company in writing to the MoMP for the purposes of or in connection with this Contract will be true and accurate in all material respects on the date as of which such information is dated or certified and such information shall not be incomplete by omitting to state any material fact known to the Company or any of its Affiliates necessary to make such information not misleading in any material respect.

16.9 Proposal Commitments

Without prejudice to the other undertakings of the Company contained in this Contract the Company shall implement the specific undertakings contained in the Proposal and referred to and described in Schedule 4 (*Specific Proposal Commitments*).

16.10 Security for Performance

- (a) By way of security for the performance of its obligations under this Contract the Company shall arrange for the issue of successive on demand performance bonds in respect of each of the Exploration Phase and the Exploitation Phase as set out in this Clause. In the case of the Exploration Phase such bonds shall be substantially in the form of Part 1 of Schedule 3 (*Performance Bond*) and in the case of the Exploitation Phase such bonds shall be substantially in the form of Part 2 of Schedule 3 (*Performance Bond*) (or, in each such case, in a reasonably similar form acceptable to the MoMP). Each bond shall be issued by a bank or financial institution subject to the jurisdiction of, and regulated by, the Government (including the Central Bank, where applicable) and acceptable to the MoMP and the Central Bank. The bonds for the Exploration Phase shall initially be in place for a period of three (3) years. The bonds for the Exploitation Phase shall initially be in place for a period equivalent to the term of the initial Exploitation Licence, unless a lesser period is otherwise agreed between the Parties. In the event that the Exploration Phase shall extend beyond such initial period the Company shall ensure that bonds complying with the provisions of this Clause 16.10 are in place for periods of not less than three (3) years. In the event that the Exploitation Phase shall extend beyond such initial period the Company shall ensure that bonds complying with the provisions of this Clause 16.10 are in place and in full force and effect at all times during the term of any subsequent Exploitation Licence, unless a lesser period is otherwise agreed between the Parties.

- (b) The bonds issued in respect of each of the Exploration Phase and Exploitation Phase shall be issued for consecutive periods of twelve (12) months. The Company shall ensure that the initial bond in respect of the Exploration Phase is received by the MoMP no later than the earlier of (i) one hundred and twenty (120) days after the Effective Date; and (ii) thirty (30) Business Days prior to the start of the Exploration Phase. Notwithstanding the above, this bond shall remain in place from its date of issue until completion of the first twelve (12) months of the Exploration Phase. The Company shall ensure that the initial bond in respect of the Exploitation Phase is received by the MoMP no later than thirty (30) Business Days prior to the start of the Exploitation Phase. Each subsequent bond shall be issued prior to, or contemporaneously with, the expiry date of the prior bond.
- (c) In the case of each bond issued during the Exploration Phase the maximum amount capable of being demanded thereunder shall be equivalent to thirty percent (30%) of the relevant amount as defined below in respect of the twelve (12) month period to which such bond relates.
- (d) In the case of each bond issued during the Exploitation Phase the maximum amount capable of being demanded thereunder shall be: (i) five million U.S.\$ (\$5,000,000) for the first three consecutive annual bonds; and (ii) nine million U.S.\$ (\$9,000,000) for each subsequent annual bond.
- (e) In connection with each bond issued during the Exploration Phase, without duplication:
- (i) if the actual value of expenditure in respect of Exploration activity during the relevant twelve (12) month period is less than the relevant amount (as described below) then (unless the Commission shall agree to such deficit being added to the scheduled value of Exploration activity for the following twelve (12) month period) an amount equal to thirty percent (30%) of such deficit shall be capable of being drawn under the bond; and
 - (ii) if the actual value of eligible expenditure (as described below) in respect of Exploration activity during the relevant twelve (12) month period is less than 80% of the relevant amount (as described below) then (unless the Commission shall agree to such deficit being added to the scheduled value of Exploration activity for the following twelve (12) month period) an amount equal to thirty percent (30%) of such deficit shall be capable of being drawn under the bond; and
 - (iii) if the Company fails to comply with its obligations as set out in Clause 5.1 (*Company's obligations prior to conducting Exploration activities*) and MoMP terminates this Contract under Clause 25 then an amount equal to 100% of the value of the initial bond in respect of the Exploration Phase shall be capable of being drawn under the bond.
- (f) In the event that the value of eligible expenditure is in excess of 80% of the relevant amount (as described below) in respect of Exploration activity during any twelve (12) month period then, for the purposes of calculating the amount

of the bond for the succeeding twelve (12) month period, such excess shall be deducted from the value of Exploration activities for such succeeding period.

- (g) For the purposes of determining what is the relevant amount for the above provisions it shall be: (i) the amounts set out in paragraph 1.1 of Schedule 4 for the first three (3) years of the Exploration Phase; and (ii) the amounts as may be agreed as the minimum Exploration expenditure in any subsequent years.
- (h) For the purposes of determining what is eligible expenditure for the above provisions, such expenditure shall be expenditure in respect of Exploration activity other than administration costs. Administrative costs do not include the direct costs of office based technical staff and their associated equipment and consumables in providing planning, management and analysis in connection with the development of the Project.
- (i) For the avoidance of doubt the bonds referred to in this Clause 16.10 (*Security for Performance*) are to be issued in respect of this Contract rather than in respect of each individual Licence.

16.11 Use of local goods and services

The Company shall, and shall require that its contractors and subcontractors, give preference to (i) qualified Afghan construction enterprises, (ii) construction materials and equipment that (x) are no more than 15 per cent more expensive than comparable construction materials and equipment that are available outside Afghanistan, and (y) meet requirements with respect to specification and quality such that the Project may be operated and developed in accordance with Good Industry Practice, (iii) skills available in Afghanistan which meet requirements with respect to quality such that the Project may be operated and developed in accordance with the Good Industry Practice, (iv) Afghan sub-contractors for road construction and transportation, (v) Afghan household equipment, furniture and food, and (vi) goods and services available or provided in Afghanistan other than those specific goods, services and other items referred to in the preceding provisions of this paragraph. Notwithstanding the foregoing, the Company shall, and shall require that its contractors and subcontractors: (i) give preference to Afghan nationals in all types of mining employment for which they are qualified; (ii) shall employ only Afghan nationals as skilled, unskilled and vocational labour in its Mineral Activities (as that term is defined in the Minerals Law) in accordance with the Minerals Law (including without limitation Article 111 of the Minerals Law) and in accordance with its commitments set out in Schedule 4; and (iii) in its recruitment of experts, give priority to Afghan nationals having similar degree, skill and profession over foreign citizens.

16.12 Processing and Beneficiation of Mineral Substances

The Company shall use (where feasible) processing and beneficiation facilities located in the State for the processing and beneficiation of Mineral Substances extracted from the Mining Area (including through the sale of such Mineral Substances to entities owning beneficiation or processing facilities in the State in circumstances where such Mineral Substances will be processed and beneficiated in such facilities). The Company shall not be entitled to export any such unprocessed

Mineral Substances outside the State or sell such Mineral Substances to a third party in circumstances where it would be in breach of the preceding provisions of this paragraph.

17. INFRASTRUCTURE

17.1 Development of Infrastructure

The Company shall plan and develop the infrastructure required for the development of the Project including the infrastructure for electrical energy, process water, potable water, communications, roads and transportation, railways facilities, ports, airstrips and related facilities. Without limiting the generality of the foregoing the Company shall:

- (a) during the Exploration Phase (i) build and improve roads from Mazar-e-Sharif to the Project and access roads within the Project, (ii) create no less than five wells to provide clean drinking water to local populations, (iii) build and operate a medical clinic for the local population and Project staff and (iv) build and operate a school for the local population; and
- (b) during the Exploitation Phase (i) further improve and create roads to and within the Project site, (ii) provide electrification without cost for villagers surrounding the processing plant and (iii) provide access to a small airstrip.

All such infrastructure shall be planned, developed, constructed and operated in a manner which is consistent with the Proposal and the Feasibility Study and the other Exploitation Licence Application Documents and which will ensure the optimal development and operation of the Project and production of Mineral Substances in a manner which is consistent with the Proposal and the Feasibility Study and the other Exploitation Licence Application Documents.

The Company shall construct such structures or zones for the protection of buildings, water sources and other facilities as may be ordered by the MoMP pursuant to the Minerals Law, Mining Regulations and other Applicable Law.

17.2 Access to Infrastructure

To the extent commercially feasible, the Company shall endeavour to plan and develop all forms of infrastructure (including the infrastructure for electrical energy, process water, potable water, communications, and roads and transportation) in ways that facilitates its shared use by others and its contribution to the sustainable social and economic development of the area in which it is located. The Company shall also endeavour to ensure that individuals from local communities are able to access Project infrastructure and services (other than infrastructure within the Mining Area directly and exclusively used for the sole purpose of Exploration or Exploitation) without payment of any cost provided that such access does not materially impact the development or operation of the Project or the costs of operation of the Company in connection with the Project and cannot reasonably be expected to pose a security risk to the Company or any of its contractors or sub-contractors in connection with the Project. The Government will not under Applicable Law close any public or private road giving access to the Mining Area without first obtaining the written consent of

the Company, except when such closure is temporarily unavoidable as a result of emergency conditions threatening public safety.

18. OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS

18.1 Applicability of obligations to contractors and their subcontractors

- (a) Any agreement between the Company and contractors or between contractors and subcontractors shall contain appropriate terms by which the contractor or subcontractor shall acknowledge, and where appropriate agree to be bound by, the terms of this Contract to the extent applicable to the activities undertaken by the contractor and its subcontractors.
- (b) The Company shall ensure that its supervision and management of its contractors and their subcontractors is sufficient to inform it of whenever the practices of its contractors or their subcontractors may place them, or the Company, at risk of violating this Contract.
- (c) Nothing in this Contract shall exempt the Company from any and all obligations under this Contract despite the delegation of such obligations to a contractor or its subcontractors.
- (d) The Company shall require its contractors and its subcontractors to obtain and maintain such insurance coverage as an operator in the position of the Company would require as a matter of Good Industry Practice. The failure of any contractor or subcontractor to obtain and maintain such insurance coverage shall not excuse the Company from any liabilities it may have under this Contract or from any failure to carry insurance required by this Contract.

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PART 6
ENVIRONMENTAL AND SOCIAL OBLIGATIONS

19. ENVIRONMENTAL AND SOCIAL OBLIGATIONS; CLOSURE

19.1 General

- (a) All Mining Activities undertaken pursuant to the Licences shall be conducted in compliance with international best practice standards for Environmental and Social protection, including the Agreed Environmental and Social Standards.
- (b) The MoMP, acting in coordination with the National Environmental Protection Agency of Afghanistan, may periodically adopt or revise substantive Environmental or Social protection standards established in the Minerals Law, Mining Regulations, Environmental Law and/or any other Applicable Law. For the avoidance of doubt the Company shall comply with such revised standards.
- (c) The Company shall comply with Environmental Laws and Social Laws in force at any time during the period of this Contract including any provincial and local laws, including laws relating to protection of water quality, air quality, quality of land, the preservation of living natural resources, the protection of biodiversity, the disposal of hazardous and non-hazardous wastes and the establishment and maintenance of financial assurance in connection with the rehabilitation, management and remediation of adverse Environmental impact.
- (d) Consistent with the basic policy of the MoMP to assure the availability, sustainability and equitable distribution of the State's natural resources, the Company shall manage its Mining Activities in a technically, financially, socially, culturally and Environmentally and Socially responsible manner in order to promote the general welfare of the State and its sustainable development objectives and responsibilities in the manner provided for in any Environmental Law or Social Law.
- (e) The Company shall at all times liaise with the National Environmental Protection Agency in connection with Environmental and Social matters relating to the Project including the Company's compliance with its obligations contained in this Clause 19.

19.2 Closure obligations

- (a) The Company shall submit an updated Closure Plan on a periodic basis with a frequency of at least five (5) years.
- (b) The Company shall, after Consultation with communities in the areas affected by Mining Activities, deliver to the MoMP a proposed final Closure Plan not later than twelve (12) months before the planned end of Commercial Production. After review and comment by the MoMP (with or without modification), the Company shall deliver the final Closure Plan in a form.

which is responsive to any required modifications to the MoMP by the planned end of Commercial Production. The final Closure Plan may be amended by agreement between the Parties, during the performance of closure activities, at the request of the Company or the MoMP, subject to any approval required by Applicable Law.

- (c) After cessation of Commercial Production, the Company shall continue to perform the required Environmental management of the Mining Area as set forth in the Environmental Management Plan and the final Closure Plan.
- (d) After cessation of Commercial Production, the Company shall provide to the MoMP every one hundred and eighty (180) days (or such alternative period as may be agreed by the Parties from time to time) a report detailing progress in the implementation of the final Closure Plan.
- (e) Upon completion of the final Closure Plan, the MoMP shall inspect the Mining Area and provide the Company with notice as to whether the Company has completed closure in accordance with the final Closure Plan.

19.3 Guarantee for closure expenses

The Company shall within ninety (90) days of the grant of an Exploitation Licence, provide a mine closure guarantee (the "**Closure Guarantee**") to the MoMP. The purpose of the Closure Guarantee is to ensure the completion of the Closure Plan.

- (a) The Closure Guarantee shall be in an amount calculated to be necessary to implement the Closure Plan should the Company fail to implement the Closure Plan during the five (5) year period covered by the then current Closure Plan. The amount of the Closure Guarantee shall be updated any time the Closure Plan is updated, or any update of the Closure Plan under Clause 19.2 (*Closure Plan and closure obligations*), so that it continues to be sufficient to ensure that all steps in the Closure Plan can be completed in a satisfactory manner should the Company fail to implement the Closure Plan. The amount of the Closure Guarantee will vary depending on the stage, size, and other circumstances of the Mining Activities, but in any case must be sufficient to cover all of the following potential classes of costs including:
 - (i) costs to rehabilitate areas disturbed by Mining Activities and offsite Environmental and Social impacts of the Mining Activities; and
 - (ii) costs of implementing all mitigation and rehabilitation requirements and commitments.
- (b) The Closure Guarantee shall consist of financial assurance in the form required by Applicable Law and may be in one of the following forms at the election of the Company:
 - (i) a trust fund in a format approved by the MoMP;



- (ii) an irrevocable letter of credit or financial guarantee from a bank subject to the jurisdiction of, and regulated by, the Government and acceptable to the MoMP;
- (iii) insurance in a format, in an amount, and issued by an entity, approved by the MoMP; or
- (iv) a performance bond in a format, in an amount and from an entity, approved by the MoMP;
- (c) The Closure Guarantee shall be consistent with the requirements of the Minerals Law and the Mining Regulations.
- (d) During the life of the Project, if there is any substantive change in the Mining Activities, or there is any other event that means that the amount of the Closure Guarantee (as determined by the MoMP) is no longer an accurate estimate of the amount necessary to implement the Closure Plan should the Company fail to implement it, the amount of the Closure Guarantee shall be recalculated, and increased or decreased accordingly, and any additional payment or repayment shall be promptly made and in any event within thirty (30) Business Days of such determination.
- (e) The MoMP shall return the Closure Guarantee to the Company within thirty (30) Business Days following verification by the MoMP that the Company has fulfilled all the obligations of the final Closure Plan. The MoMP is permitted to inspect the Mining Area to confirm the obligations in the Closure Plan have been fulfilled.

19.4 Reporting requirements

- (a) The Company shall report to the MoMP and the relevant administrative and judicial authorities any serious, or fatal accident that occurs as well as any imminent hazard that arises in connection with its Mining Activities.
- (b) The Company shall immediately inform the MoMP and the Department for Archaeological and Cultural Heritage of the Ministry of Information, Culture and Tourism, upon discovery of the signs of archaeological, historical or cultural relics or items if the Mining Activities of the Company reveal the existence thereof and the Company must comply with the provisions of Article 109 of the Minerals Law. Fossils, rare minerals and any items contained in the Archaeological and Cultural Heritage list shall also be regarded as archaeological, historical or cultural relics.

19.5 Post-closure monitoring

The Company shall in Consultation with local community leaders, develop and implement a post-closure monitoring committee, with the mandate to supervise the monitoring of geophysical stability, water quality, and rehabilitation of contaminated sites and restoration of land for post-closure use. The post-closure monitoring shall take place for a period after the cessation of Commercial Production, the length of which shall be agreed in the Closure Plan.

20. RIGHTS OF CITIZENS OF THE STATE

20.1 Company grievance mechanism

- (a) The Company shall, at its own expense, promptly respond to communities' concerns related to the Project in accordance with IFC Performance Standards as the same are in effect from time to time.
- (b) Where not established under a Community Development Agreement, the Company shall establish a grievance mechanism to receive and facilitate resolution of the affected communities' concerns and grievances about the Company's Environmental and Social performance in relation to the Project. The grievance mechanism should be proportionate to the risks and adverse impacts of the Project. The grievance mechanism should be established in Consultation with the communities who are anticipated to use it, through an understandable and transparent process that is culturally appropriate and readily accessible to all segments of the affected communities, at no cost to the affected communities and without retribution. The mechanism should not impede access to judicial or administrative remedies. The Company shall inform the affected communities about the mechanism in the course of its community engagement process.

20.2 Forum for claims and disputes involving natural citizens of the State

A natural citizen of the State who has a claim or dispute regarding the Project may submit such claim or dispute for resolution under Applicable Law.

20.3 Compensation

- (a) The Company is liable to pay compensation for damages caused by its Mineral Activities (as defined in the Minerals Law) to a third party in accordance with Applicable Law.
- (b) If the MoMP determines that the Company has violated any provision of any Applicable Law (including the Minerals Law or the Mining Regulations) the Company may be liable to pay fines in accordance with the relevant Applicable Law.
- (c) If the Company breaches or fails to comply with the terms and conditions of any Licence or fails to implement any written instruction received from the MoMP then it shall be subject to a fine in accordance with the relevant Applicable Law.
- (d) If the Company breaches or fails to comply with the terms and conditions of its approved Environmental Management Plan then it shall be liable to pay a fine in accordance with the Mining Regulations.



21. LOCAL COMMUNITY DEVELOPMENT

21.1 Community Development Agreement

Within thirty (30) days after the Effective Date, the Company shall enter into Consultation and negotiations with the objective of concluding one or more community development agreements as described in this Clause 21.1 or agreements with communities impacted by the Project, to promote sustainable development and enhance the general welfare and quality of life of inhabitants, as well as to recognise and respect the rights, customs, traditions and religion of the affected persons (each, a "**Community Development Agreement**"). It is the objective of each of the Parties that the Mining Activities shall be carried out in a manner that is consistent with the continuing economic and social viability of centres of population that have formed and which may form as a result of such operations during the term of this Contract. Upon request of the MoMP at any time the Company shall consult with the MoMP and with each affected community mutually to establish plans and programmes for the implementation of this objective and thereafter the Company shall cooperate with the MoMP with regards to its effort concerning the realisation of such plans and programmes. The MoMP shall use reasonable efforts to assist the Company in liaising with other relevant agencies and ministries of the State in connection with the Company's Consultation with communities impacted by the Project. Each Community Development Agreement shall be subject to Applicable Law and shall:

- (a) address both how local communities can take advantage of the development opportunities presented by the Project, and how the Project's adverse impacts can be mitigated;
- (b) serve as the agreement that specifies how the Company's obligation to spend funds for local development shall be met;
- (c) address Environmental, Social, and economic conditions during mining and after mine closure, and the eventual transition from a mining economy to a post-mining economy in the Mining Area as may be agreed upon among the parties to such Community Development Agreement; and
- (d) include a detailed Environmental and Social Impact Assessment or Screening Report and an Environmental and Social Management Plan for the different phases of the mining operations.

The Company shall comply with the terms and conditions of each Community Development Agreement which it enters into.

21.2 Relationship of this Contract to Community Development Agreements

Where an inconsistency occurs between a provision in any Community Development Agreement and the terms or conditions of this Contract, the provision of such Community Development Agreement shall prevail unless this Contract specifically states that the provision in this Contract shall prevail.

21.3 Local business development plan

The Company agrees to cooperate with the MoMP in carrying out the Government's responsibilities by developing a local business development programme to promote economic development and growth in the area of communities impacted by the Project. Any such programme shall be modified from time to time to fit the existing circumstances related to the particular operating phase (development, construction and operation) in the life of the Project. The objective of this programme is to increase the involvement of local suppliers and business with the development of the Project.

21.4 Community Health

The Company agrees to cooperate with the MoMP in carrying out the Government's responsibilities to provide subsidised medical treatment, care and attention at acceptable standards to all inhabitants of the communities affected by the Project consistent with the national health policy of the Government as set out in Applicable Law or otherwise and to maintain an adequate and properly staffed dispensary or hospital headed by a resident medical doctor. During the Term, the Company shall maintain and operate or cause to be operated, health facilities to ensure the availability in the Mining Area of medical treatment, care and attention in accordance with Applicable Law, and such other improved standards as may be agreed between the Parties. Such treatment, care and attention shall be free of charge for the Company's employees and their resident spouses and dependents, Government officials and/or employees assigned to and regularly employed in the Mining Area in an official capacity, and resident in or adjacent to the Mining Area, and their resident spouses and dependants, shall, during the time of such assignment, employment and residence, also be entitled to receive medical care on the same basis as Company employees. The Company shall further provide reasonable access to such health facilities to members of local communities for ambulatory or emergency care.

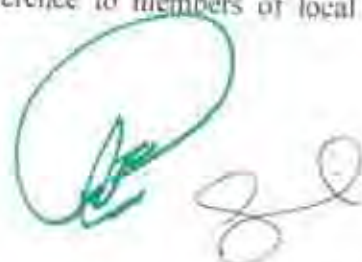
21.5 Scope of Community

In this Clause 21 references to a community being impacted by the Project shall, in the case of a group of persons forming part of a larger community some of which is impacted by the Project and some of which is not, be limited to that portion of the larger community which is impacted by the Project.

22. EMPLOYMENT AND TRAINING OF LOCAL CITIZENS

22.1 Minimum employment levels

In selecting employees to carry out the Mining Activities under this Contract the Company shall give preference to qualified and competent executives, officers, engineers, consultants, technicians and skilled and semi-skilled labour who are citizens of the State (and in doing so shall give preference to members of local communities in priority to other citizens of the State).



22.2 Investment in skills of local work force

The Company shall develop and implement an annual training plan with the objectives of:

- (a) organising training of its employees to upgrade employees' skills and providing further practical experience;
- (b) training employees in line with the Company's short and mid-term human resource plans; and
- (c) upgrading selected employees' qualifications by enrolling them in studies inside or outside the State on a contractual basis to further upgrade their professional qualifications.

22.3 Labour training and capacity enhancement

At all times during the development and operation of the Project the Company shall develop and implement on an ongoing basis training programmes for personnel in the State and carry out such programmes for training and education in order to meet the requirement for various classifications of skilled and semi-skilled full time employment for the Project.

22.4 Management training and capacity enhancement

The Company shall develop and implement training for the personnel who are citizens of the State in the State and in other countries, if necessary, in order to qualify them for technical, administrative and managerial positions, with the objectives to:

- (a) establish and operate a vocational and training institute to provide vocational, technical and advanced training programmes in the community;
- (b) furnish on-the-job counterpart training, not only in the State but to the extent reasonably feasible in the offices of the Company located outside the State, in order that the beneficiaries may receive training in the overseas aspects of the Company's shipping, marketing and accounting functions;
- (c) provide scholarships for inhabitants of affected communities to pursue studies, including advanced studies in the State or abroad; and
- (d) enhance such training and educational opportunities as already exist in the vicinity of the local community.

22.5 Health & safety

- (a) The Company shall observe Good Industry Practice for the protection of the general health and safety of its employees and of all other persons contracted by the Company having legal access to the Mining Area.
- (b) The Company shall install and utilise such recognised modern safety devices and observe such recognised modern safety precautions as are provided and observed under Good Industry Practice. The Company shall maintain in a safe

and sound condition for the duration of this Contract all infrastructure and equipment constructed or acquired in connection with the Project and required for ongoing operations.

- (c) The Company shall train its employees in accordance with generally accepted health and safety procedures and practices.
- (d) The Company shall construct, maintain, and operate health programmes and facilities to serve its employees which programmes and facilities shall install, maintain and use modern health devices and equipment and shall practice modern health procedures and precautions in accordance with accepted international medical standards. Any housing supplied by the Company shall be built to a standard that provides a suitable living environment adequate for health and well being, and which meet applicable sanitation standards.
- (e) The Company shall make a health and safety plan in relation to its activities and it shall be made known to the employees and other individuals who enter the Mining Area after it is approved by the MoMP.



**PART 7
REPRESENTATIONS AND WARRANTIES**

23. REPRESENTATIONS AND WARRANTIES

23.1 Representations and Warranties of the Company

The Company represents and warrants to the MoMP as follows:

- (a) The Company is a corporation duly organised, validly existing and in good standing under the laws of the jurisdiction of its formation, and has the corporate power and authority to execute, deliver and perform its obligations under this Contract.
- (b) This Contract has been duly authorised by all necessary corporate action on the part of the Company, and this Contract constitutes a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganisation, moratorium or other similar laws affecting the enforcement of creditors' rights generally.
- (c) The documents submitted by the Company during the Tender Process, as at the date of their submission, contained complete and correct lists or tables setting forth:
 - (i) the Company's shareholders;
 - (ii) the Company's and each shareholder's Affiliates showing forth, in each case, its relationship to the Company or the shareholder and the jurisdiction in which it is organised;
 - (iii) the directors and senior officers of the Company, each shareholder of the Company, and each person or group deemed to Control the Company; and
 - (iv) each person that is the ultimate beneficial owner of five percent (5%) or more of (x) the voting rights ordinarily empowered to control the management of the Company or (y) the rights to share in the profits of the Company, and the chain through which such rights are exercised.
- (d) The information contained in Schedule 5 accurately reflects the direct and indirect shareholders and beneficial owners of the Company.
- (e) The share register of CENTAR Limited dated 29 March 2018 (annexed to this Contract) is complete and correct and identifies the shareholders of CENTAR Limited as at the Effective Date.
- (f) The execution, delivery and performance by the Company of this Contract will not (i) contravene, result in any breach of, or constitute a default under any agreement or instrument to which the Company is a party or by which it or any of its properties are bound or affected, (ii) conflict with or result in a breach of any of the terms, conditions or provisions of any order, judgment,

decree, or ruling of any court, arbitrator or governmental authority applicable to the Company or (ii) violate any provision of any statute or other rule or regulation of any governmental authority applicable to the Company.

- (g) There are no actions, suits, investigations or proceedings pending or, to the knowledge of the Company, threatened, against or affecting the Company or any property of the Company in any court or before any arbitrator of any kind or before or by any governmental authority that:
 - (i) call into question the right of the Company to enter into and perform its obligations under this Contract; or
 - (ii) would, if resolved against the Company, materially adversely affect its ability to perform its obligations under this Contract.
- (h) Neither the Company nor any Affiliate of the Company has been determined under any order, judgment, decree or ruling of any court, arbitrator or governmental authority to be in material violation of (i) any Applicable Law, ordinance, rule or regulation relating to the protection of the Environment or (ii) any agreement pursuant to which it is entitled to extract Mineral Substances under the laws of any jurisdiction.
- (i) The Company has the experience, finance, expertise, technical know-how and systems required for the conduct of the activities contemplated by this Contract.
- (j) None of the Company, any Affiliate of the Company or any person acting on behalf of the Company or any Affiliate of the Company has made or promised to make any payment or transfer of anything of value, directly or indirectly, to or for the benefit of a State Official or a State Official's family member or to an intermediary for payment to or for the benefit of a State Official or a State Official's family member in connection with this Contract or the transactions contemplated hereby.
- (k) The Company is eligible to hold the Licences under Applicable Law.
- (l) Any factual information provided by, or on behalf of, the Company in connection with this Contract was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.
- (m) No information has been given or withheld that results in any information provided by or on behalf of the Company in connection with this Contract being untrue or misleading in any material respect.
- (n) Neither the Company nor any of its respective agents, contractors, subcontractors or employees or any of them or anyone acting on their behalf has offered, given or agreed to give to any person employed by or on behalf of any public body, any improper or dishonest gift, commission or consideration.
- (o) No improper or dishonest commission has been paid or agreed to be paid by the Company or on its behalf and, to the best of the Company's knowledge and

belief, by any of its respective employees, agents, contractors or subcontractors in connection with this Contract.

- (p) None of the Company, any Affiliate of the Company or any person acting on behalf of the Company or any Affiliate of the Company has committed, and no person to the Company's knowledge has committed, any of the following:
- (i) the payment, transfer, offering, giving, receiving or soliciting of any improper advantage (whether directly or indirectly) to influence the action of any person holding a public office or function or a director or official of a public international organisation (or any intermediary) in connection with this Contract or the implementation of the Project (including any procurement process or in the execution of any contract in connection with this Contract); or
 - (ii) any act that improperly influences or aims to improperly influence any term of this Contract or any other instrument executed in connection with this Contract, the procurement process or the implementation of the Project including collusion between tenderers.

For the purpose of this paragraph (p) the knowledge of each director and officer of the Company shall be deemed to be the knowledge of the Company.

23.2 Representations and warranties of the MoMP.

The MoMP represents and warrants to the Company that on the Effective Date, the execution, delivery and performance of this Contract will have received all necessary governmental approvals and authorisations (including the approval of the Cabinet or Commission, as may be relevant).

23.3 Deemed repetition of representations and warranties

Each of the representations and warranties contained in Clause 23.1 or 23.2 shall be made on the Effective Date and shall be deemed repeated on the date of award of any Licence in respect of the Mining Area by reference to the circumstances then prevailing.



PART 8
SURRENDER, BREACH, TERMINATION AND FORCE MAJEURE

24. SURRENDER

24.1 Surrender

- (a) Subject to the requirements of Applicable Law, the Company may relinquish its rights under this Contract or any specific Licence Interests by notice requesting such relinquishment to the MoMP signed by an authorised Company representative on:
 - (i) ninety (90) days notice under this Contract at any time before the Date of Commencement of Commercial Production; or
 - (ii) six (6) months notice under this Contract after the Date of Commencement of Commercial Production.
- (b) If the Company provides a notice requesting relinquishment under Clause 24.1(a), the MoMP agrees to process such request expeditiously and agrees that such request will be approved in the following circumstances:
 - (i) If the Company has fulfilled all of its obligations set forth in the Minerals Law, the Mining Regulations, the applicable Licenses, and this Contract accrued to the date of the request for relinquishment with respect to the area being relinquished and is not then in breach hereunder;
 - (ii) If the Company has submitted documents and reports about its Mining Activities according to the provisions of the Minerals Law and relevant Mining Regulations;
 - (iii) If, following relinquishment, the retained Mining Area is contiguous; and
 - (iv) If the Company has complied with its Closure Plan.
- (c) If the MoMP does not notify the Company of its decision in respect of the requested relinquishment within the relevant time frame specified in the notice requesting relinquishment as set out in Clause 24.1(a) or if the Company disagrees with the MoMP's decision and the Parties are unable to reach agreement within a further period of sixty (60) days, the matter may be referred by either Party for resolution pursuant to Clause 33 (*Dispute Resolution Mechanism*).
- (d) Once an effective relinquishment is made:
 - (i) the Company shall have no obligations and liabilities under this Contract or in respect of the surrendered Licence except as specifically provided herein to the contrary; and

- (ii) any surrendered Licence granted to the Company in connection with the Mining Area shall automatically and without further action be cancelled.

The Company shall not be entitled to any compensation or any other benefit as a result of, or in connection with, any such relinquishment.

- (e) Upon the relinquishment of all the Company's rights under this Contract, the following actions shall be taken:

- (i) the buildings, and permanent installations constructed in the Mining Area shall not be removed by the Company and shall automatically become property of the State, without payment of compensation; and
- (ii) the buildings, and permanent installations constructed or installed in connection with the Project outside the Mining Area, and the ownership thereof, shall be disposed of with the agreement of the Company and the owner of the land upon or under which such property is located. If such an agreement is not reached within a period of thirty (30) Business Days, such buildings, and structures shall automatically become property of the State, without payment of compensation.

The MoMP shall in both of the above mentioned cases, be the authority responsible for administering the buildings and structures so disposed.

- (f) Upon the relinquishment of the Company's rights under this Contract, all geological and geophysical data, samples and other information relating to the relinquished rights shall automatically be transferred to the MoMP without payment of compensation.

25. TERMINATION BY THE MOMP

25.1 Termination on certain events

The MoMP may terminate this Contract and any Licence granted to the Company in relation to the Mining Area then outstanding by giving thirty (30) Business Days written notice to the Company, without prejudice to any other rights that the MoMP may have, if any of the following events occur:

- (a) (i) violation by the Company of any material term or obligation contained in any Licence or this Contract, (ii) violation of any provision of the Minerals Law or Mining Regulations while conducting Mining Activities, (iii) violation by the Company of any Applicable Law relating to bribery or anti-corruption, or (iv) violation of Clause 16.9 (*Proposal Commitments*), provided, however, that, in the case of any violation of the nature referred to in Clause 25.1(a)(i) or 25.1(a)(ii) if the MoMP reasonably determines that such violation is capable of being remedied and such violation is remedied within such thirty (30) Business Days notice period the MoMP shall not be entitled to so terminate this Contract nor any Licence granted to the Company in relation to the Mining Area then outstanding in respect of such violation (unless such violation is repeated) and provided, further, however that, for the avoidance of

doubt, if such violation is not remedied within such thirty (30) Business Days period then this Contract and such Licence shall terminate;

- (b) delay or suspension of Exploration activities for a continuous period of more than the period stipulated in the Minerals Law or Mining Regulations in connection with the revocation of the Exploration Licence (or, if no such period is stipulated, for a period of more than twelve (12) months) unless the period of delay or suspension is approved by the MoMP in accordance with the terms of this Contract;
- (c) delay or suspension of Exploitation for a period of more than the period stipulated in the Minerals Law or Mining Regulations in connection with the revocation of the Exploitation Licence (or, if no such period is stipulated, for a period of more than twelve (12) months) unless the period of delay or suspension is approved by the MoMP or provided for in accordance with the terms of this Contract;
- (d) persistent violation by the Company of any of its obligations pertaining to health and safety of labour, human rights, protection of the Environment or protection of affected communities as set out in this Contract;
- (e) in the event the MoMP determines that termination is required as a result of considerations of public interests and order;
- (f) the Date of Commencement of Commercial Production does not occur on or before the date which is three (3) months after the date for such commencement provided for in the Feasibility Study;
- (g) the Company fails to make a payment (including payment of Surface Rights Fees, royalties or taxes) when due and payable and then fails to make said payment to the MoMP or into the relevant escrow account within thirty (30) days after the MoMP gives a notice of the failure to make said payment;
- (h) the Company dissolves, liquidates, becomes insolvent, commits an act of bankruptcy, makes an assignment for the benefit of creditors, petitions or applies to any tribunal for the appointment of a trustee or receiver for itself, or commences any proceedings concerning itself under a law concerning bankruptcy, or insolvency other than for the purposes of corporate reorganisation; and
- (i) the occurrence of any other event or circumstance resulting in the termination of any Licence under Applicable Law;

provided, however, that any event of the nature described above which is specific to a particular Transferred Exploitation Licence shall only result in the termination of that particular Transferred Exploitation Licence and of the rights and obligations which specifically relate to that particular Transferred Exploitation Licence, and, except as provided for by Applicable Law, shall not affect any rights or obligations in respect of any other Licence.



This Contract shall also automatically terminate upon the termination of all Exploration Licences and Exploitation Licences granted to the Company in connection with the Mining Area.

25.2 Termination due to public necessity

In the event of any termination pursuant to Clause 25.1(e) (*Termination on certain events*) compensation shall be paid to the Company in accordance with the provisions of the Minerals Law or other relevant Applicable Law.

26. CONSEQUENCES OF TERMINATION, ETC.

26.1 Retention of assets on surrender, expiration or termination by the MoMP

- (a) On the expiration of this Contract, its termination by the MoMP, or the surrender of this Contract in its entirety by the Company, and subject to Clause 24.1(e) (*Surrender*) and Clause 26.1(g) the MoMP has the option, within six (6) months of the surrender, expiration or termination (the "**Option Period**") (subject to the rights of third parties, if any) to acquire any or all other property of the Company related to the Project not otherwise required by the Company for Mining Activities at the lesser of net depreciated book value for income tax purposes, or at fair market value, whichever is the lesser.
- (b) After the expiry of the Option Period, the Company may sell to third parties any property which the MoMP has not exercised its option to acquire, with exception of any infrastructure of public or community use, such as, but not limited to: roads, accesses, bridges, highways and in general any construction different to the mining facilities that can contribute to the development of the surrounding communities.
- (c) The MoMP may require the Company to remove any property not acquired by the MoMP or otherwise comply with the Closure Plan for the Mining Area.
- (d) Any property not removed within six (6) months from the date of expiration, surrender or termination, shall be deemed to be owned by MoMP.
- (e) The Company shall remain liable for all of its obligations accrued before the effective date of the surrender, expiration or termination of this Contract and also for the obligations that must be fulfilled after the surrender, expiration or termination, except for progression or completion of the Project and the related cost and payment obligations specified in this Contract; provided, however, that the Company shall remain liable for all of its obligations hereunder and under Applicable Law (i) relating to Environmental and Social matters (including any such obligations contained in the Baseline Environmental Assessment) and (ii) relating to the Closure Plan even after the surrender, expiration or termination of this Contract.
- (f) Any building, and permanent installation constructed and affixed to land outside the Mining Area covered by the Licences shall be disposed of with the agreement of the owner of the land and the Company. If such an agreement

may not be reached, such buildings, and structures shall become property of the State, without payment of cost.

- (g) All the infrastructure built by the Company for public or community use shall automatically become property of the State upon the surrender, expiration or termination of this Contract and, for the avoidance of doubt, no purchase price or other compensation shall be paid to the Company in connection therewith.
- (h) Upon termination of this Contract, all geological and geophysical data, samples and other information relating to the Mining Area shall be transferred to the MoMP without any cost.

26.2 Access following expiration or termination

On the expiration of this Contract, its termination by the MoMP, or the surrender of this Contract by the Company, the Company shall have the rights to access the Mining Area for as long as the Company reasonably determines access is necessary to permit it to fulfil, or discharge its continuing obligations under this Contract.

26.3 Obligations following expiration, surrender or termination

- (a) On the expiration, surrender or termination of this Contract, the Company must:
 - (i) make the Mining Area safe to the reasonable satisfaction of the MoMP so as to prevent injury to persons, livestock or other property, and to prevent offsite damage;
 - (ii) comply with the Environmental Management Plan and/or the Closure Plan as required to avoid imminent damage to the Environment; and
 - (iii) otherwise comply with Applicable Law.
- (b) If the Government notifies the Company it intends to carry out Mining Activities subsequently in the Mining Area, the Company may not take any action inconsistent with that notice, subject to its rights and obligations under this Contract and Applicable Law.

26.4 Effect of Termination etc

- (a) On the expiration, surrender or termination of this Contract in its entirety the Company shall be under no further liability hereunder except (a) as provided for in this Contract, (b) in respect of any liability for breach of any provision of this Contract which might have occurred on or prior to such expiration, surrender or termination, or (c) as provided for in Applicable Law (including the Minerals Law and the Mining Regulations).
- (b) On the expiration, surrender or termination of a Licence the Company shall be under no further liability in respect of the relevant Licence Interests hereunder except (a) as provided for in this Contract, (b) in respect of any liability for breach of any provision of the relevant Licence Interests which might have occurred on or prior to such expiration, surrender or termination, or (c) as

provided for in Applicable Law (including the Minerals Law and the Mining Regulations).

27. INDEMNIFICATION

27.1 Indemnification for breach of Contract

Without prejudice to Clause 27.2 any breach by the Company of any obligation provided for in this Contract, shall entitle the MoMP to be indemnified by the Company in an amount equal to the damage suffered by the State. The MoMP, in the event of such breach, may retain as a set-off any amounts it or any other department or ministry of the Government owes to the Company.

27.2 Indemnification of the State, etc. by Company

The Company shall, subject to Clause 27.3, at all times indemnify and hold harmless the State, the Government, the MoMP and their respective officers and agents from all claims and liabilities for death or injury to persons or damage to property from any cause whatsoever arising out of Mining Activities or otherwise in respect of the Project or as a result of its failure to comply with any Applicable Law to which it is subject, and shall agree to the jurisdiction of and be bound to participate in the proceedings of any forum in which any such claims can be adjudicated under Applicable Law.

27.3 Limitations on Liability

- (a) In no event shall the State, the Government or the MoMP be liable for any Environmental condition that results from the actions of the Company.
- (b) Each of the Parties shall assume the risk of injuries to its own employees, agents and contractors, except for cases of wilful misconduct or gross negligence of another Party.

28. FORCE MAJEURE AND SUSPENSION IN FORCE MAJEURE AND OTHER CIRCUMSTANCES

28.1 Obligations of Party in event of Force Majeure

- (a) Any failure on the part of a Party to comply with any of the terms, conditions and provisions of this Contract (except any obligation of a Party to make payment of money to the other Party) shall not be grounds for termination or give the other Party any claim for damages insofar as such arises from Force Majeure, if the first-mentioned Party:
 - (i) has taken all appropriate precautions, due care and appropriate alternative measures with the objective of avoiding such failure and of carrying out its obligations under this Contract; and
 - (ii) has given notice to the other Party of the occurrence of Force Majeure on becoming aware of such an event.



- (b) The first-mentioned Party shall take all reasonable measures to overcome the Force Majeure and to fulfil the terms and conditions of this Contract with the minimum of delay (provided that no Party has an obligation to settle a labour dispute or to test the constitutionality of any legislation or law) and shall give notice to the other Party on the restoration of normal conditions.

28.2 Negotiation in event of Force Majeure

- (a) If an obligation is suspended by reason of Force Majeure for more than twelve (12) months, the Parties shall enter into good faith negotiations to revise the terms of this Contract to reflect the changed circumstances, provided that this Contract shall remain in effect during the period during which the Parties are negotiating the terms of any such revision, provided that nothing in this Contract shall require the Company to settle any strike or other labour dispute otherwise than on terms acceptable to it, or to contest the validity or enforceability of any law, regulation, order, determination, or other legal proceeding.
- (b) If the Parties cannot reach agreement to revise the terms of this Contract then the Parties will be entitled to terminate this Contract.

28.3 Environmental Management and Closure Plan

In the event of temporary closure or a cessation of Mining Activity, the Company shall be responsible for performing any and all Environmental management of the Mining Area as set forth in the Environmental Management Plan (save to the extent prevented by Force Majeure). Should the MoMP terminate this Contract as a result of a suspension of Mining Activities, the Company shall be required, following the approval of the MoMP, to implement the Closure Plan (save to the extent prevented by Force Majeure), and the Company shall, upon notice from the MoMP and within thirty (30) days, adjust the amount of the Closure Guarantee required under this Contract.



PART 9
ASSIGNMENT AND CONFIDENTIALITY

29. ASSIGNMENT

29.1 Third Party Assignment

- (a) Except as provided under this Clause 29, neither the Company nor the MoMP shall have the right to assign its rights and interest under this Contract to a third party, without the prior written consent of the other Party.
- (b) The Company may transfer its rights and interest under this Contract and/or any Licence Interests to a third party (such entity "Transferee"), with the prior written consent of the Commission, provided that the Transferee (i) has the eligibility requirements for holding a Licence and (ii) otherwise satisfies the applicable criteria set forth in the Minerals Law and the Mining Regulations.
- (c) The Company shall submit a notice of proposed transfer in a form prescribed by the MoMP (the "Notice of Transfer") along with the prescribed fee to the MoMP. The Notice of Transfer shall be provided to the MoMP at least thirty (30) Business Days prior to the proposed transfer.
- (d) The Notice of Transfer shall provide sufficient information to establish the eligibility of the Transferee to hold the transferred Licence and shall be accompanied by a copy of an agreement between the parties in connection with the transfer or assignment which *inter alia* includes the Transferee's binding commitment to provide adequate warranties or guarantees to fulfil the Company's obligations under this Contract and the Minerals Law and Mining Regulations.
- (e) The MoMP shall review such notice and its accompanying documentation within twenty (20) Business Days of receipt of such notice and documents.
- (f) The MoMP shall not grant a consent to such assignment or transfer unless:
 - (i) the Transferee provides warranties or guarantees to the MoMP similar to those provided by the Company under this Contract and the Licence to ensure that it will comply with the obligations thereunder;
 - (ii) the Transferee is able to demonstrate the necessary technical and financial capabilities to undertake the approved work programme and meet all the financial and other legal obligations imposed on the Company in respect of the relevant Licence Interests;
 - (iii) the assignor or transferor is in compliance with all of its obligations under this Contract including but not limited to payment of applicable taxes, royalties and surface rents and fees, the terms and conditions of the relevant Licence Interests and the provisions of the Minerals Law and the Mining Regulations in relation thereto at the time of such transfer or assignment; and

- (iv) the transferee undertakes to re-register the transferred or assigned Licence with the MoMP and assumes all the obligations and responsibilities of the Company under the relevant Licences.
- (g) If required, the MoMP may impose additional conditions on the Transferee when approving the transfer or assignment of a Licence, provided that any such additional conditions shall be limited to those that the MoMP considers are appropriate to ensure that the Transferee can fulfil its obligations under the Contract.
- (h) Upon review of the Notice of Transfer if the MoMP determines that the Transferee satisfies the requirements for transfer or assignment set forth in the Minerals Laws and the Mining Regulations then it shall grant consent to such transfer or assignment specifying the date from which such transfer or assignment may take effect and any conditions that may be attached to such transfer or assignment. Upon grant of such approval such transfer or assignment shall be registered by the Mining Cadastre as set out above.
- (i) Upon receipt of the Notice of Transfer, if the MoMP determines that the proposed Transferee does not satisfy the applicable conditions, it shall promptly notify the Parties of this determination in writing and shall include a written explanation of the basis for its negative determination.
- (j) Not used.
- (k) The Company may transfer its interest in this Contract by way of security in the manner set forth in Clause 29.5 (*Assignment by way of security for financing*).
- (l) The Company shall promptly notify the MoMP of any change in the holder of any senior management office of the Company (including any change in the chairman, chief executive officer, chief financial officer or chief operating officer).

29.2 Assignment to Affiliate

The Company shall have the right to assign all (but not less than all) of its rights and interest under this Contract and/or any Licence Interests to an Affiliate, subject to the prior written consent of the MoMP, provided that the Affiliate acknowledges and agrees to assume all of the obligations of the Company under this Contract, has the capacity to perform those obligations, and that (unless the MoMP in its absolute discretion otherwise agrees) the Company guarantees the obligations of the Affiliate on terms and conditions, and pursuant to documentation, reasonably satisfactory to the MoMP.

29.3 Release

On any effective assignment or transfer of this Contract or any Licence Interests to a third party approved by the MoMP, the assignor or transferor shall, subject to Applicable Law, be released from all liabilities under this Contract and such Licence Interests to the extent assumed by the third party.

29.4 Successors and assigns

Subject to the limitations on assignment and transfer contained in this Clause 29, this Contract shall inure to the benefit of and be binding upon the successors and assigns of the Parties.

29.5 Assignment by way of security for financing

- (a) The Company shall have the right, with the prior written consent of the MoMP, to mortgage, pledge, lien, charge, assign, hypothecate or otherwise encumber all or part of its interest under this Contract for the purpose of raising, from one or more third parties, financing for Mining Activities in connection with the Project in a manner which is consistent with the Financing Plan. As a condition to receiving consent, the mortgagee must agree upon foreclosure to operate the Project and the related infrastructure in accordance with the requirements of this Contract, and transfer the mortgaged property only to a transferee that commits (i) to operate the Project in accordance with the requirements of this Contract and Applicable Law; (ii) to provide warranties or guarantees similar to those provided by the Company and to comply with the obligations of the Company under this Contract, the Licences and Applicable Law; and (iii) to demonstrate to the reasonable satisfaction of the MoMP the necessary technical and financial capabilities to undertake the approved work programme and meet all the financial and other legal obligations imposed on the Company.
- (b) The MoMP agrees that in the event of default by the Company that any such person holding such mortgage, charge or other encumbrance shall be entitled either to conduct operations on the same terms and conditions as the Company under this Contract or, with the prior consent of the MoMP, to exercise any power of sale granted by any such mortgage, charge or other encumbrance so long as any purchaser at such sale commits to fulfil the obligations of the Company under this Contract and the Minerals Law and Mining Regulations.
- (c) Any restrictions on transfers of rights under this Contract or the Licences shall also apply to transferees under mortgage foreclosure.
- (d) All such pledges, grants, transfers, assignments, charges or other encumbrances shall be recorded in the Mining Cadastre.

29.6 Change of Control

Any change of Control of the Company shall be subject to the prior written consent of the MoMP.

30. CONFIDENTIAL INFORMATION

30.1 Public documents

- (a) This Contract shall be made available in full at the MoMP's website. This Contract shall not constitute Confidential Information. Without prejudice to the foregoing, there shall be a presumption that any information regarding this

Contract, or the activities taken under this Contract is public, other than Confidential Information.

- (b) The MoMP shall, no later than ten (10) Business Days following the execution of this Contract, publish an announcement on the MoMP website summarising the material terms of this Contract, including a summary of the minimum work obligations, the Royalty Rate, and other material revenues and benefits that the State will derive from this Contract.
- (c) All reports and submissions by the Company to the MoMP, and all responses by the MoMP, are freely available on request to the MoMP or the Company, provided that Confidential Information may be redacted prior to disclosure.
- (d) The Company shall maintain written records of its documents and activities as required under this Clause 30.1 (including all adopted updates, amendments to this Contract and other documents, materials and information on payments and reporting) and this Contract, and facilitate public access to non-Confidential Information so as to facilitate informed participation by the public in any and all Consultation required by this Contract. Such documents shall be maintained at the following location and shall be available for access to all members of the public during normal business hours:

Hakim Nasir Khesraw Balkhi Building
Charahi Sarsabzy, Taimany
Kabul, Afghanistan

Public access to these files shall be requested of the Company by no less than five (5) Business Days prior written notice and a specific time of meeting shall be agreed by the Company and the party requesting access to the files prior to access being granted to the public.

- (e) On payment of a reasonable fee prescribed by the MoMP, any member of the public shall be entitled to obtain a copy of this Contract from the appropriate MoMP office or at the Company's offices listed above.
- (f) The Confidential Information may be used by the MoMP for the purposes of compiling public records, data and statistics, which may be published after redacting the Confidential Information.

30.2 Certain information confidential

- (a) Confidential Information shall be retained by the MoMP and the Company in strictest confidence and shall not be disclosed to any third party without the express prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed, provided that the Company's consent shall be deemed given if not withheld in writing within twenty-four (24) hours after the MoMP notifies the Company in writing of an emergency situation where disclosure is required to protect the health, safety, and security of the citizens of the State.
- (b) "Confidential Information" shall mean:



- (i) information that is by law confidential under Applicable Law;
 - (ii) personnel matters, health records of individual employees, or other documents in which employees or others have a reasonable expectation of privacy and other matters that involve the privacy of individuals;
 - (iii) confidential legal matters, including advice from legal advisers; and
 - (iv) information disclosed to the other Party to this Contract designated as "Confidential" by notice to the other Party at the time of its initial disclosure to such Party, provided that such designation shall be deemed to be a representation that the disclosing party has reasonably determined after review of such information that maintaining the confidentiality of such information is necessary to protect business secrets or proprietary information.
- (c) The term "**Confidential Information**" does not mean or include information that:
- (i) becomes publicly available other than as a direct or indirect result of any breach of the provisions of this Clause 30;
 - (ii) was obtained by a Party from a third party who is not known by the obtaining party to be under any obligation of confidentiality with respect to such information;
 - (iii) is required to be disclosed by Applicable Law (including in connection with any disclosure of chemical or other processes required to be made under any Environmental Law) by any law to which the Company or its Affiliates is subject, by any court proceeding or arbitral award, or by any applicable rule of a stock exchange;
 - (iv) is disclosed to Affiliates, professional advisers, potential providers of finance or bona fide potential purchasers unless disclosed on terms that such person or entity agrees to maintain the confidentiality of such information on terms similar to those set forth in this Clause 30; or
 - (v) the MoMP is entitled to disclose pursuant to Section (3) of Article 112 of the Minerals Law or pursuant to other Applicable Law.



**PART 10
MISCELLANEOUS PROVISIONS**

31. NOTICES

31.1 General

Any communication to be made under or in connection with this Contract shall be made in writing and shall be in both English and one or more of the official languages of the State and unless otherwise stated (including as set forth in Clause 31.4) shall be made by letter.

31.2 Addresses

The address (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Contract is that identified with each Party's name below its signature hereto, or any substitute address or department or officer as the Party may notify to the other Party by not less than five (5) Business Days' notice.

31.3 Delivery Methods

- (a) Any communication or document made or delivered by one person to another under or in connection with this Contract will only be effective:
 - (i) if by way of letter, when it has been left at the relevant address or five (5) Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,
 - (ii) and, if a particular department or officer is specified as part of its address details provided under Clause 31.2 (Addresses), if addressed to that department or officer,
- (b) Any communication or document to be made or delivered to the MoMP will be effective only when actually received by the MoMP and then only if it is expressly marked for the attention of the department or officer identified under the MoMP's signature below (or any substitute department or officer as the shall specify for this purpose).

31.4 Electronic communication

- (a) Any communication to be made between the Parties under or in connection with this Contract may be made by electronic mail or other electronic means, if the MoMP and the Company:
 - (i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;
 - (ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and

(iii) notify each other of any change to their address or any other such information supplied by them.

(b) Any electronic communication made between the MoMP or the Company will be effective only when actually received in readable form and in the case of any electronic communication made to the MoMP only if it is addressed in such a manner as the MoMP shall specify for this purpose.

31.5 Maintenance of Local Office

The Company shall establish and maintain an office in Kabul and shall designate a specified individual employed by the Company and located at that office as the Company's representative in Kabul for purposes of receiving communications from the MoMP in connection with this Contract. The Company shall ensure that such individual is available during normal working hours in Kabul for purposes of receiving such communications.

32. APPLICABLE LAW

This Contract shall be governed by and construed in accordance with the laws and regulations of the State, including applicable international treaties, conventions and bilateral investment treaties to which the State is a party (collectively, "Applicable Law").

33. DISPUTE RESOLUTION MECHANISM

33.1 Early Warning procedure

(a) Notwithstanding the Company and the MoMP's respective duties and obligations under this Contract to give each other certain specific notices and responses within pre-defined timescales, the Company or the MoMP, as the case may be, shall give written notice (an "Early Warning") to the other Party as soon as the Party becomes aware during the course of this Contract of any matter whatsoever that could involve a dispute, controversy, difference or claim that may exist between the Parties in connection with or relating to this Contract.

(b) Within seven (7) days of the issue of an Early Warning either Party shall be entitled upon giving the other Party reasonable written notice stating a convenient time and place, to call a meeting (an "Early Warning Meeting") which both the Company and the MoMP shall attend. Failure of either Party to attend an Early Warning Meeting as aforesaid shall denote that the Early Warning procedure set out in this Clause 33.1 has been completed.

(c) At the Early Warning Meeting both the Company and the MoMP shall:

(i) co-operate in making and considering proposals which aim to avoid, alleviate or reduce the effect of the matter which is the subject of the Early Warning; and;

- (ii) determine the actions required to be undertaken by the Company and / or the MoMP to implement the agreed decisions arising from Clause 33.1(c)(i);

The MoMP shall record the proposals considered and the decisions made at the Early Warning Meeting and shall issue a copy of the said record to the Company, as soon as reasonably practicable.

- (d) For the avoidance of doubt, completing the Early Warning procedure is a pre-condition to continuing to resolve any matter(s) which form(s) the subject of (an) Early Warning(s) by means of the mechanisms set out at Clauses 33.2 to 33.4 (inclusive).

33.2 Notice of Dispute

- (a) In the event that the Parties are unable to resolve the matter(s) which form(s) the subject of (an) Early Warning(s), and only in circumstances where the Early Warning procedure set out in Clause 33.1 has been completed, if a Party considers that a dispute, controversy, difference or claim still exists between the Parties in connection with or relating to this Contract (a "**Dispute**"), it shall notify the other Party of such Dispute in writing as soon as practicable and in any event within seven (7) days of completing the Early Warning procedure set out in Clause 33.1 (a "**Dispute Notice**"). A Dispute Notice shall specify the nature of such Dispute.
- (b) The Parties will enter into formal good faith negotiations for a minimum period of fifteen (15) Business Days from the date of the Dispute Notice, and to this end, each of them shall designate in writing to the other Party from time to time a senior management representative who shall be authorised to formally resolve and agree between them any Dispute in connection with this Contract and, to exercise the authority of such Party to enter into a binding settlement agreement.
- (c) For the avoidance of doubt, completing the procedure set out in this Clause 33.2 is a pre-condition to continuing to resolve any Dispute by means of the mechanisms set out at Clauses 33.3 to 33.5 (inclusive).

33.3 Technical Dispute Resolution Procedure

- (a) If the Parties cannot resolve a Dispute pursuant to the procedures set out in Clause 33.2, and in circumstances where the Parties consider the Dispute to be technical in nature ("**Technical Dispute**"), a Party may require by sending a written notice to the other Party within thirty (30) Business Days from the end of the period stipulated in Clause 33.2(b) that such Dispute be submitted to an Independent Expert who, once appointed, shall be designated to consider and decide the issues raised by such Dispute.
- (b) Where a Party disagrees that the Dispute is a Technical Dispute, such Party shall serve a written notice of objection within five (5) Business Days of referral of the Dispute to the Independent Expert. The written notice of objection shall be served on both the Independent Expert and the other Party.

Within five (5) Business Days of the date of the objection notice, the Independent Expert shall decide whether the Dispute is a Technical Dispute.

- (c) Within fifteen (15) Business Days of the appointment of an Independent Expert, or within fifteen (15) Business Days of the Independent Expert's decision that a Dispute is a Technical Dispute in accordance with Clause 33.3 (b), each of the MoMP and the Company shall submit to the Independent Expert a notice (a "**Position Notice**") setting forth in detail such Party's position in respect of the issues in Dispute. Such Position Notice will include supporting documentation, if appropriate.
- (d) The Independent Expert shall complete all proceedings and issue his decision with reasons with regard to the Technical Dispute as promptly as reasonably possible, but in any event within fifteen (15) Business Days of the date on which both Position Notices are submitted unless the Independent Expert reasonably determines that additional time is required in order to give adequate consideration to the issues raised. In such case the Independent Expert shall specify the additional period required, which period shall not exceed ten (10) Business Days unless the MoMP and the Company agree otherwise.
- (e) In resolving a Technical Dispute, the Independent Expert shall (i) consider all facts and circumstances he deems reasonable given the nature of the Technical Dispute; and (ii) choose either the position of the MoMP as set forth in the MoMP's Position Notice or the position of the Company as set forth in the Company's Position Notice.
- (f) If the Independent Expert should fail to notify the Parties of his decision with respect to any Technical Dispute referred to him pursuant to this Clause 33.3 within the time-limit specified in Clause 33.3(d), any Party may give notice within twenty (20) Business Days after expiration of such time-limit that the Technical Dispute is to be decided by arbitration pursuant to Clause 33.4, whereupon the Independent Expert shall give no further consideration to the Technical Dispute and shall not issue a decision. Any decision purportedly issued by the Independent Expert in contravention of this clause 33.3(f) shall be disregarded and not binding as between the Parties.
- (g) The decision of the Independent Expert regarding a Technical Dispute (including a decision whether or not a Dispute is a Technical Dispute) shall be final and binding on the Parties unless written notice of dissatisfaction with the decision is given by one Party to the other Party, with a copy to the Independent Expert, within twenty (20) Business Days of such Party's receipt of the Independent Expert's decision, in which event such Technical Dispute may be settled by arbitration pursuant to Clause 33.4, provided that a Party commences such arbitration within fifty (50) Business Days from the date of receipt by a Party of the written notice of dissatisfaction. If no arbitration is so commenced within fifty (50) Business Days of the issuance of the notice of dissatisfaction, the Independent Expert's decision shall be final and binding upon the Parties, notwithstanding the notice of dissatisfaction given by the relevant Party.

- (h) The Party that has initiated the submission of a Technical Dispute to an Independent Expert by giving notice in accordance with the provisions of this Clause 33.3 shall pay one hundred (100) percent of all fees and expenses of the Independent Expert including any advance on account of such fees and costs set by the Independent Expert. All fees and costs of the Independent Expert shall be borne or reimbursed by the losing Party determined by the Independent Expert's decision, unless a Party has given notice in accordance with the provisions of Clause 33.3(g) that the Technical Dispute is to be decided by arbitration prior to the rendering of a decision by the Independent Expert. In such event, the Party that initiated the submission of a Technical Dispute to the Independent Expert shall bear all such fees and costs and shall be entitled to claim for reimbursement of such fees and costs in the arbitration. Each Party shall bear its own costs (including costs of its advisors or consultants) with respect to a Technical Dispute submitted to an Independent Expert.

33.4 ICSID arbitration

- (a) In the event that the Parties are unable to resolve a Dispute in accordance with Clause 33.2 within the period stipulated in Clause 33.2, or in the case of a Technical Dispute, in accordance with Clause 33.3, the Parties shall submit any such Dispute to the International Centre for Settlement of Investment Disputes ("ICSID") to be finally resolved by arbitration pursuant to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the "Convention") and conducted in accordance with the Arbitration Rules of ICSID as at present in force.
- (b) The Parties acknowledge that the transaction to which this Contract relates is an investment.
- (c) The arbitral tribunal shall consist of a panel of three (3) arbitrators, comprising two (2) arbitrators, one (1) appointed by each Party, and an arbitrator, who shall be the President of the tribunal, appointed by agreement of the Parties or, failing such agreement, by the Chairman of the Administrative Council of ICSID.
- (d) The following applies to any arbitration pursuant to this Clause 33.4:
- (i) the venue of any hearings shall be the Permanent Court of Arbitration at The Hague or any other place agreed by the Parties; and
 - (ii) the language of the arbitration shall be English.
- (e) The arbitration award shall be final and binding on the Parties. Judgment on the arbitration award may be entered by any court having jurisdiction over it or over the award debtor or its assets.
- (f) Without prejudice to the power of the arbitral tribunal in relation to provisional measures, either Party may request any judicial or other authority to order any provisional or conservatory measure, including attachment, prior

to the institution of the arbitration proceeding, or during the proceeding, for the preservation of its rights and interests.

- (g) The right of the Company to refer a Dispute to ICSID pursuant to this Clause 33.4 shall not be affected by the fact that the Company has received full or partial compensation from any third party with respect to any loss or injury that is the subject of the Dispute.
- (h) In any arbitration proceeding conducted pursuant to this Clause 33.4, the fees and expenses of the members of the arbitral tribunal as well as charges for the use of the facilities of ICSID shall be borne equally by the Parties.
- (i) The law governing this Clause 33.4 is the Applicable Law. The Parties submit to the jurisdiction of the courts of England and Wales for the limited purpose of enforcing the agreement to arbitrate in this Clause 33.4.

33.5 UNCITRAL arbitration

- (a) In the event that the Parties are unable to submit any Dispute to ICSID pursuant to Clause 33.4 or in the event that ICSID shall decline to hear such arbitration, any such Dispute shall be referred to and finally resolved by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force (the "Rules").
- (b) The arbitral tribunal shall consist of a panel of three (3) arbitrators comprising two (2) members and a chairman to be appointed in accordance with the Rules.
- (c) The following applies to any arbitration pursuant to this Clause 33.5:
 - (i) the venue of any hearings shall be England and Wales;
 - (ii) the language of the arbitration shall be English; and
 - (iii) the seat of the arbitration shall be England and Wales.
- (d) The arbitration award shall be final and binding on the Parties. Judgment on the arbitration award may be entered by any court having jurisdiction over it or over the award debtor or its assets.
- (e) Without prejudice to the power of the arbitral tribunal in relation to provisional measures, either Party may request any judicial or other authority to order any provisional or conservatory measure, including attachment, prior to the institution of the arbitration proceeding, or during the proceeding, for the preservation of its rights and interests.
- (f) In any arbitration proceeding conducted pursuant to this Clause 33.5, the fees and expenses of the members of the arbitral tribunal as well as charges for the use of the facilities of the venue shall be borne equally by the Parties.

- (g) The law governing this Clause 33.5 is the Applicable Law. The Parties submit to the jurisdiction of the courts of England and Wales for the limited purpose of enforcing the agreement to arbitrate in this Clause 33.5.

34. PERIODIC REVIEW

This Contract shall upon written request of a Party, be subject to periodic review once every five (5) years after the Effective Date for the purpose of good faith discussions to consider any proposed modification(s) to this Contract as may be necessary or desirable in the light of any substantial changes in circumstances that may have occurred during the previous five (5) years, or experience gained in that period. The Parties agree always to be open to discussing any matter which may help maximise the positive development benefits of the Project, or minimise its undesirable impacts. nothing herein shall preclude a Party from requesting the other Party to initiate discussions regarding any provision herein, provided that this Contract shall remain in effect during the period during which the Parties are conducting such discussions.

35. ANCILLARY PROVISIONS

35.1 Entire Contract

This Contract and the documents referred to within, contain the entire understanding and agreement of the Parties with respect to the subject matter of this Contract and supersedes all prior agreements and understandings as between the Parties except where noted herein. All schedules to this Contract are incorporated by reference and form part of this Contract; provided, however, that in the event of any inconsistency between the terms of this Contract and the terms of the Minerals Law and/or the Mining Regulations and/or any other Applicable Law the terms of the Minerals Law and/or Mining Regulations and/or such other Applicable Law, as the case may be, shall prevail.

35.2 Survival of certain provisions

Notwithstanding termination of this Contract by either party or for any reason, including a termination due to a finding that this Contract or a portion thereof is void, invalid, or unenforceable, Clauses 26.4 (*Effect of Termination*), 27 (*Indemnification*), 30 (*Confidential Information*), 31 (*Notices*), 32 (*Applicable law*), 33 (*Dispute Resolution Mechanism*), and 39 (*Good Faith*) shall survive such termination and shall remain effective as to any matters which are the subject of this Contract or which arise out of, in relation to or in connection with this Contract. Moreover, any such termination shall be without prejudice to rights, duties and obligations that have accrued prior to termination and, notwithstanding such termination, such provisions of this Contract as are reasonably necessary for the full enjoyment and enforcement of such rights, duties and obligations shall survive such termination for the period necessary.

35.3 Amendment

This Contract shall not be amended, modified, or supplemented except by an instrument in writing signed by the Parties. Any purported amendment, modification

or supplement of this Contract not in writing signed by the Parties shall be null and void.

35.4 Severability

If and for so long as any provision of this Contract shall be deemed to be determined to be invalid for any reason whatsoever, such invalidity shall not affect the validity or operation of any other provision of this Contract except only so far as shall be necessary to give effect to the construction of such invalidity, and any such invalid provision shall be deemed severed from this Contract without affecting the validity of the balance of this Contract. Upon such determination that any term or other provision is invalid and unenforceable, the Parties shall negotiate in good faith to modify this Contract so as to effect the original intent of the Parties as closely as possible in order that the transactions contemplated by this Contract can be consummated as contemplated.

35.5 Limitations on Waiver

- (a) The rights of each party under this Contract:
 - (i) may be exercised as often as necessary;
 - (ii) shall be the exclusive and sole remedies of the parties with respect to any breach, default, or notice of termination under this Contract or any dispute relating thereto or otherwise relating to this Contract or its subject matter; and
 - (iii) may be waived only in writing and specifically.
- (b) Delay in exercising or non-exercise of any such right is not a waiver of that right.

36. GOVERNING LANGUAGE

This Contract will be provided and executed in the English language and the Dari, language with each Party retaining one copy in each language and the Parties agree that in the event of any legal dispute in the interpretation of this Contract, the English language version shall prevail.

37. FURTHER ACTS

- (a) The Parties, subject to the terms and conditions of this Contract, shall use all reasonable efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable under Applicable Law, to consummate and make effective the transactions contemplated by this Contract.
- (b) If at any time during the Term of this Contract any further action is necessary or desirable to carry out the purposes of this Contract, the Parties shall take, or cause to be taken, all such necessary or convenient action, and to execute, deliver and file, or cause to be executed, delivered and filed, all necessary or convenient documentation.

- (c) Without prejudice to the provisions of Clause 40(a) (*No effect on Applicable Law, etc.*) the Parties will, from time to time, take such actions as they may agree are beneficial to the development of the Project (including amendments to the Contract) that are consistent with and take into account changes to the Minerals Law that are implemented after the Effective Date. Without limiting the generality of the foregoing this may include the implementation of amendments to this Contract in the event that the Minerals Law that is in effect at the Effective Date is amended or replaced in a manner which applies to this Contract and any Exploration Licence issued in connection therewith and in a manner which confirms or provides for the automatic award of an Exploitation Licence following successful Exploration activity by the relevant Exploration Licence holder. The foregoing provisions of this Clause 37(c) shall not, and shall not be deemed to, constitute a waiver or any other dilution of the rights and remedies available to the MoMP arising out of any breach by the Company of the terms and conditions of this Contract which occurs prior to such change taking effect.

38. **DUPLICATE ORIGINALS**

This Contract may be executed in one or more counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument, and it shall not be necessary in making proof of this Contract to produce or account for more than one original.

39. **GOOD FAITH**

The Parties to this Contract shall have a simple obligation to act in good faith in all matters related to this Contract.

40. **NO EFFECT ON APPLICABLE LAW, ETC.**

- (a) The breach of certain Applicable Laws may have certain specified consequences under this Contract as set forth in greater detail herein. For the avoidance of doubt nothing in this Contract amends, or is intended to amend, any Applicable Law and the rights and remedies available to any person (including the State, the Government and the MoMP) in connection with any breach of Applicable Law shall continue as provided for in such, or any other, Applicable Law.
- (b) Without prejudice to the generality of Clause 40(a) the Minerals Law, the Mining Regulations and other Applicable Law in Afghanistan shall apply with full force and effect with respect to the Company and the development of the Project and notwithstanding any term of or provision of this Contract (and, for the avoidance of doubt, any Licence shall be governed by, and shall be capable of being terminated in accordance with, the Minerals Law, the Mining Regulations and other Applicable Law in Afghanistan).

EXECUTION:

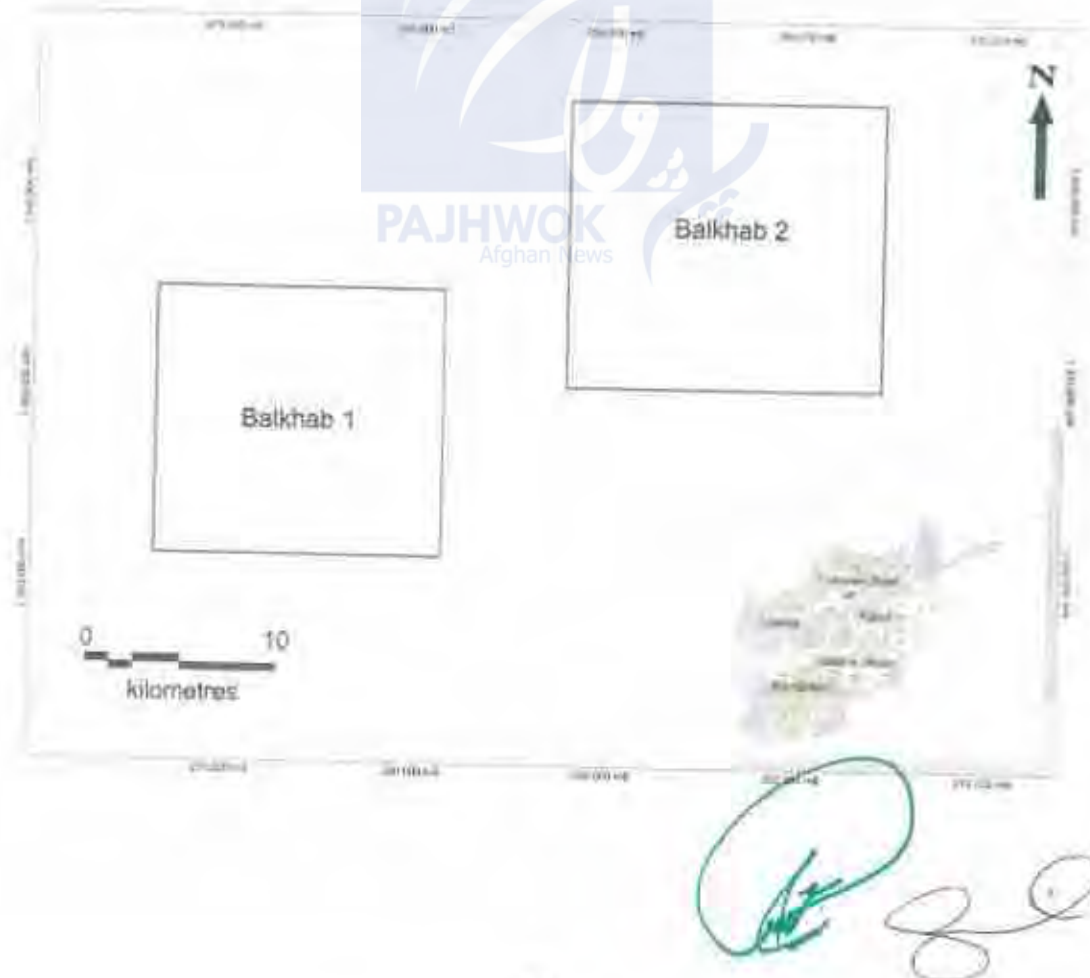
The Parties have shown their acceptance of the terms of this Contract by executing it as a contract after the Schedules.

SCHEDULE 1 MINING AREA

The Mining Area is defined by the following coordinates:

<u>Licence</u>	<u>Corner</u>	<u>Easting</u>	<u>Northing</u>
Balkhab 1	NW	266,000	3,935,000
	NE	281,000	3,935,000
	SE	281,000	3,921,000
	SW	266,000	3,921,000
Balkhab 2	NW	287,500	3,945,000
	NE	304,000	3,945,000
	SE	304,000	3,930,000
	SW	287,500	3,930,000

Coordinates are given in UTM Zone 42N, WGS 84 datum.



**SCHEDULE 2
DESTINATION SCHEDULE**

Part 1 – The Minerals Law

Section of Minerals Law	Description	Section of Contract
5(1)	Ownership of Minerals	2.3, 3.1, 3.2
7	Duties and Authorities of Ministry of Mines	2.3, 3.1, 3.2
59(2), 66(2) & 90 (3)	Duties of Environmental Protection Department	19.1(e)
16	Eligibility for grant of a License and Entry into Contract	23.1(i)
19(2) and (4)	Bidding	Preamble
23	Minerals Development Contract	23.2
110(1)	Minerals Development Contract subject to Applicable Law	3.6
24	Boundaries of License Area	4.1(c)
70 & 77	Overlapping Areas	4.1(d)
48, 56 & 68	Extension of term of Licence	2.2, 4.1(b)
29	Transfer of Licences	29
30	Relinquishment of a License Area	4.2, 25.1
33	Revocation of a Licence	25
51	Rights of Exploration Licence Holder	3.1
22	Validity of a License	2.2(b)
49	Exploration License Area	4.1(a)
52	Obligations of Exploration Licence Holder	3.1(b), 5.2, 16
55	Grant of Exploitation Licence	6
58	Rights of an Exploitation License Holder	3.2
33	Associated substances	3.2
56	Duration of Exploitation License	2.2(c)
57	Exploitation License Area	4.1(c)
60		5.2, 6.9
59(5) & 66(4)	Construction of Infrastructure	17
102	Processing of Minerals	15.1
103	Transportation and storage of Products obtained from Mineral Activities	15.1
104	Sale and export of Mineral Products	15.1
82	Competencies for Mining Activities	23.1(g)
27	Payment of Surface Rent	7.1
	Reporting	12.2(g)
	Inspection	13.2
51(1) & 58	Occupation of Land	17.1
35(2)	Expropriation for public use	15.7
39	Obligations of the Mineral Rights Holder regarding the Landowner	15.7

Section of Minerals Law	Description	Section of Contract
106	Handover of infrastructure	
115	Compliance with the Inspectorate instructions	26.4(g) 16.4
86(1)2	Health and Safety Plan	
108	Use of Explosives	16.6, 22.5
	Prohibition of Forced Employment	16.6(d)
89	Environmental Protection during Exploration	14.1(e) 5.1(c)
89	Environmental Protection during Exploitation	6.3
91	Financial guarantee for Environmental Protection and rehabilitation	19.3
88	Reporting of incidents	
109	Reporting the Discovery of Historical and Cultural Relics	19.4(a) 19.4(b)
81	Payment of Taxes	10
81	Mineral Activities subject to Taxation and Custom Duties	9, 10, 12.2
	Powers of Ministry of Finance	
	Duration of Fixed Taxes	10.1(a), 10.5
83	Mineral Royalties	10.1(a)
97	Transferability of Capital	8
98	State Guarantees	11
	Compensation	15.2
93	Dispute Resolution Authorities	15.3
93	Submission of dispute to authorities	33
93	Submission of dispute to arbitration	33
93	Submission of dispute to courts	33
99 & 100	Transparency in Mineral Activities	33
112	Confidentiality	14.2
	Complying with International Conventions	30 3.6




Part 2 – The Mining Regulations

Section of Mining Regulations	Description	Section of Contract
8	Bidding Requirements	Preamble
11	Bidding Documents	Preamble
16(2)	Evaluation of Bids	Preamble
20	Mining Contracts	General
21	Contract Registration and Publication	30.1
23	Issuance of Exploration Licence	2.3
26	Application for an Exploration Licence	6.1
27	Fee payment	5.2(m)
29	Issuance and Registration of Exploration Licence	2.2(b), 2.3(a)
30	Obligation of the Exploration Licence Holder	5.2
32	No Transfer or Assignment of Exploration Licences	29
33	Relinquishment of Areas Covered by Exploration Licence	4.2
34	Renewal of Exploration Licence	2.2(b)
35	Issuance of Exploitation Licence	6.8
36	Maximum Area Allowed	"Mining Area"
37	Bid requirements for Exploitation Licence	6.1
38	Application for an Exploitation Licence	2.3(b)
41	Issue and Registration of Exploitation Licence	2.2(c), 2.3(b)
42	Responsibilities of Exploitation Licence Holder	6.8
43	Transfer or Assignment of an Exploitation Licence	29.1(b)
44	Relinquishment of an Exploitation Licence area	4.2
45	Renewal of Exploitation Licence	2.2(c)
73	Obligation to Pay Mineral Royalties	8
74	Efficient Recovery of Mineral Substances	8.5
75	Surface Rights Fees	7
76	Manner and Place of Payment of Surface Rights Fees	7
78	Procedures for Withdrawal or Termination	25
79	Effect of Withdrawal or Termination	25
86	ESP Documentation Requirements for Exploration Licences and Authorisations	6.1
87	ESP Documentation Requirements for Exploitation Licences and Authorisations	6.3
88	International Best Practice Obligation	19.1

Section of Mining Regulations	Description	Section of Contract
89	Financial Assurance for Reclamation and Environmental Remediation	19.3
90	Air Quality Control	
91	Compensation for Damages from Mineral Activities	20.3(a)
92	Evaluation of Claim for Damages	20.3(a)
93	Verification	25
95	Violations of the Terms and Conditions of a Licence	20.3(b)
96	Violation of Environmental Regulations	20.3(c)



SCHEDULE 3

Part 1

FORM OF PERFORMANCE BOND – Exploration Phase

To: Ministry of Mines and Petroleum of the Government of the Islamic Republic of Afghanistan (the "**Beneficiary**").

This performance bond (this "**Bond**") is made on [●] by [insert name of issuing Bank] a company organised under the laws of [insert relevant jurisdiction] whose registered office is situated at [●] (the "**Bank**").

In this Bond "**Mining Contract**" means the mining contract relating to the Balkhab Project, dated [●]; between the Beneficiary and Afghan Gold and Minerals Company (the "**Mining Contract**").

Name and address of Beneficiary: [Ministry of Mines and Petroleum of the Government of the Islamic Republic of Afghanistan].

The Bank has been informed that Afghan Gold and Minerals Company, a company organised under the laws of Afghanistan and duly licensed in Afghanistan (hereinafter called the "**Company**") is entering into the Mining Contract following a successful bid in response to the Beneficiary's request for proposal ("**RFP**"). The conditions of the Mining Contract and the RFP require the entering into the Mining Contract to be supported by a performance bond. Any capitalised terms used in this Bond shall, unless defined in this Bond, have the meaning ascribed to them in the Mining Contract.

The Bank hereby unconditionally and irrevocably undertakes to pay the Beneficiary (waiving all rights of objection and defence save in the case of fraudulent demand) the amount as set out in the Beneficiary's demand, upon receipt by the Bank of the Beneficiary's demand in writing, substantially in the form set out in Schedule 1 (the "**Demand**"). Multiple Demands may be issued under this Bond.

Any Demand must contain a signature of the Beneficiary's authorised representative. The Bank agrees that the Bank will fulfil its obligations under this Bond without proof or conditions and that receipt by the Bank of a Demand in accordance with this paragraph shall be conclusive evidence of its liability to pay the Beneficiary the sum demanded provided such sum, together with the amounts of any previous Demands, do not in the aggregate exceed [●]¹ or such lesser amount as the Beneficiary may notify to the Bank from time to time.

Any Demand shall be in writing and either delivered by hand or sent by recorded post to the Bank at [insert address], marked for the attention of [insert name]. The Demand will be deemed to be received by the Bank:

- (a) if delivered by hand, on the date it is delivered;

¹ Amount referred to in Clause 16.10 of the Mining Contract.



(b) if sent by recorded post or internationally recognised courier, on the day it is received. Any Demand must be received by the Bank at this office on or before the [●]² (the "Expiry Date").

Upon the Expiry Date this Bond shall expire and no later than 21 days from the Expiry Date this Bond shall be returned to the Bank, provided always that this Bond shall remain in full force and effect in respect of any Demand received up to and including the Expiry Date.

The Bank agrees that all sums payable under this Bond shall be paid to the Beneficiary in full and shall be free of any present or future taxes, levies, duties, charges, fees or withholdings and without any deduction, restriction, conditions, withholding, set-off or counterclaim or cross-claim whatsoever.

The Bank confirms that this Bond shall not be impaired, reduced, discharged or affected by:

- (a) any amendments, alterations or supplements to the Mining Contract or any concession, release, waiver or other indulgence granted to the Company;
- (b) any invalidity, illegality or unenforceability in or of the terms of the Mining Contract or any other agreement or arrangement to which the Company is or may become a party;
- (c) any disability, incapacity, change in ownership or change in status of the Company;
- (d) any bankruptcy, insolvency or other such proceedings or any change in the constitution of the Company;
- (e) any dispute between the Beneficiary and the Company or any compromise of a dispute;
- (f) any other security or bond taken, or granted or released by the Company and/or the Beneficiary to the Bank or by any other person;
- (g) any other act or omission which in the absence of this provision, might operate to exonerate the Bank;
- (h) any forbearance or delay on the part of the Beneficiary in asserting any of its rights against the Company; or
- (i) any breach of the Mining Contract by the Beneficiary.

and the Bank hereby waives any requirement for notice to be given to it of any such event.

No failure or delay by the Beneficiary in exercising any right or remedy shall operate as a waiver and nor shall any single or partial exercise or waiver of any right or remedy preclude the Beneficiary's further exercise or the exercise of any other right or remedy.

² One year from the date of the Bond other than for the initial exploration bond.

This Bond shall be governed by and construed in accordance with the laws of the Islamic Republic of Afghanistan ("Afghanistan") including international treaties and bilateral investment treaties to which Afghanistan is a party. Any dispute, controversy or claim arising out of, under or in connection with this Bond shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.

The original of this Bond is drafted in English. If this Bond is translated into any other language, the English language text shall prevail.

IN WITNESS WHEREOF, the authorised representatives of the parties have indicated their agreement to be firmly bound by these presents by having signed below:

Date:

For the Bank:

By: _____

Receipt Acknowledged

For the Beneficiary:

By: _____



A handwritten signature in green ink is located at the bottom right of the page. The signature is stylized and appears to be a single continuous stroke.

Schedule 1

Form of Demand

Date of Demand:

Date of Bond:

Company: Afghan Gold and Minerals Company

Bank:

During the Exploration Phase the Company is in breach of the Mining Contract and/or an Exploration Licence has been withdrawn or terminated under the Minerals Law and as a result the Beneficiary has incurred a loss.

The Beneficiary hereby gives the Bank notice of payment due from the Bank to the Beneficiary of a sum of US\$ [●].

This Demand is signed by the person named below who is an authorised representative of the Beneficiary and authorised to act on behalf of [Ministry of Mines and Petroleum of the Government of the Islamic Republic of Afghanistan] as the Beneficiary under the Bond.

Capitalised terms used in this Demand have the meanings provided in the Bond.

For the Beneficiary

Signed:

Name:

Official Position:

PAJHWOK
Afghan News



Part 2

FORM OF PERFORMANCE BOND – Exploitation Phase

To: Ministry of Mines and Petroleum of the Government of the Islamic Republic of Afghanistan (the "Beneficiary")

This performance bond (this "Bond") is made on [●] by [insert name of issuing Bank] a company organised under the laws of [insert relevant jurisdiction] whose registered office is situated at [●] (the "Bank").

In this Bond "Mining Contract" means the mining contract relating to the Balkhab Project, dated [●], between the Beneficiary and Afghan Gold and Minerals Company (the "Mining Contract").

Name and address of Beneficiary: [Ministry of Mines and Petroleum of the Government of the Islamic Republic of Afghanistan].

The Bank has been informed that Afghan Gold and Minerals Company a company organised under the laws of Afghanistan and duly licensed in Afghanistan (hereinafter called the "Company") is entering into the Mining Contract following a successful bid in response to the Beneficiary's request for proposal ("RFP"). The conditions of the Mining Contract and the RFP require the entering into the Mining Contract to be supported by a performance bond. Any capitalised terms used in this Bond shall, unless defined in this Bond, have the meaning ascribed to them in the Mining Contract.

The Bank hereby unconditionally and irrevocably undertakes to pay the Beneficiary's (waiving all rights of objection and defence save in the case of fraudulent demand) the amount as set out in the Beneficiary's demand, upon receipt by the Bank of the Beneficiary's demand in writing, substantially in the form set out in Schedule 1 (the "Demand"). Multiple Demands may be issued under this Bond.

Any Demand must contain a signature of the Beneficiary's authorised representative. The Bank agrees that the Bank will fulfil its obligations under this Bond without proof or conditions and that receipt by the Bank of a Demand in accordance with this paragraph shall be conclusive evidence of its liability to pay the Beneficiary the sum demanded provided such sum, together with the amounts of any previous Demands, do not in the aggregate exceed [●].¹

Any Demand shall be in writing and either delivered by hand or sent by recorded post to the Bank at [insert address], marked for the attention of [insert name]. The Demand will be deemed to be received by the Bank:

- (a) If delivered by hand, on the date it is delivered;
- (b) If sent by recorded post or internationally recognised courier, on the day it is received.

¹ Amount referred to in Clause 16.10 of the Mining Contract.



Any Demand must be received by the Bank at this office on or before the [●]⁴ (the "Expiry Date").

Upon the Expiry Date this Bond shall expire and no later than 21 days from the Expiry Date this Bond shall be returned to the Bank, provided always that this Bond shall remain in full force and effect in respect of any Demand received up to and including the Expiry Date.

The Bank agrees that all sums payable under this Bond shall be paid to the Beneficiary in full and shall be free of any present or future taxes, levies, duties, charges, fees or withholdings and without any deduction, restriction, conditions, withholding, set-off or counterclaim or cross-claim whatsoever.

The Bank confirms that this Bond shall not be impaired, reduced, discharged or affected by:

- (a) any amendments, alterations or supplements to the Mining Contract or any concession, release, waiver or other indulgence granted to the Company; or
- (b) any invalidity, illegality or unenforceability in or of the terms of the Mining Contract or any other agreement or arrangement to which the Company is or may become a party; or
- (c) any disability, incapacity, change in ownership or change in status of the Company; or
- (d) any bankruptcy, insolvency or other such proceedings or any change in the constitution of the Company; or
- (e) any dispute between the Beneficiary and the Company or any compromise of a dispute; or
- (f) any other security or bond taken, or granted or released by the Company and/or the Beneficiary to the Bank or by any other person;
- (g) any other act or omission which in the absence of this provision, might operate to exonerate the Bank;
- (h) any forbearance or delay on the part of the Beneficiary in asserting any of its rights against the Company; or
- (i) any breach of the Mining Contract by the Beneficiary.

and the Bank hereby waives any requirement for notice to be given to it of any such event.

No failure or delay by the Beneficiary in exercising any right or remedy shall operate as a waiver and nor shall any single or partial exercise or waiver of any right or remedy preclude the Beneficiary's further exercise or the exercise of any other right or remedy.

This Bond shall be governed by and construed in accordance with the laws of the Islamic Republic of Afghanistan ("Afghanistan"), including international treaties and bilateral investment treaties to which Afghanistan is a party. Any dispute, controversy or claim arising

⁴ One year from the date of the Bond.

out of, under or in connection with this Bond shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.

The original of this Bond is drafted in English. If this Bond is translated into any other language, the English language text shall prevail.

IN WITNESS WHEREOF, the authorised representatives of the parties have indicated their agreement to be firmly bound by these presents by having signed below:

Date:

For the Bank:

By: _____

Receipt Acknowledged

For the Beneficiary:

By: _____



A handwritten signature in green ink, consisting of a large loop followed by a series of smaller, connected loops.

Schedule 1

Form of Demand

Date of Demand:

Date of Bond:

Company: Afghan Gold and Minerals Company

Bank:

During the Exploitation Phase the Company is in breach of the Mining Contract and/or an Exploitation Licence has been withdrawn or terminated under the Minerals Law and as a result the Beneficiary has suffered a loss.

The Beneficiary hereby gives the Bank notice of payment due from the Bank to the Beneficiary of a sum of US\$ [Insert Bond Amount]

This Demand is signed by the person named below who is an authorised representative of the Beneficiary and authorised to act on behalf of [Ministry of Mines and Petroleum of the Government of the Islamic Republic of Afghanistan] as the Beneficiary under the Bond:

Capitalised terms used in this Demand have the meanings provided in the Bond.

For the Beneficiary

Signed:

Name:

Official Position

PAJHWOK
Afghan News



SCHEDULE 4
SPECIFIC PROPOSAL COMMITMENTS

1. EXPLORATION COMMITMENTS

The Company shall commit to the following programmes and expenditure as defined in the Proposal:

1.1 Subject to surrender and termination, a three year exploration programme consisting of a minimum exploration expenditure of:

- (i) \$8,200,000 in Year 1.
- (ii) \$13,400,000 in Year 2.
- (iii) \$35,000,000 in Year 3.

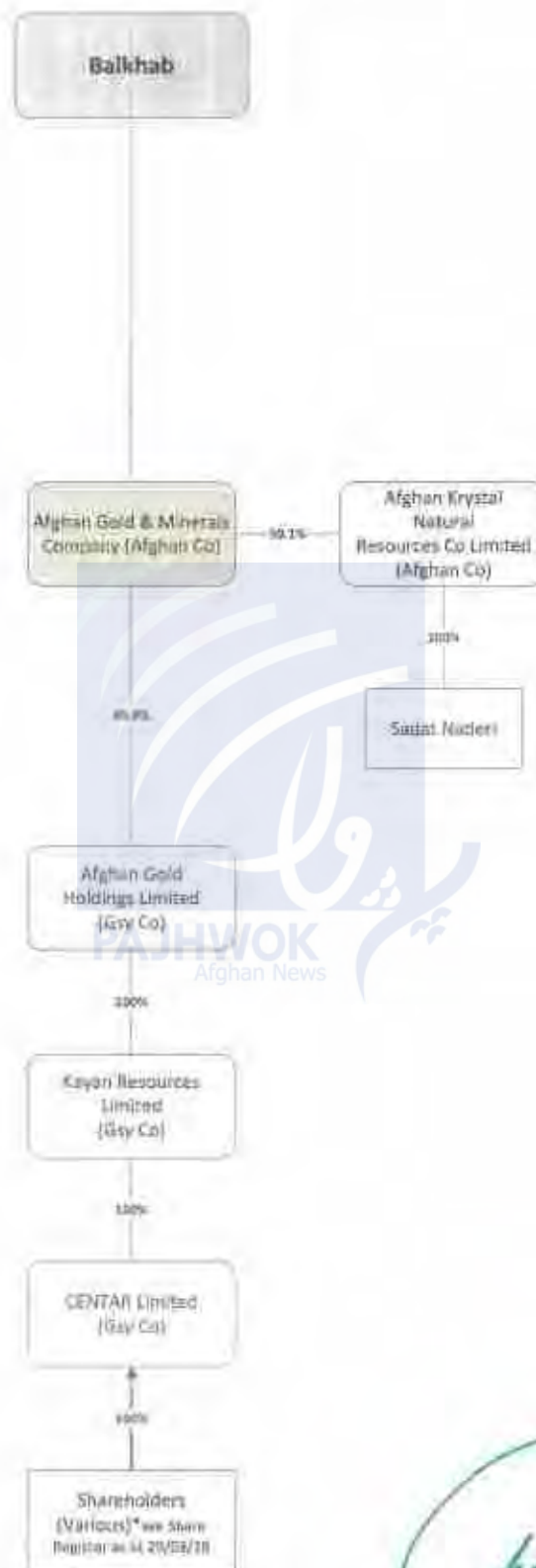
1.2 The exploration expenditure above will include the following technical programmes:

- (a) A soil, stream and rock chip geochemical programme.
- (b) Geophysical programmes.
- (c) Approximately 18,000m of trenching.
- (d) Approximately 30,000m of core drilling.
- (e) An Environmental Impact Assessment.
- (f) And exploration camp and sample processing facility.
- (g) Exploration Access roads.
- (h) A local Afghan nationals training programme including the construction of a vocational training centre.

1.3 The exploration expenditure above will include the following social infrastructure programmes:

- (a) A local Afghan nationals training programme including the construction of a vocational training centre.
- (b) \$500,000 on the creation and improvement of roads within the Mining Area and connecting to Masar-e-Sharif and the city of Sari-Pul.
- (c) \$300,000 on the construction, staffing and supplies of a medical clinic for the local population.
- (d) \$75,000 for the provision of clean drinking water for the local communities.

SCHEDULE 5 COMPANY OWNERSHIP



**EXECUTION of this Mining Contract:
The MoMP**

SIGNED by H.E. MINISTER NEHAN,
duly authorised for and on behalf of the
Ministry of Mines and Petroleum of the
Government of the Islamic Republic of
Afghanistan:



Address:

Facsimile no:

Electronic mail address:

For the attention of:

The Company

SIGNED by SADAT NADERI, Director,
duly authorised for and on behalf of
Afghan Gold and Minerals Company:

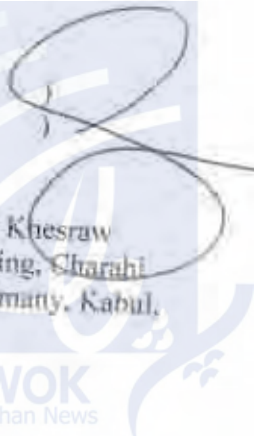
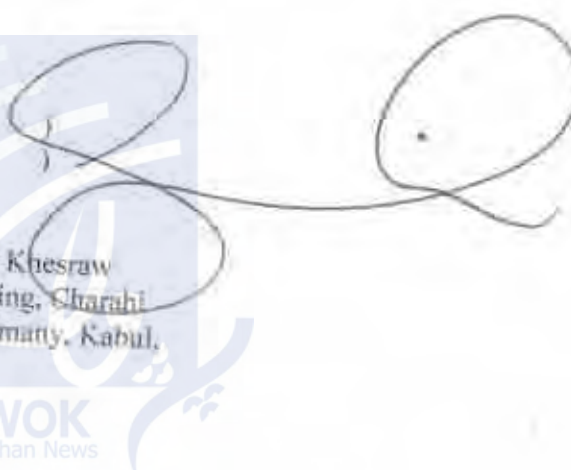
Address:

Hakim Nasir Khesraw
Balkhi Building, Charahi
Sarsabzi, Taimany, Kabul,
Afghanistan

Facsimile no:

Electronic mail address:

For the attention of:



October /05 / 2018

CENTAR Limited
Share Register
Incorporated in Guernsey - Registration Number: 52337

Names/DOB	Address	Nationality/Residence	Units	Class	Qty of Shares
Greenfield Reg Management Ltd (May 18 2007)	3/25 Westport Drive 2047 Hills Westview City Aliso Viejo Torrance British Virgin Islands	British Virgin Islands Limited Company		Class	800,000.00
Amicus Trust Ltd as the Discretionary Trust	PO Box 100 The Regent Hotel 2015 Place East Wing Adlonia Park St. Peter Port Guernsey GY1 1EE			Total	800,000.00
Jan Dorelle as trustee of the CTR C Trust	Les Perreux 3.2 Rue des Perreux 00 Salernes Quartier 07190 GUS	Guernsey		Total	200,000.00
Erwin Gertjan Esquith Muller Partnership L.P.	400 Madison Avenue New York United States of America	Leeward Company		Total	170,000.00
QSR Partners Limited	PO Box 4984 Lime Commerce Building Pierrefort Tortola British Virgin Islands	British Virgin Islands Limited Company		Total	170,000.00
				Total	1,000,000.00
				Total	1,000,000.00

Incorporated : Guinness - Registration Number : 52937

Name (DOB)	Address	Name	Country	Cost	No. of Shares
Georgios Hadjigeorgidis (Cypriot) (Lombard)	8, Boulevard d'Alsace 2102 Nicosie Chypre	Cypriot Lombard Company	Cyprus	1,000,000.00	1,000,000.00
					Total
				0.70	1,000,000.00
Lat Chantana Harnvann May 20 1955	House 20 Cypriot Company London United Kingdom W11 2JF	British Investment (1) Limited	United Kingdom	1,123,333.00	1,123,333.00
					Total
				100,500.00	1,123,333.00
Michael Harnvann May 16 1974	19 Chancery Court London United Kingdom W2 1JF	British Investment	United Kingdom	100,500.00	100,500.00
					Total
				171,500.00	1,123,333.00
Michael Harnvann May 16 1974	19 Chancery Court London United Kingdom W2 1JF	British Investment	United Kingdom	171,500.00	171,500.00
					Total
				5,300,287.00	5,300,287.00

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CENTAR Limited
Share Register

Incorporated in Germany - Registration Number : 52577

Name/DOB	Address	Nationality/Occupation	Date	Cost	Nil of Dividend
JulesFisch Limited	PO BOX 123 Commercial Moore Commercial Road St Thomas Jersey JE1 4 8JC	Jersey Limited Company		1,200,000.00	1,000,000.00
ANAMETEC (Parsdell)	767 Fifth Avenue Floor 13 New York NY 10153 United States of America	USA American		2100,000.00	1,000,000.00 200,000.00
Wega Chapel International Limited	878 (J)antania P.O. Box 3871 Hua Hin Yorck British Virgin Islands			0.00	200,000.00 100,000.00
Kulczyk Investments LLC	Kulczyk Investments, S.A. 35 Avenue Marlinier 1-2103 Luxembourg Grand Duchy of Luxembourg L-1011	Luxembourg Limited Company		9,500,000.00	100,000.00 9,500,000.00
Long Marton Investments, CoE	York Office Building 011 Floor Office 603, via Espana Spain Marbella Airport Financiera City Parsons			965,353.00	9,500,000.00 965,353.00
					965,353.00

4

CENTAR Limited
Share Register
Incorporated : Quamby - Registration Number : 62537

Name/DOB	Address	Residential/Occupation	Date	Capital	His of Shares
Kyroski Mando Age 3 1960	3-2714 Jeddah, Mars-27, Cairo, Japan 821-2113	Japanese Housewife (Mother)		1,000,000.00	1,000,000.00
James Francis Gordon McBurney Jan 28 1961	8 Llanwnda Gardens Plymouth, London, United Kingdom W6 7EA	Japanese, British Chief Executive Officer		55,000.00	1,000,000.00 55,000.00
MAJIA Worldwide Inc.	3rd Floor Omar Al-Jaber Building Wickham Quay 1 Grand Ham, Suite 101 Bahrain, Bahrain	British Virgin Islands Limited Company		1,000,000.00	25,000.00 1,000,000.00
Menden Capital International Fund	PO Box 308 CTF Upper Africa South Church Street George Town, Grand Cayman Cayman Islands KY1 1104			3,000,000.00	1,000,000.00 3,000,000.00
MAET Trading Limited	4th Floor, 1000 London, United Kingdom N10 1AT	British Limited Company		0.00	3,000,000.00 250,000.00
					250,000.00

AT SHAREHOLDERS: Details shown as of 21/03/2018

Page 5 of 8

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CENTAR Limited
Share Register
Incorporated : Guernsey - Registration Number : 58037

Shareholder	Address	Particulars/Description	Units	Cost	No. of Shares
Pharmacia International Limited	Unit 3B 2100 Floor Pur East Colchester Building 121 Elm Street Road Colchester Essex (UK)			110,000.00	100,000 (0)
Adams First Development (Feb 7 1993)	Opportunity Partnership 121 Elm Street Colchester, UK 82732 Chelmsford Essex	German Company		200,000.00	100,000 (0) 200,000 (0)
Pharmacia International Limited	Pharmacia International 121 Elm Street Colchester Essex (UK)	British Virgin Islands Company		50,000.00	200,000 (0) 70,000 (0)
Pharmacia Tissues Ltd 25a CPO	Pharmacia Tissues PO Box 18 Colchester Building Essex (UK) Essex (UK) Essex (UK)	Jersey United Company		350,000.00	70,000 (0) 250,000 (0)
Pharmacia Tissues Ltd	Pharmacia Tissues Ltd 25a CPO			350,000.00	250,000 (0) 250,000 (0)
Pharmacia Tissues Ltd	Pharmacia Tissues Ltd 25a CPO			350,000.00	250,000 (0) 250,000 (0)

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State Register
Incorporated: 1901
Committee: Registration Number: 52117

[illegible]

ART MANAGER	Credit score at least 680
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10.11.09 10:26:07 AM

Received 10/10/01

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