



USAID FIRMS PROJECT

Mining Concession Rules – Khyber Pakhtunkhwa

Support for Development of Subsidiary Legislation: KPK Mining

August, 2014

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Abstract

Proper mine/quarry management and investment is constrained across much of the country due to ineffective mining concessions, resulting in weak regulation and enforcement of mining lease agreements. As a consequence of the above, industry best practices have not been introduced and meaningful investment in technology and expertise has not been made.

In order to capitalize on the natural mineral endowments of Khyber Pakhtunkhwa (KPK) and keeping in line with the updated provincial policy framework, a review of the provincial regulatory regime and mining protocols needed to be undertaken to identify constraints to private investment and requisite service delivery.

The existing rules set forth processes for the award and implementation of mineral license/lease rights but in order to support a modern mineral sector as recommended in the newly formulated Provincial Policy report, specific attention and preparation of guidance to certain aspects needs to be given through the drafting of rules. This scope also intends to advise the Provincial Mineral Development Department on various issues to introduce best international practices.

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Executive Summary

Pakistan is endowed with extensive geological potential but unlike other developing countries with such potential, it has not yet been able to promote growth and alleviate poverty by exploiting its natural resources to the maximum extent possible. The country's mining industry is dominated by the public sector and there has been little or no modern exploration with the benefit of large-scale private sector investment and foreign investors with modern management, capital and technical know-how.

As part of the consultancy, it was required to update the existing set of Mineral Concession Rules which were put in place in 2005. The current set of rules, although comprehensive, is devoid of entry standards and there is little focus on the monitoring and evaluation of the Mining Leases.

The updated rules also include sub-sector specific mining protocols and special attention has been given to the small scale mining and gemstones. Specific attention is given to.

- Technical and qualification standards especially for quarrying
- Additional types of licenses and licensing requirements
- Clearly drafted rights and obligations of Government and Investors/Mine Operators
- Comprehensive financial rules and processes including institutional arrangements
- Mine Environmental and Social assessment and mitigation requirements
- Updated violation and penalties to reflect the modern market

These rules intend to govern the award of mineral licenses and leases in the most efficient manner and advise the provincial department on other issues to introduce best international practices.

Government of Khyber Pakhtunkhwa (KP) Industries, Commerce, Mineral Development, Labour And Technical Education Department

NOTIFICATION

Peshawar,

No. **SOIV/M/3-143/03(_____ Rules)/1807**. In exercise of the powers conferred by Section 2 of the Regulation of Mines and Oil-fields and Mineral Development (Government Control) Act, 1948 (XXIV of 1948), and in supersession of the North- West Frontier Province (Construction Materials) Mining Concession Rules, 1971, and the North-West Frontier Province Mining Concession Rules, 1976, and the North-West Frontier Province Mining Concession Rules, 2005, the Government of the North-West Frontier Province is pleased to make the following Rules, namely:

The Khyber Pakhtunkhwa Province Mining Concession Rules, 2014 Part I – Preliminary

1. Short Title and Commencement

- (1) These Rules may be called the Khyber Pakhtunkhwa Province Mining Concession Rules, 2014.
- (2) They shall come into force at once.

2. Definitions

For the purposes of these rules, the following definitions apply herein rules,

1. "Ancillary Contracts" means any contracts to be executed and performed during the duration of the license or lease that may include but not be limited to electricity, rail, airport, road, buildings, community development and other activities agreed upon by the KPMMD and the Holder;
2. "Artisanal Mining " means any activity by which a person carries out extraction of minerals to a maximum penetration of the earth's surface of thirty (30) meters, measured down the line of the maximum inclination of the deposit using equipment as approved in the Mining Regulations;
3. "Assignee" means a person, a firm or a company to whom a Mining Lease is assigned, transferred or mortgaged or to whom an Exploration License is transferred subject to evaluation and proving of a mineral resources/deposits, but no transfer of an Exploration License shall be permissible before completion of two (2) years of the issuance of the License;
4. "Authorized Officer" means any Government representative that has been authorized to conduct a prescribed activity under these Rules including any officer designated by the KPMMD to be an Authorized Officer; provided that if more than one officers are designated as such, the jurisdiction of each such officer shall also be defined;
5. "Cadastral Survey Map" means the specific topographical map indicating the limits of each perimeter in force or whose application is being processed, prepared for the KP province by the Mining Cadastre pursuant to the provisions of these Rules.
6. "Company" means,
 - (a) a corporation, state owned enterprise, partnership, joint venture, cooperative, association of persons incorporated or unincorporated, or other legally established entity; formed by or under any law for the time being in force in Pakistan; or

- (b) a corporation, state owned enterprise, partnership, joint venture, cooperative, association of persons incorporated or unincorporated, or other legally established entity formed by or under the laws of any other jurisdiction;
7. "Construction Materials" means crushed stone, dolomite, limestone, gravel, sand, clay, and such other minerals that may be designated as Construction Materials from time to time in the Mining Regulations;
 8. "Deposit" means any naturally or artificially occurring concentration of Minerals;
 9. "Drilling" means the perforation of the earth's surface for the collection of core samples otherwise than by pitting, trenching or sinking a shaft, whether the hole is vertical, inclined or horizontal, and includes all operations for preventing the collapse of the sides of the hole or for preventing the hole from becoming filled with extraneous matter, including water;
 10. "Environmental and Social Impact Assessment (ESIA)" means a prior scientific foreseeable analysis of potential effects of an activity that would affect the environment and social conditions and which addresses certain issues;
 11. "Environmental Management Plan" (EMP) means the program and work plan in connection to the environment and the society, and to eliminate its negative impacts during the working period of the project and to reduce and or compensate the resultant damages in case of negative impacts; to ensure the benefits to local communities and rehabilitation of the mine sites;
 12. "Exploitation" means any activity by means of which feasibility studies, pre-production development, Extraction and processing of minerals take place from an identified deposit by means of surface (open pit) and/or underground operations from a deposit.
 13. "Exploration" means any activity carried out to discover minerals in order to demarcate the quality and quantity of the minerals contained within a mining area, or to evaluate the possibilities of their exploitation;
 14. "Exploration Area" means the area of land, including its lateral limits, to which an Exploration License/lease relates;
 15. "Exploration License" means the legal rights to conduct exploration of minerals granted pursuant to the provisions of these Rules; Rules; "exploration operation" means any operation carried out in connection with exploration including access to the licensed areas, geological mapping and the collection of surface/subsurface mineral sample for the purpose of mineralogical examination, assaying, and the test work but such work shall not include commercial mineral extraction or marketing;
 16. "Extractive Industries Transparency Initiative" (EITI) means an international convention comprised of representatives from government, private sector and civil society to monitor mining revenues;
 17. "Feasibility Study" means a comprehensive study, including but not limited to; the results of resources and reserve estimations; the viability of proposed geo-technical, geo-hydrological, mining, processing methods and metallurgical methods; financial analysis taking into account technical, engineering, legal, operating, environmental, social/community, and economic factors; and other relevant socio-economic factors;
 18. "Forest Officer" means an Authorized Officer of the Khyber Pakhtunkhwa Forestry Department;

19. "Government" means the Government of the Khyber Pakhtunkhwa Province;
20. "Group of Minerals" means group of minerals described in Schedule 3 and as may be amended by KPMMD;
21. "Land" includes surface bearing any mineral, land beneath water and the subsoil of land;
22. "Health and Safety Plan" means a description of the potential health and safety hazards for any project based upon the specific activities being or to be carried out, prepared by the Holder of lease/license rights. The response plan for such hazards is designed and implemented through provision of technically appropriate equipment, better implementation of relevant measures, and adoption of accurate methods. Requirements shall be provided in the Mining Regulations;
23. "Holder" means a person or persons in whose name a lease/license right is registered by the Mining Cadastre and a license is issued. "Holder" may be referred to as "Holder", "License Holder", "Lease Holder" and/or "Holder of Mining Rights";
24. "Khyber Pakhtunkhwa Mines and Minerals Development Department" (KPMMD) and means the primary government agency responsible for the oversight and regulation of the KP mining sector. The KPMMD will set forth the parameters of mining sector policy, relevant legal and regulatory framework, be responsible for the licensing, registration and inspection of Mines, revenue collection, geo-science data, and working with relevant government agencies to establish a clear fiscal and operating regime for the KP mining sector;
25. "Large-Scale Mining" means a project of mining involving an investment/capital of more than three hundred million rupees;
26. "Lateral Limits" in relation to an area of land pertaining to a Mining Lease or a Prospecting License means the vertical lines towards the earth passing through the sides by which that area is bounded;
27. "Lease" means a formal permission to the lessee from the Lessor to use land and/or water stated in the Lease solely for the purposes of mining or activities directly related to mining.
28. "Licensed" means for purposes of these Rules and licensed or leased mineral right;
29. "Mineral Investment Facilitation Authority" (MIFA) means, as described in the National Mineral Policy, 1995 and 2013, and as notified by Government vide Notification No. AEA/IND/4-30/2001, dated 29.08.2004 and modified from time to time;
30. "Mineral" means all surface and sub-surface natural deposits of ores and metals and other metallic and non-metallic substances including naturally occurring aqueous solutions containing more than one per cent mineral salt but *does not* include-
 - (a) nuclear substances;
 - (b) mineral oil; and
 - (c) natural gas;
31. "Mine," *when used as a noun*, means any surface or underground excavation where any operation for the purpose of searching for or obtaining a mineral has been or is being carried on, and includes all works, machinery, tramway, ropeway and siding, whether above or below ground, on or adjacent or belonging to or appurtenant to a mine but does not include the manufacturing or processing plant;

32. "Mine", *when used as a verb*, means any activity by means of which exploration, pre-production development and exploitation of minerals which takes place from an identified deposit by means of surface or underground operations;
33. "Mining Area" means all or part of the above and below ground property included within the Mine Perimeter described in the lease/license;
34. "Mineral" *for purposes of these Rules* means any chemical element forming a naturally occurring substance, simple or complex, in solid, liquid or gaseous states; or as solution in water, and shall include coal. Hydrocarbons and Water are not included in this definition;
35. "Mineral Operation" means geological and geochemical exploration operations or mining operations or both;
36. "Mines Committee" means a committee constituted by Government under these Rules to perform such functions as may be assigned to it;
37. "Mining Activity" means the prospecting, exploration, pre-production, exploitation, processing, transformation, transportation, export, marketing or sale of minerals whether on surface or sub-surface or in water courses;
38. "Mining Area" means an area of land, including its lateral extractions with in the Mining Lease limits;
39. "Mining Operation" means any operation carried out in connection with the development of a mine, or the production of minerals from the mine, or both;
40. "Mining Regulations" means the legislative measures enacted by the Government for better implementation of the provisions of these Rules.
41. "Perimeter" means the boundary of an area demarcated on the surface as per the License while the depth is indefinite;
42. "Pit's Mouth" means a place above or adjacent to a mine where the mineral is collected, stored or taken charge of immediately after it has been mined;
43. "Prospecting License" means the legal rights to conduct prospecting of minerals granted pursuant to the provisions of these Rules. ;
44. "Processing" means ore dressing and/or metallurgical processes applied to ore or other minerals substances which results in obtaining of products for sale including but not limited to smelting, crushing, concentration, beneficiation, washing, and refining;
45. "Prohibited Area" means any unauthorized area as designated in accordance with these Rules;
46. "Prospecting" as applies to "Prospecting License" and prospecting operations means any activity which a person carries out to search and to discover indications of the existence of minerals by studying the information observable from the surface, including by means of physical observation, remote or aerial sensing techniques or rock sampling with minimal disturbance to the land or the surface of land and without harming the environment;.
47. "Province" means the Province of the Khyber Pakhtunkhwa,
48. "Reconnaissance" as applies to "Reconnaissance License" and reconnaissance operations means any operation carried on for a general search of any mineral by means of aerial photographs and remote sensing techniques through satellite imageries

and air borne geophysical surveys, for geological mapping and other reconnaissance stage exploration techniques;

49. "Retention License" means the legal rights to retain the license area granted pursuant to the provisions of these Rules;
50. "Retention Area" means the area of land, including its lateral limits, to which a deposit Retention License relates;
51. "Schedule" means a Schedule appended to these Rules; and
52. "Small-Scale Mining" means mining determined by the KPMMD based upon one or more factors including the size of the area of the mine, the method of Exploitation, volume of reserves, level of investment, production capacity, the number of employees, the value-added and the degree of mechanization as detailed in the Mining Regulations;
53. "Start of Commercial Production" means the first day on which product that is suitable for sale is produced, excluding products produced solely for testing;
54. "Sub-contract" means a contract where the contractor directly or indirectly enters into a contract with another person to carry out work or services relating to mineral operations;
55. "Surface Rent" means the fee payable to KPMMD for the licensed/leased demarcated area of the license/lease to be charged under these Rules at the recovered rates specified by Government from time to time. The payment conditions and duration shall be established in the Mining Regulations;
56. "Tailings" means the material remaining from the processing of minerals such as any solid or liquid residues derived the reform;

Part II – Administration and Authority

Chapter 1 Institutional Arrangements

1. Implementing Agency

- (1) The Mines and Minerals Development Department of Khyber Pakhtunkhwa as a Mines and Minerals Development Department agency, is responsible for the management and application of these Rules and shall assume the powers and authorities of these Rules in the public interest to ensure that the mineral resources of Khyber Pakhtunkhwa are investigated and exploited in the most efficient, effective and timely manner.
- (2) Delegation of Powers. The KPMMD may by instrument in writing delegate all or any of its powers, to any officer in the Directorate.

2. Functions and Authorities of the Mines and Minerals Development Department

- (1) The functions of the Mines and Minerals Development Department shall be to:
 - a. Develop and issue policy guidelines to support the effective and efficient management and the development of minerals including to the Mines and Minerals Development Department that are not inconsistent with these Rules, monitoring the effectiveness of policies, and modifying them where necessary;
 - b. Promote and facilitate investment in mineral development;
 - c. Regulate and supervise all prospecting, reconnaissance, exploration, small-scale and large –scale operations;
 - d. Evaluation, grant, revoke, suspend, or extend licenses in accordance with these Rules;
 - e. Ensure that all conditions relating to licenses and the requirements of these Rules are complied with;
 - f. Enter into arrangements in accordance with the applicable public procurement laws, with any local or foreign, public or private sector Persons, for the purposes of evaluation and assessment of Mineral resources in the Khyber Pakhtunkhwa , whether proven or unproven, for undertaking Feasibility Studies, or other activities as may be required;
 - g. Undertake investigations into the geological or mineral resources of Khyber Pakhtunkhwa
 - h. Establish and implement a Mining Cadastre Office, a Mining Inspectorate and a Geological Survey;
 - i. Take custody of mineral resources declared by any court to be forfeited to the Mines and Minerals Development Department;
 - j. Prepare reports and other records, and providing data to the public, subject to any confidentiality restrictions;
 - k. Publish an annual report not later than ninety (90) days after the end of each year to be submitted to Mines and Minerals Development Department within that year;

- l. Provide technical assistance to the Mines and Minerals Development Department in all matters related to mines and minerals;
 - m. Perform such other functions as are under these Rules.
- (2) For purposes of performing these functions, any Authorized Officer of the Mines and Minerals Development Department may at any reasonable time enter any licensed or unlicensed area and, in connection with such entry, shall ensure that as little damage or inconvenience as possible is caused to the owner or lawful occupier of the land in respect of which the powers are exercised for the purposes of,
- a. generally inspecting such area, workings, operations or processing of minerals being carried out and ensuring that the provisions of these Rules are complied with;
 - b. examining books, accounts, vouchers, documents or records of any kind required to be kept under these Rules or as prescribed, and taking copies of such books, accounts, vouchers, documents or records;
 - c. taking soil samples or specimen of rocks, ore, concentrates, tailings or minerals situated upon such area, premises or workings for the purpose of examination or assay;
 - d. Obtaining such other information as may be deemed necessary.
- (3) Any Authorized Officer of the Mines and Minerals Development Department may, with respect to the health and safety of persons employed by a Holder of a license and the general public, issue orders verbally or in writing and impose restrictions, including temporarily suspending any mining operation, on the Holder or any person so employed.
- (4) Any Authorized Officer of the Mines and Minerals Development Department may summon a license Holder or its affiliate so as to obtain information regarding any license activity and that Holder or affiliate shall comply with the summons.

3. Functions and Authorities of the Khyber Pakhtunkhwa Geological Survey

- (1) The functions of the Geological Survey shall be to:
- a. Provide advice to the Mines and Minerals Development Department on all matters related to geology and the development of minerals;
 - e. Undertake surveys, investigations, studies and mapping that contribute to the development of a national repository of geo-science information;
 - f. Provide geological information and services to prospective investors;
 - g. Provide advice on evaluation of exploration and geological aspects of exploitation programs, submitted with license applications and tender submissions;
 - h. Recommend to the Mines and Minerals Development Department areas for designation as Small-Scale Mining and Artisanal Mining areas; and
 - i. Perform other functions as may be prescribed or as assigned by the Mines and Minerals Development Department.
- (2) For the purposes of performing these functions, any authorized official of the Khyber Pakhtunkhwa Geological Survey may:
- a. Enter into any License area and any unlicensed area;

- b. Enter into or upon any land for the purpose of carrying out surveys; such entry shall be with the coordination of the local authority concerned;
- c. Take soil samples or specimens of rocks, ores, concentrates, tailings or minerals situated in any license area for the purpose of examination or assay;
- d. Break up the surface of the land for the purpose of ascertaining the water, rocks or minerals within or under them;
- e. Set upon any land and fix any post, stone, mark or object to be used in the survey of such land; and
- f. Issue opinions relevant to mineral activities and topic areas within its scope of work.

4. Mining Cadastre

- (1) A Mining Cadastre Office is established within the Mines and Minerals Development Department responsible for administering the licensing and registration of all mineral operations.
- (2) The functions of the Mining Cadastre Office shall be to:
 - a. Oversee and coordinate the progress and processing of applications as prescribed in these Rules;
 - b. Officially confirm or reject applications and in the case of approved licenses applications, prepare official certificates to be issued by the Mines and Minerals Development Department;
 - c. Develop and maintain a Mining Cadastre which may be computerized but shall be maintained also in paper form and shall comprise, a:
 - i. Register of Licenses;
 - ii. Register of License applications; and
 - iii. Cadastral Survey Map of licenses and license applications.

5. Mining Inspectorate

- (1) There is established as part of the Mines and Minerals Development Department a Mining Inspectorate for the inspection and supervision of all mineral activities.
- (2) The Mines and Minerals Development Department may appoint any suitable person or class of persons as an inspector, and may limit the functions and powers of an inspector in the appointment document. An inspector is an Authorized Officer under these Rules.
- (3) The functions of the Mining Inspectorate shall be to:
 - a. Ensure technical compliance of the all license operations;
 - b. Ensure the health and safety of all license operations including the protection of staff, employees, and the general public;
 - c. Undertake inspection and supervision of mines and related areas with regard to health, safety and work procedures;
 - d. In coordination with Mines and Minerals Development Department and relevant environmental authorities, monitoring environmental compliance of operations;
 - e. Investigate Incidents;

- f. Prepare health and safety Rules and regulations and provide training on them;
 - g. Compile and publish annual statistics on incidents for public review;
 - h. Verify mine reports including ancillary activities; ancillary activities shall be further reviewed in coordination with relevant authorities;
 - i. Review mining proposals and mining plans, mine health & safety plans, Codes of Practice, feasibility studies submitted with the application for a license;
 - j. Perform other functions as are delegated to Inspectors by the Mines and Minerals Development Department.
- (4) For the purposes of performing these functions, any appointed inspector may, without warrant,
- a. enter any licensed or unlicensed area;
 - b. make such inspections, examinations, inquiries, make tests or take photographic or other record considered necessary to carry out official functions;
 - c. be accompanied by or assisted by any person authorized by the inspector;
 - d. issue orders concerning violations, penalties and prescribed payments levied;
 - e. request the production of any documents relevant to the inspection, including but not limited to drawings, specifications, plans, licenses, leases, permits, records, receipts or reports;
 - f. on providing a receipt to the Holder, remove any documents, including drawings, specifications, plans, licenses relevant to the license; and
 - g. Other authorized activities as may be prescribed.

6. Mining Commission

- (1) A Mining Commission shall be established to implement the tender process under these Rules and to assist the Mines and Minerals Development Department as may be required.
- (2) The composition of the Mining Commission shall be an odd number of voting members and be comprised:
- a. The Secretary of the Mines and Minerals Development Department as Chairperson
 - b. The Secretary of Finance, as Vice Chairperson
 - c. The Secretary of Environmental Protection, as Member
 - d. The Secretary of _____, as Member
 - e. 2 Qualified Mine Engineers for two (2) year terms;
 - f. 1 Qualified Legal or Financial Expert for two (2) year term;
 - g. As prescribed, the Mines and Minerals Development Department may recommend additional Mining Commission members.
- (3) Each individual serving on the Mining Commission may appoint one (1) proxy member and may only with signed written proxy assign a designated representative to participate in any Mining Commission meeting or discussion.

- a. Mines and Minerals Development Department staff shall not be compensated for their participation in the Mining Commission;
 - b. Private individuals shall be compensated for their participation in the Mining Commission by the Mines and Minerals Development Department; their compensation shall be published on an annual basis as part of the MMDD annual report.
- (4) The Mining Commission primary responsibility is to implement the tender process in support of the award of mineral concessions in Khyber Pakhtunkhwa and authorities shall include,
- a. Design and publish tender procedures to be followed by the Mines and Minerals Development Department in support of the tendering of mineral concessions in Khyber Pakhtunkhwa ;
 - b. At the request of the Mines and Minerals Development Department, prepare bidding documents to support the tendering of mineral concessions in Khyber Pakhtunkhwa including but not limited to:
 - i. Informational materials
 - ii. Geo-science data
 - iii. Technical requirements for bid submissions
 - iv. Financial requirements for bid submissions
 - c. Implement tender processes including but not limited to:
 - i. Preparing and publishing notices and advertisements of tenders;
 - ii. Establishing a “safe room” in which all tender – related documents shall be safely stored; and
 - iii. Ensuring that a fair and transparent tender process is implemented.
 - d. Establish and train an Evaluation Commission to review and evaluate all bid submissions including technical, financial and other aspects.
 - e. Where necessary, the Mining Commission may identify technical specialists to advice on the evaluation of relevant aspects that require particular technical expertise.
 - f. Monitoring and approval of any competitive bidding process to ensure it is conducted fairly and consistent with these Rules;
 - g. Upon notification of evaluation findings, notify the bidders and publish tender results in the Official Gazette.
- (5) The Mining Commission shall be responsible for the investigation and resolution of claims or disputes related to rights to conduct mineral operations prior to the date these Rules comes into effect.
- (6) As may be required by the Mines and Minerals Development Department, the Mining Commission may be asked to address additional functions that may be include but not be limited to:

- a. Advising the Mines and Minerals Development Department on matters of the environment and community development issues as they relate to mineral activities in Khyber Pakhtunkhwa ;
- b. Facilitate the resolution of inter-Mines and Minerals Development Departmental disputes relevant to minerals in Khyber Pakhtunkhwa ;
- c. Advise the Mines and Minerals Development Department on the grant of applications, and renewing, suspending, transferring and revoking Licenses, where such Mining Commission participation is specifically required under these Rules; and
- d. Such other functions as requested by the Mines and Minerals Development Department.

(7) Mining Commission Secretariat.

- a. An office shall be established at the Mines and Minerals Development Department that will serve as the Secretariat of the Mining Commission. The office will be a stand-alone office unattached to any existing department in the MMDD.
- b. The Secretariat shall be staffed with no less than three (3) staff members that are responsible for the support and administration of the Mining Commission functions.

(8) Meetings of the Mining Commission.

- a. The Mining Commission shall meet at such time and place as determined by the Chair and meet as frequently as necessary.
- b. The quorum of any Mining Commission meeting shall be two-thirds (2/3) of its members in attendance or by proxy as prescribed; questions before the Mining Commission shall be decided by a majority of members present. In the event of equality of votes the Chair or presiding person shall have an additional casting vote.
- c. The Chair shall preside at every meeting of the Mining Commission; in his absence other members of the Mining Commission shall appoint one of the Mining Commission members to preside.
- d. The validity of Mining Commission proceedings and decisions shall not be affected by any vacancy in membership.
- e. The Mining Commission may invite any person or persons to act as adviser or advisers at any of its meetings who may take part in the deliberations of the Mining Commission but such person shall not be entitled to vote.
- f. All minutes of the Mining Commission shall be recorded by a non-voting attendee and maintained in the office of the Mining Commission Secretariat.
- g. Any findings by the Mining Commission shall be published in the Official Gazette.

Chapter 2 Public Officials and Authorized Officers

7. Disclosure of interest

- (1) Any member or proxy member of the Mining Commission who has an interest, direct or indirect, in any matter to be considered by the Mining Commission shall disclose the nature of his or her interest to the Mining Commission and such disclosure shall be recorded in the minutes of the Mining Commission and that member shall not take part

in any deliberation or decision of the Mining Commission relating to the matter. A member who does not make such disclosure shall be guilty of misconduct and liable to be removed from the Mining Commission.

- (2) For the purposes of these Rules, “interest” shall be defined as including but not limited to direct or indirect ownership of shares in any legal person or funding of any natural person engaged in mineral activities in Khyber Pakhtunkhwa including ownership of shares or funding of natural persons by any members of family in mineral activities in Khyber Pakhtunkhwa, and any direct or indirect benefits.

8. Indemnity of Public Officials

- (1) The Secretary, Authorized Officers, or public officials shall not be liable for anything done or omitted to be done in good faith in the performance of any function vested in or delegated to them under these Rules.

9. Prohibition of Acquisition of Licenses and Leases

- (1) The President, Vice Presidents, Ministers, Head and members of the Supreme Court, Head of the Central Bank, National Security Administration, Provincial Chief Secretaries as well as any public official working at the national or sub-national levels, members of the National Assembly, Pakistan or international advisor working with them, directly or indirectly shall not,
- a. acquire any right or interest in any license or lease and any document or prohibited transaction purporting to confer any right or interest in any such right shall be void;
 - b. during the tenure of this individual’s appointment or employment, own or retain any shares, options or warrants in a company carrying on any minerals license or lease activities or the import, export or marketing, of minerals;
 - c. during the tenure of this individual’s appointment or employment, serve as a corporate officer or member of any Board in a company carrying on reconnaissance, exploration, or mining operations or the import, export, or marketing of minerals in or out of Pakistan; and
 - d. this prohibition shall remain in force,
 - i. for the Secretary and KPMMDs of the Mines and Minerals Development Department and any member of the Mining Commission or proxy member, for two (2) years beyond the date on which that individual leaves office; or
 - ii. The President, Vice Presidents, Ministers, Head and members of the Supreme Court, Head of the Central Bank, National Security Administration, Provincial Chief Secretaries as well as any public official working at the national or sub-national levels, members of the National Assembly, and Mines and Minerals Development Department civil servants Grade XXX or higher for one (1) year beyond the date on which that individual leaves office; or
 - iii. For any advisor to the Mines and Minerals Development Department or one (1) year beyond the date on which the advisor leaves that position.
- (2) Any individual referenced in this Part, upon taking such position, shall divest from such license, lease or interest or dispose of the shares, options, warrants within thirty (30) days before assumption of office.

An individual who does not comply with this provision shall be liable and subject to actions as prescribed in these Rules.

10. Confidentiality

- (1) Any information under these Rules shall not be disclosed by an official employed by the Department/Directorate to any other person, who is not an employee of the Department, without the prior approval of the competent authority, except to the extent that the-
 - a. disclosure is authorized or required by law;
 - b. disclosure is required by order of a competent court, or for the purpose of any arbitration or litigation involving Government;
 - c. disclosure is necessary to compile and publish official statistical information concerning geology and mineral resources of the Province;
 - d. disclosure is for the purpose of the implementation of these Rules or a Mineral Agreement, the formation of mineral policy or of giving advice to other departments or agencies of Government or for the purpose of any discussion or dealing with Federal Government;
 - e. disclosure is affected with the prior permission in writing of Government granted in respect of any matter which, in the opinion of Government, is of a general nature and may be disclosed in the public interest; or
 - f. disclosure is in accordance with a relevant Mineral Agreement or a Mineral Title.
- (2) An officer employed in or by the Department, who uses, for the purpose of personal gain, any information falling within the purview of these Rules that comes to him in the course of, or by reason of, that employee, shall be guilty of an offence and be punishable under the law for the time being in force.
- (3) The Holder of a Mineral Title shall not disclose information acquired by him as such, except as provided under these Rules or in his Mineral Title.
- (3) Prior to the expiration of the period of confidential treatment, such information may be used by the KPMDD for purposes of compiling public records, data and statistics, which may be published without disclosing the confidential parts of the information.

Part III – Mineral Concessions

Chapter 1 General

11. Types of Mineral Concessions

(1) Mineral Concessions shall be classified as follows.

- a. Prospecting License
- b. Reconnaissance License
- c. Exploration License
- d. Mining Lease
- e. Small-Scale Mining License
- f. Artisanal Mining License
- g. Retention License

(2) Subject to the provisions of these Rules a natural person or a company may hold one or more licenses simultaneously.

12. Grant of Mineral Concessions

(1) A Prospecting License or Reconnaissance License or Small-Scale Mining License or Artisanal License may be granted in response to an individual request by the Mines and Minerals Development Department.

(2) An Exploration License or Mining Lease application shall be granted as a result of a competitive bidding process.

(3) Any competitive bidding process leading to the award and grant of an Exploration License or Mining Lease shall be administered by the Mining Commission as defined in these Rules.

(4) Any area included in a License which was closed to Mining Operations activities under any applicable law in force at the time the License was granted shall be automatically deemed not to be included as part of the License Area, and any grant of License rights in that closed area is null and void.

13. License and Lease form

(1) A license shall be in such form as may be prescribed by the Mines and Minerals Development Department and shall specify,

- a. the type of license/lease;
- b. the mineral or minerals for which it is granted;
- c. the name and address of the Holder/Lessee;
- d. the date of the grant of the license or lease and the period for which it is granted;
- e. a description of the area over which it is granted; and
- f. The conditions on which the license or lease is granted.
- g. the duration of the license or lease;

- h. The date the license or lease was registered in the Register of Licenses and Leases.
- i. the agreed upon Royalty, except in the case of Prospecting License, Reconnaissance License and Exploration License;
- j. a schedule of mineral activities to be implemented including commencement of mineral operations;
- k. excluding Reconnaissance License, the amount of surface rent, schedule for payment and to whom payments shall be made;
- l. with the exception of Artisanal License, attached to the license shall be,
- m. employment program to include Khyber Pakhtunkhwa citizens;
- n. certified copy of environmental plan; and
- o. Work program and budget.

Chapter 2 Eligibility and Award of License or Lease

14. Eligibility for Grant of a License or Lease

- (1) The following persons are eligible to hold a license or lease upon submission of written evidence in the form as may be prescribed,
- a. any natural person who has attained the age of eighteen (18) years and is a citizen of Pakistan;
 - b. any foreign natural person who has attained the age of eighteen (18) years;
 - c. any legal person established under Pakistan law and in good standing;
 - d. any foreign legal person organized or cooperating under foreign law, that is legally entitled to reside, invest, or do business in Pakistan;
 - e. only natural persons and who are citizens of Pakistan or legal persons comprised of one hundred percent (100%) of Pakistan are eligible to hold an Artisanal Mining License; and
 - f. Natural persons may not apply for a Reconnaissance License, an Exploration License, or a Mining Lease.
- (2) No license shall be granted to a natural person who,
- a. does not have legal capacity;
 - b. is financially or technically not qualified to undertake the activities under the license to which the application relates;
 - c. is insolvent;
 - d. is bankrupt and where such bankruptcy shall preclude the person from funding its commitments under the license/lease;
 - e. has been convicted by a conclusive judgment of the authorized court of a felony crime; or
 - f. Whose former license has been revoked.
- (3) No license shall be granted to a Company,
- a. which is not registered under the laws of Pakistan;
 - b. which is insolvent;

- c. which is bankrupt and/or where such bankruptcy shall preclude the person from funding its commitments under the license/lease;
 - d. which is in liquidation other than a liquidation which is required to restructure such corporate entity including a reorganization in bankruptcy;
 - e. for which an order has been made by a court of competent jurisdiction for its winding up or dissolution;
 - f. which has one (1) or more shareholders who hold a controlling stake, a corporate officer or member of its Board of Directors who would be disqualified as a natural person under these Rules;
 - g. if any natural person or any individual shareholder holding a controlling stake has been convicted of an offence under the laws of Pakistan and/or these Rules;
 - h. any shareholder who holds a controlling stake, officer or Board member of the company who was an officer or employee of the Mines and Minerals Development Department at the time the applicant first applied for the license; or
 - i. if the applicant's former license was revoked and that person is applying for a license over part or all of that same license area within two (2) years of the original revocation.
- (2) In order to obtain a License or Lease any natural person or company with foreign citizenship shall appoint and maintain an authorized agent resident in Pakistan for the duration of the license period.

15. Grant of a License or Lease

- (1) Subject to these Rules, a license may be granted by the Mines and Minerals Development Department in response to a license application or competitive bidding.
- (2) Application for the grant of a license may be made for the following license types in accordance with the provisions under these Rules:
 - a. Prospecting License
 - b. Reconnaissance License
 - c. Artisanal Mining License
 - d. Construction Materials
- (3) Licenses may be granted only by way of competitive bidding for the following license types:
 - a. Exploration License
 - b. Small-Scale Mining License
 - c. Mining Lease
- (4) An application for a license included as part of competitive bidding shall be,
 - a. in the prescribed form;
 - b. accompanied by the prescribed fee; and
 - c. subject to the terms and conditions of the invitation to bid submissions, shall include at a minimum all terms and conditions as set forth in these Rules relevant to applications.

- d. All applications included as part of competitive bidding shall be referred to the Mining Commission for its review and approval or rejection.
- (5) An application for a license may be withdrawn in whole but not in part by the applicant before issue by the applicant notifying the Mines and Minerals Development Department in writing.

16. Competitive Bidding

- (1) The Mines and Minerals Development Department Mines and Minerals Development Department may conduct competitive bidding to grant Mineral Concessions where,
 - a. one (1) or more mineral(s) is/are partly or fully exposed in an identified area; or
 - b. Where geological information has been collected and disseminated with regard to an identified area and that information improves understanding of the mineral potential.
- (2) Competitive bidding shall not be applicable where the area in question,
 - a. is subject to an existing Mining Lease; or
 - b. is subject to an existing valid Prospecting License, Exploration License, or Retention License which grants an exclusive right to the relevant Holder to obtain a further Mining Concession for that area under these Rules.
- (3) Any competitive bidding process shall be undertaken in accordance with these Rules. The Mines and Minerals Development Department may prescribe clarifying procedures to ensure clear and fair bidding.
- (4) Any competitive bidding procedure issued under these Rules shall not take effect unless it is notified in the Official Gazette or duly published on the official website of the Mines and Minerals Development Department within thirty (30) days of commencing the bidding process.

17. Application

- (1) Subject to these Rules, with respect to minerals and/or areas not falling within the purview of these Rules as refers to prohibited areas, rare earth minerals, the Mines and Minerals Development Department Mines and Minerals Development Department may grant Mineral Concessions based on application on a “first come, first served” basis.
- (2) Where two (2) or more applicants, not acting together, each make an application for the grant of a license over the same area or an overlapping area, the person whose application was first registered in the Register of License Applications shall be considered for the grant of a License in priority to the other applicant or applicants.

Part IV - Large-Scale Mining

Chapter 1 General

18. Types of Mineral Titles. The following Mineral Titles may, subject to these Rules, be issued, for the purposes of large-scale mining:

- (a) Reconnaissance License;
- (b) Exploration License;
- (c) Retention License; or
- (d) Mining Lease.

19. Mineral Agreements

- (1) Government may, at the request of a person proposing to carry on mineral operations, enter into an agreement, relating to a Mineral Title, not inconsistent with these Rules or any other law, which that person, if Government is satisfied that substantial investment is likely to be made in mineral operations and that the carrying on the undertaking in question is desirable in the interest of the development of the minerals.

Chapter 2 Minerals Agreements

20. Use of Minerals Agreements

- (1) The Mines and Minerals Development Department may, enter into an agreement relating to an Exploration License and/or a Mining Lease not inconsistent with these Rules or any other law with an applicant/bidder if the Mines and Minerals Development Department is satisfied that investment of more than three hundred million rupess or such higher amounts as may be notified by the Mines and Minerals Development Department is likely to be made in Mineral Operations and that the Minerals Agreement is in the development interests of Khyber Pakhtunkhwa.
- (2) When negotiating a Minerals Agreement, the Mines and Minerals Development Department shall:
 - a. Ensure that the terms of the Minerals Agreement are consistent with the terms of the laws of Pakistan and these Rules and in accordance with customary international legal and mining practice; and
 - b. Endeavour to advance the overall public interest of Khyber Pakhtunkhwa and Pakistan.
- (3) The Mines and Minerals Development Department may require that a Minerals Agreement be concluded and,
 - a. shall be a party to the Minerals Agreement;
 - b. may request that the Federal Mines and Minerals Development Department be a party to the Minerals Agreement; and
 - d. shall follow the template provided for in the Mineral Regulations;
 - e. may at any time subsequent to the signing be modified by mutual written consent of the parties; and
 - f. Shall require that all parties meet prescribed conditions.

- (4) A Minerals Agreement may be entered into only by a legal person that has the technical competence and financial ability to fulfill the obligations under the Minerals Agreement and complies with the eligibility criteria required under the applicable License or Lease.

21. Area of Minerals Agreement

- (1) The area of land to which a Minerals Agreement is subject shall comply with the applicable License and/or Lease requirements under these Rules.
- (2) As is relevant, an Exploration License or Mining Lease shall be issued upon the conclusion of a Minerals Agreement and include relevant maps and perimeter of the license area.

22. Terms and Conditions of Minerals Agreement

- (1) All terms and conditions as set forth in these Rules relevant to applications shall at a minimum be applied to bid submissions for licenses and leases granted through competitive bidding
- (2) A Mineral Agreement may, in particular, make provisions with respect to all or any of the following matters:
- a. the grant, renewal, cancellation or transfer of a Mineral Title;
 - b. minimum exploration operation to be carried on and related expenditures to be incurred for the purposes of those operations;
 - c. the formation of joint venture;
 - d. the basis on which the fair market value of any mineral or group of minerals may, from time to time, be determined on an arms-length basis;
 - e. the payment of enhanced Royalty in specified circumstances;
 - f. the payment of additional profits/ tax in specified circumstances;
 - g. the establishment of secondary and tertiary processing facilities;
 - h. the circumstances in which, and the conditions on which, rights of pre-emption of minerals may be exercised by Government;
 - i. guarantees to ensure the due and proper performance of the obligation of the Holder of the Mineral Title;
 - j. financial and insurance arrangements;
 - k. settlement of any dispute which may arise in the interpretation or application of any provision of a Mineral Agreement by a sole expert;
 - l. co-ordination of exploration or mining operation to be carried on by the person concerned under an Exploration License or a Mining Lease with any such operation carried on by the Holder of an Exploration License or a Mining Lease in any neighbouring exploration area or mining area; and
 - m. Other matters relating to mineral operations as Government may determine or as the parties to the agreement may consider necessary.

- (3) Nothing contained in a Mineral Agreement shall be construed as absolving any party thereto from complying with any requirement laid down by law for applying and obtaining any Mineral Title, license, approval, permission or other document required by any law for the time being in force, including:
- a. Environmental and Social Impact Assessment and Management Plan;
 - b. Community Development Agreement
 - c. Mine Plan
 - d. Mine Rehabilitation and Closure Plan.
- (4) For the purpose of determining whether substantial foreign investment is likely to be made in any particular case Government shall have regard to,
- a. the likely scale of the capital investment to be made;
 - b. the expenditure and work program proposed by the applicant;
 - c. the likely scale of operation and required infrastructure in the event of a commercial discovery;
 - d. the mineral or group of minerals to which the mining title, if granted, would relate to economic development and long-term economic growth in KP; the mineral or group of minerals to which the mining title, if granted, would relate and the potential export of that mineral or group of minerals; the methodologies and techniques to be used for the recovery of that mineral or group of minerals; the technical and financial capabilities of the applicant for a Mineral Title; and
 - e. any other relevant factor as proposed by the KPMMD with endorsement of the Mining Commission.

23. Transfer of Mineral Agreement

- (1) Parties to a Minerals Agreement shall not transfer or concede any rights and privileges including to an Exploration License or Mining Lease or the relevant contract to any other person without the written permission of the Mines and Minerals Development Department with the approval of the Mining Commission.
- a. Transfer and concession can only be made to a Person who is eligible and has all the specifications, capabilities and the requirements that the Holder/Lessee had at the time of obtaining the License.

24. Publication of Mineral Development Agreement

- (1) Within ten (10) days of signing a Minerals Agreement, agreed to under the provisions of these Rules, the Mines and Minerals Development Department shall publish in the Official Gazette the terms and conditions of the Agreement and any related ancillary contracts.

Chapter 3 Applications

25. Applications

- (1) An application under these Rules shall, except otherwise provided,
- a. be made to the KPMMD;
 - b. be in a form approved by the KPMMD; and

- c. be accompanied by the fee prescribed by Government from time to time and for the time being specified in Schedule-I in respect of application in question.
- (2) Applications shall not be accepted for Mining Leases.
 - (3) An application may be withdrawn by the applicant by a written request addressed to the KPMMD.
 - (4) Where more than one application is made in respect of the same area of land, the applications shall be dealt with in the order in which they are received by the KPMMD.
 - (5) Subject to these Rules, the KPMMD may accede to, on such conditions as may be determined in writing by it, or refuse to accede to any such application. In case of refusal, the reason therefore shall be communicated to the applicant.

26. Power of KPMMD in Respect of Applications

- (1) The KPMMD shall within sixty (60) days after the receipt of an application under these Rules, require the applicant by notice in writing, to
 - a. furnish the KPMMD within such reasonable period as may be specified in the notice such information as may be described in the notice; provided that if the applicant is a Company, the information shall be furnished by the person who has controlling interest in the affairs of the Company; or
 - b. provide particulars of the application in relation to,
 - i. the full names of the applicant; and
 - ii. the area, the kind of Mineral Title, and the mineral or group of minerals to which the application relates, in such manner as may be specified in the notice;
 - c. give such particulars of the application to the person or persons identified, in such manner as may be specified in the notice.
- (2) In order to enable the KPMMD to consider any application the KPMMD may,
 - a. cause such investigations or negotiations to be made or undertaken as it may, in its discretion, deem necessary; or
 - b. Require the applicant, by notice in writing, to furnish to the KPMMD, within such period as may be specified in the notice, with such proposals, by way of alternative or in addition to the proposals set out in the application.
- (3) In considering any application and the conditions under these Rules subject to which the application may be granted, the KPMMD shall take into account the need to conserve and protect the natural resources in, on or under the land to which the application relates including adjoining or neighbouring land.
- (4) Where the KPMMD is prepared to grant an application subject to certain conditions, the KPMMD shall give notice to the applicant accordingly, stating in the notice those conditions and the conditions referred to in these Rules.
- (5) The applicant may, within the period of one month after notice is given to him pursuant to sub-Rule X or within such further period as the KPMMD may, on good cause shown, accept in writing the conditions stated in the notice and such other conditions as may be agreed to between the KPMMD and the applicant.

27. Discrepancies In Relation To Applications. If an applicant fails to,

- (a) comply with the requirements of a notice referred to in sub Rule (1) or clause (b) of sub-Rule X of Rule X; or
- (b) agree as contemplated in sub-Rule X of Rule X, within the period specified in the notice, or such further period as may be allowed by the KPMMDD, the application in question shall lapse on the expiry of the given period.

Chapter 4 Mineral Titles

28. General conditions of Mineral Titles

- (1) In addition to any condition contained in the title or a Mineral Agreement, it shall be a condition of a Mineral Title that the Holder thereof shall,
 - a. exercise any right granted to the Holder by or under these Rules reasonably and in such manner that the rights and interests of the occupier of the land to which the title relates are not adversely affected except to the extent that the occupier is compensated;
 - b. give preference to citizens of Pakistan for employment of persons, who possess appropriate qualifications, expertise and experience for the purposes of the operations to be carried on under the Mineral Title;
 - c. carry out training programs in order to encourage and promote the development of citizens of Pakistan employed by the Holder of the Mineral Title;
 - d. enter into community and other agreements that clearly set out the commitments of the Holder and responsibilities of all Parties toward ensuring optimal development of mineral resources for positive local and broader economic and social benefit;
 - e. ensure technical and economic efficiency and make use of the products or equipment locally manufactured or produced, and the services locally available;
 - f. co-operate with the persons involved in the mining industry to enable citizens of Pakistan to develop skills and technology and to render services in the interest of that industry;
 - g. take measures to prevent damage to the environment, and where some adverse impact on the environment is unavoidable, take measures to minimize such impact;
 - h. make good any damage caused to the environment, as far as possible, during the course of exploration or mining operations and on the cessation of such operations due to expiry or cancellation of the Mineral Title or otherwise;
 - i. give to the KPMMDD, if the Holder is a Company, notice of any change in its name, registered address, directors or share capital, within thirty days as from the date of the change; or
 - j. give to the KPMMDD any change of his address, if it is a case of an individual, within thirty days of the change. (2) It shall be a condition of every Mineral Title that before the commencement of exploration operations within a reserved or protected forest, thirty days notice in writing shall be given to the Forest Officer concerned of the intention to commence the operations, and that the operations shall be conducted subject to any condition regarding the use of land which may, for the time being, be provided by a notification in the official Gazette.
- (3) A Mineral Title may provide for the pre-emption of minerals by Government in such circumstances as are specified in the title, subject to the payment of the fair market price determined on the basis so specified.

29. Restriction On Exercise Of Rights By Holder Of Mineral Title

- (1) The Holder of a Mineral Title *shall not* carry on exploration or mining operations at or upon any point within a distance of fifty (50) meters from the boundary of the exploration area or, as the case may be, the mining area, except with the previous permission in writing of the KPMMD and in accordance with the conditions, if any, that it may impose.
- (2) The Holder of a Mineral Title shall not carry on exploration or mining operations at or upon any point within a distance of one hundred (100) meters from any railway line, reservoir, canal or other public works, or buildings, except with the previous permission in writing of the KPMMD.
- (3) The Holder of a Mineral Title shall not erect any building or carry on any surface operations upon any public playground, cremation or graveyard, or place held sacred by any class of persons, or any house or village site, or public road or on any other place, which the KPMMD may exclude from such operations.
- (4) The Holder of a Mineral Title shall not, without the written permission of the competent authority,
 - a. cut or injure any tree on occupied land;
 - b. disturb the surface of any road;
 - c. enter upon any public playground, cremation or graveyard, or place held sacred by any class of persons; or
 - d. Interfere with any right of way, well, tank or cultivated agricultural land.
- (5) All surface operations conducted under these Rules within a reserved or protected forest shall be subject to such conditions as may, for the time being, be imposed by the Environment Department by a general or special order. In the event of any disagreement between the Environment Department and the Holder of a Mineral Title the matter shall be referred to the Mining Commission whose decision shall be final.
- (6) Before occupying any land for surface operations or clearing any land, the Holder of a Mineral Title shall give to the KPMMD one month prior notice in writing specifying by name or other sufficient designation and quantity the land proposed to be occupied and the purpose for which the same is required.
- (7) The Holder of a Mineral Title shall make and pay such reasonable compensation as may be assessed by a lawful authority in accordance with the law in force on the subject applying to the lands over which the title has been granted, for all damage, injury or disturbance which may be done by the Holder in exercise of the powers granted by the title, and the Holder shall indemnify the KPMMD against all claims which may be made by third party in respect of any such damage, injury or disturbance.
- (8) Any person who contravenes or fails to comply with the provisions of this Rule shall be guilty of an offence and be liable to pay compensation as determined by the KPMMD, in addition to fine as determined by Government, which shall not be less than ten thousand rupees or more than one hundred thousand rupees. (Need to update penalties)

30. Directions to Holder of Mineral Title

- (1) The KPMMD may, with due regard to good reconnaissance, exploration or mining practices, by notice in writing given to the H Holder of a Mineral Title, give directions to the Holder in relation to,

- a. the carrying out of reconnaissance operations, exploration operations and mining operations, including any works connected therewith;
 - b. the conservation of any natural resources, including mineral resources, and the prevention of the waste of such resources;
 - c. the protection and preservation of the surface of mines or works and of buildings, road, railways and other structures and enclosures on or above the surface of land, and the conditions under which such building, road, railway, structure and enclosures on or above the surface of land, and the conditions under which such building, road, railway, structure and enclosure may be undermined;
 - d. except for Reconnaissance License activities, the construction, erection, maintenance operation, use or removal of structures, equipment and other goods used in connection with the exploration for, or the mining or conveyance of minerals;
 - e. the protection of the environment including the prevention and combating of pollution of the air or land which arises or may arise in the course of the operations involved in exploration or mining of any mineral or after such operations;
 - f. the making safe of undermined ground and of dangerous slimes, tailings, dams, waste dumps, ash dumps, shafts, holes, trenches or excavation of whatever nature made in the course of exploration or mining operations;
 - g. the safety, welfare and health of persons employed in or in connection with reconnaissance operations, exploration operations and mining operations and the conveyance of mineral;
 - h. the taking, preservation and furnishing to the KPMMD of cores, cutting or samples of minerals from mines or excavations; the submission to the KPMMD of reports, returns and other information;
 - i. the taking of logs or directional surveys or the making of other investigations; and
 - j. the creation of safety zones in relation to structures erected on land to which the Mineral Title relates.
- (2) The KPMMD may, if the Holder of a Mineral Title fails to comply, within such period as may be specified in a notice given under sub-Rule (1), or such further period as the KPMMD may, on good cause shown, allow in writing, with any direction given under sub-Rule (1), cause such steps to be taken as may be necessary to comply with the direction, and may recover from the Holder the costs incurred in connection with the taking of any such steps, as a debt due to Government.
- (3) Any Holder of a Mineral Title who contravenes or fails to comply with a notice given to him under sub-Rule (1) shall be guilty of an offence and be punishable with a fine which shall not be less than twenty thousand rupees or more than two hundred thousand rupees, in addition to rectification of the default within period given by the KPMMD, failing which the Mineral Title may be suspended or cancelled in accordance with Mining Regulations.

Part-V - Reconnaissance License

31. Application for Reconnaissance License

- (1) An application for the grant of a Reconnaissance License shall only be issued to a legal person and not an individual and shall give in respect of that legal person or, if there be more than one (1) legal person, of each legal person making the application,
- a. in case of individual application, the full names and nationality, date of birth and postal and residential address of such person or all such
 - i. persons, as the case may be; or
 - ii. in an application made by a Company, its name and particulars of its incorporation and registration, the full names, address and nationalities of the directors and offices and, if the Company has a share capital, the full names, address and nationalities of any person who is the beneficial owner of more than five per centum of the issued share capital;
 - b. be made in respect of an area of land which is up to five square kilometres,;
 - c. be accompanied by a detailed topographical and geological description of the boundaries of the area of land to which the application relates, and a plan drawn to,
 - i. its location with reference to the coordinates of the bench mark on topographic sheets; and
 - ii. the extent of the area and the boundaries by reference to identifiable physical features and co-ordinate reference points;
 - d. contain particulars of,
 - i. the program of reconnaissance operations proposed to be carried on, the estimated expenditure in respect thereof and the period within which the operations shall be carried on; and
 - ii. in the case of an application for an exclusive right such as is referred to in sub-Rule (3) of Rule X, the reason for the application;
 - e. furnish such particulars as may be necessary to determine the applicant's technical and financial resources or, where applicable, those of any person contractually engaged to provide such resources, and copies of relevant contractual agreements;
 - f. furnish,-
 - i. particulars of all other Mineral Titles held or mines operated in the Province by the applicant, whether alone or jointly, cur surface rent or during ten (10) years immediately preceding the date of the application; or
 - ii. where no such titles or mines are or were held or operated, particulars of any cur surface rent involvement by the applicant in reconnaissance, exploration or mining operations in and outside the Province;
 - g. state the period, not exceeding twelve (12) months, for which the license is required; and

- h. Be accompanied by such documents as the KPMMD may require in relation to any matter referred to in this Rule.
- (2) An application for the grant of a Reconnaissance License, including the below information, shall be submitted to the Mining Cadastre Office:
- a. The legally registered name and address, the certificate of incorporation and Sections of Incorporation of the company;
 - b. Name and addresses, nationalities and contact information of each corporate officer, Board of Director members and shareholder(s) who has ten percent (10%) or more than ten percent (10%) shares of the company;
 - c. A statement affirming that the applicant meets the eligibility requirements in accordance with the provisions of these Rules;
 - d. A statement of past relevant work in the related field;
 - e. Names and addresses, and certificate of the required skills of the person responsible for supervising the reconnaissance operations;
 - f. Details of the proposed reconnaissance area;
 - g. An Environmental and Social Impact Assessment and Mitigation report;
 - h. Detailed reconnaissance program and expenditure commitment for the first year of the license and estimated program expenditure for the subsequent year;
 - i. Details, in writing, on how the proposed work program will be financed;
 - j. Proposals to employ Pakistan citizens and contract goods and services from Pakistan suppliers;
 - k. Information on any license held within Pakistan by the applicant or its representatives;
 - l. Methods for conducting reconnaissance including aerial survey;
 - m. Method of reconnaissance that may include proposed use of aircraft to conduct surveys; and
 - n. Any additional information that the KPMMD or the applicant may consider to be necessary.

32. Reconnaissance License Area

- (1) A Reconnaissance License area shall not exceed twenty thousand (20,000) square kilometers.
- (2) A Reconnaissance License area shall consist of contiguous blocks that are of such shape, orientation and dimension as may be set forth in the Regulations.

33. Obligations of Reconnaissance License Holder

- (1) The Holder of a Reconnaissance License has the following obligations:
 - a. Provide notice to the landowner or lawful occupant of land before commencing any reconnaissance activities;
 - b. Implement its approved work program and budget in accordance with standards and provisions of these Rules;

- c. Provide the full data, results explanation and description of any airborne geophysical survey done in connection with the Reconnaissance License area within the agreed upon time after occupation of the area to the KPMMD;
- d. Submit geological samples and other information to the KPMMD in accordance with the Regulations;
- e. Submit invoice of direct expenses within the specified period to the KPMMD at the end of each License year;
- f. Store, maintain and rehabilitate the license area in accordance with the applicable laws and environmental protection standards and compensate damages that result from reconnaissance activities;
- g. Remove and transfer camps, temporary installations or installed machinery within sixty (60) business days after the end date of license and rehabilitate land surface which was damaged as a result of reconnaissance activities; and
- h. Access to the area and consult with relevant authorities and communities about reconnaissance activities as required;
 - i. Removal and transfer of any mineral from a reconnaissance area for commercial purposes is prohibited. Taking samples for testing, assaying or valuating purposes is excluded from this provision.
 - ii. A Holder of a Reconnaissance License may collect surface samples in accordance with its work program but shall not engage in drilling, trenching, or extraction activities.

34. Duration of Reconnaissance License

- (1) Subject to these Rules, a Reconnaissance License may be granted for up to two (2) years and may not be extended.
- (2) Notwithstanding the provisions of sub-Rule (1), but subject to the other provisions of these Rules, where an application is made by the Holder of a Reconnaissance License for the grant of an Exploration License,
 - a. in relation to an area of land which constitutes the reconnaissance area; and in respect of a mineral or group of minerals in relation to which the Holder of the license has the exclusive right under sub-Rule (3) of Rule X to carry on reconnaissance operations, the Reconnaissance License shall not expire in relation to that area of land and mineral or group of minerals while the application is considered until the license applied for is issued, or the application is refused or withdrawn, whichever first occurs.

35. Rights of Holder of Reconnaissance License

- (1) Reconnaissance License Holder has the following non-exclusive rights within its license area:
 - a. Access to its license area;
 - b. Fly over in order to record images or take geophysical measurements of the area in accordance with the provisions of applicable law;
 - c. Removing a reasonable amount of samples for testing and assaying in accordance with Regulations; and

- d. To conduct other such activities as are necessary to carry out the reconnaissance work program.
- (2) Subject to these Rules and the conditions of the license, a Reconnaissance License shall confer on the Holder of the license,
- a. non-exclusive right, or where sub-Rule (3) applies, the exclusive right, to carry on reconnaissance operation in relation to the reconnaissance area in question in respect of any mineral or group of minerals to which the license relates; and
 - b. the right subject to sub-Rule (2), to carry on such other operations, including the erection or construction of ancillary works, in the reconnaissance area as may be reasonably necessary for, or in connection with, any reconnaissance operation of the kind referred to in clause (a).
- (3) The Holder of a Reconnaissance License shall not erect or construct any of the ancillary works. Rule Holder.
- (4) Subject to sub-Rule (4), the KPMMD may, on application by, (I don't understand this section)
- a. a person applying for a Reconnaissance License, grant to the applicant a Reconnaissance License; or
 - b. the Holder of a Reconnaissance License, make an endorsement on the Reconnaissance License, by virtue of which an exclusive right is conferred on the applicant or the Holder to exercise the rights referred to in clause (a) of sub-Rule (1), if the KPMMD is, on reasonable grounds, satisfied that the extent of the reconnaissance operations to be carried out and the expenditure to be incurred in relation to the reconnaissance area justify the grant of such exclusive right.
- (5) An exclusive right such as is referred to in sub-Rule (3) shall not be granted in respect of any area of land,
- a. to which any other Mineral Title giving an exclusive right to carry on reconnaissance, exploration or mining operations relates; or
 - b. to which a Prospecting License relates, to carry on reconnaissance, exploration or, as the case may be, mining operations for the same mineral or group of minerals as those to which the exclusive right would, if granted, relate.

36. Restrictions on grant of application for Reconnaissance License.

The KPMMD shall not grant an application for a Reconnaissance License,-

- (a) unless the KPMMD is satisfied that the applicant is a fit and proper person to hold the license subject to these Rules;
- (b) if the applicant is, at the time of the application, in default, unless the KPMMD is of opinion that special circumstances exist which justify the grant of the application notwithstanding the default.
- (c) unless the KPMMD, on reasonable grounds, is satisfied,
 - i. with the program of reconnaissance operations to be carried on and the expenditure to be incurred on reconnaissance operations; and
 - ii. that the applicant has the technical and financial resources to carry on those reconnaissance operations and to make that expenditure; or

- (d) in respect of an area of land in relation to a mineral or group of minerals in respect of which an exclusive right has, under sub-Rule (3) of Rule X, been conferred on any other Holder of a Reconnaissance License.

37. Grant of Reconnaissance License

- (1) The KPMMD may, within thirty (30) working days of receiving a complete application of these Rules grant a Reconnaissance License to all or part of the area included in the application or to all or some of the minerals requested in the application. In case the application is rejected, the KPMMD shall provide the applicant with written reason for the rejection.
- (2) Subject to these Rules where the KPMMD has no objection to the grant of Reconnaissance License, it shall issue to the applicant Reconnaissance License on such conditions as mentioned in the license.
- (3) A Reconnaissance License shall,
 - a. state the full name and address of the Holder of the license;
 - b. state the date on which and the dates through which the license is issued;
 - c. state the extent of the area granted subject to clause (b) of sub-Rule (1) of Rule X;
 - d. contain a description and plan, prepared by a qualified surveyor of the reconnaissance area, as provided in clause (d) of sub-Rule (1) of Rule X containing geometrical or numerical depictions, or any combination thereof, in words or symbols of the area;
 - e. state the conditions, other than those referred to in Rule 10, subject to which the license is issued;
 - f. state the mineral or group of minerals in respect of which the license is issued;
 - g. set out the approved program of reconnaissance operations and related expenditures; and
 - h. Contain such other particulars as the KPMMD, either generally or in any particular case, may determine.

38. Reconnaissance Work Program

- (1) Where the Holder of a Reconnaissance License is, by virtue of the conditions of the License, required to carry out or to make within a particular period, in accordance with a work program, certain minimum reconnaissance operations and expenditure, the Holder shall furnish the KPMMD, on such date or dates as may be specified in the license, or as may be determined by the KPMMD and made known by notice in writing given to the Holder, with particulars of such reconnaissance operations carried out and the expenditure made.
- (2) The KPMMD may, on application made to it by the Holder of a Reconnaissance License by notice in writing to the Holder, amend any work program or expenditure referred to in sub-Rule (1) in accordance with the proposals contained in the application or to such extent as the KPMMD may deem expedient.
- (3) The Holder of a Reconnaissance License who fails to comply with the requirements of a work program referred to in sub-Rule (1) shall, subject to the provisions of Rule X, be liable to pay under the Provincial Mineral Head of Account such fine which shall not be less than five thousand rupees and not more than fifty thousand rupees.

39. Records, etc. to be kept by the Holder of Reconnaissance License.

- (1) The Holder of a Reconnaissance License shall,
- a. keep at an address in the Province a proper record in such form as may be determined in writing by the KPMMD in relation to,
 - i. the location and nature of all geological, geochemical, photo-geological studies, imaging and geophysical and other surveys carried on by the Holder in the course of the reconnaissance operations in the reconnaissance area to which the Reconnaissance License relates, and the results, compilation, interpretations and assessments of such studies and surveys;
 - ii. the persons employed by Holder for purposes of the reconnaissance operations including the names, addresses, nationalities and ages of such persons;
 - iii. the expenditures incurred by the Holder in the course of the reconnaissance operations; and
 - iv. such other information as may be determined by the KPMMD and specified by notice in writing given to the Holder, and shall retain such records for a period of not less than three years from the date of expiry of the license;
 - b. prepare or cause to be prepared and maintained at all times, plans and maps in respect of the reconnaissance area;
 - c. prepare in respect of the period of the currency of the Reconnaissance License a statement of income and expenditure derived or incurred in connection with the reconnaissance operations in the reconnaissance area and such other financial statements in such form as the KPMMD may require or determine; and
 - d. submit, within sixty (60) days after the end of the currency of the Reconnaissance License in respect of the whole of the reconnaissance area, or together with an application for an Exploration License in respect of the whole or any portion of the reconnaissance area, to the KPMMD,
 - i. in such form as may be provided for in the condition of Reconnaissance License, a report in duplicate or, in the case where an application is made for an Exploration License in respect of a portion of the reconnaissance area, separate reports in duplicate in respect of such portion and the remainder of the reconnaissance area setting out in relation to such period;
 - ii. an evaluation of the prospects of the discovery of any mineral or group of minerals in the reconnaissance area;
 - iii. all information, including photographs, tabulations, tapes and discs, in the records referred to in clause (a) and the plans and maps referred to in clause (b); and
 - iv. the statement of income and expenditure and financial statements referred to in clause (c);
- (2) In the event of the cancellation or surrender of a Reconnaissance License under Rule X or Rule X respectively, or expiry of the license, the person who was the Holder of such license immediately before the cancellation, surrender or expiry shall, on a date not later than thirty days after the date of the cancellation, surrender or expiry, deliver to the KPMMD,

- a. all records kept in terms of the provisions of clause (a) of sub-Rule (1);
- b. all maps and plans referred to in clause (b) of sub-Rule (1);
- c. all reports, photographs, tabulations, tapes and discs prepared by or on behalf of such person in the course of the reconnaissance operations; and
- d. such other books, documents, records and reports as the KPMMD may require by notice in writing given to such person, or copies of such records, maps, plans reports, photographs, tabulations, tapes, discs, books and documents, unless an Exploration License is issued to such person in relation to the area to which such Reconnaissance License relates with effect from the date following the date of the cancellation, surrender or expiry or such later date as the KPMMD may, on good cause shown, allow.

(3) Any person who contravenes or fails to comply with the provisions of sub-Rule (1) and (2) shall be guilty of an offence and be punishable with a fine which shall not be less than five thousand rupees and not more than fifty thousand rupees, in addition to the rectification of the default within the time given by the KPMMD, failing which the Mineral Title may be withdrawn.

Part-VI - Exploration License

40. Rights of Holder of Exploration License

- (1) Subject to these Rules and the conditions of the license, an Exploration License shall confer upon the Holder,
- a. an exclusive right to carry on exploration operation in the area in question in respect of any mineral or group of minerals to which the license relates;
 - b. the right to enter and occupy the land which comprises the exploration area for the purpose of carrying out exploration operations, subject to the rights of surface Holder;
 - c. the right to take and divert water on or flowing through such land and use it for any purpose necessary for exploration operations subject to and in accordance with the provisions of law for the time being in force.

(2) With the permission in writing of the KPMDD previously obtained generally or in every particular case, the Holder of an Exploration License shall also have the right,

- a. to remove from the exploration area a mineral or group of minerals or sample thereof, for the purpose of testing, assaying or pilot plant studies, from any place where it was found or incidentally won in the course of such exploration operations to any other place whether within or outside the Province or subject to such other permission as may be required under any law, outside Pakistan; and
- b. to sell or otherwise dispose of limited amounts of any such mineral or group of minerals or of material excavated during exploration operations, subject to sub-Rule (3), to do all other things, including the erection or construction of ancillary works, in the exploration area, as may be reasonably necessary for, or in connection with, any exploration operations of the kind referred to in clause (a) of sub-Rule (1).

(3) The provisions of sub-Rule (2) of Rule X shall apply mutatis mutandis in relation to the Holder of an Exploration License wishing to erect or construct accessory works under sub-Rule (1) as they apply in relation to the Holder of a Reconnaissance License.

41. Duration of Exploration License

- (1) Subject to these Rules, a Holder of an exploration License shall be valid for such period, not exceeding three years, as may be specified in the license and subject to clause (b) of sub-Rule (2) of Rule X, be renewable for such further period, not exceeding two terms of three years each, from the date of expiry as may be determined by the KPMDD in relation to any renewal of the license as from the date on which the license would have expired if an application for its renewal had not been made, or, on the date on which the application for the renewal is granted, whichever is later.
- (2) Notwithstanding the provisions of sub-Rule (1) but subject to the other provisions of these Rules,
- a. an Exploration License shall not expire during any period when an application for renewal of the license is being considered until the application is refused or withdrawn, whichever first occurs, or if the application is granted, until such time as the license is renewed in consequence of the application; or

- b. where the application is made by the Holder of the Exploration License for the grant of Retention License or a Mining Lease in relation to an area of land which constitutes the exploration area, and in respect of a mineral or group of mineral to which the Exploration License relates, the Exploration License shall not expire in relation to that area of land and that mineral or group of minerals until the application is refused or withdrawn, whichever is earlier, or if the application is granted, until the Retention License or, as the case may be the Mining Lease, applied for is issued.

42. Effect of Issue of Mining Lease or Retention License on Exploration Area

- (1) An Exploration License holder shall have the exclusive and automatic right to apply for one or more Small-Scale Mining Licenses or Mining Leases over any part or parts of the Exploration License area.
- (2) An application shall be granted provided:
 - a. The feasibility study will demonstrate the most efficient and beneficial use of the minerals in the proposed license area;
 - b. The applicant can demonstrate that it has access to adequate financial resources and has demonstrated technical competence to conduct effective mining operations; and
 - c. The applicant is eligible and not in default of its existing license or lease terms.
- (3) In the instance of an application for the grant of a Mining Lease or Small-Scale Mining License, within sixty (60) days after receiving a complete application from an eligible applicant, the Mines and Minerals Development Department shall either recommend to the Mining Commission the grant of the license or lease or provide the applicant with a written explanation why the Mines and Minerals Development Department has decided not to recommend the concerned applicant for approval.
- (4) Where the Mines and Minerals Development Department submits the application to the Mining Commission for review, the Mining Commission shall within sixty (60) days after receiving the recommendation of the Mines and Minerals Development Department,
 - a. shall certify to the Mines and Minerals Development Department in the prescribed form that it advises that the application be approved, and such certification shall be recorded in the Register of License Applications within five (5) days of the Mining Commission determination; or
 - b. shall provide a written explanation why it has decided not to approve the application and such explanation shall be recorded in the Register of License Applications within five (5) days of the Mining Commission determination.
- (5) Where an Exploration License holder is granted a Mining Lease over part of its Exploration License area, the remaining part of its Exploration License area shall continue in force until its natural term expires or until the ground is surrendered.
- (6) When an Exploration License is due to expire, pending determination of the grant of a Mining Lease, the Exploration License shall remain in force until such determination is final.
- (7) Any application referred to herein must be made no later than ninety (90) days before expiration of the Exploration License.

- (8) Where a Retention License issued to the Holder of an Exploration License in respect of an area of land within or constituting the Exploration Area in respect of a mineral or Group of Minerals to which the Exploration License relates, the Exploration License shall to the extent of the mineral or Group of Minerals covered under the Retention License cease to have effect in relation to that area of land on the date on which the Retention License is issued.

43. Application for Exploration License

- (1) An application for an Exploration License shall,-
- a. in the case of an individual, give such information as is referred to in sub-clause (i) of clause (a) of sub-Rule (1) of Rule X;
 - b. in the case of a Company, give such information as is referred to in sub-clause (ii) of clause (a) of sub-Rule (1) of Rule X;
 - c. be accompanied by a plan such as is referred to in clause (d) of sub-Rule (1) of Rule X;
 - d. furnish a comprehensive geological description of the area of land over which the license is sought, identify the potential for, or the nature of, mineralization contained therein and identify any mineral or group of minerals in respect of which the license is sought;
 - e. contain particulars of-
 - i. the program of exploration operations proposed to be carried on, the estimated expenditure in respect thereof and the period within which the operations shall be carried on,
 - ii. the anticipated effect which the proposed exploration operations may have on environment and measures to be taken to prevent or minimize any adverse effects thereon;
 - f. furnish particulars such as are referred to in clause (f) of sub-Rule (1) of Rule X ;
 - g. state the period, not exceeding three years, for which the license is required;
 - h. be accompanied by such documents as the KPMMD may require in relation to any matter referred to in this Rule;
 - i. be made in respect of an area of land not exceeding five hundred square kilometers. (500 sq km)
- (2) The application may contain any other matter, which, in the opinion of the applicant, is relevant to the application.

44. Exercise of power to grant or refuse application for Exploration License

- (1) Subject to these Rules, where an application for an Exploration License,
- a. is made by the Holder of a Reconnaissance License and the application relates to an area of land which constitutes the reconnaissance area or is in respect of any mineral or group of minerals in relation to which the Holder of the Reconnaissance License has, under sub-Rule (3) of Rule X, the exclusive right to carry on reconnaissance operations in that area of land, the Licensing Authority shall grant the Exploration License; or
 - b. is made by any other persons, the KPMMD, subject to Rule X, may grant or refuse to grant the Exploration License;
- (2) The KPMMD shall not grant an Exploration License to any person in relation to any area of land in respect of any mineral or group of minerals if, at the time the application is made,
- a. the area of land constitutes a mining area for large scale mining;

- b. any Retention License is held by any person in relation to the area of land, unless the KPMMD deems it desirable in the interests of the development of the mineral resources to grant any area to the applicant and, if the Retention License is in respect of the mineral or group of minerals to which the application relates, the Holder of Retention License has no objection to such grant; or
 - c. any Reconnaissance License or Exploration License conferring an exclusive right to carry on reconnaissance operations or exploration operations, in the area of land in respect of the mineral or group of minerals to which the application relates, is held by any other person unless the Holder thereof has no objection to such grant.
- (3) The KPMMD shall not grant an Exploration License to any person in relation to a mineral within an area which already stood granted, under a Small-Scale or Artisanal Mining License without the written consent of the Exploration License holder and a mutually agreed upon contract between the Exploration License and Small-Scale Mining License Holders.
- (4) An application for an Exploration License shall not be granted to an applicant,
- a. if the applicant is, at the time of the application, in default, unless the KPMMD is of the opinion that the default is not substantial and that special circumstances exist which justify the grant of the application notwithstanding the default; and
 - b. unless the KPMMD is, on reasonable grounds, satisfied,
 - i. with the proposed program of exploration operations to be carried on and the proposed expenditure to be incurred on exploration operations; and
 - ii. that the person concerned has the technical and financial resources to carry on the exploration operations.
- (5) An application for an Exploration License shall not be granted in respect of an area of land exceeding five hundred square kilometres.

45. Issue of Exploration License. The provisions of Rule X shall apply mutatis mutandis in relation to the issue of an Exploration License as they apply in relation to the issue of a Reconnaissance License.

46. Application for Renewal of Exploration License

- (1) Subject to this Rule, the provisions of Rules X and X shall apply mutatis mutandis in relation to an application for the renewal of an Exploration License as they apply in relation to an application for the grant of an Exploration License.
- (2) An application for the renewal of an Exploration License shall,
- a. be made not later than ninety days before the expiry date of the license or such later date, but not later than such expiry date, as the KPMMD may allow,
 - b. not be made,
 - i. in the case of an application for a first renewal of the license, in respect of an area of land greater in extent than fifty per cent of the exploration area on the date of the issue of the Exploration License; or
 - ii. in the case of an application for a second renewal, in respect of an area of land greater in extent than fifty per cent (50%) of the exploration area immediately prior to the date of the application for the second renewal, or such other proportion of the exploration as the KPMMD may, for good technical or other reason, grant; or

- iii. in the case of a second renewal unless it is shown by the Holder of the Exploration License that a further renewal is necessary for the completion of a full feasibility study of the discovered deposits and that the proposed activities were not reasonably completed during the first renewal;
 - c. be accompanied by a report in duplicate containing the particulars contemplated in clause (d) of sub-Rule (1) of Rule X prepared in respect of the period immediately preceding the period of the currency of the Exploration License;
 - d. describe and identify the part of the exploration area to be retained and the part to be relinquished;
 - e. be accompanied by the proposed work program and expenditures for the period of the renewal; and
 - f. Provide the reason, supported by documentary proof, for requesting the renewal in case of a second renewal.
- (3) The application shall not be made for more than two (2) occasions.
- (4) Subject to the provisions of sub-Rules (5) and (6), the KPMMD shall not grant an application for the renewal of an Exploration License,
- a. if the minimum exploration operations and expenditures proposed to be carried out or expended in the renewal period in respect of the area of land to which the application relates, is not satisfactory; or
 - b. if the applicant is, at the time of the application, in default, unless the KPMMD is of the opinion that the default is not substantial and that special circumstances exist which justify the grant of the application notwithstanding the default.
- (5) The KPMMD shall not refuse under clause (a) of sub-Rule (4) to grant the application in question if the proposals in respect of exploration operations and expenditures are in accordance with the terms and conditions of a Mineral Title or Mineral Agreement relating to proposals of that kind in respect of the Exploration License in question.
- (6) The KPMMD shall not refuse under clause (b) of sub-Rule (4) to grant the application in question, unless the KPMMD has informed the Holder of the license in writing about the details of the default made by him and has required him to rectify that default on or before a date specified in the notice and the Holder has failed to rectify that default or has failed to make representations which, in the opinion of the KPMMD, removes the ground for the intended refusal.
- (7) The KPMMD shall not grant an application for a second renewal of an Exploration License unless the application has shown that the renewal sought is necessary for the completion of feasibility studies which could not have been reasonably completed during the first renewal.

47. Application for Amendment of Exploration License

- (1) Subject to sub-Rule (2), the Holder of an Exploration License may apply for the amendment of the license,
- a. by extension or reduction, or both, of the exploration area to which the license relates; or
 - b. by the addition of any mineral or group of minerals, discovered in the exploration area, to which the license does not relate, subject to the condition that the

KPMMDD may grant or refuse such applications for reasons to be recorded in writing.

- (2) The provisions of Rules X and X shall apply mutatis mutandis in relation to an application referred to in sub-Rule (1) as these apply in relation to an application for the grant of an Exploration License.
- (3) If an application under sub-Rule (1) is granted by the KPMMDD, it shall amend the Exploration License concerned accordingly.

48. Obligations of Holder of Exploration License

- (1) It shall be a condition of an Exploration License that the Holder of the license shall,
 - a. Agree with KPMMDD the time at which exploration operations may reasonably be expected to commence;
 - b. commence set up and related activities within three (3) months of the issue of the license, and carry on exploration operations in the exploration area in accordance with good exploration practices;
 - c. take all reasonable steps necessary to secure the safety, welfare and health of persons employed and the mine community for purposes of those operations in the exploration area and to protect the environment;
 - d. maintain in good condition and repair all structures, equipments and other goods in the exploration area and used in connection with the exploration operations;
 - e. remove from the exploration area all structures, equipments and other goods not used or not intended to be used in connection with the exploration operations;
 - f. take reasonable steps to warn persons who may, from time to time, be in the vicinity of any such structures, equipments or other goods of the possible hazards resulting there from;
 - g. give to the KPMMDD notice of the discovery of a deposit of any mineral or group of minerals to which the Holder's license relates within ten (10) days after the Holder determines that the deposit is of potential commercial interest;
 - h. give to the KPMMDD notice of the discovery of a deposit of any mineral or group of minerals including radioactive minerals necessary for the generation of nuclear energy, mineral oil and natural gas, other than a mineral or group of minerals to which his license relates, within ten (10) days after making the discovery.
- (2) Any Holder of an Exploration License who contravenes or fails to comply with the provisions of sub-Rule (1) shall be guilty of an offence and be punishable with a fine which shall not be less than twenty thousand rupees or more than two hundred thousand rupees, in addition to the rectification of the default within the time given by the KPMMDD failing which the Mineral Title may be withdrawn.

49. Exploration Work Program. The provisions of Rule X shall apply mutatis mutandis in relation to the Holder of an Exploration License, as they apply in relation to the Holder of a Reconnaissance License, and for that purpose any reference in that Rule to Reconnaissance License or reconnaissance operations shall be deemed to be a reference to Exploration License or, as the case may be, exploration operations.

50. Records, etc. to be kept by Holder of Exploration License. The Holder of an Exploration License shall,

- (1) keep at a staffed office in the Province a proper record in such form as may be determined in writing by the KPMMDD in relation to,

- a. the location and results of all photo geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling and other activities undertaken by the Holder in the course of the exploration operations carried on by the Holder, in or in connection with the exploration area to which the Exploration License relates;
 - b. the results of all analytical, metallurgical and mineralogical work incidental to such exploration operations;
 - c. the interpretation and assessment of the studies, surveys and work referred to in sub-clauses (i) and (ii);
 - d. the persons employed by the Holder for the purpose of such exploration operations, including the names, address, nationality and ages of such persons;
 - e. the nature, mass or volume and value of any mineral or group of minerals sold or otherwise disposed of and the full name and address of any person to whom such mineral or group of minerals was sold or otherwise disposed of;
 - f. the expenditures incurred by the Holder in the course of such exploration operations; and
 - g. such other information as may be determined in writing by the KPMMD and specified by notice in writing given to such Holder;
- (2) prepare or cause to be prepared and maintained at all times plans and maps in respect of the exploration area;
- (3) prepare in respect of the period of the currency of the Exploration License a statement of income and expenditure derived or incurred in connection with the explorations in the exploration area and such other financial statement in such form as the KPMMD may require or determine;
- (4) submit within thirty (30) days after the end of each quarter during the term of such Exploration License to the KPMMD in such form as may be determined in writing by it a return or returns containing in relation to such quarter,
- a. a summary of the particulars and information contained in the records referred to in clauses (a) and (c) as may be required, and in such form as may be indicated by the KPMMD by notice in writing given to the Holder; and
 - b. such other particulars as the KPMMD may require in relation to the exploration operations carried on by the Holder; and
- (5) submit, within sixty (60) days after the end of the term of such Exploration License and of each period during which such Exploration License has been renewed in respect of the whole of the exploration area, or together with an application for the renewal of such Exploration Licenses or an application for a Retention License or Mining Lease in respect of the whole or any portion of the exploration area, to the KPMMD, in such form as may be determined in writing by the KPMMD, a report in duplicate or, in the case where an application is made for a Retention License or Mining Lease in respect of a portion of the exploration area, separate reports in duplicate in respect of such area and the remainder of such exploration area in relation to such period,
- a. an estimate of the mineral reserved in the exploration area properly illustrated by way of plans and maps according to an appropriate scale;

- b. the nature, mass or volume and value of any mineral or group of minerals sold or otherwise disposed of and the full name and address of any person to whom such mineral or group of minerals has been sold or otherwise disposed of;
 - c. an evaluation of the prospects of the discovery of any mineral or group of minerals in the exploration area; and
 - d. Such other particulars as the KPMMD may require in relation to the exploration operations carried on by such Holder.
- (6) In the event of the cancellation or surrender of an Exploration License under Rule X or Rule X or the expiration of an Exploration License, the person who was the Holder of such license immediately before such cancellation or surrender or expiration shall, on a date not later than one month after the date of such cancellation, surrender or expiration, deliver to the KPMMD,
 - a. all records kept in terms of the provisions of clause (a) of sub-Rule (1);
 - b. all maps and plans referred to in clause (b) of sub-Rule (1);
 - c. all reports, photographs, tabulations, tapes and discs prepared by or on behalf of such person in the course of such exploration operation; and
 - d. such other books, documents, records and reports as the KPMMD may require by notice in writing or copies of such records, maps, plans, reports, photographs, tabulations, tapes, discs, books and documents, unless a Retention License or a Mining Lease is issued to such person in relation to the area to which such Exploration License related, with effect from the date following the date of such cancellation, surrender or expiration or such later date as the KPMMD may, on good cause shown, allow.
- (7) Any person referred to in sub-Rule (1) or sub-Rule (2) who contravenes or fails to comply with the provisions of that sub-Rule shall be guilty of an offence and be punishable with a fine which shall not be less than ten thousand rupees or more than one hundred and fifty thousand rupees, in addition to the rectification of the default within the time given by the KPMMD failing which the Mineral Title may be suspended or cancelled in accordance with the Regulations.

Part-VII - Retention License

51. Application for Retention License

- (1) The Holder of an Exploration License may apply to the KPMMD for the grant of a Retention License on the grounds that:
 - a. The Holder has identified a deposit within the prospecting area which is potentially of commercial significance; and
 - b. The deposit cannot be developed immediately by reason of adverse market conditions or other economic factors which are, or may be, of a temporary character.
- (2) An application for a Retention License shall be accompanied by studies and assessments by appropriate experts or consultants acceptable to the KPMMD on,
 - a. the extent and prospects for recovery, and the commercial significance, of the deposit and the relevant market conditions and trends and economic factors; and
 - b. the impact of mining operations for the recovery of the deposit on the environment and ways and means of eliminating or minimizing any adverse effects; and such other information as the KPMMD may reasonably require as to the proposals of the applicant for the Retention License and development of the deposit.
- (3) An application for a Retention License shall,
 - (a) in case of an individual, give such information as is referred to in sub-clause (i) of clause (a) of sub-Rule (1) of Rule X;
 - (b) in case of a company, give such information as is referred to in sub-clause (ii) of clause (a) of sub-Rule (1) of Rule X;
 - (c) be accompanied by a description and plan such as is referred to in clause (d) of sub-Rule (1) of Rule X of the area of land, not greater than the exploration area concerned, over which the license is sought;
 - (d) identify the mineral or group of minerals to which the application relates and furnish full details of the proven, estimated or inferred mineral reserves contained therein, and of the mining conditions pertaining thereto;
 - (e) contain particulars of,
 - (i) the proposals for the carrying out of work in the exploration area and expenditures during the period of the retention license in respect of which the application is made and if no further work in or in relation to the exploration area could be usefully carried out the reasons therefore;
 - (ii) the state of the environment in the area to which the application relates, the likely adverse impact of the operations to be carried on may have on the environment and the measures to be taken to prevent or mitigate such impact;
 - (f) furnish particulars such as are referred to in clause (f) of sub-Rule (1) of Rule X;
 - (g) furnish particulars of the Exploration License held by the applicant;

- (h) give reasons in support of the claim that the deposit discovered in the area of land to which the application relates could not then be mined on a profitable basis; and a forecast of the circumstances in which, and the earliest date on which, the mineral or group of minerals discovered might be so mined; and
 - (i) State the period for which the license is required; and be accompanied by relevant data, studies, analysis, documents and such other information as the KPMMD may require in relation to the application.
 - (j) An application for a Retention License may contain any other matter which in the opinion of KPMMD and the applicant is relevant.
- (4) An application for a Retention License shall be made not later than one hundred and eighty (180) days before the expiry of the Exploration License or any renewal thereof, or such later date but not later than such expiry date, as the KPMMD may allow.

52. Pre-requisite for grant of a Retention License. No person shall apply for the grant of a deposit Retention License, unless,

- (a) applicant is the Holder of an Exploration License in relation to the area of land and the mineral or group of minerals to which the application relates;
- (b) a potentially economic discovery of deposit has been made in the exploration area;
- (c) the applicant has completed a full feasibility study to determine whether the mineral discovered can be developed and produced on a profitable basis;
- (d) the applicant wishes to retain the exploration area or a part thereof for future development of the deposit discovered as development could not then be reasonably undertaken on a profitable basis for good economic or technical reasons; and
- (e) exploration operations and relevant studies have been undertaken to the maximum extent feasible in the circumstances.

53. Grant of Retention License

- (1) The KPMMD, if satisfied that commercial development of the deposit is not presently possible for the reasons specified in the application, but may be possible within a period of six (6) years, may grant a Retention License to the applicant over that part of the exploration area which the KPMMD, after consultation with the applicant, anticipates is, or might be, required to mine the deposit identified by the applicant.
- (2) Without limiting the power of the KPMMD to impose conditions on a mining right, the conditions of the license may include conditions for the preservation of the deposit.
- (3) A Retention License may be granted for a period not exceeding three (3) years.

54. Duration of deposit Retention License

- (1) Subject to these Rules, a deposit Retention License shall be valid-
 - a. for such period, not exceeding two (2) years, as may be specified in the license; and
 - b. for such further period, not exceeding one (1) year, as may be determined by the KPMMD at the time of the granting of any application for the renewal of the license.

- (2) Notwithstanding the provisions of sub-Rule (1), but subject to the other provisions of these Rules,
- a. Retention License shall not expire during the period an application for renewal of the license is being considered, until the renewal is refused or the application is withdrawn, whichever is earlier, or if the application is granted, until such time as the license is renewed in consequence of the application; or
 - b. where an application is made by the Holder of a Retention License for the grant of a Mining Lease in relation to an area of land which constitutes the retention area, and in respect of any mineral or group of minerals to which the license relates, the license shall not expire in relation to that area of land and that mineral or groups of minerals until the application is not acceded to or withdrawn, whichever first occurs, or if the application is granted, until such time as the Mining Lease applied for is issued.
- (3) Where a Mining Lease is issued to the Holder of a Retention License in respect of an area of land which forms part of the retention area and in respect of any mineral or group of minerals to which the Retention License relates,-
- a. the Retention License shall cease to have effect in relation to the area of land as from the date of the issue of the Mining Lease; and
 - b. any other Retention License for the same mineral shall cease to have effect, unless the KPMMD has, with the concurrence of the Holder to whom the Mining Lease is issued, determined otherwise on such conditions as may be specified in writing by the KPMMD.

55. Rights of Holder of Retention License

- (1) A Retention License confers on the Holder exclusive rights to apply for a Mining Lease within the area for which the Retention License has been granted.
- (2) Subject to these Rules and the conditions of the license, a Retention License shall authorize the Holder of the license-
- a. to retain the retention area in question for further mining operations subject to the provisions of Rule X;
 - b. to carry out a program of operations such as is referred to in Rule X;
 - c. to remove, with the permission of the KPMMD previously obtained whether generally or in every particular case, from the retention area any mineral or group of minerals or sample thereof, for the purposes of testing, assaying or pilot plant studies, from any place where it was found or incidentally won in the course of carrying out such program of operations to any other place whether within or outside the Province or, subject to any law for the time being in force,
 - d. outside Pakistan;
 - e. to sell or otherwise dispose of, with the permission of the KPMMD previously obtained whether generally or in every particular case, limited amounts of any mineral or group of minerals or material excavated during operations so carried out; and
 - f. to do, subject to sub-Rule X all other things, including the carrying out of investigations and operations and the erection or construction of ancillary works, in the retention area, as may be reasonably necessary for, or in connection with, any operation as contemplated in clause (b).

- (3) The provisions of sub-Rule (2) of Rule X shall apply mutatis mutandis in relation to the Holder of a Retention License wishing to erect or construct accessory works under sub-Rule (1) as they apply in relation to the Holder of a Reconnaissance License wishing to do so under Rule X.

56. Exercise of power to grant or refuse application for Retention License

- (1) The KPMMD shall not grant an application for a Retention License to a person who, under Rule X, is not entitled to apply for such license,
- a. in respect of an area, other than the area located outside the boundaries of the area granted under the Exploration License, or falls otherwise in the area reserved for Retention License;
 - b. in relation to any mineral or group of minerals, unless the KPMMD, on reasonable grounds, is satisfied-
 - i. that the deposit of the mineral or group of minerals in the area to which the application relates cannot, for the reasons set out in the application, be mined on a profitable basis at the time and can probably be mined on the expiration of the period contemplated in Rule X ;
 - ii. that no further work can be usefully carried on in the exploration area which may have the effect of negating the reasons so given;
 - iii. that it is desirable, having regard to the future utilization of the mineral resources of the Province, to grant such license; and
 - c. in relation to the area of land to which such application relates in respect of any mineral or group of minerals, if at the time of such application,-
 - i. such area of land forms part of any exploration area in relation to any mineral or group of minerals, other than the mineral or group of minerals to which the application relates, unless the applicant has given a notice in writing, not later than the date on which such application is made, to the Holder of the Exploration License in respect of that exploration area, of his application or intended application, as the case may be, for such Retention License;
 - ii. the KPMMD has afforded the Holder referred to in clause (i) a reasonable opportunity to make representation in relation to such application;
 - iii. the KPMMD, with due regard to any representation made in terms of clause (ii), deems it desirable to grant such license having regard to the future utilization of the mineral resources of the Province; or
 - iv. such area of land forms part of any retention area in relation to any mineral or group of minerals, other than the mineral or group of minerals to which the application relates, unless the KPMMD deems it desirable, having regard to the future utilization of the mineral resources of the Province to grant such license;
 - v. the KPMMD, on reasonable grounds, is satisfied that the program of operations referred to in clause (b) of sub-Rule (1) of Rule X and any other investigations and operations referred to in clause (d) of sub-Rule (1) of that Rule to be carried on by virtue of such license, if issued, will not detrimentally affect the rights of any Holder of the Retention License in respect of any such area; and Retention License has consented to the application for the grant of the Retention License.

- (2) The KPMMD shall not refuse to grant an application for a Retention License on any ground contemplated in clause (b) of sub-Rule (1), unless the KPMMD,
- a. has by notice in writing informed such Holder of its intention to refuse such application,
 - i. setting out particulars of the grounds for that intention; and
 - ii. requiring such Holder to make representation to the KPMMD in relation to such grounds or to rectify any matter relating to such grounds specified in such notice, and such Holder has failed to rectify such matter or to make representations; and
 - b. has taken into consideration any representation made by such person.

57. Application for renewal of Retention License

- (1) An application for the renewal of a Retention License shall,
- a. be made not later than ninety (90) days before the date on which the License expires if not renewed;
 - b. be accompanied by a report in triplicate containing the particulars and evidence of why, under these Rules, the License should be granted;
 - c. describe and identify the Retention Area;
 - d. Be accompanied by the proposed retention program including measures to address environmental and social safeguards and mitigation of impacts.
 - i. be refused by the Mines and Minerals Development Department if the applicant is, at the time of the application, is in default.
 - ii. The Mines and Minerals Development Department shall not refuse, under sub-Rule X, to grant the application for renewal unless the Mines and Minerals Development Department has by notice in writing informed the Holder of its intention to refuse the application,
 - e. A Retention License may be renewed X times for up to one (1) year for each renewal.
 - f. The Mines and Minerals Development Department shall not grant an application for a renewal of an Retention License, unless it is satisfied that the Retention operations carried out under the License up to the proposed date of renewal have been undertaken substantively in accordance with the License.
- (2) The KPMMD shall not refuse, under sub-Rule (3), to grant the application in question, unless the authority has, by notice in writing, informed the Holder of the license of its intention to refuse the application,
- a. setting out particulars of the alleged default; and
 - b. requiring the Holder to make representation to the KPMMD in relation to the alleged default or to rectify that default on or before a date specified in the notice, and the Holder has failed to rectify that default or make representation, which, in the opinion of the KPMMD, is a ground for the intended refusal.
- (3) Subject to sub-Rule (2), the holder of a Retention License may apply, for the amendment of the license,

- a. by reduction of the retention area to which the license relates; or
 - b. by addition of any mineral or group of minerals discovered in the retention area, to which the license does not relate.
- (4) The provisions of Rules X and X shall apply mutatis mutandis in relation to an application under sub-Rule (1) as they apply in relation to an application for the grant of a Retention License.
- (5) If an application under sub-Rule (1) is granted by the KPMMD, it shall amend the Retention License.

58. Obligations of Holder of Retention License. The provisions of sub-Rule (1) of Rule X shall apply mutatis mutandis in relation to a Retention License as they apply in relation to an Exploration License, and for that purpose, the reference to the Holder of an Exploration License shall be deemed to be a reference to the Holder of a Retention License.

59. Retention License Work Program. The Holder of a Retention License shall carry out any program of operations, including evaluation, from time to time, of the deposit concerned, as may be specified in the license or directed to be performed by the KPMMD, as a condition of any renewal of the license.

60. Cancellation of Retention License

- (1) If the KPMMD is satisfied that commercial mineral development of an area that is subject to a Retention License has become possible during the term of the license, may, by notice to the Holder of the license, require the Holder to apply for a Mining Lease in respect of the area concerned and may, at any time thereafter, cancel the Retention License.

61. Direction to apply for Mining Lease

- (1) The KPMMD, if it wishes to proceed with the development of the deposit, shall, before doing so, afford the Holder of the Retention License an opportunity to apply for a Mining Lease.
- (2) The KPMMD shall, by notice in writing given to the Holder of the Retention License, direct the Holder to apply, within such reasonable period as is specified in the notice, for a Mining Lease over the land which constitutes the retention area, in respect of the mineral or group of minerals to which the Retention License is applied.
- (3) Where, in a case referred to in sub-Rule (2), the Holder of a Retention License, before the expiration of the period so specified under sub-Rule (2), fails to apply for the Mining Lease as directed, the KPMMD may cancel the Retention License on the expiration of that period.
- (4) Where a Retention License is deemed to have been cancelled, the KPMMD may by a notice in writing invite other person to apply under these Rules, within the period specified in the notice, for a Mining Lease subject to his giving sound proposals for the development of mining area acceptable to the KPMMD.

62. Records, etc, to be kept by Holder of Retention License

- (1) The Holder of Retention License shall,
- a. keep at an address in the Province a proper record in such form as may be determined in writing by the KPMMD in relation to,

- i. the investigations and operations, including the erection or construction of ancillary works, in such retention area as may be reasonably necessary, carried on by the Holder for, or in connection with future mining operations contemplated in Rule X ;
 - ii. the location and results of all photo geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling and all other activities undertaken by the Holder in the course of the exploration operations carried on by the Holder, or in connection with the retention area to which the Retention License relates;
 - iii. the results of all analytical, metallurgical and mineralogical work incidental to such exploration operations;
 - iv. the interpretation of land assessment of the studies, surveys and works referred to in sub-clauses (ii) and (iii);
 - v. the persons employed by the Holder for purposes of such investigations and operations, including the name, address, nationality and age of each such persons;
 - vi. the expenditures incurred by the Holder in the course of such exploration operations; and
 - vii. such other information as may be determined by the KPMMD and specified by notice in writing addressed and delivered to such Holder;
 - b. prepare or cause to be prepared and maintained at all times plans and maps in respect of the retention area;
 - c. submit within sixty days after the end of the currency of such Retention License in respect of the whole of the retention area, or together with an application for the renewal of such Retention License or an application for a Mining Lease in respect of the whole or any portion of the retention area, to the KPMMD in such form as may be determined in writing by the KPMMD, a report in duplicate or, in the case where an application is made for a Mining Lease in respect of a portion of the retention area, separate reports in duplicate in respect of such portion and the remainder of such retention area, setting out in relation to such period,
 - i. an evaluation of the prospects of future mining operations in such retention area,
 - ii. all information, including photographs, tabulations, tapes and discs, in the record referred to in clause (a) and the plans and maps referred to in clause (b); and
 - iii. such other particulars as the KPMMD may require in relation to the operation carried on by such Holder; and
 - d. submit to the KPMMD such other reports, records and other information as the KPMMD may, from time to time, require in connection with the carrying on of investigations and operations in the retention area in question.
- (2) In the event of the cancellation of a Retention License under Rule X or the surrender or expiry of a Retention License the person who was the Holder of such license immediately before the cancellation, surrender or expiration shall, on a date not later than one hundred and eighty days after the date of the cancellation or surrender or expiry, deliver to the KPMMD,

- a. all records kept in terms of the provisions of clause (a) of sub-Rule (1); and
 - b. such other books, documents, records and reports as the KPMMD may require by notice in writing, or copies of such records, books, documents and reports, unless a mining license is issued to such person in relation to the area to which such Retention License relates with effect from the date following the date of such cancellation, surrender or expiry or such later date as the KPMMD may, on good cause shown, allow.
- (3) Any person referred to in sub-Rules (1) and (2) who contravenes or fails to comply with the provisions of that sub-Rule shall be guilty of an offence and be punishable with a fine which shall not be less than twenty thousand rupees or more than two hundred thousand rupees, in addition to the rectification of the default within the time given by the KPMMD failing which the Mineral Title may be suspended or cancelled in accordance with the Regulations.

Part-VII - Mining Lease

63. Application for Mining Lease

(1) An application for the grant of a Mining Lease may be made only by a body corporate..

(2) An application for the grant of a Mining Lease shall-

- a. give such information as is required by these Rules or as the KPMMD may require;
- b. be accompanied by a description and plan such as is required by these Rules or as the KPMMD may require;
- c. be made in respect of an area of land not exceeding two hundred and fifty square kilometres (250 sq km);
- d. furnish particulars such as are required by these Rules or as the KPMMD may require;
- e. be accompanied by a technological report on mining and treatment possibilities and the intention of the applicant in relation thereto;
- f. be accompanied by the relevant feasibility studies, detailed plans for development and operation of the mine and the program of proposed mining operations, including a forecast of-
 - i. the date by which the applicant intends to work for profit,
 - ii. the capacity of production and scale of operations,
 - iii. the anticipated overall recovery of ore and mineral products; and
 - iv. the nature of the products;
- g. be accompanied by an environmental impact assessment in terms of the Environmental Protection Act, 1997, and shall identify the extent of any adverse effect which the plan for development and operation of the mine and the carrying out of the program of proposed mining operations would be likely to have on the environment and on any monument or relic in the area over which the lease is required, and proposals for eliminating or controlling that effect;
- h. be accompanied by a Community Development Agreement as prescribed in these Rules and applicable Regulations;
- i. present proposals for the prevention of pollution, the treatment and disposal of wastes, the safeguarding, reclamation and rehabilitation of land disturbed by mining operations, the protection of rivers and other sources of water and for monitoring and managing of any adverse effect of mining operations on the environment;
- j. identify any particular risks (whether to health or otherwise) involved in mining the mineral or group of minerals which it is proposed to mine, and proposals for their control or elimination;
- k. give or be accompanied by a statement giving a detailed forecast of capital investment, operating costs and revenues and the anticipated type and source and extent of financing;
- l. be accompanied by a statement giving particulars of expected infrastructure requirements;

- m. state the period for which the lease is required; and
 - n. Be accompanied by such other documents and information as the KPMMDD may require in relation to the application.
- (3) An application for the grant of a Mining Lease may contain any other matter which in the opinion of the applicant is relevant to the application.

64. Duration of Mining Lease

- (1) Subject to these Rules, a Mining Lease shall be valid-
- a. for such period, not exceeding thirty (30) years or the period representing the life of the mine based on exploration/evaluation of a deposit and the development work plan, as determined by the KPMMDD, whichever is lesser, as may be specified in the lease; and
 - b. For such period, subject to sub-Rule (2), as may be determined by the KPMMDD in relation to any renewal of the lease, as from the date on which the lease would have expired if an application for its renewal had not been made or on the date on which the application for renewal is granted, whichever is later.
- (2) A Mining Lease may be renewed for continued periods of thirty (30) years or less to reflect the commercial life of the deposit as long as the Holder continues to meet eligibility requirements and are in good standing in the implementation of the Mining Lease and any related contracts.
- (3) Notwithstanding the provisions of sub-Rule (1), but subject to the other provisions of these Rules, where an application is made for the renewal of a Mining Lease, the lease shall not expire during the period the application is being considered, unless the application is refused or withdrawn, whichever is the lesser period as from the date on which the application for renewal is received by the KPMMDD.

65. Exercise of power to grant or refuse application for Mining Lease

- (1) Subject to these Rules, where an application for the grant of a Mining Lease is made by the Holder of an Exploration License or a deposit Retention License, and the application,
- a. relates to an area of land which constitutes the exploration area or, as the case may be, the retention area; and
 - b. is in respect of any mineral or group of minerals to which such Exploration License or deposit Retention License relates, the KPMMDD shall grant the application.
- (2) Subject to these Rules, where an application is made for the grant of a Mining Lease by any person other than a person such as is referred to in sub-Rule (1), the KPMMDD may grant or refuse to grant the application.
- (3) The KPMMDD shall not grant an application for a Mining Lease in relation to any area of land in respect of any mineral or group of minerals if, at the time the application is made,
- a. any Exploration License conferring an exclusive right to carry on exploration operations in that area of land in respect of that mineral or group of minerals; or
 - b. any mining concession for Small-Scale Mining in relation to that area of land in respect of that mineral or group of minerals; or

- c. any deposit Retention License in relation to that area of land and in respect of that mineral or group of minerals, is held by any person other than the applicant or the Mining Lease, unless,-
 - i. that other person agrees to the application being granted; and
 - ii. the KPMMD, deems desirable in the interest of the development of the mineral resource to grant the application, by getting a consensus from the Holder.
- (4) The KPMMD shall not grant an application for a Mining Lease in relation to any area of land in respect of any mineral or group of minerals if at the time the application is made, the period specified in an invitation, given under sub-Rule (4) of Rule X to a person, other than the applicant, to apply for such a Mining Lease, has not expired.
- (5) Notwithstanding the provisions of sub-Rule (1), but subject to the provisions of this sub-Rule, an application for the grant of a Mining Lease shall not be granted,
- a. unless-
 - i. the feasibility study shows that the mine can be profitably developed and operated;
 - ii. the proposed plans for development and operation of the mine and the program of the mining operations of the applicant in question ensure the efficient, beneficial and timely use of the mineral resources in question;
 - iii. the applicant in question has the technical and financial ability and experience to carry out effective mining operations; and
 - iv. the KPMMD is satisfied in respect of environmental effect of the project and any condition or limitation prescribed by the Pakistan Environmental Protection Act, 1997, and Rules and Regulations, if any, made thereunder; or
 - b. if the applicant in question is, at the time of the application, in default, unless the KPMMD is of the opinion that the default is not substantial and that special circumstances exist which justify the grant of the application; or (c) in the case of an application made in relation to any area of land and in respect of any mineral or group of minerals, to a person who does not hold an Exploration License or a Retention License in relation to that area of land, or in respect of that mineral or group of minerals, unless the KPMMD is of the opinion that the mineral or the group of minerals is present in the area of land in potentially commercial quantities.
- (6) The KPMMD shall not, in the case of an application for a Mining Lease by the Holder of a Mineral Title referred to in sub-Rule (1), refuse to grant the application;
- a. in terms of clause (a) of sub-Rule (5), unless the KPMMD has, by notice in writing given to the applicant, communicated its intention to so refuse the application and has,-
 - i. informed the applicant of the reasons for its intention;
 - ii. afforded the applicant an opportunity to make, within such reasonable period as may be specified in the notice, representations in relation to all matters relating to its intention and, if the applicant so desires, to make proposals in relation to any such matters; and

- iii. taken into consideration any such representation; and
 - b. in terms of clause (b) of sub-Rule (5), unless the KPMMD has, by notice in writing given to the applicant, communicated its intention to so refuse the application,-
 - i. setting out particulars of the alleged default; and
 - ii. requiring the applicant to make representation to the KPMMD in relation to the alleged default or to rectify the default on or before a date specified in the notice; and the applicant has failed to rectify the default or has failed to make such representation as in the opinion of the authority is the ground for the intended refusal.
- (7) The KPMMD shall not refuse an application for a Mining Lease on the ground that any proposal in the application is inadequate or unsatisfactory, unless the KPMMD has, by notice in writing, informed the applicant accordingly and afforded the applicant a reasonable opportunity to modify the proposals concerned.

66. Rights of Holder of Mining Lease

- (1) Subject to these Rules and the conditions of the lease, a Mining Lease shall confer on the Holder of the lease,
- a. the exclusive right to carry on mining operations in the mining area in question in respect of any mineral or group of minerals to which the lease relates;
 - b. the right to enter and occupy the land which comprises the mining area for the purpose of carrying on mining operations and exploration operations referred to in clause (a);
 - c. the right to carry on exploration operation in the mining area in conjunction with mining operations such as are referred to in clause (a) above in relation to any such mineral or group of minerals;
 - d. the right to remove from the mining area any mineral or group of minerals, from any place where it was found or mined in the course of mining operations such as are referred in clause (a) or found or incidentally won in the course of exploration operations referred in clause (b), to any other place within or outside the Province or, subject to such other permission as may be required under any relevant law, to any place outside Pakistan;
 - e. the right to take and divert water on or flowing through such land and use it for any purpose necessary for mining operations subject to and in accordance with the provisions of the relevant laws;
 - f. the right to sell or otherwise dispose of any such mineral or group of minerals subject to any condition of the Mining Lease or Mineral Agreement relating to the satisfaction of the internal requirements of Pakistan; and
 - g. the right, subject to sub-Rule (2), to do all other things and carry on such other operations, including the erection or construction of ancillary works, as may be reasonably necessary for, or in connection with, the mining or exploration operations, removal, selling or disposal contemplated in clauses (a), (b), (c), or (e).
- (2) The provision of sub-Rule (2) of Rule X shall apply mutatis mutandis to the Holder of Mining Lease who wishes to erect or construct ancillary works under sub-Rule (1) as they apply in relation to the Holder of a Reconnaissance License wishing to do so under Rule X.

67. Application for renewal of Mining Lease.

- (1) Subject to sub-Rule (2), the provisions of Rules X and X shall apply mutatis mutandis in relation to an application for the renewal of a Mining Lease as they apply in relation to an application for the grant of a Mining Lease.
- (2) An application for the renewal of Mining Lease shall be made not later than six months before the date on which the lease expires, if not renewed or such later date but not later than such expiry date, as the KPMMD may, on good cause shown, allow.
- (3) Subject to sub-Rule (4), upon an application duly made for the renewal of a Mining Lease, the lease may be renewed as provided in sub-Rule (2) of Rule 46 with or without a variation of the conditions of the lease.
- (4) The KPMMD shall not grant an application for the renewal of a Mining Lease if mineral resource has depleted.

68. Application for Amendment of Mining Lease.

- (1) Subject to sub-Rule (2), the Holder of a Mining Lease may apply for the amendment of the lease,
 - a. by the extension or reduction, or both, of the mining area to which the lease, relates but not less than fifty square kilometres (50 sq km); or
 - b. by the addition of any mineral or group of minerals, discovered in the mining area, to which the lease does not relate.
- (2) The provisions of Rule X and X shall apply mutatis mutandis in relation to an application, under sub-Rule (1) as they apply in relation to an application for the grant of a Mining Lease.
- (3) If an application under sub-Rule (1) is granted by the KPMMD, it shall amend the Mining Lease accordingly.

69. Obligations of Holder of Mining Lease

- (1) Subject to sub-Rule (2), the provisions of sub-Rule (1) of Rule X shall apply mutatis mutandis in relation to a Mining Lease as they apply in relation to an Exploration License, and for that purpose, the reference to the Holder of an Exploration License shall be deemed to be a reference to the Holder of a Mining Lease.
- (2) The Holder shall agree in writing with the KPMMD on a reasonable date by which it may be expected that mining operations shall commence.
- (3) It shall be a condition of the Mining Lease that the Holder shall commence start-up and related mining activities within six (6) months of the grant of the lease and shall carry on those operations in accordance with the approved plan for development and operation of the mine.

70. Notice of cessation of mining operations

- (1) The Holder of a Mining Lease shall, where the Holder intends to temporarily cease mining operations, or to reduce the normal rate of production, give notice in writing of that intention to the KPMMD on a date not later than-
 - a. thirty (30) days in the case of such intended cessation of mining operations; or

- b. seven (7) days in the case of such intended reduction of production; or such other period as the KPMMD may, on good cause shown, allow for such intended cessation or intended reduction.

(2) If, for any reason beyond the control at any time, the Holder of a Mining Lease temporarily ceases mining operations, or reduces the normal rate of production, the Holder shall notify the KPMMD of such temporary cessation or reduction along with reasons therefor as soon as possible after such cessation or reduction.

71. Action by KPMMD. On receipt of a notice referred to in Rule X , or if the KPMMD has otherwise reason to believe that the Holder of any Mining Lease has ceased mining operation, whether permanently or temporarily, or reduced mining operations, the KPMMD may cause the matter to be investigated and,

- a. give its approval on such conditions, as the KPMMD may determine, to the cessation or reduction; or
- b. Refuse its approval on reasonable grounds and give such directions to the Holder as the authority deems appropriate.

72. Unit Development.

(1) The KPMMD may,

- a. in the interest of the effective recovery of minerals from neighboring or contiguous mining areas; or
- b. To secure the rational development and ultimate recovery of any mineral from neighbouring or contiguous mining areas, allow the Holders of the Mining Leases in respect of those areas to coordinate their operations or develop their deposit as one unit based on the feasibility report.

(2) The KPMMD shall after the receipt of an application from the Holders of Mining Leases in this behalf, direct in writing the Holders of the Mining Leases to enter into an agreement within a period specified in the direction for or in relation to the coordination of their operation or the development of their deposit as a unit.

(3) The provisions of Rule X shall apply mutatis mutandis to the unit area as they apply to a Mining Lease.

(4) The liability of the coordinated or joint development as a unit shall be joint and several as provided in Rule X.

73. Records to be kept by the Holder of Mining Lease

(1) The Holder of a Mining Lease shall-

- a. keep at an address in the Province a proper record in such form as may be determined in writing by the KPMMD in relation to,
 - i. any mining operations referred to in clause (a) of sub-Rule (1) of Rule X , regarding-
- b. the nature, appraisal and results of all mining operations carried on, or in connection with, the mining area to which such Mining Lease relates;
- c. the nature and mass or volume of any mineral or group of minerals won or mined in such mining area and treated or stockpiled in such mining area or elsewhere;

- d. the nature, mass or volume and value of any mineral or group of minerals so won or mined, sold or otherwise disposed of and the full names and addresses of persons to whom such mineral or group of minerals was sold or otherwise disposed of;
- e. the nature and mass or volume of any waste removed from such mining area and the manner in which it was disposed of;
- f. the persons employed by the Holder for purposes of such mining operations, including the names, addresses, nationalities and ages of such persons;
- g. expenditures incurred by the Holder in the course of such mining operations; and
- h. such other information as may be determined by the KPMMD and specified by notice in writing, addressed and delivered to such Holder;
 - i. any exploration operation referred to in clause (b) of sub-Rule (1) of Rule X , regarding-
 - i. the nature, location and results of all photo geological studies, imaging, geological mapping, geochemical sampling, geophysical surveying, drilling, pitting and trenching, sampling and bulk sampling, and all other activities undertaken by such Holder in the course of such exploration operations;
 - j. the results of all analytical, metallurgical and mineralogical work incidental to such exploration operations;
 - k. the interpretation and assessment of the studies, surveys and works referred to in sub-clauses (ii)(a) and (ii)(b);
 - l. the nature and mass or volume of any mineral or group of minerals found or incidentally won in the course of such exploration operations;
 - m. the persons employed by the Holder for purposes of such exploration operations, including the names, addresses, nationalities and ages of such persons;
 - n. the expenditures incurred by such Holder in the course of such exploration operations;
 - o. such other information as may be determined by the KPMMD and specified by notice in writing given to the Holder; and
 - i. prepare or cause to be prepared and maintained at all times plans and maps in respect of the mining area;
 - ii. prepare in respect of each quarter of the Mining Lease, a statement of income and expenditure derived or incurred in connection with mining operations in the Mining Lease area and such other financial statements as the KPMMD may require in such form as it may determine;
 - iii. submit within fifteen days after the end of each month and thirty days after the end of each quarter to the KPMMD, returns in relation to such month or quarter containing,
- p. summary of the particulars and information contained in the records referred to in clause (a) and sub-clause (ii)(b) as may be required by the KPMMD and indicated in such form or required by the KPMMD by notice in writing given to the Holder; and

- q. such other particulars as the KPMMD may require in relation to the mining operations and exploration operations carried on by the Holder in such mining area;
- i. submit, within sixty days after 31st December of each year, to the KPMMD, in such form as may be determined in writing by the KPMMD, returns or reports in duplicate containing in relation to such year,
 - ii. a summary of the particulars and information contained in the records referred to in sub-clause (i) of clause (a) as may be required by the KPMMD and indicated in such form or required by the KPMMD by notice in writing given to the Holder;
 - iii. all information, including photographs, tabulations, tapes and discs, in the records referred to in sub-clause (ii)(a) and the plans and maps referred to in clause (b);
 - iv. the statement of income and expenditure and financial statements referred to in clause (c);
 - v. an estimate of the remaining mineral reserves in such mining area properly illustrated by way of plans and maps according to an appropriate scale;
 - vi. particulars of any proposed mining operation and exploration operation during the succeeding year, together with a forecast of delineated mineral reserves; and
 - ii. such other reports, records and information as the KPMMD may require in relation to the mining operations and exploration operations carried on by the Holder in such mining area.
- (2) In the event of the cancellation or surrender of a Mining Lease under these Rules or the expiration of Mining Lease, the person who was the Holder of such a lease immediately before such cancellation, or surrender or expiration shall, on a date not later than one hundred and eighty days after the date of such cancellation or surrender or expiration, deliver to the KPMMD-
- a. all records kept in terms of the provisions of clause (b) of sub-Rule (1);
 - b. all maps and plans referred to in clause (b) of sub-Rule (1);
 - c. all reports, photographs, tabulations, tapes and discs prepared by or on behalf of such person in the course of such exploration operations; and
 - d. such other books, documents, records and reports as the KPMMD may require by notice in writing given to such person, or copies of such records, maps, plans, reports, photographs, tabulations, tapes, discs, books and documents.
- (3) Any person referred to in sub-Rule (1) or (2), who contravenes or fails to comply with the provisions of any such sub-Rule, shall be guilty of an offence and be punishable with a fine which shall not be less than ten thousand rupees or more than one hundred and fifty thousand rupees, in addition to the rectification of the default within the time given by the KPMMD failing which the Mineral Title may be suspended or cancelled in accordance with the Regulations.

Part-IX - Cancellation and Surrender of Mineral Titles

74. Cancellation of Mineral Titles

- (1) Subject to this Rule and Rule X, where the Holder of a Mineral Title,
 - a. fails to use in good faith the land subject to the title for the purpose for which the title was granted;
 - b. uses that land for any purposes other than the purpose for which the title was granted;
 - c. fails to comply with any requirement of these Rules with which the Holder is bound to comply;
 - d. fails to comply with a condition of the title;
 - e. fails to comply with a direction lawfully given under these Rules or with a condition on which any certificate of surrender is issued or on which any exemption or consent is given under these Rules; or
 - f. fails to pay any amount payable by him under these Rules within one (1) month after the amount becomes due, the KPMMD may, on that ground, by notice in writing, cancel the title.
- (2) The KPMMD shall not, under sub-Rule (1), cancel a title on a ground referred to in that sub-Rule unless,-
 - a. it has, by notice in writing served on the Holder of the title, given not less than thirty days notice of its intention to so cancel the title on that ground;
 - b. it has, in the notice, specified a date before which Holder of the title may, in writing, submit any matter which the Holder wishes the KPMMD to consider; and
 - c. the KPMMD has taken into account,-
 - i. any action taken by the Holder of the title to remove that ground or to prevent the recurrence of similar grounds; and
 - ii. Any matter submitted to the KPMMD by the Holder of the title pursuant to clause (b).
- (3) The KPMMD shall not, under sub-Rule (1), cancel a title on the ground referred to in clause (f), if, before the date specified in the notice referred to in sub-Rule (2), the Holder of the title pays the amount of money concerned together with any mark-up arising pursuant to sub-Rule (2) of Rule X .
- (4) The KPMMD may, by notice in writing served on the Holder of a Retention License, cancel the license if the Holder fails to make application for a Mining Lease in accordance with a notice given to him under sub-Rule (1) of Rule X.
- (5) The KPMMD may, by notice in writing, cancel the title,

- a. if the Holder (being an individual),- is adjudged bankrupt; or
 - b. enters into any agreement or scheme of composition with creditors or takes advantage of any law for the benefit of debtors; and
 - b. if the Holder is a Company, an order is made or a resolution is passed for winding up the affairs of the Company, unless the winding up is for the purpose of amalgamation or reconstruction and the KPMMD has been given notice thereof.
- (6) Where an application has been made under Rule X for the transmission of a Mineral Title or of rights or interests to or in a Mineral Title consequent upon the death of an individual who is the Holder of the title, the KPMMD shall not cancel the title.
- (7) Where two or more persons are holding a Mineral Title, the KPMMD shall not, under sub-Rule (5), cancel the title on the occurrence of an event entitling the KPMMD to so cancel the Mineral Title, unless it is satisfied that any other person or persons holding the Mineral Title are unwilling, or would be unable, to carry out the duties and obligations of the Holder of the Mineral Title.
- (8) On the cancellation of a Mineral Title the rights of the Holder of the title thereunder shall cease, and the cancellation shall not affect any liability incurred before the cancellation and any legal proceeding that might have commenced against the former Holder of the title shall continue against him.

75. Surrender of Mineral Titles

- (1) The Holder of a Mineral Title who wishes to surrender all or a part of the land subject to the Mineral Title shall apply to the KPMMD for a certificate of surrender in respect of the land not less than three months before the date on which the Holder wishes the surrender to have effect.
- (2) An application under sub-Rule (1) shall,
- a. state the date on which the applicant wishes the surrender to have effect;
 - b. identify the land to be surrendered by a description and the inclusion of a map identifying that part, if only a part of the land subject to the title is to be surrendered;
 - c. give particulars of reconnaissance, or mining operations, as the case may be, carried on in respect of the land to be surrendered; and
 - d. be supported by such records and reports in relation to operations as the KPMMD may reasonably require.
- (3) Subject to sub-Rule (4), on an application made under sub-Rule (1), the KPMMD shall issue a certificate of surrender, either unconditionally or subject to such conditions as are specified in the certificate, in respect of the land to which the application relates.
- (4) The KPMMD shall not issue a certificate of surrender,
- a. to an applicant who is in default;
 - b. to an applicant who fails to comply with any reasonable requirement of the KPMMD for the purposes of clause (d) of sub-Rule (2), or
 - c. if it is not satisfied that the applicant will surrender the area on which reconnaissance, exploration or mining operations have been conducted in a safe and good condition.

76. Effect of certificate of surrender

- (1) Where, pursuant to sub-Rule (3), a certificate of surrender is issued, the KPMMD shall-
 - a. cause the title to be amended accordingly, if only a part of the land subject to a Mineral Title is surrendered; and
 - b. cause the mining title to be cancelled, in any other case; and, in either case, the KPMMD, shall give notice in writing to the applicant for the surrender amendment, or as the case may be, the cancellation of the title.
- (2) Land in respect of which a certificate of surrender is issued shall be treated as having been surrendered with effect from the date on which notice of the surrender is given.
- (3) The surrender of any land shall not affect any liability incurred before the date on which the surrender has taken effect in respect of the land, and legal proceedings that might have commenced against the Holder shall continue against him.

Part-X - Registration and Transfer of Mineral Titles

77. Titles Register

- (1) The KPMMD shall cause a record to be made in a Titles Register, kept for the purpose, of every Mineral Title issued and of any dealings with, or affecting, a Mineral Title.
- (2) When a Mineral Title is issued, the KPMMD shall cause the name of the person to whom the Mineral Title is issued to be recorded in the Title Register as the Holder of the Mineral Title.

78. Approval of Transfer, Cession or Assignment of Mineral Title

- (1) The KPMMD may approve a transfer of, or a cession or assignment of rights of interest to or in, a Mineral Title, or the joining of a person as a joint Holder of a Mineral Title or of rights or interests to or in a Mineral Title, and, unless it is so approved by the KPMMD, it shall have no effect.
- (2) Where an application is made to the KPMMD for any approval, the KPMMD may, subject to sub-Rules (3) and (4), give its approval, subject to such conditions as it deems necessary in the circumstances to impose but the KPMMD shall not unreasonably withhold its consent.
- (3) The KPMMD shall not give its approval to any of the dealings such as are referred to in sub-Rule (4) with a Reconnaissance License, or, subject to sub-Rule (4), to any dealing with an Exploration License during the first two (2) years of its term.
- (4) An application under this Rule shall give, in respect of the person to whom the license is to be transferred, ceded or assigned or who is to be joined, the information required in clause (a) of sub-Rule (1) of Rule X in respect of an applicant and all other relevant information.
- (5) The KPMMD may require any person making an application for any approval such as is referred to in sub-Rule (4) to furnish to it such information as it may reasonably require enabling it to dispose of the application and the applicant shall comply with the requirement.

79. Inspection of Titles Register

- (1) With respect to any application, competitive bid, or award made, a copy of any entry in the Titles Register may be obtained by any member of the public on payment of appropriate fee as shall, from time to time, be notified by KPMMD.
- (2) The Title Register shall be open for inspection by the applicant and the applicant may take copies of any license or entry in the Register.

80. Titles Register may be rectified. Where the KPMMD is satisfied that a mistake has been made in, or that some matter has been incorrectly entered in, or omitted from, the Titles Register, it shall rectify the Register by recording reasons thereof.

81. Offences in relation to registration in Titles Register. A person who willfully,

- (1) makes, or causes to be made or concurs in making, a false entry in the Titles Register; or
- (2) produces or tenders in evidence a document falsely purporting to be a copy of an extract from an entry in the Title Register, shall be guilty of an offence and be punishable with a fine which shall not be less than five thousand rupees or more than one hundred thousand rupees, in addition to the rectification of the default within the time given by the KPMMD failing which any relevant Mineral Title shall be cancelled.

Part-XI - Financial

82. Royalties

- (1) Subject to these Rules, the Holder of,
 - a. a Mining Lease who has won or mined any mineral or group of minerals in the course of any exploration or mining operations carried on by the Holder; or
 - b. an Exploration License or a Retention License, who has found or incidentally won any mineral or group of minerals in the course of any exploration operations carried on by the Holder, shall be liable to pay to Government, in respect of any such mineral or group of minerals disposed of by the Holder, Royalty as determined under Rule X .
- (2) For the purposes of sub-Rule (1), any mineral or group of minerals shall be deemed to have been disposed of if it is,
 - a. sold, donated or bartered;
 - b. appropriated to treatment or other processing without having been dealt with as provided in clause (a) prior to appropriation; or
 - c. exported from the Province without having been dealt with as provided in clause (a) or (b) prior to export.

83. Rate of Royalties.

- (1) Subject to these Rules, Royalty shall be charged, in respect of any mineral referred to in clause (a) or (b) of sub-Rule (1) of Rule X , which is disposed of, on the following basis;
 - a. in the case of coal, and the construction and industrial minerals group as specified in Schedule 3, at such rates as may be notified by Government from time to time; and
 - b. in case of,
 - i. precious stones group as so specified; or
 - ii. precious metals group and semi-precious stones group as so specified; or
 - iii. base metals group as so specified; or
 - iv. rare metals as so specified; and
 - v. any other mineral, on the fair market value of the mineral or group of minerals as provided in this Rule.
- (2) For the purposes of sub-Rule (1), the fair market value of a mineral or group of minerals is,
 - a. where the mineral or group of minerals is disposed of in a sale at arm's length, the sale price;
 - b. where the mineral or group of minerals is not so disposed of, the value established, in relation to the kind of disposal concerned, by reference to criteria for the determination of that value, in the Mineral Agreement or Mineral Title or under which or pursuant to which the mineral or group of minerals was won or mined; or

- c. where the mineral or group of minerals is not disposed of as provided in clause (a) and there is no such criteria as provided in clause (b), the amount determined by the KPMMD, at the date of the disposal, which would, in the opinion of the KPMMD, be paid on international markets or, as the case may be, domestic markets for such minerals in a sale at arm's length by a willing seller to a willing buyer.
- (3) For the purposes of sub-Rule (2), a sale is a sale at arm's length if the following conditions are satisfied with respect to the contract of sale, that is to say,
 - a. The contract price is the sole consideration for the sale; and
 - b. The terms of the sale are not affected by any commercial relationship other than that created by the contract of sale between the seller or any other person associated with the seller and the buyer or any person associated with the buyer.
- (4) For the purposes of this Rule, the fair market value, in respect of any mineral or group of minerals, which has been disposed of, shall be determined by reference to the first point at which it was disposed of, without allowing for any deductions from the gross amount so determined.

84. Enhanced Royalty. Where pursuant to Rule X, a Mineral Agreement makes provision for the payment of Royalty, by the Holder of Mineral Title, at an enhanced rate or rates in respect of any mineral or group of minerals won, mined or found as provided in Rule X, the enhanced rate of Royalty shall be determined and payable in accordance with the terms of the agreement; provided that the rate of Royalty payable at any time shall not be less than the rate notified.

85. Payment of Royalty

- (1) Royalty in respect of any mineral or group of minerals won, mined or found as provided in Rule X and disposed of shall be payable not later than thirty (30) days after the end of the calendar month in which the mineral or group of minerals is disposed of.
- (2) Where any person has failed to pay any amount of Royalty as required by sub-Rule (1), mark-up calculated at the rate of one per centum per day on the amount or any part thereof from time to time remaining unpaid, shall be payable from the due date of payment until all outstanding amount is paid.
- (3) The Holder of a Mineral Title shall submit, in respect of each month and in such form and detail as the KPMMD may determine, a return showing the amount of Royalty to be paid in respect of any mineral or group of minerals disposed of in the month.

86. Powers of Government in case of failure to pay Royalty. If the Holder of Mineral Title referred to in Rule X fails to pay any Royalty payable by him in accordance with Rule X or, if applicable, on or before such date to which the payment of the Royalty has been deferred under Rule X, the KPMMD may, by notice in writing given to the Holder, prohibit,

- (a) the removal of any mineral or group of minerals from the exploration area, mining area, retention area, the land subject to the Mining Lease or, in the case of the Holder of Prospecting License, from the place where the mineral or group of minerals is found, won or mined; or
- (b) any dealing in connection with any mineral or group of minerals found, won or mined from any such area, land or place, until such time as the Royalty has been paid, or the payment has been deferred under Rule X.

87. Contravention of Rule 88. Any person who contravenes or fails to comply with a notice given to him under Rule 88 shall be guilty of an offence and be punishable with a fine which shall not be less than three hundred thousand rupees or more than six hundred thousand rupees, besides rectification of default. If there is no rectification the case may be treated for cancellation.

88. Proof of amounts payable under these Rules. In any proceedings to recover in a competent court any amount payable under these Rules, a certificate purporting to be a certificate under the hand of the KPMMDD certifying that the amount of money specified in such certificate is payable under these Rules by any Holder such as is referred to in Rule X named in such certificate shall be received in evidence as prima facie proof of the facts stated in the certificate.

89. Surface rent and renewals.

- (1) Annual surface rent in respect of a Mineral Title shall be paid in respect of the category of Mineral Title in accordance with the provisions contained in sub-Rule (2), read with Schedule 2.
- (2) Payment of the annual surface rental pursuant to sub-Rule (1) in respect of a Mineral Title shall be made within thirty (30) days after the date of the issue of the Mineral Title and thereafter shall be made on the same date of each year.
- (3) Where, any person has failed to pay any amount of annual surface rent, mark-up calculated at the rate of one per centum (1%) per day on the amount or any part thereof, from time to time remaining unpaid, shall be payable from the due date of payment until all outstanding amount is paid.
- (4) A renewal fee in respect of the Mineral Title shall be paid in accordance with Schedule 1.

Part-XII - Miscellaneous Provisions

90. Force Majeure

- (1) Any failure on the part of the Holder of a Mineral Title to fulfill any of the conditions of the license, or to meet any requirement of these Rules, shall not be treated as a breach of the holder's Mineral Title in so far as the failure arises from an act of war, hostility, insurrection, or an act of God, or from any other cause specified in the conditions of the Mineral Title as constituting force majeure.
- (2) Where the Holder of a Mineral Title fails to fulfill any of the conditions of the Mineral Title as a result of the occurrences of any circumstances of a kind referred to in sub-Rule (1), the Holder shall forthwith give notice to the KPMMD, giving particulars of the failure and its cause.
- (3) The KPMMD may, on application made to it by the Holder of a Mineral Title referred to in sub-Rule (2), who has been prevented from exercising any right under the Mineral Title conditions as determined by the KPMMD, the period for which the mineral title in question has been issued, may be extended by such reasonable period as may be determined by the KPMMD.
- (4) The KPMMD may refuse any application referred to in sub-Rule (3) if the Holder of the Mineral Title could, by taking reasonable steps which were available to the Holder, have exercised the rights concerned during that period.
- (5) The provisions of this Rule shall not be construed as absolving any Holder of a Mineral Title from complying with any obligation under the Mineral Title or these Rules to pay royalties, annual charges, surface rent or fees.

91. Joint liability. Where a Mineral Title is held by more than one Holder, the liability of any Holder in respect of any breach thereof, shall be joint and several, but without prejudice to any right of contribution which a particular Holder may have against any other Holder in respect of any liability incurred by the particular Holder in respect of breach.

92. Competitive bids. The KPMMD may invite competitive bids for the issue of an Exploration License or a Mining Lease in respect of any area of land which is not subject to:

- a. Reconnaissance License which gives the Holder an exclusive right such as is referred to in sub-Rule (3) of Rule X ;

an Exploration License, a Mining Lease or a Retention License or a Prospecting License or a Mining Lease for mineral under Small-Scale Mining, and may, in accordance with these Rules, issue the appropriate Mineral Title to the successful bidder.

93. Performance guarantees. A person shall, at the time of the grant of a Mineral Title, other than a Reconnaissance License, deposit with the KPMMD security for compliance with the Holder's obligations under these Rules and the title.

94. Arbitration

- (1) Subject to sub-Rules (2) and (3), any dispute arising between the Holder of a Mineral Title and KPMMD or Government out of or in connection with a Mineral Title shall, if it cannot be settled amicably within a reasonable period, be submitted to the Mining Commission or such other body or tribunal as the parties may agree, for arbitration or settlement.

- (2) Sub-Rule (1) shall not apply where the Holder of a Mineral Title is a citizen of Pakistan, or a Company formed by or under a law for the time being in force in Pakistan whose entire share capital is beneficially owned by the citizens of Pakistan.
- (3) Sub-Rule (1) shall not apply in relation to a dispute concerning any matter-
- a. where any such dispute is, under the Mineral Title or a relevant Mineral Agreement, to be resolved by a sole expert; or
 - b. where the dispute concerns the commission, by the Holder of the Mineral Title, of a criminal offence.

95. Rights over data

- (1) Government shall have the exclusive right to all data including geological, geophysical, geochemical, petrochemical, engineering, pit logs, maps, magnetic tapes, cores and production data, as well as all interpretative and derivative data including reports, studies, analyses, interpretations, bulk sampling results, assaying results, evaluations and other information in respect of exploration or mining operations, subject to sub-Rule (2).
- (2) The Holder of a Mineral Title shall have the right to make use of the data referred to in sub-Rule (1) free of cost, for the purpose of exploration or mining operations and to retain copies or samples of material or information constituting the data subject to sub-Rule (3).
- (3) Data permitted to be used or retained as provided in sub-Rule (2), which is not in the public domain, shall not be disclosed to any person without the prior consent of the KPMMD, except as may be necessary for the purpose of, or in connection with, exploration and mining operations, or as required by law, or for the purpose of arbitration or litigation.

96. Compliance with other laws. Nothing in these Rules shall be construed as authorizing the Holder of a Mineral Title or a Prospecting License to do anything,

- (a) which the Holder is prohibited from doing under any law for the time being in force; or
- (b) otherwise than in accordance with any such law regulating the doing of that thing, and for that purpose obtaining any Prospecting License, Mineral Title, approval, permission or other document required under any such law.

97. Retention of fees. Where any application under these Rules is refused, the application fee, which was paid at the time of the application, shall not be refunded and shall be retained to meet administrative costs of KPMMD.

98. Notice of applications made and titles issued.

- (1) The KPMMD shall, not later than seven (7) days after the date on which an application for Mineral Title is received by it, by posting a notice, make it known for general information that the application has been made which shall also contain the following information:-
- i. the name of the applicant;
 - ii. the nature of the title and the area of land and the mineral or group of minerals to which the application relates;
 - iii. the data on which the application was received; and

- iv. such other particulars as the KPMMD may determine; and shall keep the notice so posted until such date as the application has been finally disposed of.
- (4) Where a Mineral Title is issued, the KPMMD shall cause notice of that fact to be published in the Official Gazette stating in the notice,
- a. the name of the Holder of the title;
 - b. the nature of the title and the area of land and the mineral or group of minerals to which the title relates; and
 - c. such other particulars as the KPMMD may determine.
- (3) Where a Mineral Title is renewed, transferred, surrendered or cancelled, or any land subject to a title or Prospecting License is surrendered, the KPMMD shall cause notice of that fact to be published in the Official Gazette stating in the notice such particulars as the KPMMD deems necessary to identify the title and, where applicable, the land surrendered.

99. Order in which applications to be considered

- (1) All applications made under these Rules and received by the KPMMD shall be considered by the KPMMD in the order in which they are received.
- (2) For the purposes of sub-Rule (1), applications so received on the same date and time shall be deemed to have been received and priority shall be determined by the KPMMD on the basis of the order in which applications are received.

100. Removal and sale of property

- (1) Where a Mineral Title has been cancelled or surrendered, or has expired, or if any area of and has ceased for any reason to be part of the area of the land pertaining to title, the KPMMD may, by notice in writing given to the person who is or was Holder of the title, direct him to do all or any of the following, namely:
- a. to demolish any building, structure or other things created or constructed by the person in that area and to remove all debris and any other object brought into that area, except that the owner of the lands wants to retain any such buildings,
 - b. structures or other things on such conditions as may be mutually agreed upon between such owner and person;
 - c. to take all steps as may be necessary to rectify to the satisfaction of the KPMMD any damage caused by any exploration or mining operations carried on by such person to the surface of, and the environment in, that area of land; or
 - d. to take such other steps as may be specified in the notice as the KPMMD deems necessary or expedient to give effect to any direction such as is referred to in clause (a). (NOTE: good to specify within how many days these actions should be taken)
- (2) Where a direction under sub-Rule X has not been complied with, the KPMMD may,
- a. do or cause to be done all or any of the things required by the direction to be done;
 - b. remove or cause to be removed, in such manner as it thinks fit, all or any of the property from the area that was, but is no longer, subject, to the title;

- c. dispose of, in such manner as it thinks fit, all or any of the property referred to in clause (b); and
 - d. if it has served a copy of the notice by which the direction was given on a person whom the KPMMD believed to be an owner of the property or part of the property, sell or cause to be sold by public auction, or otherwise as the authority thinks fit, all or any of the property referred to in clause (b) which belongs, or which it believes to belong, to that person.
- (3) Government may deduct from the proceeds of a sale of property under sub-Rule (2) that belongs, or that the KPMMD believes to belong, to a particular person, concerning recovery of any dues of a Mineral Title.
- a. all or any part of any costs and expenses incurred by the KPMMD under sub-Rule (2) in relation to that property;
 - b. all or any part of costs and expenses incurred by the KPMMD under sub-Rule (2) in relation to the doing of anything required by a direction under sub-Rule (2) to be done by the person;
 - c. all or any part of any fees or amounts due and payable under these Rules by the person.
- (4) The costs and expenses incurred by the KPMMD under this Rule,
- a. if incurred in relation to the removal, disposal or sale of property, are a debt due by the owner of the property to Government; and
 - b. if incurred in relation to the doing of anything required by a direction under sub-Rule (1) to be done by a person who is or was a Holder of a Mineral Title are a debt due by that person to Government, and to the extent to which they are not recovered under sub-Rule X are recoverable in a court of competent jurisdiction as a debt due to Government.
- (5) Where any financial or other transaction relevant to the disposal or sale of property as described herein may reasonably be expected to have value in excess of _____ Rupees, a public hearing shall be conducted in accordance with KPMMD procedures.
- (6) All information concerning financial and any other transactions relevant to the disposal or sale of property as described herein shall be published within sixty (60) days of the transaction in the Official Gazette.

101. Weighing of minerals. The Holder of an Exploration License or a Retention License, or a Mining Lease shall provide in the exploration area, retention area or lease area a properly constructed and correct weighing machine or other suitable means as approved by the KPMMD for determining the weight of any mineral or group of minerals won or mined in the exercise of the rights such as are referred to in Rule X.

102. Power of KPMMD to obtain information

- (1) Where the KPMMD has reason to believe that a person is capable of furnishing information or data relating to reconnaissance, exploration or mining operations, or to minerals won, mined, found or sold or otherwise disposed of, or the value thereof, it may, by notice in writing served on that person, require that person,
- a. to furnish the KPMMD in writing with that information or data, giving particulars, within the period and in the manner specified in the notice;

- b. to appear before a person identified in the notice at such time and place as is specified in the notice and to answer questions relating to those operations, the minerals won, mined, sold or otherwise disposed of, or the information or data as the case may be; or
 - c. to furnish a person identified in the notice, at such time and place as is specified, with such data as may be in his custody or power relating to those operations, or to minerals won, mined or sold or otherwise disposed of, or the value thereof.
- (2) A person shall not be excused from furnishing information or data, or answering a question when required to do so under this Rule, on the ground that the information or data so furnished, or the answer to the question, might tend to incriminate him or make him liable to a penalty, but the information or data so furnished or his answer to the question shall not be admissible in evidence against him in any proceedings other than proceeding for an offence against this Rule.
- (3) Where data are furnished, pursuant to the requirement under clause (c) of sub-Rule (1), the person to whom the data are furnished may make copies of or take extracts from the data.
- (4) Any person who,
- a. refuses or fails to comply with the requirement in a notice under sub-Rule (1) to the extent to which he is capable of doing so;
 - b. in compliance with a requirement referred to in clause (a) of sub-Rule (1), knowingly or recklessly furnishes information that is false or misleading in a material particular; or
 - c. when appearing before any person under a requirement referred to in clause (b) of sub-Rule (1) or furnishing any data to any person under a requirement referred to in clause (c) of sub-Rule (1), knowingly or recklessly makes a statement or furnishes any data which are false or misleading in a material particular, shall be guilty of an offence and be punishable with a fine which shall not be less than five thousand rupees and not more than fifty thousand rupees, in addition to rectification of the default within the time given by the KPMMD failing which the Mineral Title may be withdrawn.
- (5) In this Rule, “data” includes books, documents, interpretations, tapes, diagrams, profiles and charts, photographs, lines or negatives and includes data recorded or stored by means of a tape recorder, computer or other device and any material subsequently derived from data so recorded.

103. Liability for pollution

- (1) Where in the course of reconnaissance, exploration or mining operations carried on under a Mineral Title, any mineral is spilled on land, or in any water on or under the surface of any land, or any land or any such water is otherwise polluted or damaged, or any plant or animal life, whether in water or on, in or under land, is endangered or destroyed, or any damage or loss is caused to any person, including Government, by such spilling, pollution or damage, the Holder of the Mineral Title or Prospecting License shall forthwith-
- a. report such spilling, pollution, loss or damage to the KPMMD; and

- b. take at his own cost all such steps as may be necessary in accordance with good reconnaissance, exploration or mining practices or otherwise as may be necessary to rectify the spilling, pollution, loss or damage. (
- (2) If the Holder of Mineral Title or Prospecting License referred to in sub-Rule (1) fails to comply with the provisions of clause (b) of that sub-Rule within such period as the KPMMD may deem in the circumstances to be reasonable, the KPMMD may order the Holder, by notice in writing given to him, to take, within such period as may be specified in such notice, such steps as may be specified in order to rectify the spilling, pollution, damage or loss and the KPMMD may, if the Holder fails to comply with the order to the satisfaction of KPMMD within the period specified in the notice or such further period as the KPMMD may, on good cause shown, allow in writing, cause such steps to be taken as may be necessary to rectify the spilling, pollution, damage or loss and recover the costs incurred thereby from such Holder.

104. Service of documents.

- (1) Any document, notice or other communication required or authorized under these Rules to be given to or served on any person by the KPMMD or any other person shall be deemed to have been given or served, if given to or served on such person personally;
- a. if dispatched by registered or any other kind of post addressed to such person, at his last known address which may be any such place or office as is referred to in clause (c) or the person's last known post office box number or private bag number or that of the person's employer;
 - b. if left with some adult person presiding at or occupying or employed at the person's last known abode or office or place of business; or
 - c. in the case of a Company,
 - i. if delivered to the public office of the Company;
 - ii. if left with some adult person residing at or occupying or employed at its registered address;
 - iii. if dispatched by registered post addressed to the company or its public office at its or the officer's last known address; or
 - iv. if transmitted by means of a facsimile transmission to the person concerned at the registered office of the Company.
- (2) Any document, notice or other communication referred to in sub-Rule (1) which has been given or served in the manner contemplated in clause (b) or sub-clause (iii) of clause (d) of that sub-Rule, shall, unless the contrary is proved, be deemed to have been received by the person to whom it was addressed at the time when it would, in the ordinary course of post, have arrived at the place to which it was addressed.

105. Powers of Authorized Officer

- (1) For the purpose of these Rules, an Authorized Officer, at all reasonable times,
- a. may enter any area, structure, vehicle, vessel, aircraft or building that, in his opinion, has been, is being or is to be used in connection with reconnaissance, prospecting or mining operations;

- b. may inspect and test any machinery or equipment that, in his opinion, has been, is being or is to be used in connection with any of the operations referred to in clause (a);
 - c. may take or remove for the purpose of analysis or testing, or for use in evidence in connection with an offence against these Rules, samples of minerals or other substances from a mine or any area where any of the operations referred to in clause (a) is being carried on;
 - d. may inspect, take extracts from, and make copies of, any data, as defined in sub-Rule (5) of Rule 85, relating to any of the operations referred to in clause (a);
 - e. may, with respect to the health and safety of persons employed by a Holder of a Mineral Title or Prospecting License in connection with any of the operations referred to in clause (a), issue in writing directions to, and impose restrictions on, the Holder or any person so employed;
 - f. may, for reason to be recorded in writing, order,
 - i. the cessation of operations on or in, and the withdrawal of all persons from, any structure or building that is being used in connection with any of the operations referred to in clause (a); or
 - ii. the discontinuance of the use of any machinery or equipment, which he considers unsafe, unless and until such action as is necessary for safety and specified in the order is taken and completed; or
 - g. may make such examinations and inquiries as are necessary to ensure that the provisions of these Rules, and any directions issued, conditions imposed or orders made under these Rules, are being complied with.
- (2) Before exercising any of his powers under sub-Rule (1), if there is any person who is or appears to be in-charge of the area, structure, vehicle, vessel aircraft, building, machinery, equipment or matter or any other thing in respect of which the power is about to be exercised, an Authorized Officer shall show identification to that person and to any person to whom he is about to give an order or a direction.
- (3) Any person who is aggrieved by a decision, direction or order of an Authorized Officer made under this Rule may appeal in writing to the KPMMD which shall, as soon as practicable, hear and dispose of the appeal.
- (4) On an appeal under sub-Rule (3), the KPMMD may rescind or affirm the decision, direction or order appealed against or may make a fresh decision, direction or order and that decision, direction or order shall be final.
- (5) On an appeal under sub-Rule (3), the KPMMD may rescind or affirm the decision, direction or order appealed against or may make a fresh decision, direction or order and that decision, direction or order shall be final.
- (6) In exercising his powers under sub-Rule (1), an Authorized Officer may be accompanied by any person whom the Authorized Officer believes has special knowledge of any matter being inspected, tested, or examined.
- (7) A person who is a title Holder in relation to any matter referred to in sub-Rule (1), shall provide an Authorized Officer all reasonable facilities and assistance including the provision of necessary means of transport, for the effective exercise of the Authorized Officer's powers under this Rule.

(8) Any person who,

- a. without reasonable excuse obstructs, molests or hinders an Authorized Officer in carrying out his functions under this Rule; or
- b. knowingly or recklessly makes a statement or produces document that is false or misleading in a material particular to an Authorized Officer carrying out his functions under this Rule, shall be guilty of an offence and punishable with a fine which shall not be less than five thousand rupees or more than fifty thousand rupees, in addition to the rectification of the default within the time given by the KPMMD failing which the Mineral Title may be withdrawn.

106. Further powers of Authorized Officers. If a person who was the Holder of a Mineral Title, such as referred to in sub-Rule (2) of Rule X , fails to comply with the requirement of that sub-Rule, an Authorized Officer may,

- (a) at all reasonable times, enter upon any premises whatsoever and search for the records, maps and plans, reports, photographs, tabulations, tapes, discs, books and documents referred to in clauses (a) to (d) of that sub-Rule; and
- (b) seize any such records, maps and plans, reports, photographs, tabulations, tapes, discs, books and documents which were not delivered to the KPMMD as required by the aforesaid sub-Rules.

107. Offences

(1) Any person who carries on reconnaissance, exploration or mining operations in the Province, except under and in accordance with a Mineral Title or Prospecting License shall be guilty of an offence and will be punishable with a penalty as notified by Government from time to time, in addition to the rectification of the default within the time given by the KPMMD, failing which the Mineral Title shall be withdrawn.

(2) Any person who,

- a. makes or causes to be made in connection with any application under these Rules any statement knowing it to be false or misleading;
- b. submits or causes to be submitted in connection with any such application or any notice, report, return or statement issued or given under any provision of these Rules or the conditions of any title, or Prospecting License, any document, information or particulars which are false or misleading knowing them to be false or misleading;
- c. fraudulently and with the intent to mislead any other person to believe that a mineral or group of minerals exists at any place, places or deposits or causes to be so placed or deposited any mineral or group of minerals in or at any such place; or
- d. fraudulently and with intent to deceive mingles or causes to be mingled with any sample of ore any substance which may increase the value or nature of the ore,
- e. shall be guilty of an offence and will be punishable with a fine which shall not be less than fifty thousand rupees and more than three hundred thousand rupees, and shall rectify the default within the time given by KPMMD failing which the Mineral Title shall be withdrawn.

108. Evidence.

- (1) The production in any criminal or civil proceedings in any court of law of any certificate purporting to have been signed by an Authorized Officer certifying whether or not on a date specified in the certificate that,
 - a. Mineral Title or Prospecting License was issued, renewed or transferred to a person so specified;
 - b. any interest in such title or license has been granted, ceded or assigned to a person so specified;
 - c. any person has been joined as a joint Holder of a title or license so specified;
 - d. any condition so specified is or was a condition of title or license; or
 - e. a person mentioned in the certificate is or was the Holder of a title;
 - f. title or license has been issued in respect of an area of land so specified, shall, unless the contrary is proved, be received in evidence as conclusive proof of the fact so certified.
- (2) The production in any civil or criminal proceedings in any court of an extract of an entry in the Title Register kept pursuant to Rule X, certified by an Authorized Officer to be a true and correct extract of such an entry shall, unless the contrary is proved, be taken as conclusive proof of the entry.

109. Forfeiture order. Where a person is convicted of an offence under these Rules, the court before which he is convicted may, in addition to any penalty imposed or other forfeiture ordered, order that any mineral or group of minerals won or mined in the course of the commission of the offence, be forfeited to Government or, in the event of any such mineral or group of minerals having been sold or otherwise disposed of, that an amount equal to the proceeds of the sale or the market value of the mineral or group of minerals, as determined by the court, be paid by such person to Government.

110. Appeal

- (1) If a person is aggrieved by an order of the KPMDD passed under these Rules, he may, within thirty (30) days of the communication of the impugned order and payment of such fee as may, from time to time, be specified, by Government, prefer an appeal to Government.
- (2) The decision of Government on such appeal shall be final.
- (3) Government, while hearing the appeal under sub-Rule (1) may, if it so considers necessary in the interest of justice, grant a stay order; provided that no such order shall be passed in respect of Government dues unless the appellant deposits twenty-five per cent (25%) of the disputed amount with the KPMDD.
- (4) If the appeal in which a stay order has been granted is finally rejected and the Appellate Authority is of the view that the appeal was preferred on frivolous grounds or the stay order was obtained by deceit or fraud on the part of the appellant, it may while deciding the appeal, impose a penalty up to five per cent (5%) of the disputed amount.
 - a. The amount deposited under sub-Rule (3) shall first be adjusted towards the penalty imposed under sub-Rule (4). The remaining amount, if any, may be adjusted towards the recovery of Government dues.

Part-XIII - Small- Scale Mining

GENERAL

111. Manner in which Small-Scale Mining License application may be made

- (1) An application for a license or a lease for a Small-Scale Mining Small-Scale Mining shall be in the form set out by the KPMMDD.
- (2) The application shall be handed over along with the requisite documents to the officer authorized in this behalf, by the KPMMDD.
- (3) The application, if complete in all respects, shall forthwith be allotted a registration number.
- (4) The incomplete application shall be returned along with the objections duly signed by the Authorized Officer.

112. Documents to be annexed to Small-Scale Mining License application.

- (1) An application for a license or a lease made under Rule 94 shall be accompanied by,
 - a. the original copy of the Treasury Challan pertaining to the deposit of such application fee as is notified by Government from time to time;
 - b. in the case of a corporate, company, partnership or other firm, an authenticated copy of incorporation documents ;
 - c. in the case of a limited company, a verified copy of each of the Memorandum and Sections of Association and Certificate of Incorporation;
 - d. fifteen (15) copies of the map duly signed by the applicant, showing the boundaries of the area in respect of which the license or lease is applied for. The map shall be prepared from the Survey of Pakistan Maps of Scale 1: 50,000 or nearest scale available. It will be sufficient compliance of this sub-Rule if only one (1) copy of the map or sketch plan showing area and grid lines is attached with the application and such fee for preparing fifteen (15) copies of the plan, as is notified by Government from time to time, is paid in advance; and
 - e. evidence of financial status of the applicant in the manner as may be prescribed by the KPMMDD from time to time
- (2) An applicant shall also furnish such other information as may be required by the KPMMDD. If the requisite information is not furnished within two (2) months, the application shall be liable to be rejected.
- (3) The information contained in the application or furnished to the KPMMDD in pursuance of an application made in accordance with these Rules, other than that incorporated in the register referred to in Rule X shall be treated as confidential by the KPMMDD.

113. Acknowledgement of application. The officer receiving the application under these Rules shall record thereon the date and time of its receipt and shall deliver to the applicant an acknowledgement stating the date and time of receipt.

114. Reciprocity. A license or a lease shall not be granted to, or held by, any person who is or becomes controlled directly or indirectly by a national of, or by a Company incorporated in, any country the laws and customs of which do not permit subjects of Pakistan or

companies incorporated in Pakistan to acquire, hold and operate mining concessions or similar investments on conditions which, in the opinion of Government, are reasonably comparable with conditions upon which such rights are granted to nationals of that country in Pakistan.

115. Application by a foreign company In the case of an application for a license or lease by a foreign company or in the case of an application by a Holder or a lessee for the Government's consent to the assignment of a license or a lease to a foreign company or a company incorporated outside Pakistan, such license or lease shall only be granted or assigned to a company incorporated in Pakistan for the purpose of receiving and working any such license or lease.

116. Register of application.

(1) The KPMMD shall maintain a register of applications for licenses and leases containing the following columns:

- a. Serial No.
- b. Date and time of the receipt of application.
- c. Particulars of the applicant.
- d. Mineral for which a license or a lease is required.
- e. Period for which a license or a lease is required.
- f. Full particulars of the area applied for.
- g. Application fee paid.
- h. Final orders regarding disposal of the application.
- i. Remarks, if any.

(2) The register maintained under sub-Rule (1) and the Master Plan showing the area in respect of which a lease or a license has been applied for or granted shall be open to public for inspection on payment of such fee as is notified by Government from time to time.

Explanation. Master Plan means such Survey of Pakistan Map on which the areas applied for and the areas granted under licenses and leases are marked by the KPMMD for record.

117. Separate application to be made for each area and each mineral. A separate application shall be made in respect of each area and for each mineral.

118. Grant of more than one license or lease to the same person. More than one license or lease may be granted to the same person.

119. Availability of area and mineral. On receipt of the application, the KPMMD shall, before granting any mining concession, ascertain that the area applied for does not overlap with an area already covered by a license or a lease

120. Priority. More applications than one (1) for the grant of license or a lease in respect of the same mineral or area, unless the KPMMD decides otherwise on valid grounds.

121. Refusal to grant license or lease. If, in the opinion of the KPMMD, it is not expedient to grant license or a lease, it shall refuse the application, recording reason of refusal.

122. Lapse of right to license or lease. If a Holder or a lessee fails to submit the accepted copy of the plan of the granted area, demarcation certificate and prospecting/development scheme in the manner as prescribed under these Rules, within the time period fixed in the Allotment Letter, the KPMMD, after providing an opportunity to explain the delay, may terminate the mining concession if any granted:

Provided that the KPMMD may condone the delay in submission of the said documents imposing a fine at the rate of one thousand rupees for each month or a part thereof.

123. Terms and conditions of licenses and leases. A license and a lease shall stand granted on the issuance of Allotment Letter by the KPMMD and may include such clauses relating to ancillary matters as the KPMMD may deem fit to insert.

124. Assignment. A lessee shall not transfer any right or interest in the license or the lease, nor part with the possession of the area or any part thereof, without prior approval in writing of the KPMMD.

125. Method of making application for assignment

- (1) an application for assignment under these Rules shall be submitted at least one (1) year before the expiry of the lease in the Form set out by the KPMMD and shall be accompanied by such fee as is notified by Government from time to time.
- (2) The applicant shall furnish in the application all such particulars in respect of the proposed assignee as are required in case of an application for a lease under these Rules and shall annex the requisite documents.
- (3) The application shall be presented in person and signed both by the assignor and assignee in the presence of the KPMMD or the officer authorized in this behalf.

126. Security deposit

- (1) Every applicant shall, before a license or a lease is granted or assigned to him, deposit a security in respect of such license or lease at the rate and in the form notified by Government.
- (2) Subject to the provision of these Rules, if a license is converted into a lease, the security deposited under sub-Rule (1) shall be adjusted towards security for the lease.

127. Right of surrender. A Holder or a lessee desirous of surrendering the area under license or lease, in whole or in part, shall give at least one (1) month prior notice in writing to the KPMMD:

Provided that where the lease has been mortgaged or charged in favor of a financing institution, the Holder or the lessee shall not be entitled to surrender the lease in whole or in part, except with prior approval in writing of the KPMMD:

Provided further that in the case of partial surrender, the area to be retained shall not be less than the economic limit fixed by the KPMMD and the shape of the area shall be subject to provisions of Rule X.

Provided further that on the partial surrender of the area, the Holder or the lessee, as the case may be shall become entitled to proportionate reduction in annual fee or dead surface rent but the annual fee or the dead surface rent that has already become due from or paid by the Holder or the lessee shall not be refunded.

128. Publication. Within ten (10) days after the grant, renewal, assignment, surrender, determination, or lapse of any license or lease under these Rules, the KPMMD shall publish notice of such grant, assignment, surrender, determination, or lapse stating the name of the Holder, the lessee or the assignee and a brief description of the area concerned in the Official Gazette.

129. Refund of security deposit. If the KPMMD is satisfied that the provisions of these Rules have been duly complied with, on the expiry, surrender, lapse or determination of a license or a lease, the amount of the security deposit may be refunded to the Holder or the lessee, as the case may be after making deduction towards surface rents, royalties, penalties or any other amount outstanding against him under these Rules.

130. Shape of area. Each area in respect of which a license or a lease is granted shall, as far as practicable, be in a compact shape and shall be limited by well marked/permanent physical boundaries to be bounded by straight lines:

Provided that where a gap of one hundred meters (100m) or less exists between the licensed or leased area it shall not be granted to the applicant.

131. Release of lands included by inadvertence. In the event of the inclusion, by inadvertence, of the area under a license or a lease in respect of which it may subsequently transpire that the rights for the same mineral have already been granted to another individual, firm or Company or part of the area has been included through typographical or clerical mistake, the Holder or the lessee shall immediately release to the KPMMD any such land or area when required to do so by the KPMMD without any claim or compensation:

Provided that the investment made on the development of the granted mineral at that area, including infrastructure, if any, shall be fairly assessed by the KPMMD and paid to the Holder or lessee by the person to whom the area is subsequently granted

132. Overlapping Areas: Grant of other minerals over the already granted area for a mineral.

- (1) The KPMMD may grant one (1) mineral over one (1) area to a Holder.
 - (a) In case of discovery of another mineral over the same area, the right of acceptance or refusal for the grant of second mineral would be offered to the Holder within a specified period.
- (2) In case of no response or refusal of the Holder or lessee for the grant of second mineral located apart separately, the KPMMD may delete any viable portion of the area containing the other mineral for grant to the other person, or grant a Mineral Title over the same area for the other mineral or mines in favor in any other person.
- (3) In case two (2) different minerals are inter-bedded, associated or closely located, the KPMMD shall direct the Holder or lessee to get the grant of second mineral for systematic mining operation and utilization of mineral resource, within three (3) months failing which the main lease/license may be cancelled.
- (4) The second applicant shall deposit application fee as prescribed by Government, for grant of the applied mineral.
- (5) Where mineral rights are overlapping, written agreement from the Holder and new Holder shall be registered as part of the Title Registry including any specific terms and conditions related to rights of way, access to the mining area, and other relevant aspects.

133. Mode of Payments.

- (1) All amounts payable under these Rules, unless otherwise prescribed by the KPMMD, shall be deposited into Government Treasury or into any bank authorized by Government for the purpose, under the Head of Account specified by the KPMMD from time to time.
- (2) The receipt or the challan shall, in original, be submitted to the KPMMD.

Part-XIV - Prospecting Licenses

- 134. Grant of Prospecting License.** The KPMMD may in accordance with these Rules grant a Prospecting License for a mineral over the area specified therein provided the applicant is considered fit.
- 135. Area.** Except as otherwise determined by Government, a Prospecting License shall not be granted in respect of any area of more than five square kilometres (5 sq km).
- 136. Register of Prospecting License.** The KPMMD shall maintain a register of license granted by it, specifying--
- (a) number of the Prospecting License;
 - (b) mineral for which the license is granted;
 - (c) name and address of the Holder;
 - (d) particulars of the Holder whether individual, firm or company;
 - (e) date of grant of the license;
 - (f) total area;
 - (g) situation and boundaries of the area;
 - (h) amount of security deposit;
 - (i) particulars of disposal or refund of security deposit;
 - (j) dates of renewals;
 - (k) date of conversion of license into lease; and
 - (l) remarks, if any.
- 137. Period of Prospecting License.** The license shall, in the first instance, be valid for a period of two (2) years.
- 138. Holder's rights under a Prospecting License.** A license shall, subject to these Rules and conditions contained in the license, confer on the Holder the rights given in the Allotment Letter.
- 139. Renewal.** Subject to the Holder having carried out the working obligations under Rule 124, the KPMMD may grant renewal of the license for a period of twelve months at any one time to enable the Holder to complete the prospecting work as laid down in the approved prospecting scheme:
- Provided that the total period of the license including the initial period shall not exceed five (5) years:
- Provided further that the Holder shall apply in writing to the KPMMD for renewal at least one month before the license expires. The KPMMD may, however, condone the delay in the submission of the application, subject to fine, as fixed by Government.
- Explanation:** The period of a license shall be reckoned from the initial date of grant of the license, irrespective of any assignment made during the currency of the license.

140. Right of a Holder for renewal of his Prospecting License, on applying for Mining Lease. The Holder having applied for the grant of a lease over the area specified in the license before the expiry of the license shall have the right to renewal of the license

141. Prospecting Work Program

- (1) The Holder shall, in respect of the areas covered by each license, prepare and submit, within two (2) months of the grant of the license, a scheme of prospecting for the approval of the KPMMD and shall not commence the operations unless the scheme has been approved.
- (2) The scheme shall inter alia include,
 - a. location of the area;
 - b. nature of a mineral prospect;
 - c. methods of prospecting including machinery and equipment to be used;
 - d. phasing of prospecting operations;
 - e. technical personnel to be employed;
 - f. details of roads, residential accommodation for staff and labourers; and
 - g. phase-wise estimated expenditure on the scheme.
- (3) The scheme shall be accompanied by geological summary reports and maps, plans as required by KPMMD.
- (4) The KPMMD shall communicate the approval of the scheme to the Holder within sixty (60) days of its receipt.
- (5) If, in the opinion of the KPMMD, the Holder fails to fulfill the working obligations as required by the scheme, the Holder shall forfeit the right to renewal of the license or the grant of lease over any part of the area covered by the license.

142. Annual fee

- (1) The Holder shall pay such annual fee as is notified by Government from time to time for the area covered by the license. The fee shall be enhanced by twenty-five per cent (25%) over the last fee paid each time the license is renewed. The fee shall also be payable for the period of renewal granted under Rule X, as a single renewal or term, as the case may be.
- (2) The fee shall be payable for each mineral separately even if the area under license for different minerals is the same.

143. To plug boreholes, etc.-Save in the case of area over which the license has been granted, the Holder on or before the determination of the license, shall, within one month after the determination of the license or the date of abandonment of the under-taking, whichever may occur earlier, securely plug all mines and fill up or fence any holes or excavations that he may have made in the area to such extent as the KPMMD may require and shall, to the like extent restore the surface of the land and all building thereon which he may have damaged in the course of prospecting;

144. Exclusive Right of the Holder to a Mining Lease. Subject to the provisions of these Rules, the Holder shall have an exclusive right to a lease:

Provided that the Holder has carried on geological prospecting to the satisfaction of the KPMMD, proved mineral reserves and has been paying all Government dues regularly and has paid such compensation, if any, as is provided in these Rules:

Provided further that the Holder shall apply in the prescribed form along with documents as laid down under Rule X, for the grant of a lease at least one (1) month before the expiry of the License. The KPMMD may, condone the delay up to a maximum period of two (2) months in the submission of such an application after imposing a fine at the rate of thousand rupees for each month or a part thereof.

- 145. Disclosing the information acquired by the Holder during the course of operations.** If so required by the KPMMD, the Holder shall, before the security is returned to him under Rule X, disclose to the KPMMD all information acquired in the course of the operations carried on under the license regarding the mineral(s) contained therein, and geological formation of the mineral resource not taken for granted under a Mining Lease.

Part-XV - Mining Lease

- 146. Grant of Mining Lease.** The KPMMD may grant a Mining Lease in accordance with these Rules, for a mineral over the area specified therein provided the applicant is eligible under these Rules.
- 147. Area.** Except where special exemption is granted by Government, no lease shall be granted in respect of an area of more than five square kilo meters (5 sq km).
- 148. Register of Mining Leases.** The KPMMD shall maintain a register of leases granted by it, specifying,
- (a) number of the Mining Lease;
 - (b) mineral for which lease is granted;
 - (c) name and address of the lessee;
 - (d) particulars of lessee, whether individual, firm or Company;
 - (e) date of grant of lease;
 - (f) period for which granted;
 - (g) total area
 - (h) situation and boundaries of the land;
 - (i) amount of security deposit;
 - (j) particulars of development/ exploitation scheme.
 - (k) dates of renewals with periods.
 - (l) date of assignment of the lease;
 - (m) particulars of the assignee; and
 - (n) remarks,

Provided that the KPMMD may renew the lease for the whole area or only a part thereof but not less than fifty square kilometers (50 sq km).

- 149. Lessee's right under a lease.** A lease shall subject to these Rules and the conditions contained in the lease, confer on the lessee the rights as envisaged in these Rules.
- 150. Submission of development and exploitation scheme.**
- (1) An applicant for grant of a lease or its renewal shall also submit, along with the application, a development/exploitation scheme for the approval of the KPMMD. The scheme shall be prepared and authenticated by a qualified mining engineer and exploration economic geologist.
 - (2) The development scheme shall, inter alia, include,
 - a. a detailed account of the work done during the prospecting period, geological description and evaluation of the major deposits along with a detailed geological survey report and plan of the area on a scale preferably 1:50,000 or as prescribed by the KPMMD from time to time, in case the applicant already holds a license for the area for which he makes an application for a lease;

- b. a detailed plan of the area on a scale of 1:50,000 or as prescribed by the KPMMD from time to time showing its location, outcrop, topography, existing / proposed mines and other infrastructure/provisions.
 - c. location and geological description of the major deposits prepared and compiled by exploration economic geologist.
 - d. estimated reserves;
 - e. planned minimum rate of production;
 - f. method of mining, including machinery and equipment to be used;
 - g. names, resumes and detailed information on relevant mining experience of key technical personnel to be employed at various stages of development/exploitation;
 - h. details of the materials, methodologies to construct roads and other surface infrastructure as well as underground construction including but not limited to stores and lamps rooms, workshops, benefaction and mineral dressing plants, office and residential accommodation and facilities for staff and labor to be provided;
 - i. time schedule for all the work involved;
 - j. First year time-bound actions for development; and
 - k. estimated phased expenditure on the scheme with detailed break up of costs.
- (3) The applicant shall furnish plans or proposals to illustrate, justify and amplify the development/exploitation scheme.

151. Approval of development/exploitation scheme

- (1) The KPMMD may subject to such modifications as may be required approve the development/exploitation scheme, within a period of ninety (90) days from the date of submission of the scheme. The development scheme shall be implemented through a phase-wise program of development/exploitation approved by the KPMMD.
- (2) If the development scheme is rejected, the KPMMD shall communicate to the applicant the reasons for such rejection. The applicant shall within months of the receipt of such communication, submit a revised scheme to the KPMMD, failing which the right of the applicant for the grant of the lease shall lapse.

152. Keeping development/exploitation schemes at mines. The lessee shall at all times keep a copy of the approved development scheme and latest working plans at the mine site.

153. Commencement of operations

- (1) Unless the KPMMD, for sufficient reasons otherwise directs, the lessee shall commence operations from the date of the communication of the written approval of the development/exploitation scheme to the Holder from KPMMD.
- (2) The lessee shall carry out operations in a skilful and workmanlike manner and in accordance with the approved development scheme.

Explanation: It shall amount to non-fulfilment and breach of working obligations, if the lessee, without sufficient cause, fails to produce enough minerals so as to earn Royalty at least equal to the dead surface rent within one (1) year of the commencement of the operations.

154. Period of Mining Lease.

- (1) The initial term of a lease shall be up to thirty (30) years.
- (2) If a lessee has carried out all the working obligations under these Rules and implemented the development/exploitation scheme to the satisfaction of the KPMMD and if he has paid all the dues on account of surface rents, Royalty, penalties, damages and surface rent as required under these Rules, the KPMMD may grant further renewal of the lease for a period up to thirty (30) years at a time, on the terms and conditions as prescribed in these Rules:

Provided that the lessee shall apply to the KPMMD in writing, in the prescribed form for renewal for not more than two years and not less than one year before the expiry of the term already granted to him:

Provided further that the KPMMD may condone the delay in submission of the application in appropriate cases, upto a period of six (6) months after imposing a fine at the rate of thousand rupees for each month or a part thereof.

Provided further that the lessee having applied for the grant of renewal of the lease under these Rules shall have a right to work in the area till the request has been refused.

Provided further that the KPMMD may renew the lease for the whole area or only a part thereof, if so applied by the lessee. In case of renewal over part of the area, the balance area may be leased out to any other person.

- 155. Failure to act according to the development/exploitation scheme.** If at any time but not less than six (6) months after the grant of the lease, or its renewal it is found that the lessee is not working in accordance with the approved development scheme, the KPMMD may impose a fine of five thousand rupees and shall direct the lessee in writing to rectify the violations within six months:

Provided that if the lessee fails to rectify the violations without cogent (more specifics recommended) reasons within the time limit fixed by the KPMMD, the lease may be cancelled.

- 156. Six month surface rent.** The lessee shall pay a fixed six (6) month surface rent in advance on January 1 and July 1 each year and a proportionate advance dead surface rent for the broken period, if any, at the commencement or termination of the lease, at such rate as is notified by Government from time to time:

Provided that the lessee shall pay either Royalty or the dead surface rent, whichever is higher.

Part-XVI - Miscellaneous

157. Royalty

- (1) A Holder or a lessee shall, on January 1 and July 1 each year, pay Royalty at such rate and in such manner as prescribed by Government from time to time on all minerals produced and carried away.
- (2) In case of non-payment of surface rent and Royalty dues within the grace period of two (2) months, a penalty at the rate of one per cent of the outstanding dues for the delay of every month or part thereof shall be charged from the date the payment became due.

158. Compensation. A Holder or a lessee shall pay such compensation as may be assessed in accordance with the law for the time being in force for all damage, injury or disturbance which may be done by him in exercise of the powers granted by the license or the lease and shall indemnify the KPMMD against all claims which may be made by third parties in respect of any such damage, injury or disturbance.

159. Land Compensation (1) A Holder or lessee shall pay, for all Government land which it may use or occupy superficially for the purposes of the operations conducted under the license or the lease, a land compensation and water rates at the rate assessable under the revenue or any other law or Rules in the district in which the land is situated:

- a. Provided that if no such surface rent is assessable under the existing law, the surface rent and the water charges shall be paid at the rate fixed by the KPMMD
- (2) If the land belongs to a private person, a lessee or a Holder shall pay compensation to the owner of the land for the area actually used or occupied superficially land and in such manner as may be mutually agreed upon between the lessee and the land owner and in case of disagreement between them, at such rate and in such manner as may be determined by the KPMMD.
- (3) While determining the rates of land compensation, the KPMMD shall pay due regard to the nature of the area, location, and land value.
- (4) In case of violation of the decision of the KPMMD by Holder, Lessee or land owner(s), action shall be taken under Rule X.
- (5) The private agreement for land compensation executed between the Holder or lessee and the land owner(s) shall be registered in the concerned court of Law.
- (6) Payment of land compensation to the landowner (s) shall be made through concerned revenue authority.
- (7) Notwithstanding the provision of Rule X, the KPMMD may, in case of persistent interference and creating obstruction/abstraction in the exploration, prospecting, or mining operations of a Holder or lessee by the land owner(s) in any manner after settlement or fixation of land compensation by the KPMMD, under sub Rule (2) the KPMMD may on the request of the Holder or lessee proceed to acquire the land under the Land Acquisition Act, 1894 (Act No. 1 of 1894), required for the said operations or any other ancillary matter:
 - a. If in the opinion of the KPMMD, it is necessary to acquire land to provide access to the licensed or leased area or if such a request is made by a Holder or lessee, the KPMMD may proceed to acquire the requisite land under the Land Acquisition Act, 1894 (Act No. 1 of 1894); provided that before proceeding under

this Rule, the KPMMD shall give the parties reasonable opportunity of being heard.

b. The cost of land acquired under clause (i) shall be borne by the Holder or lessee.

160. Not to cut or injure any tree. A Holder or a lessee shall not cut or injure any tree on Government land or on reserved forests without the prior permission in writing of the KPMMD or of such officer or officers as the Government may authorize in this behalf.

161. Operation in the reserved and protected forests.

- (1) Every application for the grant of Prospecting License or a Mining Lease in a reserved or protected forest shall be referred to a Technical Committee constituted by Government, having members one (1) each from Directorate General of Mines & Minerals and Environment Department. The decision of the Technical Committee on the application shall be final. In case of any disagreement between the members of the Technical Committee, the matter shall be referred to the Mining Commission for appropriate decision.
- (2) All surface and sub-surface exploration prospecting and mining operations within a reserved or protected forest shall be subject to such terms and conditions as may be prescribed by the Committee and approved by the KPMMD.
- (3) All operations conducted under these Rules within a reserved or protected forest shall be subject to such conditions as Government may, from time to time, by a general or a special order, prescribe.
- (4) It shall be a condition of every license or lease granted under these Rules that before the commencement of prospecting or mining operations within a reserved or protected forest, thirty days notice shall be given to the Forest Officer concerned of the intention to commence operations.
- (5) The operations shall be conducted subject to such precautions regarding prevention of fire and conservation of forest as the Holder or the lessee may from time to time, be required by the KPMMD.

162. Limits of Boundaries. The boundaries of the area covered by a license or a lease shall run vertically down-wards below the surface towards the centre of the earth.

163. Demarcation of Area.

- (1) A Holder or a lessee shall, within sixty (60) days of the issue of the license or a lease, cause the granted area to be demarcated on ground according to the survey data and submit a certificate on the prescribed form signed by a Registered Surveyor of having carried out the said boundary demarcation.
- (2) On receipt of the certificate referred in sub-Rule (1), the KPMMD may cause boundary demarcation to be checked and corrected on payment of fee to be notified by Government.
- (3) A Holder or a lessee may get his area demarcated officially, after paying such fee as may be notified by the KPMMD from time to time.
- (4) A Holder or a lessee shall not commence prospecting or mining operations unless he has submitted the demarcation certificate to the KPMMD and it has been approved.
- (5) A boundary dispute in respect of the licensed or leased area, shall be referred to the KPMMD whose decision shall be final.

164. Boundary marks. The Holder or the lessee shall, at its own expense, erect and at all times maintain boundary marks and pillars standing not less than one meter (1 m) above the surface of the ground and being not less than one square meter (1 sq m) in diameter at the base at every angle or corner of boundary lines to be fixed according to the demarcation under Rule X.

- (1) The lessee at his own expense shall, within fifteen (15) days of issue of allotment letter, cause the granted area demarcated on ground according to the survey data and erect and maintain at all times correct/permanent boundary marks and pillars standing not less than one meter above the surface of the ground and being not less than half meter square or in diameter at the base at every angle or corner of boundary line. In case, the lessee fails to erect or maintain the boundary pillar, the KPMMD or its authorized agent may impose penalty at such rate as prescribed by Government.
- (2) The KPMMD may demarcate the area officially on payment of such fee by the lessee as prescribed by Government.
- (3) Artisanal License boundaries shall be erected by KPMMD.
- (4) Any boundary dispute, in respect of the leased area, shall be referred to the KPMMD, whose decision shall be final.

165. Not to construct buildings upon any public place, etc. A Holder or a lessee shall not erect any building or carry on any surface operation upon any public recreation grounds, graveyards, or place held sacred by any class of persons or any house, village site, or public road or any other place which Government or the KPMMD may specify in this behalf.

166. Not to work within one hundred meters from any railway line, etc. A Holder or a lessee shall not carry on or permit to be carried on any prospecting or mining operations at or up to any point within a distance of one hundred meters from any railway line, reservoir, canal, power line, gas pipeline or other public works, or building or place of archaeological importance except with the previous permission of the concerned authority and in accordance with such conditions as may be imposed. The same distance demarcation shall apply for underground operations.

167. Distance from boundaries. No prospecting or mining operations shall, except with the prior consent in writing of the KPMMD, be carried on by the Holder or the lessee in or under the licensed or leased area at or to any point within a distance of fifty meters from the boundaries of the area.

Land

(1) A License or Mining Lease granted by the Mines and Minerals Development Department entitles the holder to enter the land included within the license area.

- a. The holder of a license shall not exercise the rights conferred by the license in respect of any portion of a license area dedicated to any public purpose other than mineral operations including any street, road, or highway except with the written consent of the responsible Government authority having control over such area.
- b. The Holder shall not exercise the rights conferred by the License in respect of Land as listed below without the written consent of the surface owner or lawful occupant,
 - i. within XXX meters of any land dedicated as a place of burial ground or a place of religious or other cultural significance except with written consent of the appropriate Government agency;

- ii. within one hundred (100) meters of oil or gas installation, pipeline or other facility except with written consent of the regulatory Government agency;
 - iii. within one hundred (100) meters of any Land reserved for the purpose of any railway, highway or waterway or land except with the written consent of the authorized railway, highway or waterway authority; and
 - iv. within two hundred XXX meters of any town or village except with the written consent of the local authority; or
- (2) Mining operations shall not be conducted on Land which is legally declared a national park, wildlife sanctuary or otherwise legally protected Land.
- (3) Where necessary for access to a mining area or in connection with mining or related infrastructure, a holder may apply to the appropriate land owner or Government authority for a “Right of Way”. The term of the easement shall be identical to the license/lease term in relation to which the easement applies.
- a. The Holder shall enter into a written agreement where the land owner or legal occupant.
- 168. Use of Land.** The holder of a License or Lease shall not, without the prior written permission of the appropriate authority,
- a. cut or injure any tree on occupied Land;
 - b. disturb the surface of any road;
 - c. enter on any public park or ground, cremation site or graveyard, or place held sacred by any class of Persons; or
 - d. interfere with any right of way, well, tank or cultivated agricultural land.
- 169. Weighing Machine.** A Holder or a lessee shall provide at or near the mine or quarry a properly constructed and correct weighing machine or other suitable means for determining the weight or quantity of the mineral produced.
- 170. Books and Records.(Recommend this be a stand-alone Part)**
- (1) A Holder or a lessee shall, at all times, keep in the form prescribed by the KPMMD, complete record at the mine premises showing the quantity of the minerals obtained and dispatched from the mines on the authenticated register issued by it or its authorized representative. The Holder or the lessee shall also maintain the record showing the number of mines and person employed therein and complete plans of the mines. The minerals excavated from any licensed or leased area shall be dispatched from the area on the prescribed dispatch slips duly authenticated by the KPMMD or its authorized representative:
- Provided that dispatch slips shall clearly indicate the date, license/lease No., name of buyer, vehicle No., quantity of mineral and its destination:
- Provided further that any vehicle/carrier carrying mineral without prescribed dispatch slip duly authenticated by the KPMMD or its authorized representative shall be considered as unauthorized excavated mineral and shall be dealt with accordingly.
- (2) A Holder or a lessee shall allow the officer so authorized by the KPMMD in that behalf to examine such record and plans, to take extract, or if necessary, collect record for scrutiny on giving a receipt therefore:

- (3) If a Holder or a lessee fails to produce the record at the mine premises at the time of inspection, he shall render himself liable to a fine of five thousand rupees to be imposed by the KPMMD:

Provided that the KPMMD, before imposing penalty, shall afford the Holder or the lessee an opportunity of being heard.

171. Confidentiality

- (1) All information, data and reports submitted or required by these Rules shall be considered as non-confidential unless prescribed in these Rules or Regulations to be confidential.
- (2) Technical, geological and financial records or reports submitted under a license or lease shall be treated as confidential and not be divulged without the written consent of the holder. Such record or reports shall become non-confidential,
- a. For Large-Scale Mining, one hundred eighty (180) business days after expiry or termination of the license unless otherwise prescribed under the provisions of these Rules;
 - b. For Small-Scale Mining, ninety (90) days after expiry or termination of the license or lease unless otherwise prescribed under the provisions of these Rules;
 - c. For Construction Materials, immediately after expiry or termination of the license.
- (3) The information stipulated in Sub-Rule (2) of this Section may be disclosed in the following:
- a. Where the disclosure is necessary for the purposes of these Rules, and Regulations;
 - b. Where the disclosure is considered necessary for the purposes of a prosecution; and/or
 - c. Any public official who, by virtue of his official capacity or former official capacity, has access to any confidential information that might reasonably be expected to affect materially a mineral activity shall not disclose such information unless otherwise prescribed under these Rules.

172. Submission of production returns. A Holder or a lessee shall send monthly returns of production and dispatch of mineral to the KPMMD in the prescribed form on or before the fifteenth (15th) day of each succeeding month. In case there is no production of mineral in any month, a NIL report shall be submitted with reasons thereof.

173. Submission of Periodical Returns. A Holder or a lessee shall be required to abide by all instructions issued by the KPMMD from time to time regarding the maintenance of record of production and system of dispatch of mineral from the licensed or leased area, and-

- a. submit at the end of every year balance sheet account audited by a qualified and registered Auditor and such other information and periodical returns as may from time to time be required by the KPMMD;
- b. submit statistical data, geological reports, including geological and geochemical interpretation, mineral analysis, photographs, ore logs, tests and such information as may be required by the KPMMD or a statistical organization in such form as may be prescribed; and

- c. meet any target of production fixed by the KPMMD based on the off-take of mineral.

174. Inspection. A Holder or a lessee shall provide the KPMMD, or an officer authorized by the KPMMD in this behalf, all reasonable facilities to enter upon the mine premises including underground workings for purposes of inspection of mines and shall also make available all records at the mines and else-where for carrying out survey, measurement, examination and matters, ancillary or incidental to the matters set out in these Rules.

175. Strengthening and supporting mines. A Holder or a lessee shall strengthen and support to the satisfaction of the KPMMD, whole or any part of the mine when, in its opinion such strengthening or support is needed for the conservation of the mineral and safety of personnel or any railway, reservoir, canal or any other public work or any building, affected by such operations.

176. Power to assess and claim compensation for damage to mineral property.

- (1) In the event of any damage caused to the mineral property due to un-scientific working, lack of supervision, negligence or any other omission or commission on the part of a Holder or a lessee, the KPMMD shall assess by reasonable means the extent of the damage and the compensation shall be payable thereof by the Holder or the lessee:

Provided that before so doing, the KPMMD shall afford the Holder or the lessee a fair opportunity of being heard and to explain its position.

- (2) The decision of the KPMMD under this Rule shall be final.
- (3) The Holder or the lessee shall be liable to pay the compensation so assessed in the same manner as arrears of surface rents and royalties are payable.

177. Non-conservational mining activities

- (1) If, on inspection or otherwise, the KPMMD has reasons to believe that a Holder or a lessee is working in a manner contrary to the conservation of mineral property, the KPMMD may require the Holder or the lessee in writing to remove the defects or amend the method of mining or prospecting after counseling with the Holder or lessee within a period to be determined by the KPMMD subject to the condition that the period shall not exceed four (4) months in any case.
- (2) If the Holder or the lessee fails to comply with the instructions within the specified period, the KPMMD shall suspend the work of the extraction of mineral in whole or in any part of the area demised under license or lease till such time the defects are removed to the satisfaction of the KPMMD.
- (3) If the defects are not removed or the method of mining is not amended as agreed after counseling the KPMMD within four (4) months from the date of the stoppage of work, the license or the lease may be cancelled.
- (4) If prior approval of the KPMMD is not obtained, a Holder or a lessee shall not depillar or abandon mines unless depillaring is the part of the approved scheme.

178. Under-reporting of mineral production.

- (1) If, as a result of inspection of the mines or areas demised under the license or the lease or otherwise it is discovered on available evidence that the Holder or the lessee has under-reported mineral production, the KPMMD shall charge Royalty up to ten times the notified rate, on the quantity of mineral under reported by the Holder or the lessee,

forfeit the security deposit and may also cancel the license or lease on the merits of the case:

Provided that no action under this Rule shall be taken without giving the Holder or the lessee an opportunity of being heard.

(2) An entry in the record of the Holder or lessee shall be made regarding under reporting and shall be exhibited at the time of the renewal of the license or the lease.

179. Employment of technical personnel. A Holder or a lessee shall employ such technical personnel as is reasonably required by the KPMMD, under the laws, Rules, regulations regarding mines safety for the time being in force.

180. Training. A Holder or a lessee shall, when asked to do so by the KPMMD, arrange and provide facilities for training to students of any Mining Engineering Institution or to any other person associated with profession of Engineering, Geology, Environment or other related sciences as well as legal, financial, social and commercial aspects of mineral development.

181. Access to other Holder or lessee both on surface and underground. A Holder or a lessee shall allow existing and future license or lease Holders of any area which is comprised in or adjoins or is reached by the land held by the Holder or the lessee all reasonable facilities of surface or underground access thereto, on the terms and conditions as may be determined by the KPMMD.

182. Discovery of other minerals. A Holder or a lessee shall, without delay, report to the KPMMD the discovery on or within any of the lands or mines demised under the license or the lease of any mineral not specified in the license or the lease, but he shall not, unless a fresh license or lease in respect of the mineral so discovered is granted to him under these Rules, have any right to that mineral.

183. Pre-emption. Government shall at all times have the right of pre-emption of the minerals lying upon the land in respect of which a license or a lease has been granted, or elsewhere under the control of the Holder or the lessee:

Provided that a fair market price for all minerals taken in pre-emption shall be paid to the Holder or the lessee.

184. Meeting the internal requirements of Pakistan. Government shall have the right to require a Holder or a lessee,

- a. to meet the internal requirements of Pakistan to the satisfaction of Government before exporting any mineral or its products to other countries;
- b. to associate Pakistan capital subject to any law for the time being in force of all classes of capital and debentures issued by him; and
- c. to employ nationals of Pakistan in his organization in all grades and in all branches including technical and administrative personnel and to arrange for the training in Pakistan or abroad of the nationals of Pakistan to fill up these appointments. The number of Pakistan nationals to be employed or trained will be determined by Government in consultation with the Holder or the lessee.

Reserved Area

(5) The KPMMD may, for the purpose of securing public interest and based on the existing Government geological information, propose for endorsement to the Mining

Commission an area to be a “Reserved Area” that may or may not have a fixed term. Reserved area would be granted through bidding.

- (6) An area under existing license or an area where a license application has been submitted may not be declared as a Reserved Area.

Prohibited Area

- (1) The KPMMD, for the purpose of preserving the national interest, including the health and safety of the population, national security, securing the public order, the incompatibility of the mineral activities and quarry activities with other uses of the soil, land surface, underground resources, the protection of the environment, archeological or cultural heritage or other natural values, or in case the social welfare will be affected, may submit a proposal for approval of Government after the endorsement of the Mining Commission to declare an area as restricted in scope for mineral activities.
- (2) The details related to the determination of an area as a Prohibited Area, with respect to its duration for a fixed or non-fixed term, shall be set forth in relevant Regulations.

Designated Area

- (1) The KPMMD may, for the purpose of encouraging exploration and exploitation activities, in consultation with local residents and with respect to the public interest, declare an area and identification of its mineral type to be a “Designated Area” for the licensing of Small-Scale or Artisanal mining operations.
- (2) The KPMMD may, after a period of consultation with local residents, revoke a Designated Area in accordance with provisions of these Rules and relevant Regulation.

Restricted Minerals

- (1) The KPMMD may, for the purpose of securing national interest, national security, health and safety of population, social order and preservation of environment, declare a mineral or minerals to be Restricted for a fixed or non-fixed term upon the endorsement of the Mining Commission.
- (2) All radioactive minerals and rare earth elements are considered to be Restricted Minerals.

Record of affected lands

- (1) The KPMMD shall record the lands affected by the classifications of mineral substances or designations of areas or existence of restricted substances in the Mining Cadastre and within seven (7) business days of such classification, designation, or declaration of substances as restricted substances, a list of such lands shall be made available for land owners, license and lease holders and the general public.

185. To ascertain and verify the value of precious stones, etc. The KPMMD may from time to time ascertain and verify in such manner as it may deem fit, the value of all precious stones and other minerals, ore and metals dressed or extracted by a Holder or a lessee for the purpose of ascertaining the Royalty payable under these Rules.

186. Change in the constitution of the Holder or lessee. A Holder or a lessee may issue any fresh capital or make any change in its constitution which shall be intimated in writing within thirty days to the KPMMD, which may finally confirm it:

Provided that if more than fifty per cent transfer of capital/share is involved, the case shall be dealt with in accordance with Rule X of these Rules.

187. Exclusion of lands for public purposes. If an area or a portion thereof held under a license or a lease is required at any time for any public purpose, the Holder or the lessee shall forthwith release to the KPMMDD such area and to such extent as is required by Government under such terms and conditions as may be determined by the KPMMDD:

Provided that the Holder or lessee shall be paid the compensation of the investment made in the said area or part thereof to be assessed by an umpire appointed by the KPMMDD:

Provided further that where any area excluded as above becomes subsequently available for the purpose of grant under license or lease, the previous Holder or the lessee shall have prior right over such area if his original license or lease subsists.

188. Report of accident A Holder or a lessee shall report immediately to the KPMMDD any incident of fire, explosion, inundation or roof-fall causing damage to mineral property or loss of human life. The KPMMDD may direct an enquiry to assess the loss caused to mineral property and reasons thereof. In case, it is proved to the satisfaction of the KPMMDD that the accident had taken place due to the negligence of the Holder or the lessee, appropriate action against the defaulter shall be taken under these Rules or any law for the time being in force.

(1) **Mine operators** must call immediately, but not later than **15 minutes** from the time they know or should know that an accident has occurred to KPMMDD. "Immediately Reportable Accidents and Injuries" include:

- A death of an individual at a mine
- An injury to an individual at a mine which has a reasonable potential to cause death
- An entrapment of an individual for more than thirty minutes or which has a reasonable potential to cause death
- An unplanned inundation of a mine by a liquid or gas
- An unplanned ignition or explosion of gas or dust
- In underground mines, an unplanned fire not extinguished within 10 minutes of discovery; in surface mines and surface areas of underground mines, an unplanned fire not extinguished within 30 minutes of discovery
- An unplanned ignition or explosion of a blasting agent or an explosive
- An unplanned roof fall at or above the anchorage zone in active workings where roof bolts are in use; or, an unplanned roof or rib fall in active workings that impairs ventilation or impedes passage
- A coal or rock outburst that causes withdrawal of miners or which disrupts regular mining activity for more than one hour
- An unstable condition at an impoundment, refuse pile, or culm¹ bank which requires emergency action in order to prevent failure, or which causes individuals to evacuate an area; or, failure of an impoundment, refuse pile, or culm bank
- Damage to hoisting equipment in a shaft or slope which endangers an individual or which interferes with use of the equipment for more than thirty minutes
- An event at a mine which causes death or bodily injury to an individual not at the mine at the time the event occurs

¹ Culm is strata of mainly shale and limestone with some coal thin coal seams; likely present in KP

(2) **Subcontractors are required to report in accordance with Mine operators requirements above.**

(3) **Independent contractors** are required to:

- Report accidents, injuries, and illnesses to KPMMD. If an accident, injury or illness occurs at or in conjunction with activity at a mine, independent contractors are required to report immediately.
- Report immediately reportable accidents and injuries to KPMMD. An independent contractor must call immediately, but not later than 15 minutes from the time they know or should have known that an accident has occurred.

189. Sub-letting

- (1) No Holder or lessee shall sublet the mine for the purpose of extraction of the mineral to any third person,
- (2) The license or the lease shall be cancelled by the KPMMD, if the provision of sub-Rule (1) is violated.

Provided that before proceeding under sub-Rule (1), the Holder or the lessee shall be given an opportunity of being heard.

Explanation: Sub-letting includes such act on the part of a Holder or a lessee whereby the liberties, powers, privileges and obligations under the license or lease, as the case may be, are transferred to a third party in respect of the area demised under the license or lease.

190. Taking possession of works, etc. in time of war or national emergency

- (1) In the event of a state of war or national emergency, Government may take control of works, plant and premises under the license or the lease.
- (2) In such an event, the Holder, or the lessee shall conform to and obey all directions issued by the KPMMD or Government in this behalf.
- (3) A fair compensation as determined by the KPMMD through an independent umpire shall be paid to the Holder or the lessee.

191. Holder or lessee ceasing to be national of Pakistan

- (1) If a Holder or a lessee ceases to be a national of Pakistan or if a Company ceases to be incorporated in Pakistan, it shall within a period of one month inform the KPMMD and apply to it, for consent to assignment of the rights granted by the license or the lease under these Rules.
- (2) In the event of the Holder or the lessee failing to obtain such consent, the KPMMD may without prejudice to any obligation or liability imposed by, or incurred under these Rules, revoke the license or the lease.

192. Unauthorized Mining

- (1) If any person starts prospecting or mining any mineral outside the area granted to him under a license or a lease or in any area for which he has not obtained a license or a lease or if any person obstructs free access of a Holder or a lessee to the licensed or leased area or directly or indirectly tries to interfere with the prospecting or mining operations by a Holder or a lessee, he shall be punishable by a court of competent jurisdiction, with imprisonment for a term not less than three (3) months, which may

extend to three years and/or with a minimum fine of Rs.1,00,000/- which may extend Rs.10,00,000/- or with both.

- (2) The KPMMD shall appoint a technical committee to assess the losses incurred due to obstruction, hindrance, or closure of the prospecting exploration or mining operations caused by any person(s) and proceed to recover the assessed losses from such person(s), which in default shall be recovered as arrears of land revenue.
- (3) In the event of any unauthorized mining obstruction, hindrance or interference in the prospecting, exploration or mining operations, the administration of the locality, on request of the KPMMD, shall take all necessary steps to stop the illegal acts to ensure smooth operations of the Holder or lessee.
- (4) Notwithstanding anything contained in sub-Rule (1), the KPMMD shall have the power to stop unauthorized work in such manner as it may deem fit and recover in addition to the penalty, the pit-mouth value of the mineral so excavated from the person responsible for such un-authorized work.
- (5) The offences under sub-Rule (1) of this Rule are cognizable and shall be dealt with accordingly.

193. Registration of Surveyors

- (1) The KPMMD shall register and maintain a list of suitably qualified Mine Surveyors who, in its opinion, are competent to carry out boundary demarcation, survey both underground and aboveground and to prepare plans as are required under these Rules on the rates of fee fixed by the KPMMD from time to time:

Provided that the KPMMD may register such Mine Surveyors initially for a period of five years on payment of such fee as may be prescribed by it. The membership may be renewed in the manner prescribed.

- (2) A boundary demarcation certificate required under Rule 146 shall be accepted by the KPMMD only if the demarcation has been carried out by a registered Mine Surveyor and the prescribed certificate is signed by him.
- (3) If at any time the KPMMD has reasons to believe that the registered Surveyor has committed gross negligence or misconduct in the discharge of his duty under these Rules, it may impose a fine of ten thousand rupees and may also, subject to notice, cancel the registration of the Surveyor:

Provided that before such cancellation, the Mine Surveyor shall be given an opportunity to explain his position and shall be heard in person, if he so desires.

- (4) A Surveyor referred to in sub-Rule (1) shall have such qualifications, as may, from time to time, be determined by the KPMMD by a Notification in the Official Gazette.
- (5) A Mine Surveyor who wishes to be registered under this Rule shall make application to the KPMMD.

194. Persistent violation of Rules and conditions. If a Holder or a lessee persists in violating any of the terms and conditions of the license or the lease or the provisions of these Rules, and fails to rectify the violation within such period as may be fixed by the KPMMD, the license or the lease may, subject to notice, be cancelled.

- 195. Power of distress.** If any dues payable under a license or a lease are not paid within six (6) months next after the due date, the KPMMD may, subject to notice, determine the license or lease and take possession of the premises comprised therein.
- 196. Delivery of mines, etc. in good condition.** On the expiry, surrender or determination of a license or a lease, the Holder or the lessee, as the case may be, shall deliver to the KPMMD the demised premises and all mines, if any, in a proper and workable state save in respect of any working as to which the KPMMD may have earlier sanctioned abandonment in which case he shall securely plug any bores and fill up or fence any holes or excavations that he may have made in the land to such extent as the KPMMD may require. The lessee or the Holder shall also to like extent restore the surface of the land and buildings and other structures not belonging to him which he may have damaged in the course of prospecting or mining.
- 197. Force majeure.** Failure on the part of a Holder or a lessee to fulfill any of the terms and conditions of these Rules shall not entitle the KPMMD or Government to make any claim against the Holder or the lessee or such failure be deemed a breach of the condition of the license or the lease in so far as it arises from force majeure.
- Explanation.** In this Rule, the expression, Force Majeure means the act of God, war, insurrection, riot, civil commotion, tide, storm, tidal wave, flood, lightening, explosion, fire, earthquake and any other happening which the Holder or the lessee could not reasonably control.
- 198. Black listing**
- (1) A person, a firm or a Company may be black listed by the KPMMD on account of serious and repeated violations of these Rules.
 - (2) The license or lease held by such person, firm or Company shall stand terminated and such person, firm, or Company shall be debarred from obtaining any mining concessions.
 - (3) In case such person or any partner of such firm or a Director of such Company forms a new firm or becomes a Director of another Company it shall render such other firm or Company ineligible to receive a mining concession.
- 199. Establishment of check posts**
- (1) The KPMMD may, for the purpose of verification or collection of Royalty on minerals dispatched from the licensed or leased areas, establish check posts at suitable places, authorize any official to check the mineral in transit and take such other measures with regard to recovery of Royalty as it may deem fit.
 - (2) Notwithstanding the provision of Rule X the KPMMD may order the collection of Royalty on minerals dispatched from the licensed or leased area or areas, as the case may be, through sealed tenders or open auction on the terms and conditions determined by it.
- 200. Forfeiture of plants etc.** If any machinery, building structure, mineral or the property belonging to the Holder or the lessee is not removed by him from the licensed or leased area within six months after the date of expiry or determination of the license or the lease, the KPMMD may enter upon the said land, take possession of all the machinery, building structures, mineral or any other property belonging to the Holder or the lessee and may dispose it off in any manner as it may deem fit.

201. Unit development and beneficiation of the minerals. The KPMMD may, on sufficient technical economic grounds require the Holder or the lessee to,

- (a) associate his uneconomic holding under a license or a lease with the holding of no other Holder or lessee, as the case may be, for the purpose of joint exploitation on the terms and conditions to be mutually agreed by the Holders or the lessees or in case of disagreement as the KPMMD may determine after consultation with the parties concerned; and
- (b) grade, beneficiate, refine or concentrate the mineral to a marketable standard.

202. Appeal

1. If a person is aggrieved by an order of the KPMMD passed under these Rules, that person may, within thirty (30) days of the communication of the impugned order, prefer an appeal to Government.
- (2) The decision of Government on such appeal shall be final.

203. Outstanding dues payable even after expiry of a license or lease. On the surrender, expiry or determination of a license or a lease, the Holder or the lessee, as the case may be, shall be responsible for payment of all outstanding dues and other charges which, in the event of non-payment, shall be recoverable as arrears of land revenue.

204. Auction of area with proved mineral reserves. In case of cancellation of license or lease in respect of an area containing proved mineral reserves the KPMMD may lease out the area by inviting sealed tenders on such term and conditions as may be prescribed by it:

Provided that if an area does not fetch a reasonable bid in consecutive tenders or auctions, the area may be deleted from the list of tender or auction.

Explanation: The entire area covered by a previous license or a lease shall be treated as proved, in case the ex- Holder or lessee had reported production of the mineral through mining or proved the area through drilling of borehole or boreholes, as the case may be. Holder.

205. Constitution of Task Forces. Government may, by a notification, constitute a Task Force comprising official and non-official members and assign the functions and duties regarding the development of mining areas, provisions of infrastructure facilities and other ancillary matters connected therewith.

Part-XVII - Construction Materials

- 206. Mining of Construction Materials.** There shall be no mining of Construction Materials except under a lease granted in accordance with these Rules. Notwithstanding anything contained in these Rules a lease for minor mineral shall be granted and governed by Rules relating to Construction Materials under these Rules.
- 207. Period of lease.** The period of a lease shall not exceed three (3) years.
- 208. Mode of grant.** A lease shall be granted on “as is, where is basis” through open auction conducted by an Auction Committee constituted under the Rules X. The area granted under a Mining Lease shall not be altered or changed in any case.
- 209. Constitution of an Auction Committee.**
- (1) Government may, by notification, constitute an Auction Committee in each District, to conduct auction of leases for Construction Materials, which shall consist of such member as Government may notify from time to time.
 - (2) An officer in BS-17 or above of the Directorate General, Mines and Minerals, Khyber Pakhtunkhwa Province, shall act as Secretary of the Auction Committee, hereinafter called “Secretary”.
 - (3) Three members including the Chairman or his authorized representative shall constitute the quorum of the Committee, which shall consist of the following:
 - a. District Coordination Officer (Chairman)
 - b. District Officer (Revenue & Estate) (Member)
 - c. Assistant Director Mines & Minerals (Secretary-cum-Member)
- 210. Schedule of Auction.** The Secretary shall, for the purpose of general information, cause to be prepared and maintained a schedule, along with necessary plans based on Survey of Pakistan maps of the area in a district where Construction Materials are situated and shall also cause a tentative program for auction formulated and maintained in his office.
- 211. Shape and size of the area.** Each area in respect of which a lease is granted shall, as far as practicable, be in a compact shape and shall be identified by well marked permanent physical boundaries or by straight lines. No lease shall be granted in respect of an area exceeding two hundred acres in the form of one unit.
- 212. Construction Materials.** The Construction Materials to be granted under these Rules will include bajri, ordinary sand and gravel.
- 213. Public notice of auction.** For general information of the public, the KPMMD shall, through public notice, advertised in newspapers at least fifteen days prior to the date of auction:
- a. the location of the area in respect of which the lease is proposed to be granted;
 - b. the details of the auction program specifying the date, time and place where the auction is to take place; and
 - c. the terms and conditions of the auction.
- 214. Registration of Applicant.**

- (1) A person desirous of taking part in an auction shall submit, by hand, an application complete in all respects, to the Secretary or to an officer authorised by him in this behalf in the form appended to these Rules at least one day prior to the auction.
- (2) Every application under sub-Rule (1) shall be accompanied by-
 - a. the application fee, as determined by Government from time to time;
 - b. earnest money as determined by Government; and
 - c. a copy of,
 - i. the National Identity Card of the applicant;
 - ii. income tax registration certificate;
 - iii. the duly registered partnership deed where the applicant is partnership firm; and
 - iv. the Sections and Memorandum of Association along with evidence of paid up capital, if the applicant is a Company.
- (3) If an application is not submitted in accordance with the provisions of sub-Rules (1) and (2), it shall be rejected and the applicant shall not be eligible to take part in the auction.

215. Acknowledgement of applications. The officer receiving the applications shall record thereon the date and time of its receipt and deliver to the applicant a registration slip stating the date and time of the auction.

216. Powers to accept or reject a bid. The KPMMD shall have the discretion to accept or reject the highest bid received in an auction for reasons to be recorded in writing.

217. Refund of earnest money. The earnest money deposited under Rule X may be refunded after the auction, except to highest bidder whose earnest money shall be refunded only after acceptance or rejection of the bid by the KPMMD:

Provided that the earnest money deposited by the highest bidder shall be forfeited if he fails to deposit one-fourth of the bid money at the fall of hammer.

218. Payment of bid money. The highest bidder shall deposit one-fourth of the balance of the bid money in the manner and within the time prescribed by Government, failing which the earnest money shall stand forfeited and the next highest bid may be treated as the highest bid, subject to the condition that the next highest bid is not less than ten per cent of the highest bid.

219. Security deposit

- (1) On approval of the bid, the highest bidder shall deposit twenty-five per cent (25%) of the bid money as security within a period of fifteen days from the date of issue of the letter of approval in the manner specified by the KPMMD.
- (2) If the highest bidder fails to deposit the security amount within the time limit given under sub-Rule (1), the bid money and the earnest money already deposited by him shall be forfeited.
- (3) On the expiry or termination of the lease, as the case may be, the security deposit shall be refunded to the lessee after making such deductions on account of outstanding dues, compensation for surface damage, penalty or otherwise as the KPMMD may order.

220. Grant of lease

- (1) After the security deposit is made the Secretary shall issue an allotment letter whereupon the lease shall stand granted to the highest bidder.
- (2) The allotment letter shall state the terms and conditions of the lease.

221. Payment of installments

- (1) The lessee shall pay the installments, if any, of the bid money in advance on the dates stated in the allotment letter and submit the original Treasury challan to the KPMMD.
- (2) In case the lessee fails to pay any installment by the due date, the KPMMD, subject to one-month notice, may cancel the lease and through its agent take the possession of the area.

222. Surface Rent

- (1) A lessee shall pay, for all Government land which he may use or occupy superficially for the purpose of the operations conducted under the lease, a surface rent at the rate assessable under the revenue law or Rules applicable in the district in which the land is situated:

Provided that if no such surface rent is assessable under the existing law, the surface rent may be fixed by the KPMMD.
- (2) If the land belongs to a private person, a lessee shall pay surface rent to the owner of the land actually used or occupied superficially at such rate and in such manner as may be mutually agreed upon between the lessee and the land owner and in case of disagreement between them, at such rate and in such manner as may be determined by the KPMMD whose decision shall be final.
- (3) Violation of this Rule shall be punishable as provided in Rule X.

223. Operation in the reserved and protected forests

- (1) All operations conducted under these Rules within a reserved or protected forest shall be subject to such conditions as the KPMMD may by a general or a special order, prescribe.
- (2) It shall be a condition of every lease granted under these Rules that before the commencement of mining operations within a reserved or protected forest, a notice shall be given to the Forest Officer concerned of the intention to commence operations.

224. No work within one hundred meters from any railway line, etc. A lessee shall not carry on or permit to be carried on any mining operation at or up to any point within a distance of hundred meters from any Railway line, water reservoir, power line, gas pipeline or other public works, or building or place of archaeological importance except with the prior permission, in writing, of the Authority concerned and in accordance with such conditions as it may impose.

225. Inspection. A lessee shall provide the KPMMD or an officer authorized by it in this behalf, all reasonable facilities to enter upon the leased area for purpose of inspection, survey, measurement or inquiry about any matter relating to the lease and shall make available all records pertaining thereto for examination.

226. Access to other lessees.

- (1) A lessee shall allow lease Holders of any area adjoining or accessible through the land held by the lessee all reasonable facilities of access thereto on the terms and conditions as may be determined by the KPMMDD.
- (2) Failure on the part of the lessee to comply with the terms and conditions determined by the KPMMDD under sub-Rule (1) shall render him liable to a fine which shall not be less than five thousand rupees and not more than fifty thousand rupees.

227. Change in the constitution of the lessee. A lessee shall not make any change in its constitution without prior consent in writing of the KPMMDD.

228. Exclusion of lands for public purposes. If an area or a portion thereof held under a lease is required at any time by Government for any public purpose, the KPMMDD shall have the powers to withdraw such area without notice and the bid money shall be reduced proportionately.

Part XVIII - Environmental and Social Protection

229. Environmental and Social Impact Assessment

- (1) The Holder of a license or lease shall comply with the conditions set forth in applicable laws and as the case may be, conduct an assessment of environmental and social impacts which shall include:
- a. A detailed study of the natural and man-made environment of the license or lease area prior to any mineral activities, based on measurements and indices with respect to the quality of air and water, soil, trees, and animals, and other flora in order to provide a comprehensive environmental baseline to be measured from that time; and
 - b. An Environmental and Social Management Plan that includes a detailed description of reclamation activities and mine closure including:
 - i. Detailed data regarding contaminating substances and resources;
 - ii. Identification of likely environmental impacts, including water, air and soil pollution and damage to flora and fauna;
 - iii. A review of the impacts of tailings;
 - iv. Mitigation actions to be taken with respect to each environmental impact of each contaminating source;
 - v. The methods and equipment required to mitigate environmental impacts and measures to be taken to anticipate expected impacts;
 - vi. Timetable for implementation of the Plan;
 - vii. Projected budget and its timetable to achieve environmental objectives;
 - viii. Introduction of employees responsible for implementation of environmental mitigation;
 - ix. Introduction of an employee as the monitoring officer, the methodologies to be used for monitoring, and sources of funding for monitoring activities;
 - x. Consultation with area residents and relevant government agencies in relation to environmental and social impacts; and
 - xi. Submission of an Environmental and Social Management Plan in accordance with the provisions of the Law.
- (2) Whenever the Holder proposes to materially amend its work program, it shall provide sufficient reason to the relevant agency that it will implement an appropriate environmental and social management plan.

230. Annual report on environmental and social impacts

- (1) Following the first full year of mining operations, a Holder that is required to provide an Environmental and Social Management Program Report shall submit to the KPMDD an "Environmental and Social Management Program Report".

- (2) The Holder shall submit an annual Environmental and Social Management Program Report that contains all of the information and data to the KPMMD and the Environment Department.
- (3) The KPMMD and the Environment Department may assess the report stipulated in the Sub-Rule (2) of this Section, if the report is not in compliance with the license or lease and relevant permit terms, the KPMMD may suspend the license or lease or the permit until the deficiency is rectified.

231. Financial security for environmental protection and rehabilitation

- (1) The Holder of a license or lease shall, for the purpose of compliance with its environmental and social protection obligations, including rehabilitation of the site, resettlement, mine closure and compensation of affected communities based on the provisions of these Rules and relevant Regulations, pay financial guarantee as is determined under Sub-Rule (1) of Section X of these Rules.
- (2) The amount of guarantee shall not be subject to any increase unless warranted by changing costs of performance of any condition, unforeseeable change in the mineral activity, change in the financial capacity of the Holder or other conditions with the provisions of these Rules and Regulations.
- (3) Contribute such amounts of their profits not exceeding five percent (5%) as the Mines and Minerals Development Department may determine for social and infrastructural uplift of the mining areas;

Part XIX -Community Development Agreement

232. Promotion of community development

- (1) Community development initiatives taken as part of any mining operation shall be undertaken with the joint objectives of the Holder and community. Initiatives shall assist in the development of communities affected by its operations to promote sustainable local economic development, enhance the general welfare and the quality of life of the inhabitants, and shall recognize and respect the rights, customs, traditions and religion of local communities.

233. Community Development Agreement

- (1) The Holder of a Mining Lease or a Small-Scale Mining License shall be required to prepare and to implement a Community Development Agreement with affected communities. A Holder who is required to have one (1) or more Community Development Agreements will negotiate specific terms with each mining affected community.
- (2) A Community Development Agreement shall reflect activities at various stages of mining operations that may be transferred to local Mines and Minerals Development Department, be independently economically sustainable, or be part of a skills transfer plan to other economic sectors.
- (3) In addition to License or Lease requirements, a Community Development Agreement shall include,
 - a. The persons involved in the negotiation of the Community Development Agreement;
 - b. objectives of the Community Development Agreement;
 - c. the obligations of the Holder with respect to social and economic contributions to the sustainability of the community, assistance in creating income-generating activities, financial and in-kind contributions;
 - d. the obligations of the mining affected community including financial and in-kind contributions;
 - e. milestones for performance and the means by which the Community Development Agreement shall be monitored;
 - f. on-going activities in human resources development, economic development, and provision of appropriate education and health facilities;
 - g. the framework and schedule through which the parties will communicate and formally review the Agreement every five (5) years at which time modification of the Agreement may be agreed;
 - h. implementation timetable and anticipated expenditures;
 - i. periodic reporting including actual expenditures;
 - j. how the plan works in coordination with Mines and Minerals Development

Department plans, services, infrastructure and activities provided to or affecting the community;

- k. a written statement from the parties that amicable resolution of disputes shall be the preferred method for resolution and an agreed upon grievance mechanism to deal with potential disputes that may arise between the Holder and the community; and
- l. Such other content as may be mutually agreed by the community and the Holder.

(4) A Community Development Agreement shall not address,

- a. the imposition of any additional rent, fee, or tax for the benefit of the community; and
- b. the provision of any monetary amount, service, good, or facility for the sole benefit of an individual or single family unit, vehicles other than special purpose vehicles such as ambulance, fire engine, or bus.

(5) The limits on funding of the Community Development Agreement shall be based on

234. Approval and monitoring of a Community Development Agreement

- (1) A Community Development Agreement that has been signed by the Holder/Lessee, the mining affected community and other relevant parties as shall be agreed shall be submitted to the Mines and Minerals Development Department for ratification.
 - a. The Community Development Agreement shall be ratified within thirty (30) days of submission unless the Mines and Minerals Development Department provides written notice to the parties providing details for its rejection.
 - b. The parties may submit a revised Community Development Agreement within an agreed upon time upon receipt of notice.
- (2) Where the terms and conditions of a Community Development Agreement are not concluded by the time the Holder/Lessee is ready to commence Mineral Operations, the Holder and/or the community may refer the matter to the Mines and Minerals Development Department for resolution.
 - a. The Mines and Minerals Development Department shall investigate the matter and conduct consultation with the Holder/Lessee and community.
- (3) Holders/Lessees shall submit an annual report to the Mines and Minerals Development Department on the implementation of the Community Development Agreement.
 - a. Within thirty (30) days of receipt, the Mines and Minerals Development Department shall send the report to the relevant district or provincial Mines and Minerals Development Department authorities for comment.
 - b. Comments shall be submitted to the Mines and Minerals Development Department with copy to the Holder/Lessee within thirty (30) days of receipt of the report.
- (4) Where the terms and conditions of the implementation are not satisfactorily proceeding, the Mines and Minerals Development Department may conduct a review panel in consultation with the Holder/Lessee and affected mining community.
- (5) All Community Development Agreements, and any other related reports are non-confidential.

Part XX - Artisanal Mining License

235. Application for Artisanal Mining License

- (1) An application for an Artisanal Mining License that includes the following information shall be submitted to the Mining Cadastre Office:
 - a. For a natural person, the legal name and address;
 - b. For a legal person, its legal name, address, certificate of incorporation, names of shareholders, and details of bank account;
 - c. A statement affirming that the applicant meets the eligibility requirements under these Rules;
 - d. The proposed duration of the License;
 - e. With respect to a legal person, a detailed statement of previous small-scale mining work experience;
 - f. A description and map of the area;
 - g. If required, an Environmental and Social screening statement;
 - h. The type of mineral or minerals to be exploited;
 - i. Details of any license held within Pakistan by the applicant or the applicant's representative; and
 - j. Any additional information that may be deemed necessary by the KPMMD or the applicant.

236. Grant of an Artisanal License

- (1) The KPMMD, after receiving an application stipulated herein may review the application and grant the Artisanal License to an eligible person. Where the KPMMD rejects an application, it shall provide the applicant with written reasons of the rejection.
- (2) A Holder may, provided it is eligible and has adhered to the provisions of these Rules, be granted up to ten (10) Artisanal Mining Licenses but not more than two (2) license areas may be contiguous.
- (3) Where an Artisanal License holder discovers a new mineral within its license area, the Holder shall report the discovery to the KPMMD may, with the consent of the holder, add the newly discovered mineral to the Holder's license. Restricted substances are excluded from this provision.

237. Duration of an Artisanal Mining License

- (1) An Artisanal Mining License shall be valid for five (5) years after its registration and issuance in the Mining Cadastre.
- (2) The Holder of an Artisanal License shall, ninety (90) working days before the expiration of the license, submit an application to the KPMMD to extend the license and include an estimate of the remaining mine deposit.

- (3) The KPMMD may, within thirty (30) working days from the date of application, extend the license period. The Artisanal Mining License may be extended for continuous terms up to five (5) years each until the end of the remaining deposit.
- (4) Where a holder of an Artisanal Mining License has made an application for an extension of the license period, the rights of the [original] license shall continue in force in respect of the land and minerals that are the subject of the application until the application is determined.

238. Artisanal Mining License Area

- (1) The area in respect of an Artisanal Mining License shall not exceed one (1) hectare, as adjusted to the cadastral block system.
- (2) An Artisanal Mining License holder may, in accordance with the provisions of these Rules, surrender all of its license area to the KPMMD, provided that the holder has fulfilled its obligations in accordance with these Rules, Regulations and conditions stipulated in the license.
- (3) Once granted, an Artisanal Mining License area may not be enlarged in size.

239. Restrictions on Artisanal Mining License

- (1) An Artisanal Mining License may be granted over an existing Exploration License or Mining Lease or Small-Scale Mining License with the written consent of the holder of the said license holder.
- (2) Where a large mineral deposit is discovered within an Exploration License area that encompasses an Artisanal Mining License or an area “designated” for artisanal mining, and is determined by the KPMMD that the economic interests of the country are better served by exploitation of the deposit on an industrial scale, the KPMMD may revoke the Artisanal Mining License, subject to the holder of the Artisanal Mining License receipt of fair compensation.

240. Rights conferred by an Artisanal Mining License

- (1) The Holder of an Artisanal License shall have the following rights within its license area:
 - a. Obtain access to the license area;
 - b. Install equipment and ordinary machinery and erect buildings and pathways as is required and in accordance with the provisions of these Rules.
 - c. Process any mineral derived from operations within the license area;
 - d. Take and remove rock, earth, soil and minerals from the land with or without processing;
 - e. Stack or dump a mineral or waste product;
 - f. Utilize water as required to conduct artisanal mining activities; and
 - g. Conduct other activities related to artisanal mining.
- (2) An Artisanal Mining License holder may apply for a Small-Scale License over the area that includes its Artisanal Mining License area on a priority basis provided all criteria for such Small-Scale Mining License is met as stated in these Rules and provided that the land is not subject to any other license.

- (3) An Artisanal License holder may, on a priority basis, apply to the KPMMD for a Small-Scale Mining License over an area that includes in whole or in part its existing license provided that the subject area shall not include any area already held under another License by another person and shall be eligible in accordance with the provisions of these Rules.

241. Terms and Conditions of an Artisanal Mining License

- (1) The holder of an Artisanal License shall have the following obligations to:
- a. Conduct exploitation only within the license area;
 - b. Comply with the work program;
 - c. Observe good mining practices, health and safety rules, and protect the environment including undertaking remedial work during mining operations;
 - d. Minimize negative social impacts and contribute towards community development where possible; and
 - e. Unless the KPMMD has otherwise decided, remove within thirty (30) business days from the date of the expiration of the Artisanal Mining License any installations, buildings, equipment or machinery to the satisfaction of the Mining Inspectorate and rehabilitate any damage caused by the removal.

242. Unauthorized mining

- (1) If any person carries out mining of Construction Materials outside the area granted to him under a lease or in any area for which he has not obtained a lease or obstructs free access of a lessee to the leased area or directly or indirectly tries to interfere with mining operation by a lessee, action shall be taken against the defaulted person as provided in Rule X.
- (2) Notwithstanding sub-Rule (1), the KPMMD shall have the power to stop unauthorized work in such manner as it may deem fit and recover up to three (3) times the sale price of minor mineral so excavated from the person responsible for such unauthorized work:

Provided that before proceeding, the person shall be given a reasonable opportunity of being heard by the Mining Commission.

- 243. Right of surrender.** A lessee may surrender the Mining Lease at any time after four (4) months from the date of its grant by giving either two (2) months prior notice in writing to the KPMMD or pay proportionate bid money in lieu thereof:

Provided that in case of partial surrender of the lease area, the lessee shall not be entitled to any reduction in the bid money.

- 244. Assignment.** A lessee shall neither transfer any right or interest under the lease, nor part with the possession of the area or any part thereof, without prior permission, in writing, of the KPMMD.

Change of control of a License or Lease

- (1) The holder of a Mining Lease, Exploration License or Small-Scale Mining License shall notify the KPMMD of any change in the ownership or control of the license including transfer, lease, mortgage or conveyance or when there is a change of a shareholder of the license who holds a share of more than thirty percent (30%).
- (2) The change stipulated in Sub-Rule (1) of this Section shall have legal effect upon its approval by the KPMMD and when the following conditions are met:
 - a. That the holder adheres to the conditions and obligations of the license including implementing the work program and budget, submitting expenditure documents, reporting and a written notice of transfer of ownership or power to the KPMMD; and
 - b. That the holder ensures that the transferee, mortgagee and lessee shall meet the conditions and eligibility criteria of license/lease and these Rules.
- (3) The KPMMD, after receipt of notice stipulated in Sub-Rule (1) of this Section, shall within (30) business days from the date of its receipt, assess the notice and notify the holder of its final decision about its approval or rejection.

245. Method of making application for assignment

- (1) An application for assignment shall be submitted at least six months before the expiry of lease and shall be accompanied by the fee as prescribed by Government.
- (2) The application shall be presented in person and shall be signed by both the assignee and the assignor before the KPMMD or an officer authorized by it in this behalf.
- (3) The security deposited by the assignor shall be refunded after receiving the security deposit from the assignee on approval of the assignment by the KPMMD.

Refund of proportionate bid money. In case a lessee fails to assume possession of the area or work therein due to circumstances beyond his control and informs the KPMMD within a period of fifteen (15) days from the date the Holder first faced the hindrance in this respect and proves it to the satisfaction of the KPMMD, the KPMMD may refund the proportionate bid money to the lessee:

Provided that no relief under this Rule shall be admissible due to rains or floods in the rivers, streams or of dangerous quarry operations.

246. Removal of buildings, structures etc. on expiry of lease

- (1) On expiry or termination of a lease, the lessee shall hand over the possession of the area to the KPMMD or its authorized representative clear of all buildings, structures, machinery, excavated minerals and other things.
- (2) In case such buildings, structures, machinery, minerals or other things are not removed within one (1) month from the date of expiry or termination of lease, it shall vest in the KPMMD without any right of the lessee for compensation and the KPMMD may dispose them off in such manner as it may deem fit.

247. Violation of Rules, License, Lease or Minerals Agreement

- (1) Except as otherwise provided in these Rules, in case of violation or breach of any Rule or any term or condition of the grant of lease, the KPMMD shall give a notice to the lessee providing him with an opportunity to rectify the breach within the time specified in the notice.

- (2) If the lessee fails to rectify such violation or breach within the specified time, the KPMMD may terminate the lease and forfeit the bid money already paid by the lessee.

248. Erection of structures. Nobody other than a lessee shall erect any building, structure, machinery or plant within a distance of one hundred meters (100m) from the boundary of the leased area except with the prior permission, in writing, of the KPMMD.

249. Service of letters and notices. Any letter or notice issued to the lessee or to any person at his postal address by registered post shall, for purpose of these Rules, be considered sufficient service.

250. Health and Safety

- (1) If, on inspection or otherwise, the KPMMD is of the opinion that a lessee is working in a manner contrary to the conservation of mineral property or safety of workers or other people, the KPMMD may require the lessee, in writing, to remove the defects or amend the workings within a period, not exceeding two months, as is determined by the KPMMD.
- (2) If the lessee fails to comply with the instructions within the specified period, the KPMMD shall have the power to stop the work of extraction of minerals in whole or in any part of the area demised under the lease till such time that the defects are removed to the satisfaction of the KPMMD and the lessee shall not be entitled to any relief whatsoever on this account.
- (3) If the defects are not removed or the method of extraction is not amended to the satisfaction of the KPMMD within two months from the date of stoppage of work, the lease shall be cancelled and the bid money already paid shall be forfeited.

251. Compliance with the instructions from the Inspectorate

- (1) A Holder shall, for the purpose of preventing or removing the cause of any dangers resulting from mineral activities in connection to the health and safety of workers, protection of water reservoirs, and public utility infrastructure [during mineral activities], comply with the legal orders that are issued by the Inspectorate.
- (2) If a Holder fails to comply with the orders stipulated in sub-Rule (1) and fails to take immediate corrective action, the corrections shall be made and implemented by the relevant public authorities without consultation of the holder, and any expenses incurred shall be collected from the Holder.

252. Re-auction of leased area. A leased area may be re-auctioned within three months before its expiry but if the auction or the grant of lease is delayed due to certain reasons, the KPMMD may extend the period of previous lease up to the date of next grant on payment of proportionate bid money in advance for the extended period:

Provided that any extension beyond a period of three (3) months but not exceeding six (6) months on this account shall be subject to the approval of KPMMD:

Provided further that extension beyond a total period of six (6) months but not exceeding one (1) year shall be subject to the approval of Government.

253. Issuance of despatch slips

- (1) The lessee shall not dispatch any mineral from the leased out area without issuing a despatch slip duly signed by the Holder or its authorized representative in the form specified by the KPMMD.

- (2) If a lessee fails to issue proper dispatch slips, the KPMMD or an Authorized Officer may impose penalty as may be specified by Government.
- (3) If a lessee commits repeated violations of this Rule, the KPMMD may terminate the lease and forfeit the installment or bid money already paid.

254. Mode of payment. All amounts payable under these Rules shall be deposited into a Government Treasury or into any Bank authorized by Government for the purpose under the Head of Account specified by Government.

255. Taking over possession of area.

- (1) On expiry or earlier termination of a lease, the possession of the area shall be assumed by the KPMMD or its authorized representative and entry in this respect shall be made in the record of the KPMMD.
- (2) Possession of the area shall be considered as validly assumed if entry to this effect is available in the record of the Secretary or the KPMMD and an intimation has been sent to the concerned revenue officer of the district.

256. Outstanding dues payable even after expiry of a lease (

- (1) The Holder and lessee shall be responsible for payment of all outstanding dues and other charges even after the surrender, expiry or termination of the lease. Failure to pay within xxx days of surrender, expiry or termination gives KPMMD permission to file a judicial action.
- (2) In the event of non-payment of dues by the Holder and lessee or any other person under these Rules, the same shall be recovered as arrears of land revenue.

257. Black listing

- (1) A person may be black listed by the KPMMD on account of serious or repeated violations of these Rules.
- (2) The lease held by such person shall stand terminated and he shall be debarred from taking part in all future auctions.

258. Appeal

- (1) If a person is aggrieved by an order of the KPMMD passed under this chapter, the person may, within thirty days of the communication of the impugned order prefer an appeal to the KPMMD.

**Government of Khyber Pakhtunkhwa
Mines and Minerals Development Department**

Appendices

Appendix 1

Notices and Communications

- (1) The Holder shall register its address in Pakistan with the Mines and Minerals Development Department to which all communications and notices may be addressed and shall notify the Mines and Minerals Development Department within thirty (30) days of any change of address.
- (2) The Holder shall provide notice to the Mines and Minerals Development Department of any change in ownership, directors or share capital for share Holders holding ten percent (10%) or more within thirty (30) days of any such change.
- (3) The Mines and Minerals Development Department shall publish notice of any suspension, withdrawal, expiry or revocation of any license and any other matter as prescribed.

Language

- (1) Documents and correspondence shall be provided in one of the official languages of KP. In addition to one of the official languages of KP, English or other languages used in international trade may be used for the purpose of entering into contracts if deemed necessary by the KPMMD.
- (2) Any foreign language document that is submitted shall be accompanied by a translation into an official language of KP, translated by a certified or authorized translator at the expense of the applicant.

Regulations

The KPMMD may, for the purpose of implementing the provisions of these Rules, recommend regulations and prepare guidelines and procedures provided that they do not contradict the provisions of law, these Rules and the relevant Regulations.

Application Forms

- (1) A License application (should be included in Schedule) shall be submitted in person, in three (3) copies plus one digital copy, by an applicant to the Mining Cadastre Office for registration and processing.
 - a. In the instance of competitive bidding, the submission of a bid shall include the required License or Lease application.
- (2) An applicant for a License shall pay the non-refundable Application Processing Fee (should be specified in the Schedule) and upon such payment and presentation of the original receipt shall be issued a receipt
- (3) An application containing all information required in the Rules set forth below is complete.

- (4) At the time that a License application is received by the Mining Cadastre Office, the Mining Cadastre Office officer receiving the application shall immediately verify whether the application is complete.
- (5) An application that is found not to be complete under these Rules shall be immediately rejected and not registered.
 - a. The Mining Cadastre Office may notify the applicant of any incidental oversight (i.e., misspelling) that may be immediately rectified for re-submission;
 - b. The Mining Cadastre Office may respond to inquiries by the applicant as to how the application was found not to be complete.
- (6) When an application is verified to be complete -
 - a. the Mining Cadastre Office officer making such verification shall assign an identifying code to the application and shall register the application and its verification date, hour and minute in the License Application Register,
 - b. the License Application Register shall be signed by both the Mining Cadastre officer verifying the application and the applicant or the applicant's authorised representative,
 - c. the identifying code, date, hour and minute of application shall be recorded in the application forms, which shall be stamped and signed by the Mining Cadastre Officer, and
 - d. One signed copy of the registered application shall be given to the applicant.
- (7) The KPMMD, within fourteen (14) calendar days from the application registration date, shall confirm that the information provided in the application conforms with the area identification requirements set out in these Rules.
- (8) In the review of a License application, the KPMMD, within fourteen (14) calendar days from the application registration date, may -
 - a. request the applicant to correct any defects or omissions;
 - b. confirm the information provided in the application;
 - c. consult with specialists as necessary;
 - d. consult other relevant Mines and Minerals Development Department entities as necessary;
 - e. Propose alterations in the application.

Any action taken by the KPMMD shall be recorded in the Application Register.

- (9) The failure of an applicant to provide any of the required information within fourteen (14) calendar days, or to comply with the application requirements, shall render the application void, and the Mining Cadastre Office shall in such a case,
 - a. in writing, notify the applicant that it has five (5) days from receipt of notice to modify any minor error in the application as indicated by the Mining Cadastre Office; or
 - b. in writing, notify the applicant that the application is null and void, and
 - c. record the date of such notifications in the License Application Register.

- (10) The KPMMD shall deny approval to a License applicant if it is shown that the applicant or any of the directors of the applicant or a shareholder holding a controlling share of the applicant disqualifies for reasons given under these Rules.
- (11) The KPMMD shall deny approval to a License applicant who has in the ninety (90) calendar days preceding the application registration date had a prior License application which was deemed void under these Rules.
- (12) The Mining Cadastre Office, in writing, shall notify within thirty (30) calendar days of the License application registration date, an applicant whose license application is rejected, providing the details for the rejection, and the date that such notice of rejection was sent shall be recorded in the License Application Register.
- (13) Subject to these Rules and if the applicant for a License is eligible, the KPMMD shall grant the license approval within thirty (30) calendar days from the application registration date.
- (14) The Mining Cadastre Office, in writing, shall notify an applicant whose License application is granted approval, within thirty (30) calendar days of the application registration date,
 - a. that the application is granted approval,
 - b. the Mining Cadastre Office where the license can be issued,
 - c. that the license shall be collected by the applicant, or its representative, within thirty (30) calendar days from the date of notification,
 - d. that confirmation of receipt of the notice is provided by the applicant within ten (10) days of receipt of notification;
 - e. where the applicant has not confirmed receipt of notice, the Mining Cadastre Office shall re-issue the notification of grant of License that shall again request that applicant confirm receipt of notice within ten (10) days of receipt and that the License be collected within ten (10) calendar days from the date of the second notification and shall record the date that the notice was sent in the License Application Register.
- (15) The Mining Cadastre Office shall issue to a License applicant whose application is granted approval by the KPMMD a License and a receipt upon payment and presenting of the original receipt by the applicant of the non-refundable Registration Fee specified, and the date of issuance shall be recorded in the License Application Register.
- (16) The Mines and Minerals Development Department and specifically the Mining Cadastre Office must use all reasonable and best faith efforts to ensure that notification of the grant of application is timely delivered to the applicant.
 - a. Any negligent or fraudulent action on the part of any Authorized Officer or third party that results in the failure of the applicant to receive timely notification of the grant of application shall be actionable under these Rules.
- (17) When an applicant fails to appear to collect the License and pay the non-refundable License Registration Fee within thirty (30) calendar days from the date of being notified, including the second notification where applicable, the application and License shall be deemed to be void, and the date upon which the application became void shall be recorded in the License Application Register.

- (18) When it becomes known to the Mining Cadastre Office that a false attestation was made in an Application, any resultant License shall be void and the date upon which the License became void shall be recorded in the License Application Register.

Form of License

- (1) Any License shall be issued utilizing the template provided by the Mines and Minerals Development Department.
- (2) All Licenses shall have appended to it, by the Mining Cadastre Office,
- a. the Cadastral Coordinates of the Polygon defining the License area, and
 - b. a map with the approximate position of the License area marked upon it, and any excluded areas that fall within the boundaries, shall also be identified on the map.

Grant of Exploration License, Mining Lease and Small-Scale Mining License

- (1) In the instance of an application for the grant of an Exploration License, Mining Lease or Small-Scale Mining License, the following process shall apply:
- a. For an Exploration License or Mining Lease, within sixty (60) days of receipt of application from an eligible applicant, the Mines and Minerals Development Department shall either recommend that the application be reviewed by the Mining Commission or provide a written notice of rejection of the application with reasons for the rejection.
 - b. For a Small-Scale Mining License, within thirty (30) days of receipt of application from an eligible applicant, the Mines and Minerals Development Department shall either recommend that the application be reviewed by the Mining Commission or provide a written notice of rejection of the application with reasons for the rejection.
 - i. Where the Mines and Minerals Development Department submits the application for an Exploration License or Mining Lease to the Mining Commission for review, the Mining Commission shall within ninety (90) days after receiving the recommendation of the Mines and Minerals Development Department that,
 - a) It approves the application and such approval shall be recorded in the Register of License Applications within five (5) days of the Mining Commission determination; of
 - b) It does not approve the application and shall provide a written, explanation of why the Mining Commission has rejected the application which shall be recorded in the Register of License applications within five (5) days of the determination.
 - c) It may seek additional information and provide additional time to the applicant but not more than sixty (60) days.

General Conditions of Mineral Concessions

Land Rights and Compensation

- (1) Rights and Obligations of Surface Owner, Lawful Occupant and Holder
- a. The surface owner or lawful occupant of any land which is within an area that is the subject of a License shall,
 - i. retain the right to graze livestock upon or to cultivate the surface of such

land in so far as such grazing or cultivation does not interfere with the use of such area for reconnaissance, exploration, or mining operations.

- ii. not erect any building, structure, or infrastructure thereon without the consent of the Holder of the License, which consent shall not be unreasonably withheld.
- b. The Holder shall,
- i. exercise the rights of the License reasonably and in such a way as to affect as little as possible the interests of any owner or lawful occupant of the land on which such rights are exercised consistent with the reasonable and proper conduct of the operations concerned; and
 - ii. not create unprotected pits, hazardous waste dumps or other hazards likely to endanger the stock, crops or any lawful activity of the owner or lawful occupant of the land covered by such License.

Compensation for disturbance of land

- (1) Subject to provisions of relevant laws, the Holder shall be required to pay the owner or lawful occupant fair and reasonable compensation as prescribed for any disturbance of the rights of such owner or occupant and for any damage done to the surface of the land by the mineral activities.
- (2) The compensation to which an owner or lawful occupant shall be entitled is in accordance with applicable laws and may include compensation for,
 - a. deprivation for the use or a particular use of the natural surface of the land or part of the land;
 - b. loss of or damage to immovable property;
 - c. loss of or damage to livestock;
 - d. loss of present and future earnings suffered by the owner or lawful occupant of agricultural or grazing land;
 - e. right of way to enter the land for mineral activities; and
 - f. loss or damage as may be determined.
- (3) If the Holder fails to pay compensation when so demanded under the provisions of these Rules, or if the owner or lawful occupant of any land is dissatisfied with any compensation offered, such compensation may be determined by the the appropriate Mines and Minerals Development Department authority.
- (4) Any claim for compensation under the provisions of these Rules shall be made in accordance to applicable laws and upon conclusion of that legal process the right to make a further claim shall be extinguished.

Compensation requirements shall be determined in accordance with the applicable laws of Pakistan. Subject to these Rules, the Mines and Minerals Development Department may take necessary action to give effect to a resettlement agreement or determination.

Resettlement

- (1) For purposes of these Rules, resettlement shall be an action of last resort.
- (2) Where it is determined that resettlement is essential, the applicable laws of Pakistan

shall apply and a Resettlement Action Plan shall be developed as prescribed in the Mineral Regulations by the Holder in consultation with the impacted population and relevant stake Holders communities and provide for adequate financing to cover all costs of resettlement, and compensation for resettled individuals.

Local Procurement

- (1) A Holder shall employ Pakistan personnel to the maximum extent possible. This includes employment of one hundred (100) percent Pakistan nationals as unskilled labor. The employment and the terms and conditions of such employment will be in compliance with the applicable labor laws and regulations of Pakistan.
- (2) A license Holder shall give priority to procure goods and services produced and provided by Pakistan companies operating in Pakistan provided that are substantially equivalent to foreign goods in terms of quantity, quality, price and delivery dates.

Promotion of Pakistan Professionals in the Mineral Operations

- (1) Holder will provide fiscal and other resources for the development of educational and training services that target the technical, financial, legal, environmental and other aspects of mineral operations on and off-site. Where possible, Holder will establish on-site training facilities and are encouraged to identify educational and training programs in Pakistan and abroad that will contribute to building capacity of Pakistan professionals.

Place of Doing Business

- (1) In case of an applicant incorporated or organized by or under the laws of jurisdiction other than Pakistan, it shall establish, be registered and maintain a place of business in Khyber Pakhtunkhwa.

Conditions to be met before commencing mining activities

- (1) As of the issuance of a Mining Lease, a Holder may commence general business activities but shall not commence any mineral activity that is directly related to mining of minerals until the Holder has obtained,
 - a. approval from the Mines and Minerals Development Department of its plans including work plan and budget, rehabilitation and mine closure plan, program for development and has made all necessary payments;
 - b. approval from the Khyber Pakhtunkhwa and National Environmental Protection Authority for its environmental plans, mitigation measures and any necessary payments and proof of adequate mechanism to ensure adequate rehabilitation/reclamation;
 - c. a lease to use the land for the duration and area to which the license relates;
 - d. signed compensation, resettlement agreements; a written statement that the process of obtaining permits for any infrastructure within the license area is underway;
 - e. signed Community Development Agreement(s) by the Holder, relevant community and local Mines and Minerals Development Department representatives, and other relevant parties;
 - f. bank statement indicating that the Holder has deposited a financial performance bond or guarantee to be held in an agreed upon bank escrow account as may be prescribed.

- (2) before the commencement of any Mineral Operations within a reserved or a protected forest, thirty (30) calendar days written notice shall be given to the Khyber Pakhtunkhwa Forest Officer concerned of the intention to commence the operations, and that the operations shall be conducted subject to any condition, not inconsistent with these Rules.

SCHEDULE 1

APPLICATION FEE

(APPLICABLE TO LARGE SCALE MINING)

No. Category Application

Fee (Rs)

Renewal Fee (Rs)

1. 2. 3. 4.

1 Reconnaissance License 15,000 Not Renewable

2 Exploration License 25,000

- First Renewal 50,000

- Second Renewal 50,000

- Amendment 25,000

3 100,000

Retention License

- Renewal 15,000

- Amendment 25,000

4 Mining Lease 100,000

- Renewal - 100,000

- Amendment 50,000 -

SCHEDULE 2

(APPLICABLE TO LARGE SCALE MINING)

No. Category surface rent Period (Year)

_____ **Rs. Per Sq. Km**

1 Reconnaissance License 100/- 1 year

2 Exploration License 250 1-3

750 4

- First Renewal 1,000 5

1,250 6

- Second Renewal 2,000 7

3 3,000 2 + 1

Retention License

4 Mining Lease 3,000 30 + 10

SCHEDULE 3

(APPLICABLE TO LARGE SCALE MINING) GROUPS OF MINERALS

A. CONSTRUCTION AND INDUSTRIAL MINERALS GROUP

Alunite, andalusite-sillimanite-kyanite, anhydrite, apatite, asbestos, barite, beryl, boron minerals, calcium carbonate, celestite, clay (including bentonite and Fuller's Earth (Palygorsite and attapulgite), ball clay, halloysite, hectorite, kaolin, refractory clay), corundum diatomite, dolomite, epsomite, feldspar, emeralds, garnet (for industrial purposes), graphite, gypsum, heavy mineral sands, iodine minerals leucocence, emerald minerals, limestone and marble, magnesite, mica nepheline syenite, nitrate, olivine, perlite, phosphate, fossil guano, quartz (for "emeralds" 1 purposes), picture-stone, potash, pumice, pyrophyllite, salt, sepiolite, silica sand, soapstone, soda-ash and other sodium compounds, strotianite, sulphur and pyrite, talc, vermiculite, wollastonite and any other mineral as declared by the Government.

B. PRECIOUS STONES GROUP

Diamonds, Emeralds, rubies and sapphires.

C. PRECIOUS METALS GROUP

Gold, silver, platinum, palladium, osmium, rhodium, iridium and ruthenium.

D. SEMI-PRECIOUS STONES GROUP

Amozone, aventurine, beryl (including aquamarine, heliodor and morganite, but excluding beryl as a source of beryllium metal or as an industrial mineral), chrysoberyl, chrysocolla, cordierite, diopside, dumortierite, garnet, milarite, quartz (including amethyst, citrine, rock crystal, rose and strawberry quartz, agate, carnelian, chalcedony, chrysoprase, jasper, moss agate, hyalite, opal, pietersite and tiger's eye), sodalite, topaz, tourmaline and turquoise.

E. BASE METALS GROUP

Aluminum, antimony, arsenic, beryllium, bismuth, cadmium, caesium, chromium, cobalt, copper, gallium, germanium, hafnium, indium, iron, lead, manganese, mercury, molybdenum, nickel, rhenium, radium, "Rare Earths" or lanthanides, including the actinides, scandium and yttrium, rhenium, rubidium, selenium, tantalum, tellurium, thallium, tin, tungsten, vanadium, zinc or zirconium, but does not include any such minerals if such mineral is incidentally in group of minerals.

NOTE:-

The Government may include or exclude any mineral or group of minerals in the above said groups through Notification as deemed appropriate.

**Secretary to Government of N.W.F.P
Industries, Commerce, Mineral Development,
Labour and Technical Education Department.**

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