

**Kingdom of Cambodia**

**Nation Religion King**

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**Royal Government of Cambodia**  
**No. 72 ANKr. BK**

**SUB-DECREE**  
**ON**  
**THE MANAGEMENT OF MINERAL EXPLORATION AND INDUSTRIAL**  
**MINING LICENSES**

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen Royal Decree No. NS/RKT/0913/903 dated 24 September 2013 on the Appointment of the Royal Government of Cambodia;
- Having seen Royal Decree No. NS/RKT/1213/1393 dated 21 December 2013 on the Amendment to the Composition of the Royal Government of Cambodia;
- Having seen Royal Kram No. 02/NS/94 dated 20 July 1994 Promulgating Law on Organization and Functioning of the Council of Ministers;
- Having seen Royal Kram No. NS/RKM/1213/017 dated 09 December 2013 Promulgating Law on the Establishment of the Ministry of Mines and Energy;
- Having seen Royal Kram No. NS/RKM/0701/09 dated 13 July 2001 Promulgating Law on Mineral Resources Management and Exploitation;
- Having seen Sub-Decree N. 576 ANKr.BK dated 24 December 2013 on the Organization and Functioning of Ministry of Mines and Energy; and
- In pursuant to the request of the Minister of Mines and Energy.

**IT HEREBY DECIDED**  
**CHAPTER 1**  
**GENERAL PROVISIONS**

**Article 1:**

This Sub-decree aims to manage all Mineral Exploration Licenses and Industrial Mining Licenses so as to promote effectiveness, efficiency and transparency and the environmental and social responsibility in mining operations.

**Article 2:**

The purposes of this Sub-Decree are to regulate:

- a) The management of mining operations carried out under the exploration license and the industrial mining license;
- b) Land use and management of land during the mining operations under the exploration license and the industrial mining license;
- c) Procedures, formalities and conditions for granting the exploration license and the industrial mining license; and
- d) Rights and obligations of the Concessionaire during the mining operations undertaken in accordance with the exploration license and the industrial mining license.

### **Article 3:**

The Sub-Decree covers all activities involving the exploration and exploitation of mineral resources in the Kingdom of Cambodia under the exploration license and the industrial mining license.

### **Article 4:**

The special terms used in this Sub-decree shall have the following meanings:

**A change of interests over the license** shall mean the transfer of rights or sale of shares or establishment of a joint venture or formation of an affiliation or a partnership or any transfer of all or any part of interests thereof and the execution of other business agreements to transfer interests in the licenses under the existing laws.

**Individuals related to the Concessionaire** shall refer to:

- Representatives of the Concessionaire;
- Any individuals holding shares or having the interests with the Concessionaire; or
- Representatives of the persons who are holding shares or the representatives of the persons who are having the interests with Concessionaire;

**Arrangement and Development of Mineral Resources** shall mean the construction of roads for accessing and transporting, infrastructures and other means for drilling, refinery, treatment, processing, producing, storing, transporting and trading of mineral products.

**Mining Sites Closure and the Environmental Restoration** shall mean the activities undertaken to complete the mineral resources exploitation operations including environmental restoration for the purpose of cleaning the mining sites and to restore the environment of the areas that are affected or damaged by the mining operations under the inspection and evaluation of the Ministry of Environment.

**Financial Obligation** shall mean fiscal and non-fiscal obligation, and/or fine that the Concessionaire shall pay to the State, and/or any foundations, and/or monies deposit required by the Law on Mineral Resources Management and Exploitation, Law on Taxation, Law on Customs, this Sub-Decree, Mineral Investment Agreement, Inter-Ministerial Prakas, and other related regulations in effect.

**Mineral Production** shall mean the regular operations to obtain mining outputs for commercial purposes and those activities include grinding and separating of mineral compounds, mineral purification, and domestic transport activities, industrial metals, mineral processing and other operations implemented before getting finished mineral products.

**The Licensed Concessionaire** shall refer to a natural person or a legal entity who obtains the mineral resource exploration license and/or the industrial mining license.

**Mineral Investment Agreements** shall mean any agreements made between the Minister of Mines and Energy and the applicants applying for the mineral exploration license or the industrial mining license in addition to the licenses in case where the Minister of Mines and Energy determines that the application for the mineral exploration license and the industrial mining license is a large scale project and can provide special benefits to the country.

**Feasibility Study Reports** shall refer to the reports on the evaluation of the project to identify technical and financial characteristics, organization and development of mineral resources,

mineral productions, cost estimation to implement the project, the analysis of profit and loss of the project and the implementation of the project.

**CHAPTER 2**  
**LAND USE FOR EXPLORATION AND EXPLOITATION OF MINERAL RESOURCES**  
**PART I**  
**GENERAL PROVISIONS**

**Article 5:**

Any State land may be subject to the Mineral Exploration License and the Industrial Mining License in accordance with the Law on Mineral Resources Management and Exploitation and other laws and regulations in effect.

A natural person or a legal entity can access, study and set a specific zone on those State land in order to apply for the Mineral Exploration License under the provisions of this Sub-Decree.

**PART 2**  
**RESTRICTED AREA FOR MINING OPERATION**

**Article 6:**

Within the area that is under the Mineral Exploration License or the Industrial Mining License under Article 5 above, the prospecting, exploring and exploiting of mineral resources are not allowed to be made on the following areas:

- a) Areas that are categorized as cultural, historical, heritage sites and army zones;
- b) Areas within 1,000 (one thousand) diameter around the area in paragraph (a) above;
- c) Areas having the existing buildings, solid housing or large infrastructures, except where the activities of conducting prospecting, exploration and/or exploiting of mineral resources will not impact or harm the structure of the buildings;
- d) Areas within 100 (one hundred) diameters around the area listed in paragraph (c) above, except where the activities of prospecting, exploring and mining of mineral resources will carry out in a very deep underground and causes no harms to the engineering feature and will not impact or harm those infrastructures;
- e) Areas of cemetery, burial ground or spiritual sites of local communities, minority land, reserved or prohibited areas except where written approval is given by a legitimate controller of such areas or where the activities of prospecting, exploring and exploiting of the mineral resources are carried out in more than 30 (thirty) meters underneath the surface of the areas;
- f) Areas within 100 (one hundred) diameters around the area listed in paragraph (e) above, except there is a written approval by a legitimate controller of the area or where the activities of prospecting, exploring, and exploitation of mineral resources are carried out more than 30 (thirty) meters below the surface of the area;
- g) Plantation land, gardens, paddy fields, farms that have regular plantation, except a separate approval is given by the legitimate controllers of those areas or State land management authorities or a specific decision made under the existing laws or if such activities of prospecting, exploring and exploiting of the mineral resources are carried out in more than 30 (thirty) meters below the surface of the land;
- h) Areas within 100 (one hundred) diameters around the area listed in paragraph (g), except a written approval issued by legitimate controllers of the area or State land management authorities or a specific decision made under the existing laws or if such activities of

- prospecting, exploring and exploiting of those mineral resources are carried out in more than 30 (thirty) meters underneath the surface of the land;
- i) Areas within 500 (five hundred) diameters around waterways, dams, ponds or water source facilities that are located in the economic concession or social concession areas, except there is an approval given by the legitimate controllers of the areas or State land management authorities or a specific decision made under the existing laws or if such activities of prospecting, exploring and exploiting of the mineral resources are carried out in a very deep underground which produce no harms to the engineering feature or produce no harm to those infrastructures.

#### **Article 7**

If the mining operations is undertaken in a very deep below the surface under the conditions stated paragraph (c), (d), (e), (f), (g), (h) and (i) of Article 6 above, the Concessionaire holding the license shall notify in writing to the legitimate possessors or the State land management authorities not less than 30 (thirty) days prior to the commencement of the mining exploration and exploitation activities.

#### **Article 8:**

The Concessionaire holding the license may be allowed to pass through the areas listed in paragraph (b), (d), (f), (h), and (i) of Article 6 above to other areas in order to explore and/or exploit the mineral resources.

With regard to the passage through the areas listed in the above paragraph, the Concessionaire holding the licenses shall provide remedy under Article 25 of the Law on Mineral Resources Management and Exploitation and any other relevant and applicable legal instruments.

#### **Article 9:**

By passing through the areas stated in Article 8 above, the Concessionaire holding the license shall:

- Provide a prior written notice at least 7 (seven) days to the legitimate controllers or the State land management authorities before accessing that area;
- Undertake reasonable and adequate measures to prevent fire, damages to plantation, trees, livestock or other properties and use it utmost efforts to minimize disturbance to the area;
- Restore or rehabilitate any damage to the area in proportionate to the damages.

### **PART 3 MINING OPERATION IN THE NATURAL PROTECTED AREAS AND PERMANENT FOREST RESERVED AREAS**

#### **Article 10:**

The Mineral Exploration License and the Industrial Mining License may be granted for the natural protected areas and permanent reserved areas in accordance with provisions of the laws governing these areas and other relevant provisions.

The issuance of the Mineral Exploration License and the Industrial Mining License for the natural protected areas and permanent forest reserved areas shall obtain the approvals from respective ministries or institutions of the areas.

The prospecting, exploring and exploiting of mineral resources in the natural protected areas and permanent forest reserved areas shall comply with any laws and regulations governing the environmental and natural protection.

**Article 11:**

If it is necessary to pass through or access the natural protected areas or permanent forest reserved areas to undertake the prospecting, exploring and exploiting of mineral resources, the Concessionaire shall have prior approval from the Natural Conservation and Protection Administration for each natural protected areas or permanent forest reserved areas. The Concessionaire holding the licenses shall:

- Undertake reasonable and sufficient measures to prevent fire, soil damages, or harm to biodiversity and ecological systems in the natural protected areas;
- Request for a prior approval for any activities that damage land, trees or biodiversity and ecological systems in the natural protected areas; and
- Restore or rehabilitate any damage in proportionate to the damages.

**PART 4**  
**REMOVAL OF THE LAND AREAS FROM MINING AREAS**  
**FOR URBAN DEVELOPMENT**

**Article 12:**

If any or all parts of the areas under the Mineral Exploration License or the Industrial Mining License are under a type of land for urban development under the provisions of the laws and regulations on the Land and Water Management, Urban Planning and Construction, the National Committee of Land and Water Management, Urban Planning and Construction can request for removal of all or any part of the areas for public interest and for urban development with the exception that these land areas have already been classified as mineral resources protection areas.

If there is a request for the removal of land area by the National Committee of Land and Water Management, Urban Planning and Construction, the Minister of Mines and Energy shall notify in writing to the Concessionaire holding the license about such removal. Within 180 (one hundred and eighty) days after the date of the notice, the Concessionaire holding the license shall organize and inform the Minister of Mines and Energy about the procedures, work program and other technical conditions for finalizing the exploration and/or exploitation activities and to restore the removed areas and transfer all of the requested area as required by the Minister of Mines and Energy.

If the Concessionaire holding the license have shown that the areas subjected to the removal possess potential mineral deposits or the need to complete the exploration in these areas, the National Committee of Land and Water Management, Urban Planning and Construction and the Minister of Mines and Energy may coordinate to delay the removal of the land area for urban development from mining area license.

**Article 13:**

After the expiry of the 180 (one hundred and eighty) days as stated in article 12 above, if the Concessionaire holding the license fail to respond to the notification of the Ministry of Mines and Energy, the area must be automatically removed and the Minister of Mines and Energy shall amend conditions, obligations and land size of the license in accordance with the land removal procedure determined by the Prakas of the Minister of Mines and Energy.

If the urban development project fails or is no longer required or other decisions are made by the Government, the Concessionaires can request for reinstatement of the removed area in order to continue the mining operation.

**Article 14:**

If the Concessionaire holding the license has invested or constructed concrete infrastructures or has already developed relevant infrastructures for mining exploitation, the Concessionaire is entitled to claim and receive compensation for the loss in those construction or infrastructure before the land is removed under Article 12 above.

**PART 5**  
**MINING OPERATION IN THE ECONOMIC LAND CONCESSION**  
**OR FOREST CONCESSION**

**Article 15:**

An economic land concession or forest concession area may be the subject of granting a mineral exploration or an industrial mining license in conformity with the relevant laws and regulations in effect.

Before granting any mining exploitation license on the economic land concession or forest concession, the Minister of Mines and Energy shall collaborate with Minister in charge of managing the economic land concession or forest concession to assess the impacts from the mining operation for economic land concession or forest concession and request for approval from the Government.

The Industrial Mining License may be granted to the Concessionaire holding the Mineral Exploration License based on the comparison between the socioeconomic benefits of the economic land concession or forest concession projects and the industrial mining exploitation project. If the Industrial Mining License has been approved to the Concessionaire according to a decision of the Royal Government, the Minister of Mines and Energy shall inform other related ministries/institutions and the owners of the economic land concession or forest concessionaire regarding the deduction of his or her land area for the industrial mining license and the relevant ministries/institutions shall implement any necessary legal procedures to correct the land size of economic land concession or forest concession area according to the removal.

**Article 16:**

The Concessionaire holding the licenses shall in its best effort avoid any disturbance or impacts resulted from mining operations and shall pay for any impact and damages on construction, solid infrastructure or trees or plantation invested by the concessionaire of economic land concession or forest concession in accordance with the Law on Mineral Resources Management and Exploitation and any relevant regulations in effect.

**Article 17:**

In case of all or any part of the area of mining operations determined in the mineral exploration license and/or the industrial mining license have not yet been granted as the economic land concession or forest concession to any individual, the institutions responsible for managing the economic land concession or forest concession shall not grant to any individual any economic land concession or forest concession of all or any part of the mining operation area under the Mineral Exploration License and/or the Industrial Mining License, except there is an approval from the Royal Government following the request of the Minister of Mines and Energy.

**Article 18:**

The holder of the economic land concession or forest concession shall be responsible for compensation to the Concessionaire holding the mineral exploration license or the industrial mining license for any disturbance to the mining operations or any damages to properties, mining sites or mineral samples that are resulted from the activities of economic land concession or forest concession. If no compromise on the amount of compensation, the Minister of Mines and Energy shall coordinate the amount of compensation based on an inspection and evaluation by an independent expert which shall be selected by an agreement between the Concessionaire holding the mineral exploration license or the industrial mining license and the concessionaire of economic land concession or forest concession. The expenses for the independent experts shall be under the responsibility of the holders of the economic land concession or forest concession.

**Article 19:**

In order to facilitate the development plans of the economic land concession or a forest concession, the concessionaire holding the license shall as soon as possible notify in writing to the economic land concessionaire or forest concessionaire about: its major mining operation plans which may seriously impact the economic land concession or forest concession; mineral resources development areas; mineral resources exploitation sites; mining wells; storage sites; reserved area for mining; areas using for general mining activities; necessary infrastructure projects that are related to the mineral resources protected area and needed to be removed from the economic land concession or forest concession area. .

**Article 20:**

The concessionaire of economic land concession or forest concession shall provide favorable conditions to the concessionaire holding the license during its mining operations in their concession area and shall endeavor to coordinate and avoid disputes related to land use by the relevant parties.

If paragraph 1 above is not enforceable, the Minister of Mines and Energy may set conditions requiring for cooperation and collaborating agreement between the relevant parties about the land usage and resolve land usage disputes following a consultation with the competent institutions and authorities on economic land concession or forest concession.

If the concessionaire of economic land concession or forest concession fails to comply with paragraph 2 above without having any appropriate reason, the activities of the economic land concession or the forest concession in the dispute area shall be postponed temporarily so that the mineral activities can be operated.

**PART 6**  
**MINING OPERATION ON PRIVATE LAND**

**Article 21:**

The mineral resources exploration license and the industrial mining license can be issued on a private land in conformity with the Land Law and other relevant laws and regulations. There must also be a written agreement between the applicant for licenses and the legitimate land owner or the legitimate person in possession of the land.

For the study projects involving the exploration and exploitation of mineral resources that is carried out deeply below the surface of the land, which cause no harm to the engineering feature and there is no risk to any infrastructure thereon, the granting of mineral exploration license and/or the industrial mining license shall not require any written agreement between the applicants and owner and legitimate possessor/user of the land.

The applicant who applies for the mineral exploration license or industrial mining license under paragraph 2 above shall give notice of its application to the owner, legitimate possessor, and the local authorities where the land is located. The owner and/or legitimate possessor are entitled to complain against the issuance of the license in compliance with Article 27 of this Sub-Decree.

**Article 22:**

Prior to access to private land, the Concessionaire shall seek for written approval from the owner or legitimate possessor of the land and must compensate the owner, or a legitimate possessor of the land and shall pay to the owner and legitimate possessor both in and outside of the licensed area for any damages resulting from its mineral operation regardless of whether the damage is an accident or foreseeable.

### **CHAPTER 3 EXPLORATION LICENSE**

**Article 23:**

Mining operation under a mineral exploration license includes prospecting, exploring and economic assessment of mineral deposits.

The economic assessment of mineral deposits includes assessment of mineral deposit size, technical feasibility, pilot drillings, mineral processing, the assessment of transportation means and other relevant infrastructures, market study and financing.

**Article 24:**

Any natural person or legal entity may apply for a permit to conduct preliminary assessment prior to the application for the exploration license. In case the natural person or legal entity has sufficient reports, information and data about the minerals potential, the natural person or legal entity may request for the exploration license. The preliminary assessment aims to gather data or information related to geology, ownership conditions, land use and impacts on economic activities, environment and local communities.

The preliminary assessment shall not be conducted in areas where the mineral exploration and industrial mining license have already been granted.

The Minister of Mines and Energy may issue a permit to any natural person or legal entity to conduct preliminary assessment following the procedure and conditions determined by a Prakas of the Minister of Mines and Energy. The natural person or legal entity, having the permit shall



not deem to have the exclusive right to conduct preliminary assessment nor the priority to obtain the mineral exploration license.

The permit issued under this Article, shall be valid for 06 (six) months after the issued date, and it can be extended for only once for 03 (three) months period. After the expiry date as determined above, the natural person or legal entity cannot apply for the permit for the same area again, but may request for a permit for preliminary assessment in another area.

**Article 25:**

Natural person or legal entity, having the permit to conduct the preliminary assessment in accordance with article 24 above may collect samples during the validity of the permit, for a total amount of not more than 25 (Twenty-five) tons. The exceeded sample amount is subject to approval from the Minister.

The natural person or legal entity having the permit to conduct the preliminary assessment shall operate on the first layer of the land only by using simple equipment and minimizing the impact to the land.

**Article 26:**

To obtain a mineral exploration license, any natural person or legal entity shall apply for the license to the Ministry of Mines and Energy.

The application for mineral exploration license shall be made under the approved format and formalities with the following attachments:

- Proposed strategy, detailed exploration programs, budget estimation, technical expertise resources and sources of finance to operate the proposed project;
- The Memorandum and Article of Association and the letter confirming the commercial registration in the Kingdom of Cambodia;
- The payment receipt for the mineral exploration license application;
- The preliminary assessment reports or information and data as stated in the article 24 of this Sub-Decree;
- The initial environmental and social impact assessment and
- Other necessary documents and information based on the necessity and actual situations as determined by the Minister of Mines and Energy.

The detail format and procedure for the mineral exploration license application shall be determined by the Prakas of the Minister of Mines and Energy.

Tax registration certificate and current patent tax shall be provided to the Ministry of Mines and Energy after obtaining mineral exploration license.

Any receipt of the application for the mineral exploration license shall register and record the date of acceptance and shall post on the website of the Ministry of Mines and Energy.

Any natural person or legal entity that firstly fulfill the required formalities and procedures above has the priority to obtain the mineral exploration license.

In the event that two or more natural person or legal entities have completed the aforementioned requirements and have submitted the applications for the mining exploration license at the same time, the Minister of Mines and Energy shall set the priority for receiving the exploration license

by means of conducting a public lucky draw, excepts there is a compromise between the concerned parties to provide the priority without a public lucky draw.

**Article 27:**

Municipal, provincial, district-Khan, commune-Sangkat authorities where the proposed area is located shall publicize promptly the notice of the Minister of Mines and Energy about the application for the exploration license.

The concerned person who wish to complain against the issuance of the exploration license can file the complaint to the Provincial and Municipal Departments of Mines and Energy or to the Ministry of Mines and Energy through relevant Commune/Sangkat within 45 (Forty-five) days after the publication of the motivation at the relevant commune/Sangkat.

The Minister of Mines and Energy may check and resolve the complaints within 45 (forty -five) days after receiving the complaints.

Formalities and procedures for resolving the complaint shall be determined by the Prakas of the Ministry of Mines and Energy.

**Article 28:**

After examining the result of the preliminary assessment or reports and all data and after resolving all complaints, if any, the Minister of Mines and Energy may grant the mineral exploration license per the request of the natural person or legal entities by considering on their technical capability, finance and the commercial registration in the Kingdom of Cambodia.

**Article 29:**

The area that has been granted the exploration shall be a one combined area in rectangular or polygon shapes and the land area shall not exceed 200 (two hundred) square kilometers. If it is necessary and the application for the exploration is made on an area of more than 200 (two hundred) square kilometers, the Minister of Mines and Energy shall request for the permission from the Royal Government.

Natural person or legal entity may obtain more than one exploration licenses under the conditions determined by the Minister of Mines and Energy.

**Article 30:**

For the area where the mining licenses have not been issued and the potential mineral deposits has been discovered through drilling of more than 10 (ten) locations for getting mineral samples and/or the areas that used to have the mineral exploitation activities, the Minister of Mines and Energy through a public announcement considers those areas as the preserved areas for bidding to get the exploration licenses under Article 13 of the Law on Mineral Resources Management and Exploitation.

**Article 31:**

With the purpose of protecting public and social interests, the Minister of Mines and Energy may reject the application for the mineral exploration license on all or any part of the requested area by notifying the applicant in writing.

**Article 32:**

Before granting the mineral exploration license or approving the extension of the mineral exploration license, the applicant or the concessionaire shall pay the security deposits as mentioned in this Sub-Decree to the single treasury account of General Department of National Treasury in the National Bank of Cambodia for the validity period of its license under the formalities and conditions determined by the Minister of Mines and Energy.

This security deposits may be confiscated as the State property in the event that the mineral exploration license is revoked according to paragraph 2 of Article 39 or Article 40 of this Sub-Decree.

The exploration license or its renewal shall not be granted if the applicant or the Concessionaire fail to follow paragraph 1 above.

**Article 33:**

The exploration license is valid for 3 (three) years starting from the date of the issuance of the license.

The validity of the exploration license can be renewed twice, provided that each renewal shall not be more than two years and shall meet either one of the following conditions:

- The Concessionaire complies with laws, regulations and the mineral investment agreement and has completed major tasks set forth in the work program. The result of the mineral exploration has demonstrated the potential mineral deposits; but further assessment is required;
- The Concessionaire has encountered real difficulty due to the delay caused by laws enforcement, administrative measures, politics and the requirements of the Royal Government or other competent authorities on the environmental and social protection obligations;
- The Concessionaire faces the difficulty or delay in obtaining the rights to access to the licensed area or due to the weather which prevents the Concessionaire holding the mineral exploration license from exercising its mining operations under the approved work program;
- There is a requirement for the Concessionaire to conduct a study on the socio-economic situation, the environmental impacts and archaeology.

The Minister of Mines and Energy may decide to extend the validity of the exploration license, so that the Concessionaire holding the exploration license can finalize its feasibility study reports and apply for the industrial mining license; however, such extension shall not be more than 2 (two) years. If the application for the extension of the license is rejected, the Ministry of Mines and Energy shall provide reasons in writing.

**Article 34:**

The application for extension of the mineral exploration license shall be made before the expiry date of the license. In case the Concessionaire misses or fails to submit the application for the extension of the license timely, the mineral exploration license and/or the mineral investment agreements shall be terminated automatically and the Minister of Mines and Energy shall issue an announcement of such termination.

If the license is expired, but the Concessionaire has properly and timely filed the application for the extension of the license, that license shall remain effective until there is a decision from the Ministry of Mines and Energy about the application.

The extension of the validity of the exploration can be made on the entire area or any part of the remaining licensed area after the return of the land area.

The Ministry of Mines and Energy shall provide reasons in writing if he/she decides not to extend the validity of the license.

If the Concessionaire holding the license decides to make a change of interests over the license after filing the application for license renewal, the application for the extension of the license shall be considered as that of the assignee.

#### **Article 35:**

During the validity of the exploration license, the Concessionaire holding the license shall fulfill its minimum operational expenses for its mining exploration, except there is a separate decision of the Ministry of Mines and Energy under this Sub-Decree or there is a separate provision in the license and/or the mineral investment agreements.

The minimum operational expenses under this Article shall be calculated according to Article 91 of this Sub-Decree and under the following minimum level:

- From the 1<sup>st</sup> to the 3<sup>rd</sup> year, at least 1,000,000 (one million) Riels per one square kilometer per year and if the licensed area is less than 100 (one hundred) square kilometer, the amount of minimum operation expenses shall not be less than 100,000,000 (One hundred million) per year for the entire licensed area;
- From the 4<sup>th</sup> to the 5<sup>th</sup> year, at least 4,000,000 (four million) Riel per one square kilometer per year, and in case the licensed area is smaller than 100 (one hundred) square kilometer, the minimum operational expenses shall not be less than 400,000,000 (four hundred million) Riels per year for the entire licensed area;
- From the 6<sup>th</sup> to the 7<sup>th</sup> year, at least 6,000,000 (six million) Riels per one square kilometer per year; however, if the licensed area is smaller than 100 (one hundred) square kilometer, the minimum operational expenses shall not be less than 600,000,000 (six hundred million) Riels per year for the entire licensed area;
- From the 8<sup>th</sup> to the 9<sup>th</sup> year, at least 10,000,000 (Ten million) Riels per one square kilometer per year and in case the License area is smaller than 100 (one hundred) square kilometer, the minimum operational expenses shall not be less than 1,000,000,000 (One billion) Riels per year for the entire licensed area

For the primary and the final year of the mineral exploration license, the above expenses shall be calculated based on the real number of months in each year.

In case the Concessionaire holding the mineral exploration license obtain the approval for freezing all or any part of the exploration license, the amount of minimum operational expenses under this Article shall be reduced in proportion to the amount of the land area and the freezing period.

The minimum operational expenses are required separately for each exploration license and it is not allowed to calculate jointly with other licenses.

**Article 36:**

The Concessionaire holding the mineral exploration license can request to the Minister of Mines and Energy to exempt all or any part of its minimum operational expense obligations for any particular year due to the following reasons:

- The whole or any part of the licensed area is in a dispute; or
- The Concessionaire needs time to re-evaluate the outcome of the mineral resources operations, write reports, prepare of action plan or collecting additional capital; or
- The Concessionaire needs time for the procurement; or
- The licensed area is not accessible for conducting mining operations due to any appropriate reasons; or
- The mineral deposits area is reserved for the sustainable mining operations of the current or the proposed mining exploitations; or
- The Concessionaire has submitted the application for an industrial mining license, but the license has yet been granted; or
- Other appropriate reasons determined by the Minister of Mines and Energy.

The exemption of this obligated minimum expense operation is allowed up to 12 (twelve) months in the total period of the validity of the License.

**Article 37:**

The Concessionaire holding the exploration license shall have the following obligations:

- Carry out mineral resource operations based on the approved work program by the Minister of Mines and Energy, and in compliance with regulations, technical conditions and good practices of this industry;
- Carry out mining sites closure and environmental restoration at all areas and sites that are affected or damaged by the mining operations;
- Carry out environmental management plan stated in the initial environmental impact assessment;
- Fulfill all the financial obligations related to the mineral exploration license determined in this Sub-Decree;
- Comply with this Sub-Decree, license conditions and/or mineral investment agreement and other regulations in effect.

**Article 38:**

The Minister of Mines and Energy may suspend the mineral exploration license in case the Concessionaire holding the license commits any of the following acts:

- Explore in the prohibited areas as stipulated in paragraph (g) or (h) or (i) of Article 6 of this Sub-Decree;
- Fail to carry out minimum operation expense obligations as stated in Article 35 of this Sub-Decree, except there is exemption from the Minister of Mines and Energy as stated in Article 36 of this Sub-Decree;
- Fail to carry out recording, maintenance and data provision obligations as stated in Paragraph 1 of Article 49 of this Sub-Decree;
- Fail to provide the report on the outcome and expenses, including technical report on the study of mineral exploration as stated in Article 50 of this Sub-Decree;

- Fail to provide a written report to the Minister of Mines and Energy on the mineral deposits as stipulated in Article 51 of this Sub-Decree;
- Forbid officials assigned by the Minister of Mines and Energy to inspect the mineral operation sites;
- Fail to provide audit report as required by the Minister of Mines and Energy as stated in Article 93 of this Sub-Decree;
- Fail to pay annual rental fees as stated in paragraph 2 Article 92 of this Sub-Decree;
- Fail to comply with obligations stated in paragraph (1) or (2) or (3) or (4) of Article 37.

#### **Article 39:**

The Minister of Mines and Energy shall notify in writing to the Concessionaire committed any of the acts stated in Article 38 of this Sub-Decree to correct such mistakes and to implement all conditions stated in the Notice within 45 (forty-five) days. After the expiry of this period, if the Concessionaire is still unable to fulfill the obligations and conditions under the Notice, the Minister of Mines and Energy shall issue Prakas to suspend the mineral exploration license.

The suspension period shall not exceed 6 (six) months period. After the expiry of this period, if the Concessionaire is still unable to correct the mistakes, the Minister of Mines and Energy shall revoke the exploration license.

#### **Article 40:**

The Minister of Mines and Energy may decide to revoke the mineral exploration license in case the Concessionaire holding license commits one of the following acts:

- Carry out the exploration operations in the prohibited areas as stated in paragraph (a) or (b) or (c) or (d) or (e) or (f) of Article 6 of this Sub-Decree;
- Carry out the exploration operations in Natural Protected Areas or Permanent Forest Reserved Areas without permission as stated in paragraph 2 of Article 10 of this Sub-Decree;
- Transfer of rights or a change of interests over the license or mortgage the license without prior approval from the Minister of Mines and Energy as stated in Article 90 of this Sub-Decree;
- Drill or collect mineral samples, soil, rock, minerals, water or other mixture in the total amount of more than 1,000 (One thousand) tons for research, experiment and testing of mineral indication during the validity of the license without approval from the Minister of Mines and Energy as stated in point (2) of Article 43 of this Sub-Decree;
- Commit any of the acts mentioned in Article 38 during the license suspension period;
- Fail to comply with this Sub-Decree, license conditions, and/or mineral investment agreements and relevant laws and regulations.

#### **Article 41:**

In the event that the license is revoked, the Concessionaire shall:

- Provide documents, information, data and mineral samples that are related to its exploration to the Ministry of Mines and Energy within 90 (ninety) days after the decision to revoke the license;
- Settle all the remaining financial obligations within 90 (ninety) days after the date of revocation; and

- Remove all machinery, tools, equipment used for the exploration within 90 (ninety) days after the date of revocation. After the expiry of this period, the Minister of Mines and Energy may take any measure to remove the machinery, materials and equipment out of the licensed area and the Concessionaire shall pay all expenses for the removal or restoration of the impacts or damages caused by the mining exploration activities.

Any physical infrastructures such as roads, bridges, schools, hospitals, dams that were built by the Concessionaire in the public or private land and were aimed for public use shall become the public property.

#### **Article 42:**

Within 06 (six) months after the exploration license is revoked due to its expiry or any part of the licensed area has been removed, the Concessionaire or the persons who are related to the concerned Concessionaire cannot reapply for a new exploration license for that areas whose license has been revoked due to its expiry or the part of the licensed area that has been removed.

#### **Article 43:**

In conformity with the work program that has been approved by the Minister of Mines and Energy, the Concessionaire holding the exploration license shall have the following rights:

- Conduct mining operations, access or station in the licensed area or use vehicles, machinery, other equipment and materials that are necessary for undertaking mining exploration above or underneath the licensed area;
- drilling or collecting mineral samples, soil, rocks, minerals, water or other compositions at the amount of not more than 1,000 (one thousand) tons for study, research and testing of mineral indication during the validity of the exploration license;
- Use natural public water sources or drill new wells for mining exploration operations;
- Use community water source in accordance with the existing laws and regulations; and
- Upon receiving prior approvals from the owners or possessors, the Concessionaire is allowed to use private roads to access the licensed area.

The procedures to export abroad the mineral samples, soil, rocks, minerals, water or other compositions for research, experiment and testing shall be determined by the Prakas of the Minister of Mines and Energy.

#### **Article 44:**

The Concessionaire holding the mineral exploration license may apply for freezing the validity of its mineral exploration license under the provisions of this Sub-Decree by providing specific and appropriate reasons.

The application for the suspension of the mineral exploration license shall be made in a required format and shall be attached with the payment receipt of the application fees for freezing the exploration license.

If the Concessionaire who has submitted the request for freezing its license intends to transfer its rights and such transfer request is approved by the Minister of Mines and Energy, former

application for freezing of the license shall be proceed under the name of the assignee or under the shares structure of the Concessionaire holding the license.

**Article 45:**

The request for freezing the exploration license of all or any part of the licensed area is not permitted, except potential economic mineral deposits have been discovered in that requested, but the mineral resources exploitation cannot carry out immediately due to one of the following reasons:

- Lacking of economic potential or facing market issues; however, such mineral deposits are expected to have adequate economic potential and market in the future;
- The mineral deposits are reserved to sustain the current mining exploitation or for the proposed mineral exploitation projects; or
- Political issue, the environmental and social issues or force majeure that prevent the immediate commencement of the mineral resources exploitation.

The area under the frozen request shall be a one combined area with a suitable size that can in the future serve mining operations under the industrial mining license.

Should there is an approval for freezing the validity of the exploration license for any part of the licensed area, such area shall be deducted from the validity of exploration license counting from the date of the issuance of the freezing permit.

During the freezing period of the exploration license, the Concessionaire shall continue fulfilling its financial obligations under the provisions of this Sub-Decree.

If such freezing is related to natural protected area or private land or in a necessary case, the Minister of Mines and Energy shall consult with the competent authorities and owners of the private land prior to making a decision to froze the license validity.

The total freezing period of the exploration license validity shall not be more than 5 (five) years.

**Article 46:**

During the freezing period of the exploration license validity, the Minister of Mines and Energy may require the Concessionaire holding the exploration license to provide progress update and reasons why it cannot or it is not ready to apply for the industrial mining license.

If the Concessionaire holding the exploration license fails to provide proper reasons in writing within a specific period or the Minister of Mines Energy determines that the reasons given by the Concessionaire is not appropriate, the Minister of Mines and Energy may require the Concessionaire to apply for the industrial mining license for the frozen license area within 60 (sixty) days after the issuance of the notice.

**Article 47:**

If the request for freezing of the license validity is approved under Article 43 above, the Minister of Mines and Energy may require the Concessionaire holding the exploration license to carry out some important tasks at a specific time for the frozen area through . The Concessionaire shall provide a draft work program for such important tasks under the format determined by the Minister of Mines and Energy.



**Article 48:**

The Concessionaire holding a valid exploration license is entitled to apply for an industrial mining license for other parts of the exploration license under Article 53 of this Sub-Decree.

The Concessionaire holding a valid exploration license and who has applied for the industrial mining license but thereafter the exploration license has expired, is entitled for license validity extension from the Minister of Mines and Energy until the application for an industrial license is approved or rejected.

The Concessionaire holding exploration license who wishes to make a change of beneficiary over the license following the submission of the application for an industrial mining license and such change request has been approved by the Minister of Mines and Energy, the application for the industrial mining license shall be under the name of the assignee.

**Article 49:**

The Concessionaire holding exploration license shall record and maintain documents, records, receipts, data, information, mineral samples and the result of analyzing of the mineral samples during the exploration activities and other operations under the exploration license and shall provide such documents and reports to the Minister of Mines and Energy upon request or when there is inspection by the competent officials appointed by the Minister of Mines and Energy.

All data, information and mineral sample testing results that the Ministry of Mines and Energy has received shall be kept confidential during the exploration period. Any use of these documents for research purposes shall receive the approval from the Concessionaire who is the owner of the exploration license.

The Minister of Mines and Energy shall set the procedure for the management, storage, confidentiality requirement and the usage of those data, information and samples for the development of mining sector in Cambodia.

**Article 50:**

Before ending the first month of the subsequent year or within 30 (thirty) days after the termination of the exploration license, the Concessionaire holding the exploration license shall organize and provide to the Ministry of Mines and Energy of the work performance and expenses reports as well as technical reports on the mineral exploration that has been implemented in each year. The technical reports shall be prepared by experts in geology or mineral resources under the format and formality set by the Minister of Mines and Energy.

**Article 51:**

The Concessionaire holding the exploration license shall provide written reports to the Minister of Mines and Energy on the economic mineral deposits or minerals that it has discovered within 15 (fifteen) days after the Concessionaire has identified the size of the potential mineral deposits.

## **CHAPTER 4 INDUSRTIAL MINING LICENSE**

**Article 52:**

Mining operations that are conducted under the industrial mining license consist of all activities involving: the exploration and extraction of mineral deposits within the boundary of exploration licensed areas and which have economic potential, mineral resource productions, closure of mining sites and the environmental restoration.

**Article 53:**

The concessionaire holding the exploration license can apply for an industrial mining license for any area stated in the exploration license to the Ministry of Mines and Energy.

The application for an industrial mining license shall be made in an appropriate format and formality along with the following attachments:

- Receipt on the payment of the official fees for the industrial mining license application;
- Development plans for the mining sites;
- Detailed reports of the feasibility study prepared by professional experts in a format, formality and contents determined by the Minister of Mines and Energy;
- Patent certificate of current year
- Reports on the environmental and social impacts assessment and the environmental management plans;
- Development plans for the concerned local communities in the mineral resources production zone;
- The plan for mining sites closure and the environmental restoration plans; and
- Other documents and information if necessary and required by the Minister of Mines and Energy;

The detailed format and formality for the industrial mining license application shall be determined in a Prakas of the Ministry of Mines and Energy.

**Article 54:**

The Concessionaire holding the exploration licenses shall conduct topographical survey on land condition and shall demarcate the areas applying for industrial mining license under the provisions of this Sub-Decree.

The Minister of Mines and Energy shall assign a working group to inspect and install land poles along the border of the areas applying for industrial mining license. All expenses incurred during the inspection shall be the responsibility of the Concessionaire holding the exploration license who is applying for the industrial mining license.

The Concessionaire applying for license shall appoint its representatives to participate in the working group during the evaluation at any location and time determined by the Minister of Mines and Energy.

The Minister of Mines and Energy may reject the application for the industrial mining license if:

- The Concessionaire fails to arrange its representatives to participate in the inspection and evaluation working group under this article; or
- The Concessionaire fails to comply with the guidelines of the Minister of Mines and Energy during the examination and evaluation of the industrial mining license application.

If the industrial mining license is granted to other areas, not the proposed area, the Concessionaire shall promptly start installing new land poles at a reasonable timeframe.

**Article 55:**

The Minister of Mines and Energy shall review the application for industrial mining license of the Concessionaire holding the license based on the Law on Mineral Resources Management and Exploitation and this Sub-Decree, formality of the application, and evaluation of the outcome of the study on economic potential of mineral deposits in the requested area and format of requested mineral operations.

After considering on technical, financial, environmental, economic and social factors to figure out the socio-economic possibilities from mining operations the Minister of Mines and Energy shall:

- a. Raise the proposed mineral exploitation to the Council of Development of Cambodia according to the procedures to get the approval in principle first before granting the industrial mining license if the Minister of Mines and Energy has approved and supported the proposed mining project;
- b. Reject the application for the industrial mining license if any condition of the mineral exploitation operation determined by this Sub-Decree is not fulfilled. To evaluate the economic and social possibilities of the mining operations, the Minister of Mines and Energy shall encourage consultation and shall conduct the investigation with relevant provincial, municipal, and commune authorities in conjunction with the socio-economic development principles of the Royal Government.

The Concessionaire shall submit the application for an industrial mining license at the concerned provincial-municipal Department of Mines and Energy and relevant District/Khan, Commune/Sangkat for examination and public consultation.

**Article 56:**

The Concessionaire holding a mineral exploration license may be granted more than one industrial mining licenses for one or more land areas indicated in the exploration license under the terms and conditions set out by the Minister of Mines and Energy.

**Article 57:**

The Concessionaire holding the industrial mining license shall request for the approval from the Minister of Mines and Energy on its annual production plan for the subsequent year in September each year and shall update its production in every trimester or at any period required by the Minister of Mines and Energy.

The Concessionaire holding the industrial mining license shall undertake its mining operations under its production plan, business strategy, technical plans, work program and other conditions determined and approved by the Minister of Mines and Energy and comply with the Law on Factory and Handicraft and other related laws and regulations.

If new types of mines are included in the business objective or the real implementation is significantly different from the production plan, business strategy, technical plan, working program or other conditions that has already determined and approved by the Minister of Mines and Energy, the Concessionaire shall seek new approval prior to conducting the exploitation of that new types of mines or before implementing any major amendments to the mining operations.

Following the request from the Concessionaire, the Minister of Mines and Energy may approve the pilot production for a specific amount, duration and conditions determined by the Minister of Mines and Energy.

**Article 58:**

The Concessionaire holding the industrial mining license shall carry out mining operations by ensuring the maximum mineral production out of the mineral deposits in conformity with technical standard, good practices of the industry and the economic efficiency principles as well as to avoid and minimize wasting and depletion of mineral resources.

**Article 59:**

The initial industrial mining license shall be valid not more than 21 (twenty -one) years or equivalent to the duration of the mining exploitation project if its duration is less than 21 (twenty one) years. This duration is renewable for 2 (two) times upon the request of the Concessionaire, provided that each renewal period shall not be more than 10 (ten) years. In a special circumstance, the industrial mining license can be extended longer than duration stated above.

The validity of the industrial mining license shall include the period of preparation and development of the production and closure and restoration of mining sites. The initial mining production shall commence within 5 years after the date of issuing the license.

**Article 60:**

The application for the renewal of the industrial mining license shall be made prior to the expiry of the license. In the event that the Concessionaire fails to submit the license renewal application by the due date, the industrial mining licenses and/or the relevant mining investment agreements shall be terminated automatically and the Minister of Mines and Energy will issue a notification about such termination.

If the application for the extension of the license is not submitted then the Minister of Mines and Energy shall undertake necessary measures to terminate the industrial mining license, to close mining exploitation sites or confiscate and form a State-run mining exploitation site until a new concession is granted.

If the Concessionaire has formally applied for the renewal of the expiry license by the due date, then such license shall remain effective until a decision of the Minister of Mines and Energy on the application is made.

If the application for the renewal of the industrial mining license is rejected, the Minister of Mines and Energy shall provide reasons in writing.

After the submission of the license renewal application if the Concessionaire wish to make a change of interests over the license, the application for license renewal shall be considered as the application of the assignee.

**Article 61:**

By complying with the work programs that have already been approved by the Minister of Mines and Energy, the Concessionaire holding the industrial mining license shall have the follow rights:

- Conduct mining operations underneath or above the licensed area;

- Use natural or public water sources or drill new wells for mining exploitation operations;
- Utilize community's water sources in conjunction with the existing law and regulations;
- Use private roads with prior consent from the owners or possessors to access the licensed area;
- Have the authority to manage and use the land in the licensed area in consistence with the Law on Mineral Resources Management and Exploitation, this Sub-Decree and the conditions of the valid license; and
- Own the mineral resources that are the output of the mining operations in accordance with laws and the Law on Mineral Resources Management and Exploitation and the existing regulations;

The Concessionaire holding the industrial mining license shall have the exclusive rights to carry out mining operations and to manage land in the licensed area.

**Article 62:**

The Concessionaire holding the industrial mining license has rights to use public transportation roads that were built by private or community in or outside the licensed area for its mining operations, provided that it shall warrant and involve in maintaining such roads in proportionate to the size of its real use.

All concerned parties shall appoint a working group or a coordinating committee to set the amount of annual maintenance fees which will be distributed by all parties to repair and maintain roads with coordination from the Minister of Mines and Energy in accordance with the laws and regulations in force.

**Article 63:**

After the industrial mining license is expired or revoked, the Concessionaire is allowed to access the licensed area for an appropriate duration as determined by the Minister of Mines and Energy to close its mining sites and to restore the environment as indicated in the plans that has already approved by the Minister of Mines and Energy.

**Article 64:**

The Concessionaire holding the industrial mining license shall prepare and seek approval from the Minister of Mines of Energy with regard to orders and rule on safe labor for its mining operations in the licensed area prior to commencement of its mining exploitation process.

The Concessionaire shall update and request for approval from the Minister of Mines and Energy for its safe labor rules and orders in every two (2) years or at such other period as determined by the Minister of Mines and Energy.

**Article 65:**

The Concessionaire holding the industrial mining license shall not build any construction or infrastructure for mining operations or establish the mining sites, mineral storage, or an area for releasing or storing of mining waste outside its mining areas, except it is approved by relevant local authorities with the request from the Minister of Mines and Energy.

**Article 66:**

The Concessionaire holding the industrial mining license shall coordinate the visit or study tour organized by other institutions with the approval from the Ministry of Mines and Energy in its

mining operation area or to organize a visit by local communities to understand its operation in the licensed area that can be implemented successfully.

**Article 67:**

The Concessionaire holding the industrial mining license shall provide prior notice, attaching with plans for the closure of its mining sites and the restoration of the environment to the Minister of Mines and Energy within 90 (ninety) days before the permanent closure or termination of the mining sites.

The Minister of Mines and Energy may require the Concessionaire to provide additional information, as necessary and/or to include conditions and/or to amend and/or to create formality for preparation of mining sites closure and the environmental restoration plans.

**Article 68:**

The Concessionaire holding the industrial mining license shall provide progress update and seek approval from the Minister of Mines and Energy for mining sites closure and the environmental restoration plans regularly in every 03 (three) years or at such other period determined by the Minister of Mines and Energy.

**Article 69:**

The Concessionaire holding the industrial mining license shall not discharge or cause the release of aquatic waste or water from the mining sites with or without having been treated into the water ways or other sources of natural water that are located outside the licensed area without prior approval from the relevant authorities.

Any disposal of aquatic waste or water from the mining sites, the Concessionaire holding the license shall ensure its compliance with standard and quality requirement as required by the existing laws and regulations.

The Concessionaire holding the industrial mining license shall undertake measures to prevent land erosion or formation of landfill on the community land or any blockade to the community's water way.

The competent institutions may set a specific public water way for the mining operations and the Concessionaire holding the license must pay the remedy and maintenance fees for such water ways.

**Article 70:**

For whatever reasons, the Concessionaire holding the industrial mining license shall be responsible for:

- All damages or other losses resulted from contamination by leaking, releasing or disposing of all substances from the mining sites or any part of mining operations; and
- All appropriate expenses of the relevant parties to prevent or correct the aforementioned damages and such other damages caused by undertaking of the preventive measures.

If there is a clear evidence that such damages are resulted from force majeure as mentioned in above paragraph, the level of liability shall be reduced in proportionate to the size and proportion of such unavoidable events.

**Article 71:**

The Concessionaire holding the industrial mining license shall ensure its conformity to the work program, the plans for mining site closure and the environmental restoration plans and all conditions stated in the license or the provisions of this Sub-Decree.

**Article 72:**

Once the industrial mining license is terminated due to the expiry or the removal or the return of any part of the licensed area, the Concessionaire shall remove the factory facilities, trucks, machinery, and equipment or other immovable properties that are belonged to the Concessionaire out of the licensed area or the area that has been withdrawn or returned within 90 (ninety) days after such termination, removal or return of the area. The Minister of Mines and Energy may determine a new period for this removal. Any buildings or infrastructures that ensure safety and support the safety of the construction site and other mining wells are not permitted to remove except there is a separate approval from the Minister of Mines and Energy.

In the event of default or failure to follow the above requirements without providing a written evidence for such default, the Minister of Mines and Energy shall declare to sale at auction of those properties under the existing laws and shall undertake measures to relocate such properties.

The Minister of Mines and Energy may decide which immovable property should be remained at the licensed area after the expiration of the license. In this case, the Minister of Mines and Energy shall negotiate with the Concessionaire regarding the means of possession and use and/or leasing terms of those properties.

**Article 73:**

All mining production or mineral deposits that remained on or under the licensed area after the termination of the license shall consider as State properties.

If the agreement is made between the Concessionaire and a legitimate land owner or possessor, the provision of this article shall be implemented in conformity with the agreement.

**Article 74:**

The Concessionaire holding the industrial mining license shall provide the annual reports on the operation, work performance outcome and its expenses for mining operations under the format approved by the Minister of Mines and Energy before the termination of the first trimester of the subsequent year or within 90 (ninety) days after the license is terminated. If it is necessary, the Minister of Mines and Energy may require the Concessionaire to submit the reports in a different formats and at different date.

**Article 75:**

The Concessionaire holding the industrial mining license shall provide monthly reports for the mining productions and sale of mineral products under a format determined by the Minister of Mines and Energy within 15 (fifteen) days of the subsequent month. If it is necessary, the Minister of Mines and Energy may require the Concessionaire to provide reports in different format and at a different date.

**Article 76:**

The Concessionaire holding the industrial mining license shall pay royalty fees under the rate, procedure and condition set out in the Inter-Ministerial Prakas of the Ministry of Mines and Energy and the Ministry of Economy and Finance.

The Minister of Mines and Energy shall take all measures to ensure the effectiveness of royalty collection and set procedure for pricing and classifying of mineral products in order to calculate royalty based on local and/or international market and international best practice.

The Minister of Mines and Energy may classify a particular type of mineral product into a particular class of mineral product for the purpose of collection and calculation of mining royalty.

The mechanisms for royalty collection shall determine by Prakas of the Ministry of Mines and Energy.

**Article 77:**

In the event that the mining royalty or any part of it has not been paid or has not been properly determined or calculated, the Minister of Mines and Energy may re-estimate the amount of royalty. The re-estimation shall be made based on relevant information given by the Concessionaire or other sources. In such case, the Minister of Mines and Energy shall provide a notice in writing to the Concessionaire on:

- The proposed re-estimation of mining royalty as well as the detail strategy for calculation of the estimated value; and
- A specific timeframe for the Concessionaire to respond or propose any requests for such re-estimation.

After the expiry of the period stated in the notification on the re-estimation of mining royalty and/or after considering on the response of the Concessionaire, the Minister of Mines and Energy can determine the amount of mining royalty that the Concessionaire has to pay or require an additional payment.

**Article 78:**

At each payment of the mining royalty, the Concessionaire holding the industrial mining license shall make declaration of the mining royalty according to the format determined or approved by the Ministry of Mines and Energy.

If the declaration is perceived as not properly made or inaccurate, the Minister of Mines and Energy may assign a competent official to inspect the declaration of the mining royalty made by the Concessionaire without prior notice. Through such appointment, the competent official shall have the following authorities:

- Check and inspect all mining operations or other locations that are related to the mining operations, mineral storage, accounting or other data of the related mining operations;
- Check and inspect all operations or other locations that the competent official considers to have relation with the offenses or the irregularity of the determination of the mining royalty;
- Require the concessionaire or its representative to provide or copy all data and relevant documents;
- Require the Concessionaire to conduct pilot production under the inspection of the competent official, if necessary.



If it is found that the Concessionaire has committed an offense against this article and fail to make proper payment of the mining royalty and other fines as required by decision of the Minister of Mines and Energy after the lapse of notice period to correct from the Minister of Mines and Energy, the Minister of Mines and Energy can revoke the industrial mining license and terminate the related mining investment agreements.

**Article 79:**

To prove the details on the calculation of the mining royalty, the Concessionaire holding the industrial mining license shall keep and maintain all records concerning mining operations, mineral production for five (5) years beginning from the date of paying the mining royalty or the date of selling mineral products if the selling is made after payment of the mining royalty.

**Article 80:**

During the validity of the industrial mining license, the Concessionaire can propose in writing to the Minister of Mines and Energy to terminate all or any part of the licensed area no later than 90 (ninety) days prior to the termination or the return of any part of the land area.

If the part of the licensed area is removed, the rental fees and other financial obligations shall be reduced proportionately after the Minister of Mines and Energy has issued an approval on the removal of such part from the licensed area.

If the industrial mining license is under a mortgage, the request for termination or reduction of the licensed area under this Article shall obtain prior approvals from all concerned parties before submitting a request to the Minister of Mines and Energy.

The termination of the license or the reduction of any part of the licensed area under this article does not relieve the Concessionaire from the liability or obligations arisen before such termination or reduction.

**Article 81:**

The Minister of Mines and Energy may revoke the industrial mining license or remove any part of the licensed area for the following cases:

- The financial obligations, rental fees or royalty fees have not been paid or have not properly been paid under the provisions of this Sub-Decree;
- The Concessionaire has transported the mineral resources out of the licensed area without paying royalty fees or obtaining an approval in writing from the Minister of Mines and Energy;
- The Concessionaire fails to provide sale agreements, data or accounting books and other reports as stipulated in Article 74, 75, 77 or 78 of this Sub-Decree;
- The Concessionaire has prevented or prohibited the competent authority who is appointed by the Minister of Mines and Energy from inspecting the mining operation sites or fails to comply with Article 93 of this Sub-Decree;
- The Concessionaire fails to follow the obligations, conditions and/or other provisions stated in in the license and/or mining investment agreements as well as other provisions in Article 80 or 87 of this Sub-Decree;
- Serious damage to the landscape that is contravened to the development and exploitation purposes or different from mining operation plans that have been approved in writing by the Minister of Mines and Energy;
- Failure to comply with provisions on health and safety of the mining wells;

- The Concessionaire has made a change of beneficiary over the license or mortgaged the license without the approval from the Minister of Mines and Energy;
- Fail to provide data on mining samples and the data on the outcome of their testing that is undertaken by the Concessionaire under the license's conditions as required by the Minister of Mines and Energy;
- Fail to promptly provide detailed and updated reports to the Minister of Mines and Energy about the discovery of mineral resources and any significant changes of the potential economic value of the mineral resources in the licensed area;
- Fail to review or make regular update on its plans for mining sites closure and the environmental restoration plans under this Sub-Decree;
- Fail to comply with the environmental management plan approved by the Ministry of Environment and cause serious impact on the environment and society;
- Fail to comply with conditions and requirements stated in Article 71 above or violate the Law on Mineral Resources Management and Exploitation; or
- The Concessionaire fails to carry out the mineral production under the timeframe stated in paragraph 2, Article 59 of this Sub-Decree.

#### **Article 82:**

If the Concessionaire violates any points of the Article 81 above, the Minister of Mines and Energy may require the Concessionaire to pay fines under the Law on Mineral Resources Management and Exploitation and issue a warning in writing to the Concessionaire to correct such violation at a specific time which shall not be more than 45 (forty-five) days. After the expiry of the period and the Concessionaire still fail to pay the fines or correct such violation as required in the warning letter, the industrial mining license will be officially terminated or revoked.

#### **Article 83:**

After the industrial mining license is terminated due to its validity expiry or revocation, the Concessionaire shall perform the following obligations:

- Settle all the remaining financial obligations within 90 (ninety) days after the termination or revocation;
- Remove machinery, tools and equipment that were used in mining operations within 90 (ninety) days after the license termination or revocation decision. Following the expiry of duration hereof, the Minister of Mines and Energy may undertake any measure to remove those machinery, tools and equipment from the licensed area given that the Concessionaire shall pay all expenses associated with such removal or the restoration of any impacts or damages arising from the mining operations;
- Conform with the provisions under the mining sites closure and the environmental restoration plans to restore all impacts or damages that are resulted from the mining operations; and
- Other obligations under the provisions of the Law on Mineral Resources Management and Exploitation and this Sub-Decree;

All physical infrastructure including roads, bridges, schools, hospitals, dams that have been built by the Concessionaire in the public or private land and were aimed for public use shall become the public property.

#### **Article 84:**

Within 12 (twelve) months after the termination of the industrial mining license due its validity expiry or the removal of any part of the licensed area, the Concessionaire or any person who are related to the concerned Concessionaire cannot re-apply for the mineral exploration licenses or

the industrial mining license for the licensed area that has been terminated due to the validity expiry or for the removed part of the licensed area.

## **CHAPTER 5**

### **COMMON PROVISION FOR THE EXPLORATION LICENSE AND INDUSTRIAL MINING LICENSE**

#### **Article 85:**

The Concessionaire holding the licenses shall be responsible for improving welfare of the local communities and concerned communes/Sangkats that are located in its mining operation zones.

The obligations to take part in promoting community development consist of the participation in implementing community development plans focusing on physical infrastructure development, public health care, education, training and development of relevant local communities.

The Concessionaire holding the licenses shall arrange annual budget plan regularly to participate in community development.

The Minister of Mines and Energy shall lead and coordinate the Concessionaires holding the license and local authorities with regards to the usage of the mining funds for community development so that such fund is used appropriately for the prioritized local development plans and in conformity with the socio-economic development principles.

In the event of establishing a mining foundation for community development, management mechanism and procedures in using the mining foundation for community development shall be determined by the Inter-Ministerial Prakas of the Minister of Mines and Energy and the Minister of Economic and Finance.

#### **Article 86:**

The Concessionaire holding the licenses shall ensure the maximum consumption of local labors, services, and goods as much as possible and in accordance with the relevant regulations in effect.

The Concessionaire shall focus on promoting training, professional capacity building for Cambodian employees to fulfill the required skills and leadership roles in mining operations.

#### **Article 87:**

Each year the Concessionaire holding the licenses shall have obligation to participate in human resources training and building capacity based on the annual training plan approved by the Minister of Mines and Energy.

#### **Article 88:**

In case the license is granted to two or more concessionaires, the Concessionaires shall be jointly or separately responsible before the Minister of Mines and Energy on all obligations and responsibilities in mining operations in accordance with the granted licenses.

The Concessionaire holding the licenses may enter into sub-contracts or hire technical experts for implementing its mining operations under the license. This mining operations shall be considered as being implemented and responsible by the Concessionaire holding the licenses.

**Article 89:**

The Concessionaire holding the licenses shall set up a permanent headquarter and management structure in the Kingdom of Cambodia to be responsible for the mining operations that are carried out under the granted license.

If it is necessary and in consideration to the size of the mining operations, the Minister of Mines and Energy may set additional conditions for the management structure in Cambodia as well as setting other necessary measure to ensure effectiveness on the management of mining operations and safety, environmental and social protection.

**Article 90:**

The Concessionaire holding the license shall seek prior approval in writing from the Minister of Mines and Energy before:

- Establishing a joint venture for any business activities that are related to the mining operations under the issued license;
- Entering into a transfer agreement; or
- Transferring any interests that are related to the mining operations and under the mineral exploration license and/or industrial mining license;

The establishment of a joint venture or the execution of any transferring agreement that are related to the mining operations under the mineral exploration license or industrial mining license is permitted only if it can promote possibility and effectiveness of mining operations and it does not hinder State's tax revenue.

The Concessionaire holding the license that make a change of interest over the license shall fulfill formalities and financial obligations according to the related laws and regulations.

**Article 91:**

Expenses that are permissible to include in the minimum operational expenses under this Sub-Decree are as follow:

- Expenses for study on the impacts on archaeology, heritage and history as well as the effects on local communities residing in the licensed area;
- Expenses for the study on topography, geography, the environment, forest cover and land use in the licensed area;
- Other expenses for any operations carried out under the licenses;
- Expenses for mining site closure and the environmental restoration in the licensed area;
- Expenses for the establishment of access roads to the licensed area and to the mineral deposits; however, such expenses shall not be more than 20% of the total minimum operational expenses;
- Expenses for mineral sample testing during the mining operations; and
- Expenses for geological study through flight survey which shall be calculated in proportion to the total size of licensed area;

The following expenses are not allowed to include in the minimum operational expenses required under this Sub-Decree:

- Expenses for placement of demarcation poles for the licensed area;
- Expenses for license application or amendment of the beneficiary of the licenses;

- Expenses for research that is not directly related to the mining operations; and
- Expenses for remedy to the impacts or damages from mining operations.

**Article 92:**

The Minister of Mines and Energy shall organize a registration of the mining resource license and publicize on the website of the Ministry of Mines and Energy. The Minister of Mines and Energy shall promote a regular update on all information that are related to the license and set the procedure for the Concessionaire to provide relevant information for license registration.

The Concessionaire holding the license shall pay fees for registration, renewal, transfer and the annual land rental fees as determined by the Inter-Ministerial Prakas of the Ministry of Mines and Energy and the Ministry of Economy and Finance.

**Article 93:**

For the purposes of verification on the operational expenses report of the Concessionaire, the Minister of Mines and Energy may:

- Require the Concessionaire to provide audit reports for its operational expenses under the format and within a specific time stated in the Notification of the Minister of Mines and Energy; or
- Appoint an individual who possesses suitable qualification to inspect on the operational expenses report

Should there is any difference between the audit or inspection report and the previous reports on minimum operational expenses that were submitted by the Concessionaire, the Minister of Mines and Energy may decide to take the audit reports as the basis for evaluating the Concessionaire's conformity to its obligations on the minimum operational expenses under this Sub-Decree.

## **CHAPTER 6 TRANSITIONAL PROVISIONS**

**Article 94:**

The Concessionaire holding the licenses and/or a party to the mineral investment agreements that are still valid before this Sub-Decree enters into force can submit the request to the Minister of Mines and Energy to review and issue new licenses and/or amend the mineral investment agreements in conformity with the provisions of this Sub-Decree within 180 (one hundred and eighty) days after this Sub-Decree becomes effective.

After the expiry of the aforementioned period and the Concessionaire fails to submit the request to the Minister of Mines and Energy to issue new license and/or amend the mineral investment agreements, the mining operations shall be carried out in accordance with the conditions and provisions of the existing license and/or the mineral investment agreements until such licenses or agreements are terminated or revoked.

## **CHAPTER 7 FINAL PROVISIONS**

**Article 95:**

Any provisions contravened to this Sub-Decree shall be abrogated.

**Article 96:**

The Minister in charge of the Council of Ministers, Minister of Economy and Finance, Minister of Mines and Energy, Ministers of all ministries and head of all relevant institutions shall effectively implement this Sub-Decree from the date of signature.

Phnom Penh, on this 05<sup>th</sup> day of May, 2015

**Prime Minister**  
**Signature and Seal**

**Samdech Akka Moha Sena Padei Techo HUN SEN**

Having Informed and obtained the signature of  
Samdech Akka Moha Sena Padei Techo HUN SEN by  
Minister of Mines and Energy

**Suy Sem**

**Recipients:**

- The Ministry of Royal Palace;
- General Secretariat of the Constitutional Council;
- General Secretariat of the Senate;
- General Secretariat of the National Assembly;
- General Secretariat of the Royal Government;
- Cabinet of Samdech Prime Minister;
- Cabinets of Deputy Prime Ministers;
- Provincial and Municipal Halls;
- Under Article 96;
- Royal Gazette;
- Documents/ Archives