



AFGHANISTAN
CENTER FOR
COMMERCIAL
DISPUTE
RESOLUTION

د افغانستان
د سوداگريزو
شخړو
حل مرکز

مرکز حل
منزعات
تجارتی
افغانستان

Lease Model Contract

Afghanistan Center for Commercial Dispute Resolution



AFGHANISTAN
CENTER FOR
COMMERCIAL
DISPUTE
RESOLUTION

د افغانستان
د سوداګريزو
شخړو
حل مرکز

مرکز حل
منزعات
تجارتی
افغانستان

Dated [●] 2020

LEASE AGREEMENT

between

THE PARTY (A)

acting by and through the

and

PARTY (B)

AFGHANISTAN CENTER FOR



THIS LEASE AGREEMENT (this “**Lease Agreement**”) is made and entered into on [●] 2020 by and between:

- (1) **THE [●] (PARTYA)** (“**A** ”), a corporation organised under the laws of Afghanistan, with its principle office at [●] (the “**Lessor**”); and
- (2) **(PARTY B)**, [●]a corporation organised under the laws of Afghanistan, with its principal office at(the “**Lessee**”).

Each of the Lessor and Lessee is hereinafter together referred to as “**Parties**” or individually as a “**Party**”.

Purpose

The purpose of this Agreement is to set out the binding terms on which:

- (a) the (Party A) shall lease the Property from the (Party B);
- (b) the (Party B) shall transfer Title to the (Party A); and



WHEREAS:

- (A) The Lessor is the true and lawful owner of the Property;
- (B) The Lessee intends to;
- (C) The Lessor, being the true and lawful owner of the [●] with full right, power and authority to enter into this Lease Agreement, has agreed to:
- (i) lease to the Lessee, the [●];
 - (ii) grant the rights of way, easements and way-leaves with all rights and privileges (of whatever nature and howsoever described) in respect of the [●] to the Lessee; and
 - (iii) grant to the Lessee, the easements, licenses, rights of way and other rights, benefits and privileges in or to the immovable property associated ,
- required by the Lessee for the [●] and, in particular, for the [●] in accordance with the terms and subject to the conditions set out hereunder.

NOW, THEREFORE, in consideration of the agreements and obligations set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions and Interpretation

1.1 Definitions

In this Lease Agreement, including the recitals, the following words and expressions shall have the meanings set out below:

“**Afghani**” or “**AFN**” means the lawful currency of the Islamic Republic of Afghanistan.

“**Dispute**” has the meaning ascribed to it in section 1(a) of Schedule 3 (*Dispute Resolution Procedures*).

“**Effective Date**” has the meaning ascribed in the Lease Agreement.

“**GoIRA**” means the Government of the Islamic Republic of Afghanistan.

“**Lessor’s Dues**” has the meaning ascribed to it in Clause [●]

“**Parties**” has the meaning set forth in the Recitals.



“Property” means, [●]

“Rent” has the meaning ascribed to it in Clause [●].

“Signing Date” means the date of execution of this Lease Agreement.

1.2 Interpretation

In this Lease Agreement:

- (a) any capitalized word or phrase used but not defined shall bear the meaning ascribed thereto in the PPA;
- (b) a reference to a statutory provision includes a reference to that statutory provision as modified or re-enacted or both from time to time after the date of this Lease Agreement and any subordinate legislation made under that statutory provision;
- (c) references to “this Lease Agreement” or to “any other agreement or document referred to in this Lease Agreement” is a reference to this Lease Agreement or such other document or agreement as amended, varied, supplemented, replaced or novated (in each case, other than in breach of the provisions of this Lease Agreement or such other agreement or document) from time to time;
- (d) any reference in this Lease Agreement to “Clauses” and “Schedules” are, unless otherwise stated, to clauses and schedules of this Lease Agreement. The Schedules form part of this Lease Agreement and shall have effect as if set out in full in the body of this Lease Agreement. Any reference to this Lease Agreement includes the Schedules;
- (e) references to “include” or “including” are to be construed without limitation, whether or not they are actually accompanied by the words “without limitation” or similar words;
- (f) references to “other” and “otherwise” shall not be limited by any foregoing words where a wider construction is possible;
- (g) where a word or expression is defined, words and expressions which are related in origin shall be construed accordingly;
- (h) words in the singular shall include the plural (and vice versa);
- (i) references to any gender include references to all other genders;
- (j) if a period of time is specified as from a given Day, or from the Day of an act or event, it shall be calculated inclusive of that Day;
- (k) where any payment is due on a Day that is not a Business Day, such payment will be due on the next Business Day;



- (l) unless otherwise provided herein, whenever a consent or approval is required by one Party, such consent or approval shall not be unreasonably withheld or delayed; and
- (m) unless the context requires otherwise, references to times and dates are, and shall be construed to be, references to Afghanistan Standard Time.

2. Lease of the [●]

- (a) The Lessor hereby leases to the Lessee, for itself or [●], and the Lessee hereby takes on the lease, for the land comprising [●] or [●], on the terms and conditions set out in this Lease Agreement. The Lessor hereby expressly permits the Lessee to grant rights over the land comprising [●] Or [●], as may be required, for the purposes of the [●], provided that such rights do not exceed the rights granted to the Lessee under this Lease Agreement.
- (b) The Parties have, immediately prior to the execution of this Lease Agreement, taken steps to make available the property(ies) , which is/are described in Schedule 1 (*Description of the Property*). The Lessor shall, within [●] days of the Signing Date:
 - (i) deliver to the Lessee vacant possession of the (Property); and
 - (ii) allow the Lessee to enjoy the use of the [●] ,both for a term of [●] years commencing and reckoned from the Signing Date and ending at midnight on the [●] anniversary of the Signing Date, as extended pursuant to Clause 3 (*Renewal of the Term*) (the “**Term**”).
- (d) The Lessee shall be entitled to:
 - (i) quietly and peacefully hold, occupy, possess and enjoy the use of the ..., and
 - (ii) enjoy the use of the..., and all appurtenant rights as described in this Lease Agreement,
- (e) The [●] and all additions and improvements to the [●] remain the property of the Lessee (even though they are affixed to the land). Upon the termination of this Lease Agreement the Lessee shall have the right, but not the obligation, to dismantle and remove the additions and improvements within one [●] year from the effective date of such termination.
- (f) The Parties mutually agree that:
 - (i) the Lessee shall be entitled to carry out all necessary activities in connection with the Lease including, without limitation, the [●];



- (j) The Lessee hereby covenants with the Lessor that the Lessee shall not use the [●], or any part thereof, for any purpose other than for, or in connection with, the [●]
- (i) The Lessor hereby covenants with the Lessee that:
- (i) it shall be liable, and shall hold the Lessee indemnified and harmless, in respect of the underlying conditions of the [●] and for all environmental or other contamination in or beneath the surface of the [●];
 - (ii) all charges, taxes, levies and outgoings, income tax in respect of the [●], payable by the Lessor for the period up to the execution of this Lease Agreement (the “**Lessor’s Dues**”), shall be borne and paid by the Lessor. If the Lessee is lawfully required by the relevant authority or government to itself make payment of the Lessor’s Dues, the Lessor shall make immediate reimbursement of the relevant amount to the Lessee, provided the Lessee provides the Lessor with original receipts in respect of such payments;
 - (iii) if there are any Lessor’s Dues outstanding on the Signing Date and pertaining or attributable to the Property, the same shall be paid and discharged prior to the date of delivery of possession of the [●] to the Lessee;
 - (iv) the Lessor shall fully co-operate with the Lessee and make its authorized representatives available for and assist in the registration of this Lease Agreement on the Signing Date in favour of the Lessee, and shall provide copies, and, if required, shall present for inspection, originals, of all title, ownership and other relevant and necessary documents in respect of or pertaining to the [●], as shall be required to be presented at the time of registration of this Lease Agreement by the concerned registration authorities or by the Lessee for the purposes of its record; and
 - (v) the Lessor shall indemnify and hold the Lessee harmless if there is any material breach of any of the provisions of this Lease Agreement by the Lessor affecting the Lessee adversely.
- (h) Each Party represents and warrants to each other that:
- (i) it is duly organized and validly existing under the law of Afghanistan and is duly qualified to do business in Afghanistan;
 - (ii) all corporate approvals required under its constitutional documents or otherwise by law have been obtained and are in full force and effect and it has taken all necessary action to authorize the execution, delivery and performance of this Lease Agreement, which action has not been superseded or terminated;
 - (iii) all creditors’, shareholders’ and other approvals for it to lawfully enter into this Lease Agreement and to grant the rights and perform its obligations hereunder have been obtained and are in full force and effect;



- (iv) it has the full right, power and authority to execute, deliver and perform this Lease Agreement and to carry out the transactions contemplated hereby;
- (v) this Lease Agreement constitutes the legal, valid and binding obligation of such Party, enforceable against it in accordance with the terms hereof;
- (vi) no authorization of approval or other action by, and no notice to or filing with, any governmental instrumentality or regulatory body (other than those which have been obtained and are in full force and effect) is required for the due execution, delivery and performance by such Party of this Lease Agreement;
- (viii) the execution, delivery and performance of this Lease Agreement does not violate:
 - (A) its articles of incorporation or other charter documents or any resolution of its board of directors;
 - (B) any law, rule, regulation, order, writ, judgment, injunction, decree or determination binding upon it or any of its properties; or

3. Renewal of the Term

- (a) The Lessee may, at its option, by notice in writing, notify the Lessor not less than [●] days prior to the expiry of the Initial Term of its desire to renew or extend the initial Term for a further period as specified in the aforesaid notice (“**Renewed Term**”) for the purpose of continuing the operation of the Project.
- (b) Immediately upon receipt of such a notice, and in any event, prior to the expiry of the Initial Term, the Lessor shall proceed to execute and register (if required) a fresh Lease Agreement for the Renewed Term on the same terms and conditions, other than the initial Term, as this Lease Agreement.

4. Rent

In consideration of the grant of the lease of the [●] and the rights of way, easements, licenses and way-leaves in respect of the [●] and all other rights, benefits and privileges conferred on the Lessee, for itself and the other [●], by the Lessor as provided in this Lease Agreement, the Lessee shall pay the Lessor, rent for the Term as set out in Schedule [●] (*Rent*) hereto (“**Rent**”) within [●] days of the Effective Date.

5. Notices

Any communication in any form to be given or made by a Party in connection with this Lease Agreement must be in writing and shall be sent by letter delivered personally or sent by email (but in the case of notification by email with subsequent confirmation by letter as provided above) and addressed as follows or to any such other address as a Party may from time to time notify to the other Party in accordance with this Clause [●]:



if to the Lessor:

Party (A)

[Address]

Attn: [●]

Tel: [●]

Email: [●]

if to the Lessee:

Party (B)

Attn:

Tel:

Email:

6. Miscellaneous

- (a) Save as expressly provided for herein, this Lease Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all previous agreements and understandings between the Parties.
- (b) This Lease Agreement may, if required, be amended only by a written agreement of the Parties.
- (d) If any provision (or part thereof) of this Lease Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of Afghanistan, it shall be deemed to be severed from this Lease Agreement with respect to such jurisdiction. The remaining provisions shall remain in full force in Afghanistan and all provisions shall continue in full force .
- (f) This Lease Agreement is prepared in the English language and the Pashto/Dari language. The Pashto/Dari language version of this Lease Agreement shall not create any duplication of the rights and obligations of the parties. In the event of any discrepancy between the English text and the Pashto/Dari language text, the English text shall prevail and the Pashto/Dari language version of this Lease Agreement will be amended to conform to the provisions in the English version.
- (g) Any communication given in connection with this Lease Agreement shall be in the one of Pashto, Dari or English language.
- (i)

7. Confidentiality

7.1 Duty of Confidentiality

Save as expressly provided in this Clause [●], each Party undertakes that, at any time during this Lease Agreement and for a period of [●] year following the termination or expiry of this



Lease Agreement, it shall not disclose to any Person any confidential information concerning the business, affairs, customers, clients or suppliers of any other Party or the provisions of this Lease Agreement or any information it has received or obtained relating to other Party as a result of negotiating or entering into this Lease Agreement.

7.2 Permitted Disclosure

A Party that receives another Party's confidential information ("**Receiving Party**") may disclose such confidential information if and to the extent that it:

- (a) is at the time of disclosure, or subsequently becomes, available in the public domain (other than as a result of a breach for which the Receiving Party is responsible);



Lease Agreement

Schedule 1

Description of the Property

Such land comprising approximately [*insert area of land*] and shown with hatched marks in Annexure "A".

Lease Agreement

Schedule 2

Rent

Land Price Calculations		
Total Land		[<i>insert area</i>]
Price/Sq.m	AFN	[<i>insert amount</i>]
Total Land Price	AFN	[<i>insert amount</i>]



Lease Agreement

Schedule 3

Dispute Resolution

1. Arbitration

(a) Any dispute arising out of or in connection with the Contract, including the validity, existence, performance, interpretation or termination thereof shall be referred to and finally resolved by arbitration administered by the Afghanistan Center for Commercial Dispute Resolution according to ACDR Arbitration Rules, which rules are deemed to be incorporated by reference into this clause.

The seat or legal place of the arbitration shall be [●]

The number of arbitrators shall be [●]

The language of the arbitration shall be [●]



IN WITNESS WHEREOF, this Lease Agreement is hereby executed and delivered on the date first above written.

**Signed for and on behalf of
THE Party (A)**

Witnessed by:



.....
[Authorised signatory]
ID number: [●]



.....
[Witness signatory]
ID number: [●]



.....
[Witness signatory]
ID number: [●]

**Signed for and on behalf
of Party (B)**

Witnessed by:



.....
???



.....
???



.....
????



AFGHANISTAN
CENTER FOR
COMMERCIAL
DISPUTE
RESOLUTION

د افغانستان
د سوداګريزو
شخړو
حل مرکز

مرکز حل
منزعات
تجارتی
افغانستان

