

Terms of a Minerals Contract

Best Practices and Lessons Learned

Presented by: Mary Louise Vitelli, Esq.

March 12, 2013

Terms of a Minerals Contract

General Considerations of a Minerals Contract

1. Contract Principles
2. Contract Objectives
3. Obligations and Responsibilities
4. Level of Transparency
5. Specific Requirements (financial, technical, etc.)
6. Direct and Non-direct Mining Terms

Terms of a Minerals Contract

General Consideration of a Minerals Contract

Contract Considerations	Illustrative Approaches
Principles	<i>Emphasize or de-emphasize State equity</i>
Objectives	<i>Seek to attract or not attract foreign investment</i>
Obligations & Responsibilities	<i>Onus on Government and/or on Company</i>
Transparency	<i>Complete, partial, guided disclosure</i>
Specific Requirements	<i>Technical, fiscal, environment, social, reporting, disposition of assets</i>
Direct/Indirect Mining Terms	<i>Local procurement, infrastructure, community development, resource corridor</i>

Terms of a Minerals Contract

Illustrative Contract Terms

General	Licensing	Obligations	Mining	Non-Mining
<i>Parties</i>	<i>Type(s)</i>	<i>Financial</i>	<i>Type of Technology</i>	<i>Infrastructure</i>
<i>Duration</i>	<i>Area</i>	<i>Environment</i>	<i>Feasibility</i>	<i>Comm Dev</i>
<i>Law</i>	<i>Conditions</i>	<i>Social</i>	<i>Timelines</i>	<i>Processing</i>
<i>Language</i>	<i>Duration</i>	<i>Reporting</i>	<i>Mine Plan</i>	<i>Export</i>
<i>Definitions</i>	<i>Transfer</i>	<i>Disclosure</i>	<i>Construction</i>	
<i>Enforcemnt</i>	<i>Terminate</i>	<i>Insurance</i>	<i>Staffing</i>	

Terms of a Minerals Contract

“General” Contract Terms

1. Parties to the Contract and Change in Status
2. Duration of Contract, Renewal
3. Application of Law, Change of Law, Disputes
4. Official Language, Interpretation
5. Definitions – “more is more”!
6. Enforcement
 - a. Institutional responsibilities/authority
 - b. Financial penalties
 - c. Civil/criminal actions

General
<i>Parties</i>
<i>Duration</i>
<i>Law</i>
<i>Language</i>
<i>Definitions</i>
<i>Enforcemt</i>

Terms of a Minerals Contract

“Licensing” Contract Terms

1. Exploration, Exploitation – triggers to commence operation
2. Size of Area, boundaries, rights of way
3. Conditions of the licenses, i.e.,
 - a. Feasibility reports,
 - b. Expenditure/production requirements
 - c. Insurance, inspection
4. Duration, renewal, relinquishment, partial
5. Transfer of license rights
6. Termination – expiration, suspension, revocation

Licensing
<i>Type(s)</i>
<i>Area</i>
<i>Conditions</i>
<i>Duration</i>
<i>Transfer</i>
<i>Terminate</i>

Terms of a Minerals Contract

“Obligations” Contract Terms

1. Financial
 - a. Performance guarantees/escrow accts
 - b. Stabilization, surface rent (equity?)
2. Environment
 - a. Env Impact Assessment, Management Plans
 - b. Permitting, testing, inspection
3. Social
 - a. Community Development Agreement
 - b. Impacts assessed, compensation, resettlement
4. Reporting (*exploration, production, H&S*)
5. Disclosure (*full, partial, specified*)
6. Insurance (*operations, workers, liabilities*)

Obligations

Financial

Environment

Social

Reporting

Disclosure

Insurance

Terms of a Minerals Contract

“Mining” Contract Terms

1. Technology
2. Feasibility Studies
 - a. Technical, environment, social, closure
3. Timelines (performance, payments)
4. Mine Plan
 - a. Waste management plan
 - b. Health & safety plan
 - c. Mine closure plan
5. Construction (i.e., phases)
6. Staffing

Mining
<i>Type of Technology</i>
<i>Feasibility</i>
<i>Timelines</i>
<i>Mine Plan</i>
<i>Construction</i>
<i>Staffing</i>

Terms of a Minerals Contract

“Non-Mining” Contract Terms (Also referred to as “ancillary” terms)

1. Infrastructure
 - a. Integration with existing, planned
 - b. Third party access/use
2. Community Development
3. Processing
 - a. Financial implications, market
 - b. Access to land, transport, environment
4. Export (*raw, processed*)

Non-Mining
<i>Infrastructure</i>
<i>Comm Dev</i>
<i>Processing</i>
<i>Export</i>

Terms of a Minerals Contract

Illustrative Reference Resources

Resource	Contact (www.)
International Bar Association Model Minerals Development Agreement Program (MMDA)	Mmdaproject.org
Extractive Industries Technical Advisory Facility (EI-TAF)	Worldbank.org
World Economic Forum - Responsible Mineral Development Initiative Report	Weforum.org
International Council on Mining and Metals	Icmm.com



Terms of a Minerals Contract

Thank you.

mlvdc@aol.com