

Islamic Republic of Afghanistan
Ministry of Interior



**Procedure for
Regulating Activities of Private Security Companies in Afghanistan**

Kabul, Afghanistan

Feb 2008 (Dalw 1386)

Prepared and arranged by: Joint Secretariat of Disarmament and Reintegration Commission for
Ministry of Interior

Introduction

In order to fill the existing legal gaps for regulating the activities of private security companies, this [procedure and guideline is enacted pursuant to the Private Security Companies draft law which was approved by the Council of Ministers in their meeting on 7 Jan 08 and which has been submitted to the parliament.

This procedure is comprised of two major parts: the first part includes general provisions regulating activities of private security companies and the second part is composed of guidance to implement this TOR, which will continue to be promoting after the enactment of the law.

The goal behind arranging this procedure and guideline is to ensure transparency, accountability and quality services by private security companies in accordance with the laws of Afghanistan. In addition, this TOR and guidelines shall ensure that both employers and beneficiaries of these private security companies are satisfied with the quality of the provided service, and shall remove the public and government concerns over their illegal actions.

It is crucial for the private security companies to make sure that their services meet professional standards and that their services are not misused. To ease people's fears and doubt, the government of Afghanistan can not allow illegal armed groups to transform into private security companies and people need to be completely assured that illegally armed groups will not re-emerge in the form of such companies. Also the public need to be convinced that if such groups are involved in illegal activities, such as criminal activity , smuggling weapons and trafficking narcotics, their activity shall be stopped.

Ensuring the security of international institutions and development projects is one of the priorities of the government. Considering the current priorities of the country and the need for providing security services to the people of Afghanistan for which the Police, National Army and National Department of Security have direct responsibility, currently the government has given conditional permission to hire reliable and professional private security companies that can adhere to Afghanistan's laws and accepted international standards to provide security to the ISAF military bases, embassies, and large economic projects, so that Afghanistan's reconstruction process is not disrupted.

Standards mentioned in the guideline, attached to this procedure , pave the ground for private security companies to provide their services in a more improved and professional manner; thus they can present a positive and reliable image of their services, and particularly they can hire and train capable and professional individuals to provide their services. At the same time, this procedure and guideline prevents those irresponsible acts of security institutions that undermine the credibility of the government.

Afghanistan, as a war-torn country, cannot tolerate irresponsible acts of private security companies, as there is no serious relevant regulation. The Government of Afghanistan will not under any circumstances allow private security companies to violate the laws of the country, the provisions of this procedure the guideline attached, and international human rights declaration.

All private security companies operating in Afghanistan should apply for extending their operational permit, and adapt their performances in accordance with this procedure and guideline.

In addition, if an application for a permit or permit extension contradicts this procedure and guideline, or the required documents are not provided, the application will not be processed. It is to be noted that the possession of an investment permit from AISA (which is the legal body for investment in Afghanistan) is not sufficient to operate in the security sector without an operational license from the Ministry of Interior PSC Board.

Also, operations of the private security companies shall be assessed in a transparent process, based on the information provided. This assessment shall assist in identifying eligible companies that meet the standards, principles and laws of Afghanistan, and issue them an operational permit.

After the formally declaration approval of this procedure private security companies currently operating in Afghanistan will be given a 45-day deadline to complete and provide their documents and information to the Ministry of Interior to be processed. The PSC Coordination Board of the Ministry of Interior shall process the applications based on the chronological order/date that they were submitted to the secretariat of the board.

Ministry of Interior, Islamic Republic of Afghanistan

Disarmament and Reintegration Commission

Section 1

Terms of Reference Regulating Activities of Private Security Companies in Afghanistan

In the Name of Allah, Most Gracious, Most Merciful **procedure or Regulating Activities of Security Companies**

Chapter One

General Provisions

Article 1:

This procedure is enacted based on Paragraph 4, Article 6 of the Law on Weapons, Ammunitions and Explosives, for the purpose of regulating the activities of security companies in the country in order to fill the legal vacuum until the enactment of the relevant law.

Article 2:

Provisions of this procedure are applicable only to those security companies that have been active in the country prior to the enactment of this Procedure

Autrothority for Regulating Activities

Article 3:

The Ministry of Interior is the only authority that regulates activities and other affairs of the security companies throughout the country, and it shall control their activities.

Definitions

Article 4:

Terms used in this procedure shall have the following meanings:

1. **Security Company:** A profit making , non-political and non-governmental company that functions according to the provisions of this procedure to establish security of natural and real persons.
2. **National Security Company:** A security company established by Afghan citizen or citizens or by partnership of Afghan/s and foreign citizen/s in accordance with the laws of Afghanistan and which have acquired a security activity license based on the provisions of this Procedure
3. **Foreign Security Company:** A security company established in accordance with the law of a foreign state to provide security services in Afghanistan, having its head office in a foreign country and which have acquired a security activity license in Afghanistan according to the provisions of this Procedure

4. **Security Services:** Activities performed in accordance with the provisions of this procedure for the purpose of establishing security of real and natural persons, logistics, transportation, goods and equipments, training security employees. and warning services
5. **Security employee:** A natural person appointed by a security company according to the provisions of this procedure in order to perform activities provided in paragraph 4 of this Article.
6. **Operation license:** A written document issued in accordance with the provisions of this procedure in order to perform the activities provided in paragraph 4 of this Article.

Contraction

Article 5:

Private Security Company shall be referred to as “Security Company” hereinafter in this procedure.

illicit Activities

Article 6:

- (1) A Security Company is not allowed to perform the following activities:
 1. Protect the borders of the country.
 2. Provide the security of governmental offices, properties and facilities.
 3. Provide the security of highways (private road construction companies, convoys of companies, international organizations, official delegations and political agencies of the foreign states are exempted)
 4. Provide the security of holy places
 5. Provide the security of historical areas, mines and forests unless such areas are transferred to the private sector in accordance with the provisions of the law.
 6. Other issues as decided by the Ministers’ Council
- (2) In emergency cases, security can be provided for important facilities or big governmental and mixed economic facilities as recommended by the ministries or relevant departments and with the approval of the Ministers’ Council; subsequently, the Ministry of Interior shall monitor the process.

Observing provisions of valid Laws and this procedure Article 7:

A Security Company is obliged to observe the provisions of the valid laws of the country and this Procedure

High Coordination Board

Article 8:

- (1) In order to regulate the affairs of, and coordinate the activities of, the security companies and issue operational licenses for the applicants, the High Coordination Board (HCB) of security companies’ affairs shall have the following composition, based on the proposal of the Interior Ministry and approved by the President:

1. Minister of Interior - as the director
 2. First Deputy of Defense Ministry as a member
 3. Deputy Minister of Foreign Affairs Ministry as a member
 4. Deputy Minister of Finance Ministry as a member
 5. Deputy Minister of Commercial and Industries Ministry as a member
 6. Deputy of the National Directorate of Security as a member
 7. Head of Criminal Investigation Department as a member
 8. Head of Counter-Terrorism Department as a member
 9. Head of Intelligence Department of Interior Ministry as a member
 10. Authorized representative of the National Security Council of Islamic Republic of Afghanistan as a member
 11. Head of the Afghanistan Investment Support Agency as a member
- (2) The administrative and executive affairs of the HCB shall be regulated by the department which has been established under the framework of the MoI Counter-Terrorism Department and whose structure has been approved by the President.

Duties and Authorities of the HCB

Article 9:

- (1) Duties and authorities of the HCB are as follows:
1. verifying the application of the applicant.
 2. Proposing the issuance of the operational license to the Council of Ministers.
 3. Issuing licenses for carriage of weapons, munitions, armored vehicles and other related equipments.
 4. Determining the number and type of weapons.
 5. Determining the number of the staff of a Security Company and any necessary decreases.
 6. Rejecting the application of applicants who do not meet the requirements for providing security services.
 7. Monitoring the operations and structure of each Security Company, as well as the number of weapons, munitions, of the central offices of the company.
 8. Giving advice to improve the quality of services.
 9. Investigating violations made by a Security Company.
 10. Annulling the license and stopping the operation of a Security Company.
 11. Proposing more limitations regarding the issuance of the operational licenses of security companies to the Council of Ministers.
 12. Regulating other issues related to the security companies as recommended by Council of Ministers.
- (2) The operation of the HCB shall be regulated in a separate by-law.
- (3) Hereafter the High Coordination Board of security companies' affairs shall be referred to as "HCB" in this TOR.

Number of Staff

Article 10:

The number of staff of each Security Company shall not be more the 500 people, unless the Council of Ministers agrees an increased number of staff.

Chapter Two

Operational License

Possession of an Operational License

Article 11:

The real and natural persons (nationals and foreigners) shall not establish a security company or provide security services mentioned in the paragraph 4 of this procedure without having an operational license in accordance with the provisions of this procedure.

Scopes and Types of Operation of Security Company

Article 12:

The operational license of a Security Company shall be issued through the Secretariat of the HCB, with consideration as to the scope and type of operation of the Security Company, based on the recommendation of the board after the approval of Council of Ministers.

Contents of the Application Form

Article 13:

- (1) Applicants who want to obtain an operational license for a Security Company shall submit their request to the Ministry of Interior, using the correct form No-1 and the guidance attached to this procedure having filled in the appropriate forms.
- (2) A Foreign Security Company, in addition to completing the information form mentioned in paragraph 1 of this article, is obliged to submit the following documents:
 1. Copy of the documents of incorporation and operational license of the company established in the relevant country.
 2. Copy of documents about the security operations in other countries (if applicable).
 3. Other documents which prove security activities of the Security Company.
- (3) The documents mentioned in paragraph (2) of this Article should be certified by the official bodies of that country and the Embassy of Afghanistan in that country. The Ministry of Foreign Affairs of Afghanistan shall present these documents to Ministry of Interior.

- (4) Based on the provisions of this procedure the HCB shall thoroughly review the documents according to the paragraph (1 & 2) of this Article within a month. If the applicant is considered qualified, a proposal to issue the operational license shall be presented to Ministers' Council.
- (5) In a case where the HCB finds the applicant unqualified, the applicant shall be notified of the reasons within two months of the submission date.
- (6) In a case where the HCB rejects the application without any acceptable reason, the applicant can complain to the Ministers' Council. The Ministers' Council shall review the issue and make a decision. This decision shall be final.

Conditions of Issuance of License to a Foreign Security Company

Article 14:

Besides observing paragraph (1, 2, and 3) of Article 13 of this procedure an operational license shall be issued to a Foreign Security Company under the following conditions:

- 1- Having a Security Operation License from another country, as well as the home country.
- 2- Having a charter containing goals, structure and scope of activity of the company.
- 3- Providing a document showing transparency of security activities of the company with the confirmation of competent authorities of the countries which the company is operating in, through Ministry of Foreign Affairs of Afghanistan.
- 4- Foreign staff of security company should have stay visa in Afghanistan
- 5- The Operations Manager of the Security Company should have a military training certificate.
- 6- The Operations Manager should have a background check certificate on non existence of criminal record from Interpol and the police administration of the home country.
- 7- Providing information about present and future programs.
- 8- Having committed to observe IPOA standards.
- 9- Having a minimum of 30 years of age for the Operations Manager in Afghanistan
- 10- Giving a written commitment to observe the provisions of this procedure and other valid legal documents of Afghanistan, as per the attached guideline.
- 11- Paying the license fee according to the attached guideline to the state income account in Da Afghanistan Bank.
- 12- Presenting a legitimate bank guarantee according to the attached guideline of this TOR.

Conditions of Issuance of License to a Local Security Company

Article 15

Besides observing paragraph (1) of Article 13 of this TOR, an operational license shall be issued to a Local Security Company under the following conditions:

- 1- Having a charter containing goals, structure and scope of activity of the company.
- 2- Director, members and the Operations Manager have not been convicted of a misdemeanor or felony not been suspect or accused of such crimes.
- 3- Operations Manager of security Company should have a military training certificate.
- 4- Staff not be suspected of or accused of human rights violations, as confirmed by the Afghanistan Independent Human Rights Commission.

- 5- Providing information about present and future programs.
- 6- Having committed to observe IPOA standards
- 7- The Operations Manager being at least 30 years of age
- 8- Giving a written commitment to observe the provisions of this procedure and other valid legal documents of Afghanistan, as per the attached guideline.
- 9- Paying the license fee according to the attached guideline to the state income account of Da Afghanistan Bank.
- 10- Presenting a legitimate bank guarantee not less than 10 million Afghanis.

The Period of Validity of an Operational License

Article 16

The validity period of a security company operational license is for one year and when the period of validity is ended, the security company must renew its license in order to continue operations.

Presenting Operational License Renewal Request

Article 17

- (1) The security company must request the renewal of its operational license to the Ministry of Interior Affairs a month before the period of validity is ended.
- (2) During the renewal of the operation license, foreign and local security companies must pay the amounts included in section (11) of the article 14 and section (9) of article 15 of this TOR to cover administrative expenses.
- (3) The amounts mentioned in paragraph (2) of this article shall be submitted to Da Afghanistan Bank state income account.

Terms and Conditions of Employment

Article 18

- (1) Any Afghan that has the following qualifications can be employed as security staff of a security company:
 - 1- Having national ID card.
 - 2- At least 25 years old
 - 3- Having a graduation certificate from military training school or of military short term training from a Security Company.
 - 4- Not being suspected or accused of human rights violations, as confirmed by the Afghanistan Independent Human Rights Commission.
 - 5- Being neither convicted of any crimes of misdemeanor or felony nor being suspect or accused of Such crimes
- (2) A foreign citizen who has the following qualifications can be employed as security staff of a security company:
 - 1- Having a work/residence permit in Afghanistan
 - 2- Having the qualifications included in section (2, 3 and 4) paragraph (1) of this article.

3-

3 – submitting a certified document by the home country or Interpol on non existence of criminal record whenever needed with the expense of employer company

License for Carrying Weapon

Article 19

- (1) The staff of the security company can not carry weapons, ammunitions and other equipments out of the areas mentioned in the operational license and can not move with unlicensed armored vehicles.
- (2) The license cards for weapons, ammunitions, other equipment, and armored vehicles included in paragraph (1) of this article are prepared and distributed by the High Coordination Board according to the attached guideline; the security company must pay the appropriate fee. The fee table is included in the guideline as Table 4.
- (3) The amounts mentioned in Table 4 should be submitted to Da Afghanistan Bank state income account.
- (4) The validation period of the licenses of this article, that are separately issued for each weapon or armored vehicle, is for one year; after one year the license can be renewed through paying the appropriate fee.

Prohibition of ownership or partnership

Article 20

Based on the decision of Ministers' Council issued on 7th January 2008, the President, Vice-presidents, directors, members of the lower house, Chief Justice and members of the Supreme Court, judges, ministers, Attorney General and his deputies, prosecutors, directors of commissions and independent governmental administrations, directors and high ranks of political parties, officials of Ministry of Defense and Ministry of Interior and Directorate of National Security and their relatives up to the second degree can not be the owner or partner of a security company.

Chapter Three

Obligations of a Security Company

Prohibitions

Article 21

The responsible officials and the staff of the security company must refrain from the following acts.

- 1- Participation in political activities.
- 2- Provision of funds for parties and candidates of political parties and other electoral candidates.
- 3- Using funds for religious activities.
- 4- Recruiting people collectively from one tribe or party.
- 5- Use film and tinted glass in the vehicles without a license
- 6- Providing services contrary to those on the operational license.
- 7- Buying, selling and distributing weapons, ammunitions and explosives.
- 8- keeping carrying, transferring and making use of heavy and medium weapons and heavily armored vehicles.
- 9- Making use of police or national army uniform or uniforms similar to them.
- 10- Recruiting the serving officers, sergeants, soldiers and other active officials of the Ministry of Defense and Ministry of Interior and other state departments.
- 11- keeping or using non-registered light weapons and non-registered ammunition.
- 12- Carrying the weapon, ammunitions and equipment out of the areas of operation.
- 13- Performing other activities contrary to the law.

Uniform

Article 22

A security company must have the uniform, logo on the uniform of their security staff, and logo on their vehicles approved by the HCB.

Authority for procurement of equipment and ammunition

Article 23

(1)The security companies must provide details of their communication equipments in accordance with the provision included in paragraph 4 of the 8th article of the Regulation for using Radio Frequencies and Wireless Communication Systems in Afghanistan.

(2)The required weapons, ammunitions and equipments of the security companies shall be supplied in accordance with the included provision of paragraph 2 of article 4th of the Law on Firearms, Weapons, Ammunition and Explosives. The way to provide shall be regulated and guided by the HCB in line with the above-mentioned article.

Rights and privileges

Article 24

(1)The security company must have insurance policy for its staff

(2) Salary and other privileges for the security company staff shall be based on the work contract, Labor Law and other related legal documents .

Report of any changes

Article 25

The security company must inform the Ministry of Interior before bringing any changes to the documentation in Article 13 of this procedure.

Performance report

Article 26

The security company must report its performance and activities to the HCB quarterly .

Loss compensation

Article 27

The security company is responsible for compensation for losses resulting from unlawful acts of its staff. In a case where the Security Company refuses to pay the compensation the amount shall be taken from the bank guarantee, based on the authorized court order.

Chapter Four Monitoring and Reporting

Monitoring authority

Article 28

(1)The HCN must monitor the activities of the security companies through the city police headquarters, national security departments or assigning a mixed assessment body which is to be appointed and announced by board.

(2)The police headquarters and department of national security of each province and district are obliged to identify any breaches of law by the security companies and report them through the relevant department to the HCB.

Presenting of documents

Article 29

The security companies must maintain the documents and record of their activities and present them to the assigned body on demand.

Chapter Five

Violations of the Law by the Security Companies

Investigations of violations

Article 30

Any breaches of the law by security companies and their staff shall be verified by the HCB in accordance with the provisions of this procedure.

Violations:

Article 31

- (1) A security company is to be legally inspected if it breaches the provisions of this procedure and other laws of Afghanistan and the Board can introduce them to the Prosecutor's Office for investigation:
- 1- The existence of any unregistered weapon in the offices of the Security Company or the buildings belonging to the security company's officials or the place where the relevant company is in charge of security.
 - 2- The existence of any kind of unregistered ammunition and equipments in the offices of the security company or the buildings belonging to the security company's officials or the place where the relevant company is in charge of security.
 - 3- Obtaining weapons of the security company from an unauthorized person.
 - 4- If a member of the security company is armed but has no license outside of the compound or place where they are duty bound to provide security.
 - 5- If an armored vehicle is moved without being registered and licensed or is out of the area of operations without having obtained the special permission of the HCB.
 - 6- If the uniforms of the security company staff are not marked with security company sign or if staff are carrying a weapon without uniform.
 - 7- Not having the appropriate Security Company sign on a vehicle.
 - 8- Recruiting a person convicted of a misdemeanor or felony or Or suspect and accused of such crimes .
 - 9- Using of film and tinted glass in the vehicles without an official license.
 - 10- Being dressed in national police or national army uniform or similar to it.
 - 11- Recruiting of more security staff rather than allowed in the license.
 - 12- Delaying the renewal of the license.
- (2) In case of repeated breaches of articles included in paragraph (1) of this article, the activities of the security company will be restricted and, in accordance with the valid laws of Afghanistan, they would be treated as a recidivist.
- (4) The lists of weapons, ammunition, equipments and the vehicles included in sections (1-8) first paragraph of this article, shall be submitted to Ministry of Interior Affairs.
- (5) For offenses mentioned in sections (1 – 12) of first paragraph of this article, the offender is to be punished in accordance with the laws of Afghanistan.

Conditions for license cancellation and stopping of company's activities:

Article 32

- (1) The operational license of the security company can be cancelled and their activities can be stopped under the following conditions, based on the decision of the HCB:
- 1- If the security company commits the acts included in sections (1, 2, 3, 6,4,7,8 and10) of the 21st article of this procedure.
 - 2- If the breaches included in paragraph (1) of the article (31) of this procedure are committed more than two times by the security company or its staff.
 - 3- If the validity period of the security company license has ended and/or no request is made within (10) days for its extension.
 - 4- If an employer refuses to continue its contract with the security company and meanwhile the security company has no other contracts in addition.
 - 5- If the security company decides not to continue its operations or does not report to the secretariat of the HCB for a period of six consecutive months, or the given report is considered to be false.
 - 6- If the Ministry of Interior itself provides the security activities mentioned in the license of the security company and when there is no longer a need for such a company.
- (2) For action taken under the sections of paragraph (1) of this article, the Ministry of Interior must inform the relevant security company in writing about the decision of the HCB and stop the activities of the company immediately.
- (3) In the circumstances mentioned in parts (1 and 2) paragraph (1) of this article, all relevant weapons, ammunitions, equipments and vehicles shall be collected and submitted to the Ministry of Interior.

Implementing the decision of the HCB

Article 33:

The decision of the HCB in regards to canceling the license and stopping the activities of a security company shall be enforceable.

Chapter Six

Miscellaneous Provisions

Utilizing the services of a Security Company

Article Thirty Four:

- (1) Non-government real and legal persons can utilize the services of a security company within the provisions of this procedure .
- (2) Utilizing the services of a security company shall be based on entering into a contract between both parties by taking into consideration the provisions of this Procedure

Surrendering or Transferring Weapons

Article Thirty Five:

- (1) In circumstances set forth in parts (3, 4, 5 and 6) of paragraph (1) of Article 32 of this TOR, the security company shall surrender the weapons, ammunitions, armored vehicles and other equipment to the Ministry of Interior against a fixed amount of money determined by the HCB.
- (2) If the security company refuses to abide by the provision of paragraph (1) of this Article, the weapons, ammunitions, armored vehicles, and other relevant equipments shall be delivered to Ministry of Interior and the authorities of the security company shall be prosecuted by the Prosecutor's Office.
- (3) In circumstances stated in paragraph (1) of this Article, International Security Companies shall either take the weapons, ammunitions, armored vehicles and other relevant equipments out of the country or give them to Ministry of Interior for free. In case of refusal, weapons, ammunitions, armored vehicles and other relevant equipments shall be collected and given to Ministry of Interior and the Authorities of the Security Company shall be prosecuted by the Prosecutor's Office.

Determining the position of the existing Security Companies

Article Thirty Six:

- (1) Security companies that had been established prior to the enforcement of this procedure shall present their applications at most within 10 days to HCB in line with the provisions of this Procedure
- (2) The HCB shall verify the applications of the Security Companies referred to in paragraph (1) of this article and take decisions based on the provisions of this procedure .
- (3) Security Companies shall be obliged to register the weapons, ammunitions and equipments that they have got in violation with the provisions of Law on Weapons, Fire Arms, Ammunitions and Explosive Materials to Ministry of Interior within one month.

Exceptional Licensing

Article Thirty Seven:

If the license of a security company is canceled or either the contractor or security company quits providing security services, the contractor can sign a contract with another international security company. In such cases, the newly-contracted international security company may exceptionally be given a license.

Establishment of Bills

Article Thirty Eight:

The HCB can establish some special bills and work procedures to regulate Security Companies' affairs and implement provisions of this TOR in a better way.

Article Thirty Nine:

This procedure shall be enforced after the approval of the President, and shall be implemented according to the attached guidance; this procedure shall be enforced and valid until the law on private security company is approved and enacted and this TOR is officially announced invalid.

Article Forty:

Security companies that were previously licensed as logistic companies in Afghanistan and now are providing security services for organizations or accompanying logistical convoys shall be evaluated very carefully, according to their signed contracts and the valid laws of the country. The HCB shall decide whether to license them or not. In a case where they have breached the terms of their first license, the issue should be handled by the Administration that provided the original license for them.

Remarks		
Logo of the Company		
Number and type of armored and non-armored vehicles		
Number of Radios		
Type of Weapon		
Quantity of Weapons, Ammunitions and equipments		
Number of Security personnel		
Background of activities of the Company		
Establishment Date of Company		
Location of Security Company		
Type and area of Activity		
Abbreviated name of the Company		
Name of Company		
Personal Data of the Operative Director	Work background	
	Land Mark of the house	
	Visa No	
	Passport No	
	ID No	
	Telephone No	
	Present Address	
	Permanent Address	
	Grandfather's Name	
	Father's Name	
	Name	

Signature of the Operative Director of the Security Company
Date

Director of the security company

Name and Address of the Founder of the Security Company	Work Background	
	Visa No	
	Passport No	
	ID No	
	Land Mark of the house	
	Telephone No	
	Present Address	
	Permanent Address	
	Grandfather's Name	
	Father's Name	

Islamic Republic of Afghanistan

Ministry of Interior Affairs

High Board of Coordination of Security Companies' Activities

Photo of Company's Director
Photo of Company's Operative Director

Work License of Security Company:

1. Director of the Company
2. Operative Director of the Company
3. Number and Date of the Cabinet Council's approval
4. Number and Date of registration
5. Validity Period
6. Name of company
7. Type of company
8. Area of operation
9. Number of personnel
10. Number and type of weapon
11. Number of armored and ordinary Vehicles
12. Location of company

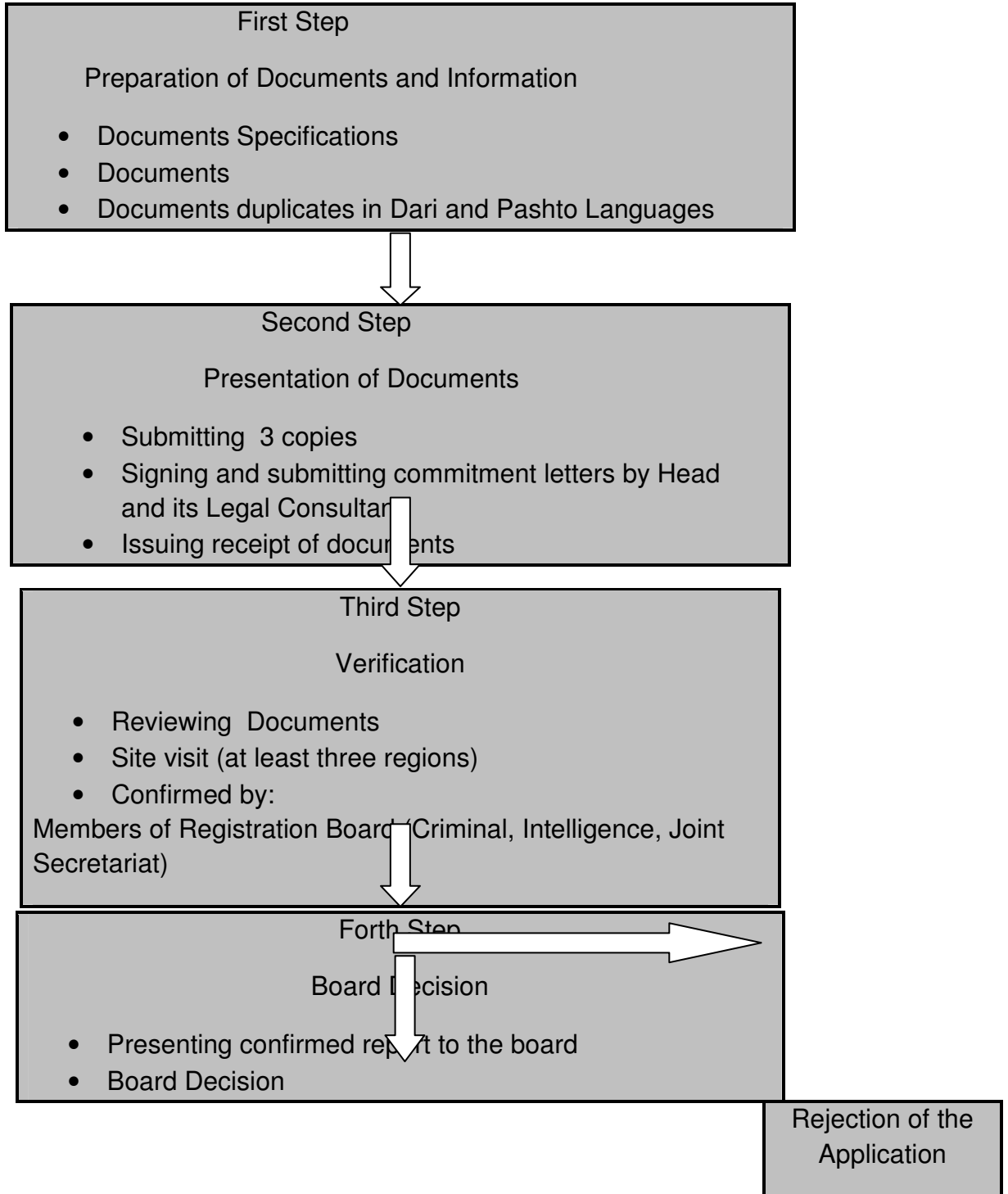
Minister of Interior Affairs

Signature

Section Two

Guidance on implementing the procedures on regulating the affairs of Private Security Companies in Afghanistan

Processing the Applications in regards with issuing or renewing Licenses for Security Companies



Phase One

Preparation of Essential Documents and Information

- All documents should be written on official letterheads of Security Company.
- All the papers shall be marked with the stamp of the company.
- Should be translated into Dari and Pashto languages.
- All documents shall be presented in files decorated with the logo of the company.
- Since it is essential to have the logo of the company on its vehicles and uniform of personnel, the picture of the company's logo and the uniform shall be placed in file before document #one.
- Complete address and telephone number of the central office of the company should be clear.
- They should have certification of Registration from their own country.

Document No 1. Formal Application to Get License for private security company:

If you already have the license from AISA and the Ministry of Interior from last year, you have to apply for the renewal of the license in accordance with this TOR. But if you do not have the last year's license, you have to apply to the Ministry of Interior for the license and apply to ASIA for the commercial license. (It is worth mentioning that issuing new licenses is postponed until receiving a direction in this regard, and based on Article No 37, the new licenses are issued only if the Cabinet Council approves). Those companies that obtained licenses as logistics providing companies, but are currently providing security services and escort security convoys shall provide all necessary information as specified in this guidance so that they shall be dealt with in accordance with Article 40 of the this TOR.

All letters shall be addressed to the Minister of Interior who is also the Chairman of the Board:

Interior Minister of Islamic Republic of Afghanistan
Ministry of Interior
Kabul – Afghanistan

Document No 2. Afghanistan Investment Support Agency License:

An attested copy of the original license of the company shall be approved by AISA (The approval shall be done by AISA – You may refer to the Afghanistan Investment Support Agency so that they re-stamp the issued license in red color).

For further information about registration and obtaining the license from AISA, you can visit <http://www.aisa.org.af>.

Document No 3. Issues regarding Coordination (structure of the company):

An official document showing that the company is registered in legal entities of its native country shall have the stamp of an authorized official of that country.

Document No 4. Company's Management:

List of responsibilities, addresses, previous job, E mail, and telephone numbers of the following members shall be provided:

- Page # 1: members of the board (Main office)
- Page #2: executive team in country level (director + at least one high ranking authority including appointed representatives in the host country)

Document No 5. Information about the Company:

Information about the Company's activities outside the country or the countries where the company is operating including Afghanistan:

- Official name of the security company
- complete registration address , including the map or (Google Earth)
- Detailed contact address including Email address and telephone number
- **Report of major activities and contracts in other countries**
- Brief report on financial situation of the security company during the last three years.

Document No 6. List of Personnel (employees)

Two different lists of the personnel shall be provided (Afghan Personnel and foreign personnel)

Requested information:

Part one – Afghan employees

- full name
- full name of the father
- Date of birth
- Place of birth
- Complete address (street , house , district)
- pervious Occupation and rank
- Marital status
- Membership in political parties during Jihad/ resistance
- Current position in security company
- Starting and ending dates of contract
- Afghan ID card Number

Part Two – foreign employees

- Full name
- Date of birth / Age
- Nationality
- Previous position and rank
- Current position in security company
- Starting and ending dates of contract
- Passport number
- Work permit in Afghanistan

Document No 7 Commitment letter regarding the personnel:

On the Commitment Letter signed by the chairman of the company, the chairman of the company guarantees that the employed personnel have the following qualifications:

- Have mental and physical health and their medical checkup is completed
- should be at least 21 years old
- should have Passed the training on use and maintenance of the weapon
- Shouldn't have been imprisoned or committed crime
- Shouldn't have contact with terrorism and shouldn't continue relation with other illegal armed groups
- Should not have hired individuals in groups
- All newly hired employees should have filled and submitted the recruitment forms Document

No 8. Weapons:

Security companies shall not be permitted to have weapons with more than 7, 62 mm diameter (except pistol)

Security, military institutions functioning directly under ISAF and NATO command should get special permission from coordination board. Surely in case there would be a need for having bigger caliber weapon it is important to provide complete details so that the board should decide on such issue. These weapons shall be used only under direct supervision and control of ISAF and NATO.

Brief report of weapons and complete list of weapon should be provided as below:

Part one: brief description of the weapon

- Type of weapon
- Diameter of weapon
- Number of weapon

Part two: complete list of weapon

- Type of weapon
- Diameter / model
- Serial number

- Country

Note: The Total number of weapons should be in accordance with the brief report of weapons.

Document No 9. Vehicle List:

Information about imported and purchased vehicles used by Security Companies should be provided in three lists with the stamp of the Security Company. (See attached forms V11)

Vehicles should be listed according to the model:

Requested information for all types of vehicles (imported, purchased, rental vehicles in Afghanistan):

- Made in
- Model
- Year
- Color
- Engine No
- Chassis No

Additional information should be written at the bottom of the chart as notes.

Note:

- Make sure that the vehicles are registered in their original color. If the color is changed, additional information should be provided at the bottom of the chart as note.
- Security Companies shall not drive cars with dark glasses/tented cars.
- Security Companies shall not use armored vehicles without permission of Ministry of Interior . (this permission shall be taken from Registration Board)
- All vehicles that Security Companies are using shall have the logo of that Company on all sides of them.

Document No 10. Summary of Contract:

A copy of every contract that shows the amount of contract shall be provided. In each contract the following information should be mentioned:

- Contracting organization (who has employed you- and what types of activities and where contracting organization is dealing with?)
- Work duration (duration of contract)
- Location (where you will do your work)
- Brief explanation of the contract (staff's security, guards, security of the location, convoys' security)

Document No 11. Guarantee:

Security Company shall present original copy of Bank Guarantee whose value is not less than Af 1500000 with a document confirming the asset. Bank Guarantee is acceptable if it is from Da

Afghanistan Bank or other valid banks whose guarantee is acceptable to the Board. The board independently shall verify the accuracy of each guarantee with its original administration. The presented bank guarantee needs to have one year validity. In case of presenting inaccurate information, the matter shall officially be prosecuted and application of Company regarding the license shall be rejected. This document shall be valid just for one year and shall be renewed annually, and its renewal depends on the period of license.

Document No 12. Confirmation of Insurance

Based on procedures, the security company shall present the document showing the approval of the Insurance. This document shall be valid for one year and shall be renewed annually and its renewal depends on the license validity period.

Document No 13: Commitments

Ministry of interior should ask all security companies to sign the agreement. Sample of this agreement is available in annex (2). By signing of this agreement the security companies will be agreed to perform following items.

- Information should be provided in accordance with document (6) section two of the information about the person who will be entered to the country as newly appointed foreign employee.
- Using private security company's formal signs in accordance to the provided index.
- Obeying Afghanistan laws and regulations
- Observing Security Company's procedure and provided information should be prepared in accordance with existing guideline.
- Fighting against administrative corruption- and committed to not be involved in any type of the administrative corruption.

Document No 14: Copy of Telecommunication license

- All security companies should get license from the Ministry of telecommunication for the use of the telecommunication equipments.
- Security companies should provide list for type, model and quantity of radios that are going be used.

Phase Two

Presenting of Documents

Four original copies of the documents should be provided and submitted (a copy to the board, a copy to DDR commission and at the end commission will submit to the National Security Council and two copies will be submitted to the Ministry of interior (Secretariat and Board Directorate). Documents altogether will be submitted to the secretariat and later through the secretariat will be sent to aforementioned authorities for further executions.

Director and legal consultant of security companies should be present during submission of the documents and while submitting the documents the agreements should be signed and stamped in the registration office of the security companies.

Registration office of the security companies' (Secretariat Board) should scrutinize the documents in accordance with the documents index and when get sufficient information about the completeness of the documents then should issue receipt of the documents.

Registration office of the security companies (Secretariat Board) should immediately and formally inform the director about the formal transferring and submission of the documents by mentioning the exact date and time and the documents should be prepared and sent for the decision of the board by taking the determined period into consideration in the Procedure

Phase Three

The Ministry of Interior Assessment

- a. Ensuring conformity of the documents with the guideline
- b. At least three visits should be made from the areas where the security company is operating and in case of necessity the assessment team will be assigned to do additional visits based on the board decision. If the security company requests to get license in accordance with article (37) of the TOR, the issue should be scrutinized with the contractor and ensure their ability. Meanwhile the security company which had previous responsibility should act based on its commitments in accordance with the TOR and its license will be canceled, and the places which will be entrusted to the new company should be visited.
- c. The presented documents should be approved in specific sections by following relevant authorities within two weeks after submission.
 - Joint secretariat (Representative of Ministry of Defense, Ministry of Interior, National Directorate of Security and National Security Advisor Office, ISAF, UNAMA)
 - The list of individuals who will be hired through the security company should be scrutinized by the Criminal Investigation Department.

Phase Four
To Grant License

- Presenting assessment report of security companies' activities to the high board of coordination.
- Convening board session and to take decision about rejection or acceptance of the application.
- Approval of the ministers council (brief report shall be presented about each security company by the head of the board to the ministers council and will be approved by the ministers council)
- Paying license fee to the government incomes account in the Da Afghanistan Bank and a copy of the bank receipt shall be present to the secretariat.
- Signing and issuing license

Method of Performances in Other Cases:

1. Coordination board of security companies will create a webpage and all the information about the security companies will be available for more information of the public through this webpage. In this webpage following information will be included but will not be limited only to this information.
 - Government policy, regular and legal framework to assist the security companies and their license.
 - Information about coordination board and registration guideline for security companies
 - Key information about licensed security companies and their contact address.
 - Announcement on decisions of board.
 - Providing contact address in order to receive complaints against private security companies
2. License fee and other payable fees regarding issuance of cards to carry weapons, armored vehicles and other cases which will be payable in accordance with annex No (4) of the guideline and then all collected money in these cases should be deposited to the government income account in the Da Afghanistan Bank and the receipt should be formally submitted to the office of secretariat board (registration office of the security companies).

Using of Force

Law on Using of Force by Private Security Companies in Afghanistan

Using of arms (Force) by the security companies in necessary conditions should be limited to defend their own and should be seriously take into consideration the provision of article (20) of police law and article (59) of general penal code. Therefore, the security companies are duty bound to seriously consider following 7 important points.

1. Cooperation with National and International Security Forces

Security companies are duty bound to cooperate with security forces of Islamic Republic of Afghanistan, ISAF forces (NATO) and coalition forces. These companies are duty bound to observe the principles, discipline and security polices and do not have the right without check and control to pass checkpoints of Afghanistan armed forces or international forces which are assigned to ensure better order and security, although they are permitted to carry weapons but do not have the right to target these forces by their weapon but should treat respectfully the responsible persons of these checkpoints.

2. Using of Weapon (Eliminating force)

Using of force or weapon mean to cause death or serious body injuries, these types of weapon and force can be used only under the following conditions:

- In case of self defense in accordance with the law
- In case of defending a person or property which he/she is formally in charged to protect mentioned person or property or being imposed by terrorists, kidnappers and others attacks.
- In case when defenseless civilian people get threatened or attacked and there are no any other responsible organizations in the area to help or rescue civilian people in such cases.

3. No Use of Force in the Following Cases

Private Security Companies DO NOT Have the Right to Use their Force under the Following Conditions:

- To defend the accused person which his /her arrests order was issued even though that the accused person is their boss.

- To support and ensure security of individuals and persons who are involved in drugs trafficking and smuggling.
- To protect and ensure security of recidivist criminals, government armed insurgents, smugglers of relics and private companies which have not licensed officially.

In case of violation of these principles, the employees of a security company will be counted as rights violators and shall be punished in accordance with the provisions of the penal code. If the employees are imprisoned due to violation of law, their weapon license shall be immediately canceled and all their activities in the security company shall be postponed.

4. **Employment of trained individuals.**

The security companies should assign the trained individuals for fulfilling of their services and before assigning should provide them with training. They should pass a training period before giving them the permission of carrying the weapon.

Those private security companies' individuals who carry weapons should always have Identification card and License of the weapon with themselves.

5- **Usage of gradual power**

For cautionary purpose and prevention of the risk during the daily activity the following measures should be taken:

- **Freezing** : with loud voice should stop individuals
- Physical encumbrance: should stop them from moving forward or their access through taking physical actions on the scene before officially delivering them to the police or relevant authorities.
- **Threat** : in a case the above instances does not prove effective should threaten with the weapon

Air shoot : Only in case of severe danger situation and in circumstances that there is no alternative to prevent the danger, air shooting will be the first choice, in case all other possibilities are limited and only for self defence use of firearms and force is allowed according to the laws of Afghanistan.

- .

6- When an unavoidable needs happen to use the firearm in the case the following points should be taken into consideration:

- Shooting should be only toward the goal
- While shooting the safety of innocent individuals who are in the site should be taken into consideration.
- Immediately the local police need to be informed and seek assistance concerning the event.

7- **Prevention of civilian casualties:**

In all situations the civilians should be respected. One of the main factor of inconvenience and unreliability of the people toward the government is the issue of civil casualties. By preventing

such casualties trust of the people can be obtained. Hence the following issues should be taken into consideration:

- Should respect the religious values, human rights, tradition and custom of Afghan people.
 - All possible measures should be taken in order to prevent the local individual casualties.

- Workers of the Security companies' can stop or body search the civilians in accordance with the contracts that had been given to them and through which they got the permission of doing body search or stopping civil individuals or it has been a necessary act for the protection of the coverage area.
- The Security companies which have not been given the contract or official assignment of controlling highways do not have the right to stop vehicles and search the passengers.
- The Security companies do not have the right to block the way of public services centers such as schools, hospitals and so on to the civil people.
- to prevent civilian casualties, frequently to and fro through crowded areas is restrained to possible extent.
- The security companies should settle their Unit far from the residential civil areas.

Commitments

Every Security organization that wants to extend, renew and receive the license activity from Interior Ministry of the Islamic Republic of Afghanistan is obliged to prepare the four commitments with the below contexts in their own letterheads having the title of Ministry of Interior, then the letter should have been signed by the director and the in charge of legal section of the organization.

Islamic Republic of Afghanistan	Serial No: 001
Ministry of Interior	
To: Integration High Board of Security Offices	
<u>Commitment Letter</u>	
We, the Director general and Legal Advisor to () security organization, as our identity have been mentioned in the commitment letter below, we hereby obliged that we will never request or take any decision to bring foreigners or Afghans to Afghanistan to work in this organization before receiving official permission from Ministry of Interior of Afghanistan.	
In case of violation, we are responsible against laws and obliged to respect this principle.	
We hereby would like to officially express our commitment by putting the signature and seal on this document prepared on / / 138 day ().	
Legal Advisor of the company	General Director of Private Security Company ()
Name:	Name: ()
Date: / / 138	Date: / / 138

Islamic Republic of Afghanistan	Serial No: 002
Ministry of Interior	
To: Integration High Board of Security Offices!	
<u>Commitment</u>	
We, as the Director General and Legal Advisor to () security organization, as our identity have been mentioned in the commitment letter below, we hereby undertake and accept the state policy and its related regulations for the security organizations of the Islamic republic of Afghanistan and obliged to observe them. In case of violation, we are responsible against laws.	
We hereby would like to officially express our commitment by putting the signature and seal on this document prepared on / / 138 day ().	
Legal Advisor of the company	General Director of Private Security Company ()
Name:	Name: ()
Date: / / 138	Date: / / 138

Islamic Republic of Afghanistan

Ministry of Interior

PSC Regularity Board

Secretariat

.....
.....

Application receipt date: (_____)

Considerable points:

- Lack of exact and complete information will cause the refusal of the registration process.
- Incomplete applications will be rejected.
- International organizations should fill out the forms in one of the national languages (Dari and Pashto) and English and Afghan organizations should only fill out the forms in one of the local national languages.

Employer Information

Application to register the employee for the post: _____ Guard
investigative prosecutor

1. Office name: _____ Date: _____

2. Office address :

(Country)

(Post code)

(Street)

(City)

3. Telephone No. (_____) Organization's license No. :

4. I have informed the employer about the law on ~~day/month/year~~ _____

Signature and job title of the director of Organization

Name/job

.....

ID card number (Tazkira) Security officer Identification #: _____

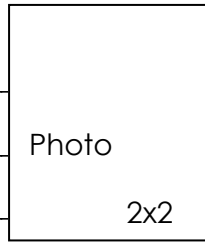
Applicant's information about the security officer/ investigation officer

5. Full Name: _____ Place of Birth: _____ Date of Birth: _____

6. Height: _____ Weight: _____ Hair Color: _____ Eye Color _____

7. Complete Address: _____ Telephone No: _____

9. Residential Address during the three past years:



11. Previous Job- Job and Rank, Name and Office Address during the five past years (for required information should use extra paper).

Employer	Address	Starting Date of Job	Ending Date of Job	Tele No

12. Have you ever been accused by the court? Yes/ No. If your answer is Yes, write the whole aspects of convictions including charges, place, date and the detention status, and as well as write the instances of your acquittal in the court.

(for required information should use extra paper).

Date	Accusation	Location (province/district)	Case file Status (fine, imprisonment period, release on bail)

13. Are you currently detained by the police? Yes.....No.....

Any incorrect statements in this form would be prosecuted and punished based on the Penal Code of Afghanistan.

Applicant's Signature

Annex No 4:

Chart of Royalty Payment, Letter of Guarantee and Types of Payable Fees

No	License Type	Royalty	Other payable fees while issuing licenses cards	Letter of Guarantee of Bank (Voucher)	Remarks
1	License of Activity for National Security Companies	3 million Afs	0	10 million Afs	
2	License of Activity for International Security Companies	6 million Afs	0	15 million Afs	
3	License of carrying weapons for the staff of National Security Companies	0	7500 Afs	0	
4	License of carrying weapons for the staff of International Security Companies	0	12500	0	
5	License of using hard/armored vehicles for International Companies	0	30,000 Afs	0	
6	License of using hard/armored	0	20,000 Afs	0	

vehicles for National Companies				
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Reminder:

1. At the first step, the Private Security Companies shall pay the royalty payment but while extending the license, they pay one hundred thousand Afs for the expenditure of administrative affairs to the importation account of Afghanistan Bank.
2. Income tax is received by the Ministry of Finance based on the Income Tax Law.
3. The collected money is transferred to the state importation account at Da-Afghanistan bank.
4. The voucher of the money is submitted to the secretariat of the Board.
- 5.

Annex No 7- part one

Brief information of Weapon

Name of Organization: -----

Date: -----

Director of Organization: -----

List all type of Weapons which are available at your company

Number	Diameter /Make	Type of Weapon	Quantity
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			

12			
13			
14			
15			
16			
17			
18			
19			
20			

Annex No 7- Part Two

List of Weapon

Name of Organization: -----

Date: -----

Director of Organization: -----

Write the type of the weapons and list them in the same column

No	Type of Weapon	Diameter /Make	Quantity	Serial Number	License number (by Ministry of interior)
1					
2					
3					
4					
5					

6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

The total weapon list should be consistent with the brief report of the weapon.

- If there are more than 25 weapons, please use additional pages of the same format.

Annex number 8- part one

List of imported vehicles

Name of Organization: -----

Date: -----

Director of Organization: -----

Cars and Vehicles must be listed based on their models and types

No	Made	Model	Year	Color	Engine No	Chassis Number
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						

17						
18						
19						
20						
21						
22						
23						
24						
25						

Additional information should be written as a separate record under the table.

- If more than 25 vehicles were imported, please use additional pages of the same format.

Annex no. 8 –Part two

List of vehicles purchased in Afghanistan

Name of Organization: -----

Date: -----

Director of Organization: -----

Cars and Vehicle should be listed based on their models and types

No	Made	Model	Year	Color	Engine No	Chassis Number
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						

18						
19						
20						
21						
22						
23						
24						
25						

Additional information should be written as a separate record under the table.

- If more than 25 vehicles were imported, please use additional pages of the same format.

List of vehicles rented in Afghanistan

Name of organization: -----

Date: -----

Director of organization: -----

Vehicles should listed based on their Models and Types

No	Made	Model	Color	Engine No	Chassis Number	Rent Duration
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						

19						
20						
21						
22						
23						
24						
25						

Additional information should be written as a separate record under the table.

- If more than 25 vehicles were imported, please use additional pages of the same format.

Annex No. 6-part two

International Personnel (employees)

Name of organization/company: -----

date: -

No	Complete Name	Date of birth/Age	Nationality	Previous Job	Current Job in Company
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					

- If there are more than 15 employees, please use additional pages of the same format.

Request for Armored and Filmed vehicles

Name of company: -----

Address of the company: -----

Phone No. of the company: -----

Vehicles descriptions

Made : -----

Type: -----

Color: -----

Engine number: -----

Number plate: -----

Request for Armored Vehicles ()

Filmed Vehicles ()

Descriptions/Explanations

(Attach the copy of the contract if it is mentioned in the contract)

Applicant Signature and stamp -----

For use of Ministry of Interior

It is confirmed ()
)

Money is paid ()

Number of exported license: -----
