

MINERAL PRODUCTION SHARING AGREEMENT

The MINERAL PRODUCTION SHARING AGREEMENT (this "Agreement") is made and entered into in Quezon City, Metro Manila, Philippines, this ___ day of OCT 23 1996 by and between :

THE REPUBLIC OF THE PHILIPPINE, hereinafter referred to as the GOVERNMENT, represented in this act by the Secretary of the Department of Environment and Natural Resources, with principal office at Department of Natural Resources Building, Visayas Avenue, Diliman, Quezon City, Metro Manila

and

RAMON B. BOSQUE, of legal age, married with residence at Ipil, Zamboanga del Sur, and hereafter referred to as the "CLAIMHOLDER"

and

BENGUET CORPORATION, a corporation duly organized and existing under the laws of the Republic of the Philippines, hereinafter referred to as the "OPERATOR", with principal office at Benguet Centre, 12 ADB Avenue, Mandaluyong City and represented in this act by its Executive Vice President, ROGELIO G. LARAYA as authorized by its Board under Annex "A" which forms an integral part hereof.

Both CLAIMHOLDER AND OPERATOR being collectively referred to as the "CONTRACTOR".

WITNESSETH:

CBF WHEREAS, the 1987 Constitution of the Republic of the Philippines (the "Constitution") provides in Article XII, Section 2 that all lands of the public domain, waters, minerals, coal, petroleum, and other natural resources are owned by the state and that the exploration, development and utilization shall be under the full control and supervision of the state;

WHEREAS, the Constitution further provides that the state may directly undertake such activities, or it may enter into a co-production, joint venture, or production sharing agreements with Filipino citizens, or Cooperatives or Corporation or Associations with at least sixty per centum of whose capitalization is owned by such citizens;

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WHEREAS, pursuant to Republic Act No. 7942, otherwise known as "The Philippine Mining Act of 1995", which took effect on 09 April 1995, the Secretary of the Department of Environment and Natural Resources is authorized to enter into mineral production sharing agreements in furtherance of the objectives of the government and the Constitution to bolster the national economy through sustainable and systematic development and utilization of mineral lands;

WHEREAS, the Government desires to avail itself of the financial resources, technical competence and skill which Contractor is capable of applying to the mining operations of the project contemplated herein;

WHEREAS, the Contractor desires to join and assist the Government in the sustainable development and utilization for commercial purposes of certain Gold, Silver, Copper, Zinc and other minerals existing in the Contract Area (as hereinafter defined) and any other Minerals which may be discovered in such Contract Area;

WHEREAS, the Contractor commits itself to protect and safeguard the environment during its mining operations;

WHEREAS, the Contractor shall assist and lead in the development of the host and neighboring communities and shall contribute in the development of mining technology and geosciences; and

WHEREAS, the Contractor has available to it the capital, technical competence and environmental management skills necessary to carry out the Mining Operations herein described.

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants, terms and conditions hereinafter set forth, it is hereby stipulated and agreed as follows:

SECTION I

SCOPE

- 1.1 This Agreement is a Mineral Production Sharing Agreement entered into pursuant to Republic Act No. 7942 and its Implementing Rules and Regulations. The primary purpose of this agreement is to provide for the exploration, sustainable development, and commercial utilization of Gold, Silver, Copper, Zinc and other mineral deposits existing within the

Contract Area, with all necessary services, technology and financing to be furnished or arranged for by the Contractor in accordance with the provisions of this Agreement. The Contractor shall not, by virtue of this Agreement, acquire any title to lands encompassed within the Contract Area.

- 1.2 The Contractor shall undertake and execute, for and on behalf of the Government, sustainable Mining Operations with the provision of this Agreement, and is hereby constituted and appointed for the purpose of this Agreement the exclusive entity to conduct Mining Operations in the Contract Area.
- 1.3 The Contractor shall assume all the exploration risk such that if no Minerals in commercial quantity are developed and produced, it will not be entitled for reimbursement.
- 1.4 During the term of this Agreement, the total value of production and sale of Minerals derived from the Mining Operations contemplated herein shall be accounted for and divided between the Government and the Contractor in accordance with Section VIII hereof.

SECTION II

DEFINITIONS

As used in this Agreement, the following words and terms, whether singular or plural, shall have the following respective meaning :

- 2.1 "The Act" refers to R.A. No. 7942, otherwise known as the "Philippine Mining Act of 1995".
- 2.2 Agreement means this Mineral Production Sharing Agreement.
- 2.3 Associated Minerals means other ore minerals which occur together with the principal ore/mineral.
- 2.4 Bangko Sentral means Bangko Sentral ng Pilipinas.
- 2.5 Budget means an estimate of expenditures to be made by Contractor in Mining Operations

contemplated hereunder to accomplish the Work Program for each particular period.

- 2.6 Calendar Year or Year means a period of twelve (12) consecutive months starting with the first day of January and ending on December 31, while "Calendar Quarter" means a period of three consecutive months with the first calendar quarter starting with the first day of January.
- 2.7 Commercial Production means the production of sufficient quantity of minerals to sustain economic viability of mining operations reckoned from the date of commercial operation as declared by the Contractor or as stated in the feasibility study, whichever comes first.
- 2.8 Constitution or Philippine Constitution means the 1987 Constitution of the Republic of the Philippines adopted by the Constitutional Convention of 1986 on October 15, 1986 and ratified by the People of the Republic of the Philippines on February 2, 1987.
- 2.9 Contract Area means the area onshore or offshore delineated under the mineral agreement subject to the relinquishment obligations of the contractor and properly defined by latitude and longitude.
- 2.10 Contract Year means a period of twelve (12) consecutive months counted from the Effective Date of this Agreement or from the anniversary of such Effective Date.
- 2.11 Contractor means the CLAIMHOLDER and the OPERATOR, whether singly or collectively referred to herein, and assignee or assignees of interest of the CLAIMHOLDER and the OPERATOR under this Agreement provided such assignment of any of such interest is accomplished pursuant to the provision hereof.
- 2.12 Declaration of Mining Feasibility means a document proclaiming the presence of minerals in a specific site that are recoverable by socially acceptable, environmentally safe and economically sound methods included in the Mine Development Plan.
- 2.13 Effective Date means the date of execution of this Agreement by the Contractor and by the DENR Secretary in behalf of the Government. In cases, wherein a Temporary Exploration Permit is issued, the effective date of this Agreement shall be the date of issuance of the Temporary Exploration Permit.

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- 2.14 Environment means all facets of man's surroundings: physical, ecological, aesthetic, cultural, economic, historic, institutional, and social.
- 2.15 Exploration means searching or prospecting for mineral resources by geological, geophysical, geochemical surveys, remote sensing, test pitting, trenching, drilling, shaft sinking, tunneling, or any other means for the purpose of determining the existence, extent, quality, and quantity of mineral resources and the feasibility of mining them for profit.
- 2.16 Exploration Period shall mean the time period from the issuance of this Agreement which shall be for two (2) years, and may be extended for two (2) years each or a maximum of six (6) years provided that the Contractor has complied with all the terms and conditions of this Agreement.
- 2.17 Force Majeure means acts or circumstances beyond the reasonable control of Contractors including but not limited to war, rebellion, insurrection, riots, civil disturbances, blockade, sabotage, embargo, strike, and lockout and other labor disturbances, any disputes, epidemics, earthquake, storm, flood, or other adverse weather conditions, explosion, fire, adverse action of the government, laws, rules, regulations and orders of government or its agencies, or any of its instrumentality or subdivision, or any act of God or the public enemy, breakdown of machinery which have a major effect on the operations of the Contractor, any act over which the party has no reasonable control and which is of such nature as to delay, curtail or prevent timely action by the party affected.
- 2.18 Foreign Exchange means any currency other than the currency of the Republic of the Philippines acceptable to the Government and the Contractor.
- 2.19 Government means the Government of the Republic of the Philippines or any of its agencies and instrumentalities.
- 2.20 Gross Output means the actual market value of the minerals or mineral products from each mine or mineral land operated as a separate entity, without any deduction for mining, processing, refining, transporting, handling, marketing, or

or mineral products are sold or consigned abroad by the Contractor under C.I.F. terms, the actual cost of ocean freight and insurance shall be deducted: provided however that in the case of concentrates which are not traded in commodity exchanges in the Philippines or abroad such as copper concentrate, the actual market value shall be the world price quotation of the refined mineral products contained thereof prevailing in the said commodity exchanges, after deducting the smelting, refining, treatment, insurance, transportation and other charges incurred in the process of converting mineral concentrates into refined metal traded in those commodity exchanges.

- 2.21 Mine Development refers to work undertaken to explore and prepare an ore body or a mineral deposit for mining, including the construction of necessary infrastructure and related facilities.
- 2.22 Minerals means all naturally occurring inorganic substances in solid, liquid, gas or any intermediate state excluding energy materials such as coal, petroleum, natural gas, radioactive materials and geothermal energy.
- 2.23 Mineral Products means materials derived from mineral ores/rocks and prepared into marketable state by metallurgical processes which include beneficiation, cyanidation, leaching, smelting, calcination and other similar processes.
- 2.24 Mining Area means that portion of the Contract Area identified by the Contractor for purposes of development, mining, utilization, and sites for support facilities or in the immediate vicinities of the mining operations as specified in the Declaration of Mining Feasibility.
- 2.25 Mining Operations means mining activities involving exploration, feasibility study, environmental impact assessment, development, utilization, mineral processing, and mine rehabilitation.
- 2.26 Notice means notice in writing, or by telex or by telecopy (authenticated by answer back or confirmation received) addressed or sent as provided in Section 16.2 of this Agreement.
- 2.27 Ore means naturally occurring substance or material from which a mineral or element can be mined and/or processed for profit.

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- 2.28 Ore Mineral means a mineral that can be extracted from ore and contributes to the value of the ore.
- 2.29 Pollution means any alteration of the physical, chemical, and biological properties of any water, air and/or land resources of the Philippines, or any discharge thereto of any liquid, gaseous or solid wastes as will or is likely to create or render such water, air, and land resources harmful, detrimental or injurious to public health, safety or welfare or which will adversely affect their utilization for domestic, commercial, industrial, agricultural, recreational or other legitimate purposes.
- 2.30 Secretary means the Secretary of the Department of Environment and Natural Resources.
- 2.31 Department or DENR means the Department of Environment and Natural Resources.
- 2.32 Work Program means a document which presents the plan of major mining activities and the corresponding expenditures and Budget of the Contractor in its Contract Area during a given period of time, including the plan and expenditures for environmental protection and rehabilitation, development of host and neighboring communities and of local geoscience and mineral technology, as submitted and approved pursuant to this Agreement.

SECTION III

TERMS OF AGREEMENT

- 3.1 This Agreement shall have a term of twenty-five (25) years from effective date, and may be renewed thereafter for another term. The renewal of this agreement, as well as the changes in the terms and conditions shall be upon mutual consent by the parties. In the event the government decides to allow mining operations thereafter by any Contract, this must be through competitive public bidding and after due publication of notice, the Contract shall have the right to equal the highest bid upon reimbursement of all reasonable expenses of the highest bidder.

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SECTION IV

CONTRACT AREA

- 4.1 Size, Shape, and Location of Contract Area. This Agreement covers a total area of 508.3396 hectares (Please refer to ANNEX "B"), situated at Canatuan, Bgy. Tabayo, Siocon, Zamboanga del Norte and bounded with the following geographical coordinates:

POINT	LATITUDE	LONGITUDE
1	7° 43' 30"	122° 16' 00"
2	7° 44' 30"	122° 16' 00"
3	7° 44' 30"	122° 17' 30"
4	7° 43' 30"	122° 17' 30"

SECTION V

EXPLORATION PERIOD

- 5.1 Timetable for Exploration - The Contractor shall commence Exploration Operations not later than three (3) months after the Effective Date for a period of two (2) years renewable for a term of two (2) years each subject to compliance with the terms and conditions of the agreement and of reasonable expectation of success during the extension. A temporary exploration permit may be issued by the Director, upon request of the applicant, when the mineral agreement is recommended to the Secretary for approval. Period of such temporary exploration permit shall be included as part of the exploration period of the mineral agreement.
- 5.2 Work Programs and Budgets - The Contractor shall strictly comply with both Exploration and Environmental Work Programs together with their Budgets submitted to and approved by the Government (Please refer to ANNEXES "C" and "D" for the two (2) year Exploration Work Program and Budget and for the Environmental Work Program, respectively).

The amount to be spent by the Contractor in conducting Exploration Operations under the terms

of this agreement during the exploration period shall be in the aggregate of not less than that hereinafter specified for each of the below Contract Years, as follows:

For the Exploration Work Program:

1st Contract Year : P2,755,620.00

2nd Contract Year : P3,560,430.00

Total Estimated Budget for the
Exploration Work Program: P6,316,050.00

Estimated budget for the
Environmental work Program: P 71,700.00

In the event of extension, the amount to be spent every year shall first be agreed upon by the parties.

In the event of termination of this agreement, the contractor shall only be obliged to expend the pro-rata amount for the period of such Contract Year prior to termination. If during any Contract Year, the Contractor should expend more than the amount to be expended as provided above, the excess may be subtracted from the amount required to be expended by the contractor during the succeeding Contract Years, and should the Contractor, due to unforeseen circumstances or with the consent of the government expend less during a year then, the deficiency shall be applied to the amount to be expended during the succeeding Contract Years.

5.3 Reporting

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- a) **Semi-Annual Accomplishment Report** - During the Exploration Period, the Contractor shall supply geological, geophysical, radiometric and other information relating to the exploration areas and its activities under oath to be submitted within thirty (30) days from the end of each semester, to the Regional Director, copy furnished the Director. Such information shall include financial expenditures, raw and processed analytical data, copies of originals of assay results, duplicated samples, field data, copies of originals from drilling reports, maps, environmental work program implementation and expenditures showing discrepancies/deviations

with approved exploration plans and programs, and all other information of any kind collected during the exploration activities. All such information shall be confidential, subject to the provisions elsewhere provided herein.

- b) **Final Report** - The Contractor shall submit to the Regional Director, copy furnished the Director, a final report under oath upon the expiration of the Exploration Period which shall be in the form and substance comparable to published professional reports of respectable international institutions and shall incorporate all the findings in the Contract Area, including maps and location of samples, assays, chemical analysis, and assessment of mineral potentials. Such report shall also include complete detailed expenditures incurred during the Exploration Period. In case of diamond drilling, the Contractor shall upon request of the Regional Director, submit to the Regional Office a quarter of the core samples which shall be deposited in the Regional Office Core Library for safe keeping and reference.
- c) **Relinquishment Report** - The Contractor shall submit a separate relinquishment report with a detailed geologic report of the relinquished area accompanied by maps at a scale of 1:50,000 and results of analyses and corresponding expenditures, among others.
- 5.4 **Mining Feasibility** - During the Exploration Period, the Contractor shall conduct feasibility studies for any part of the Contract Area as may be warranted. Within the Period, the Contractor shall submit to the Regional Director, copy furnished the Director, a Declaration of Mining Feasibility accompanied with a three (3) year Work Program for development indicating therein the Mining Area. Areas not delineated as part of the Mining Area shall be deemed relinquished in favor of the Government.

Failure of the Contractor to submit a Declaration of Mining Feasibility during the Exploration Period shall be considered a substantial breach of this Agreement.

- 5.5 **Survey of the Contract Area** - The Contractor shall cause the survey of the perimeter of the Contract

requirements, filed with the Regional Office simultaneous with the submission of the Declaration of Mining Project Feasibility. Survey returns shall be submitted to the Regional Director for approval within one (1) year from receipt of the Order of Survey complete with the mandatory requirements stated in the implementing rules and regulations.

SECTION VI

DEVELOPMENT AND CONSTRUCTION PERIOD

- 6.1 Timetable - The Contractor shall complete the development of the mine including the construction of production facilities within thirty six (36) months from the submission of the Declaration of Mining Feasibility, subject to such extension based on justifiable reasons as the Secretary may approve, upon recommendation of the Regional Director, through the Director.
- 6.2 Reporting
- a) Annual - The Contractor shall submit, within sixty (60) days after December 31 of each year, to the Regional Director, copy furnished the Director, an annual report which states the major activities, achievements and expenditures during the year covered, including maps, assays, rock and mineral analyses and progress geological and environmental reports during the development and construction period.
- b) Final Report - Within six (6) months from the completion of the development and construction activities, the Contractor shall submit a final report to the Regional Director, copy furnished the Director. Such report shall integrate all information in maps of appropriate scale and quality as well as in monographs or reports in accordance with international standards. ✓

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SECTION VII

OPERATING PERIOD

- 7.1 **Timetable** - The Contractor shall submit, within thirty (30) days from completion of the construction of production facilities, to the DENR Secretary through the Regional Director, copy furnished the Director, a Work Program for a period of three (3) years. The Contractor shall commence Commercial Production immediately upon approval of the aforesaid Work Program. Failure of the Contractor to commence Commercial Production within ninety (90) days of said approval shall be considered a substantial breach of the Agreement.
- 7.2 **Operation Work Program and Budget** - During the Operation Period, the Contractor shall submit to the DENR Secretary through the Regional Director, copy furnished the Director, Work Programs covering a period of three (3) years each which shall be submitted not later than thirty (30) days before the expiration of the period covered by the previous Work Programs.

The Contractor shall conduct Mining Operations and other activities for the duration of the Production Period in accordance with the duly approved Work Program and any modification thereof shall be approved by the Secretary.

7.3 **Reporting**

- a) **Quarterly Reports** - Beginning with the first Calendar Quarter following the commencement of the Operating Period, the Contractor shall submit, within thirty (30) days after the end of each Calendar Quarter, to the DENR Secretary through the Regional Director, copy furnished the Director, a Quarterly Report stating the tonnage of production in terms of ores, concentrates, and their corresponding grades and other types of products; value, destination of sales or exports and to whom sold; terms of sales and expenditures.
- b) **Annual Reports** - During the Operating Period, the Contractor shall submit, within sixty (60) days from the end of each Calendar Year, to the DENR Secretary through the Regional Director, copy furnished the Director, an Annual Report indicating in sufficient detail:

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- b.1) The total tonnage of ore reserves whether proven, probable, or inferred, the total tonnage of ores, kind by kind, broken down between tonnage mined, tonnages transported from the minesite and their corresponding destination, tonnages stockpiled in the mine and elsewhere in the Philippines, tonnages sold or committed for export (whether actually shipped from the Philippines or not), tonnages actually shipped from the Philippines (with full details as to purchaser, destination and terms of sale), and if known to the Contractor, tonnages refined, processed or manufactured in the Philippines with full specifications as to the intermediate products, by-products or final products and of the terms at which they were disposed;
- b.2) Work accomplished and work in progress at the end of the year in question with respect to all the installations and facilities related to the utilization program, including the investment actually made or committed;
- b.3) Profile of work force, including management and staff, stating particularly their nationalities, and for Filipinos, their place of origin (i.e., barangay, town, province, region); and
- b.4) Ownership of the Contractor, particularly with respect to nationality.
- 7.4 Expansion and Modification of Facilities - The Contractor may make expansions, modifications, improvements, and replacements of the mining facilities and may add new facilities as the Contractor may consider necessary for the operations, provided such plans shall be embodied in an appropriate Work Program approved by the Secretary.

SECTION VIII

FISCAL REGIME

- 8.1 General Principle - The financial regime of this Agreement shall be governed by the principle according to which the Government expects a reasonable return in economic value for the utilization of non-renewable natural resources

under its natural sovereignty while the Contractor expects a reasonable return on its investment with special account to be taken for the high risk of exploration, the terms and conditions prevailing elsewhere in the industry and any special efficiency to be gained by a particularly good performance of the Contractor.

8.2 Occupation Fees - Upon registration and every year thereafter, the Contractor shall pay to the Government an Occupation Fee over the Contract Area at the annual rate of fifty (50) pesos per hectare. It shall be paid to the concerned Municipal/City Treasurer where the Contract Area is located. If the fee is not paid on the date specified, the Contractor shall pay a surcharge of twenty five (25%) percentum of the amount due in addition to the occupation fees.

8.3 Share of the Government - The government share shall be the excise tax on mineral products at the following rate of the actual market value of the gross output thereof at the time of removal as provided for in Republic Act No. 7729 amending Section 151 (a) of the National Internal Revenue Code as amended: For Copper & other metallics (except Gold and Chromite): From June 24, 1994 - June 23, 1997 - 1.0%; From June 24, 1997 to June 23, 1999 - 1.5%; From June 24, 1999 onwards - 2.0%; For Gold and Chromite - 2% as well as other taxes, duties, and fees levied by existing laws.

For purposes of determining the amount of the herein government share, the Contractor shall strictly comply with the auditing and accounting requirements prescribed, under existing laws and regulations.

The government share shall be allocated in accordance with Sections 290 and 292 of R. A. No. 7160, otherwise known as "The Local Government Code of 1991".

8.4 Pricing of Sales - The Contractor shall endeavor to obtain the best achievable price for its production and pay the lowest achievable marketing commissions and related fees. Contractor shall seek to strike a balance between long-term sales comparable to policies followed by independent producers in the international mining industry.

The Contractor shall likewise seek a balanced distribution among consumers. Insofar as sales to Contractor's affiliates are concerned, prices shall be at arm's length. Standard and competing offers

for large scale and long-term contracts shall be procured.

- 8.5 Associated Minerals - If Minerals, other than Gold, Silver, Copper and Zinc are discovered in commercial quantities in the Contract Area, the value thereof shall be added to the value of the principal mineral in computing the share of the government, based on the rates shown in Section 8.3 above.

SECTION IX

WORK PROGRAMS

- 9.1 Submission to Government - Within the periods stated herein, the Contractor shall prepare and submit to the Government/DENR Secretary through the Director of the concerned Regional Office, copy furnished the Director, Mines and Geosciences Bureau, a Work Program and Budget for the Contract Area stating the Mining Operations which the Contractor proposes to carry out during the period covered with the details and particulars set forth elsewhere in this Agreement or in the Implementing Rules and Regulations of R.A. No. 7942.
- 9.2 Examination, Revision - Should the Government wish to propose a revision to a certain specific feature in the Work Program or Budget, it shall within thirty (30) days after receipt thereof provide a Notice to the Contractor specifying in reasonable detail its reasons therefore. Promptly thereafter, the Government and Contractor will meet and endeavor to agree on the revision proposed by the Government. In any event, any portion of said Work Program or Budget as to which the Government shall fail to notify the Contractor of proposed revision shall insofar as possible be carried out as prescribed herein. If the Government should fail within sixty (60) days from receipt thereof to notify Contractor of the proposed revisions, the Work Program and Budget proposed by the Contractor shall be deemed to be approved.
- 9.3 It is recognized by the Government and the Contractor that the details of any Work Program may require changes in the light of changing circumstances. The Contractor may make such changes provided they do not change the general

objective of the Work Program, and provided further, that changes which entail a variance of at least twenty (20) percentum shall be subject to the approval of the Secretary.

9.4 The Government's approval of a proposed Work Program and Budget will not be unreasonably withheld.

SECTION X

ENVIRONMENTAL PROTECTION AND MINE SAFETY AND HEALTH

10.1 Consistent with the basic policy of the state to assure the availability, sustainability and equitable distribution of the country's natural resources, the Department adopts the policy that mining activities attendant to permits, agreements and leases shall be managed in a technically, financially, socially, culturally and environmentally responsible manner to achieve, generally, the welfare of the country and; particularly, the sustainable development objectives and responsibilities as provided for under these Implementing Rules and Regulations.

10.2 The Contractor shall prepare a plan of mining so that its damage to the environment will be minimal. To the extent possible, control of pollution and the transformation of the mined-out areas or materials into economically and socially productive forms must be done simultaneously with mining.

10.3 An Environmental Compliance Certificate (ECC) shall be secured first by the Contractor prior to the conduct of any mine development work in the Contract Area.

10.4 The Contractor shall submit within thirty (30) Calendar days after the issuance and receipt of the ECC, an Environmental Protection and Enhancement Program (EPEP) using MGB Form No. 19-1 covering all areas to be affected by mining development, utilization and processing under this Contract.

10.5 The contractor shall submit within thirty (30) days prior to the beginning of every calendar year an Annual Environmental Protection and Enhancement Program (AEPEP) using MGB Form 19-3, which shall

be based on the approved EPEP . The AEPEP shall be implemented during the year for which it was submitted.

- 10.6 Subject to the provisions of DENR AO No. 95-25, the Contractor shall establish a Mine Rehabilitation Fund (MRF) based on the financial requirements of the approved EPEP as a reasonable environmental deposit to ensure satisfactory compliance with the commitments/strategies of the EPEP/AEPEP and availability of funds for the performance of the EPEP/AEPEP during the specific project phase. The MRF shall be deposited as Trust Fund in a government depository bank and shall be used for physical and social rehabilitation of areas affected by mining activities and for research on the social, technical and preventive aspects of rehabilitation.
- 10.7 The Contractor shall set-up mitigating measures such as mine waste and mill tailings disposal system, mine rehabilitation decommissioning, water quality monitoring, etc. to minimize land degradation, air and water pollution, acid rock drainage and changes in hydrogeology.
- 10.8 The Contractor shall set-up an Environmental and Safety Unit manned by qualified personnel to plan, implement and monitor its approved EPEP.
- 10.9 The Contractor shall be responsible in the monitoring of environmental safety and health of the contract area and shall strictly comply with all the rules and regulations embodied under Mines Administrative Order No. 51, Series of 1991, otherwise known as the "Mine Safety Rules and Regulations".
- 10.10 The Contractor shall submit to the Bureau a Safety and Health Program covering its area of operation within fifteen (15) days before the start of every Calendar Year, copy furnished Regional Office.

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SECTION XI

RIGHTS AND OBLIGATIONS OF THE PARTIES**11.1 Rights and Obligations of the Contractor**

The Contractor shall have the following rights and obligations:

- a) Exclusively conduct mining operations within the Contract Area with full right of ingress and egress and the right to occupy the same.
- b) Construct and operate any facilities specified under the Mineral Agreement or approved Work Program.
- c) Determine the exploration, mining and treatment process to be utilized in the mining operations;
- d) Extract, remove, use and dispose of any tailings as authorized by an approved Work Program;
- e) Secure all permits necessary or desirable for the purpose of mining operations;
- f) Keep accurate technical records about the operations as well as financial and marketing accounts and make them available to Government representatives authorized by the Director for the purpose of assessing the performance and compliance of the Contractor with the terms of this Agreement. Authorized representatives of other Government Agencies may also have access to such accounts in accordance with existing Laws, Rules and Regulations;
- g) Furnish the Bureau all the data and information gathered on the Contract Area and allow, upon prior written notice, the inspection of its books of accounts and records at reasonable hours on any business day;
- h) Hold the Government free and harmless from all claims and accounts of all kinds, as well as demands and actions arising out of the accidents or injuries to persons or properties caused by Mining Operations of the Contractor and indemnify the Government for any expenses or cost incurred by the Government by reason

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of any such claims accounts, demands or actions.

- i) In the development of the community, the Contractor shall:
- i.1) Recognize and respect the rights, customs and traditions of indigenous tribal communities over their ancestral lands.
 - i.2) Allocate budget for community development particularly mining community, Indigenous Cultural Community and Non-Indigenous Cultural Community living in the host and neighboring communities.
 - i.3) Coordinate with proper authorities in providing development plans for the host and neighboring communities;
 - i.4) Assist the community through the development of social infrastructure, livelihood programs, education, water, electricity and medical services. Where traditional self-sustaining income and the community activities are identified to be present, the Contractor shall assist in the preservation and/or enhancement of such activities;
 - i.5) Give preference to Filipino citizens, who have established domicile in the neighboring communities, in the hiring of personnel for its mining operations. If necessary skills and expertise are currently not available, the Contractor must immediately prepare and undertake a training and recruitment program at its expense;
 - i.6) Negotiate payment of royalty to indigenous cultural communities within validated ancestral domain areas based on a management plan formulated by the community.
 - i.7) Incorporate in the mine feasibility study the planned expenditures necessary to implement (i.1) to (i.5) of this section.
- j) In the development of Mining Technology and Geosciences, the Contractor shall, among others, perform the following:
- j.1) In the course of its operations, produce geological, geophysical, geochemical and other types of maps and reports that are appropriate in scale and in format and

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substance which are consistent with the internationally accepted standards and practices. Such maps shall be made available to the scientific community in the most convenient and cost effective forms, subject to the condition that the Contractor may delay release of said information for a reasonable period of time which shall not exceed three (3) years;

- j.2) Systematically keep the data generated from the contract/mining area such as cores, assays and other related information, including economic and financial data and make them accessible to students, researchers and other persons responsible for developing mining, geoscience and processing technology subject to the condition that the Contractor may delay release of data to the science and technology community within a reasonable period of time which shall not exceed three (3) years; and
- j.3) Transfer to the Government or local mining company the appropriate technology it may adapt in the exploration, development and commercial utilization of the minerals in the Contract Area provided that where proprietary rights or licensing agreements are involved, that the Government shall respect the requirements, limitations, terms and conditions attached thereto.
- j.4) Allocate research and development budget for the advancement of mining technology and geosciences in coordination with Bureau, Research Institutions, Academe, etc.
- j.5) Replicate data, maps and reports cited in (j.1) and (j.2) and furnish the Bureau for archiving and systematic safekeeping which shall be made available to the science and technology community for conducting research and undertaking other activities which contribute to the development of mining, geoscience and processing technology and the corresponding national pool of manpower talents: provided, however, that the release of data, maps and the like shall be similarly constrained in accordance with (j.1) and (j.2) above.

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- k) After the Exploration Period, the Contractor shall relinquish to the Government any portion of the Contract Area which shall not be

necessary for Mining Operations and not covered by any Declaration of Mining Feasibility.

- 1) The Contractor must pay all other taxes and fees mandated by existing laws, rules and regulations.

11.2 Rights of the Contractor

The Contractor shall:

- a) Have the right to conduct mining operations in the Contract Area in accordance with the terms and conditions hereof.
- b) Have the right of possession of the Contract Area, with full right of ingress and egress and the right to occupy the same, subject to surface and easement rights.
- c) Have the right to use and have access to all declassified geological, geophysical, drilling, production and other data relevant to the mining operations.
- d) Have the right to sell, assign, transfer, convey or otherwise dispose of all its rights, interests and obligations under the Agreement subject to the approval of the Government.
- e) Subject to applicable laws and regulations, to employ or bring into the Philippines foreign technical and specialized personnel (including the immediate members of their families) as may be required in the operations of the Contractor, provided, that if the employment connection of such foreign persons with the Contractor ceases, the applicable laws and regulations on immigration shall apply to them.
- f) Enjoy, subject to pertinent laws, rules and regulations and the rights of third parties, easement rights and use of timber, water and other natural resources in the Contract Area.
- g) Have the right of repatriation of capital and remittance of profits, dividends and interest on loans, subject to existing laws and Bangko Sentral rules and regulations; and

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- h) Have the right to import when necessary all equipment, spare parts and raw materials required in the operations in accordance with existing laws and regulations.

11.3 Obligation of the Government

The Government shall :

- a) Ensure that the Contractor has the Government full cooperation in the exercise of the rights granted to it under this Agreement.
- b) Use its best efforts to ensure the timely issuance of necessary permits and similar authorizing documents for use of the surface of the Contract Area.
- c) If Contractor seeks to obtain financing contemplated herein from banks or other financial institutions, the Government shall cooperate with the Contractor in such efforts. The Contractor may assign its rights, title and interest in this Agreement for the purpose of securing financing for the Project, with right of further assignment by the financial institution in favor of a qualified third party, subject to the approval of the Secretary which consent and approval shall not be unreasonably withheld; Provided, that each assignment shall be deemed automatically approved if not acted upon by the Secretary within thirty (30) working days from receipt of the application; Provided, further, that notwithstanding such assignment, the Contractor shall continue to be bound to perform its obligations and responsibilities under this Agreement; and Provided, further, that such assignment shall not adversely affect the rights of the Government under this Agreement.
- d) Recognize the Royalty Agreement between Claimholder and Operator dated April 8, 1991 which is made an integral part hereof by reference.

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SECTION XII

ASSETS AND EQUIPMENT

- 12.1 Contractor shall acquire for the Mining Operations only such assets that are reasonably estimated to be required in carrying out such Mining Operations.
- 12.2 All materials, equipment, plant and other installations erected or placed on the Contract Area of a movable nature by the Contractor shall remain the property of the Contractor and shall have the right to remove and re-export such materials and equipment, plant and other installations from the Philippines, subject to existing rules and regulations. In case of cessation of Mining Operations on public lands occasioned by its voluntary abandonment or withdrawal, the Contractor shall have a period of one (1) year from the time of cessation within which to remove its improvements; otherwise, all social infrastructures and facilities shall be turned over or donated tax free to the proper government authorities, national or local, to ensure that said infrastructures and facilities are continuously maintained and utilized by the host and neighboring communities.

SECTION XIII

EMPLOYMENT AND TRAINING OF PHILIPPINE PERSONNEL

- 13.1 The Contractor agrees to employ, to the extent possible, qualified Filipino personnel in its Mining Operations; and after Commercial Production commences shall; in consultation and with consent of the Government, elaborate an extensive training programme for employment of suitable Filipino nationals at all level of employment. The objective of said programme shall be to reach within the time table set forth below the following targets of "Filipinization".
- Handwritten initials: BR, J, M*
- Handwritten initials: MS*

	Unskilled	Skilled	Clerical	Professional	Management
Year 1	100%	100%	100%	75%	75%
Year 3	100	100	100	80	80
Year 5	100	100	100	90	90
Year 7	100	100	100	95	95
Year 10	100	100	100	95	95
Year 15	100	100	100	95	95

13.2 Cost and expenses of training such Filipino personnel and the Contractor's own employees shall be included in the Operating Expenses.

SECTION XIV

ARBITRATION

14.1 The Government and the Contractor shall consult with each other in good faith and shall exhaust all available remedies to settle any and all disputes or disagreements arising out of or relating to the validity, interpretations, enforceability, or performance of this Agreement before resulting to arbitration as provided for in Section 14.2 below.

14.2 Any disagreement or dispute which can not be settled amicably within a period of one (1) year from the time the issue was raised by a Party shall be settled by a tribunal of three (3) arbitrators, one to be appointed by the Contractor, another to be appointed by the Government, and the third by the arbitrators so appointed who shall serve as Chairman. The first two appointed arbitrators shall continue to consider names of qualified persons until agreement on a mutually acceptable Chairman of the tribunal is needed. Such arbitration shall be initiated and conducted pursuant to Republic Act No. 876, otherwise known as the Arbitration Act.

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The decision of a majority of the arbitrators shall be final and binding upon the parties. Judgment upon the award rendered may be entered in any court having jurisdiction or application may be made to such court for a judicial acceptance of the award and an order of enforcement, as the case may be.

In any event, the arbitration shall be conducted applying the substantive laws of the Republic of the Philippines.

JR *W* *F* *Mr*

- 14.3 Each party shall pay fifty per centum (50%) of the fees and expenses of the Arbitrators and the costs of arbitration. Each party shall pay its own costs and attorney's fee.

SECTION XV

SUSPENSION OR TERMINATION OF CONTRACT, TAX INCENTIVES AND CREDITS

- 15.1 This contract may be suspended for failure of the Contractors: (a) to comply with any provision or requirement of the Philippine Mining Act of 1995 and/or its Implementing Rules and Regulations; (b) to pay taxes, fees and/or other charges demandable and due the Government.
- 15.2 This Agreement terminates or may be terminated for the following causes: (a) expiration of its term whether original or renewal; (b) withdrawal from the agreement by the Contractor; (c) violation by the Contractor of the Agreement's terms and conditions; (d) failure to pay taxes, fees/or charges or financial obligations for two(2) consecutive years; (e) false statement or omission of facts by the Contractor; and (f) any other cause or reason provided under the Act and its Implementing Rules and Regulations, or any other relevant laws and regulations.

The Government shall, by written notice to the Contractor, advise the latter of its decision to terminate the Agreement stating the reason or reasons therefor. The Contractor shall have a right to contest it in writing within a period of thirty (30) days from receipt of the written notice from the Government. In case of disagreement between the parties, the matter shall be submitted to arbitration as provided for under Section XIV.

- 15.3 All statements made in this Agreement shall be considered as conditions and essential parts hereof, and any falsehood in said statements or omission of facts which may alter, change or affect substantially the fact set forth in said statements shall be a ground for its revocation and termination.

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- 15.4 The Contractor may, by giving due notice at any time during the term of this agreement, apply for its cancellation due to causes which, in the opinion of the Contractor, render continued mining operation no longer feasible or viable. In this case, the Secretary shall decide on the application within thirty (30) days from notice, provided that the Contractor has met all the financial, fiscal and legal obligations.
- 15.5 No delay or omissions or course of dealing by the Government shall impair any of the party's rights under this Agreement, except in the case of a written waiver. Each party's right to seek recourse and relief by all other means shall not be construed as a waiver of any succeeding or other default unless the contrary intention is reduced in writing and signed by the party authorized to exercise the waiver.
- 15.6 In case of termination, the Contractor shall pay all the fees and other liabilities due up to the end of the year in which the termination becomes effective. The Contractor shall immediately carry out the restoration of the Contract Area in accordance with good mining industry practice.
- 15.7 The following acts or omission, inter alia shall constitute breach of contract upon which the Government may exercise its right to terminate the contract:
- a) Failure of the Contractor without valid reason to commence Commercial Production within the period prescribed; and
 - b) Failure of the Contractor to conduct quarrying operations and other activities in accordance with the approved Work Programs and/or any modification thereof as approved by the Secretary.
- 15.8 The Government may suspend and cancel tax incentives and credits if the Contractor fails to abide by the terms and conditions of said incentives and credits.

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SECTION XVI

OTHER PROVISIONS

16.1 Any terms and conditions resulting from repeal or amendment of any existing laws or regulation or from the enactment of a law, regulation or administrative order shall be considered a part of this agreement provided such new terms and conditions are not adverse to the CONTRACTOR.

16.2 Notice

All notices, demands and other communications required or permitted hereunder shall be made in writing or by telex or telecopy and shall be deemed to have been duly given in the case of telex or telecopy notice if answered back or confirmation received, or if delivered by hand upon receipt or ten days after being deposited in the mail, airmail postage prepaid and addressed as follows:

If to the Government:

THE SECRETARY
Department of Environment and Natural Resources
DENR Building, Visayas Avenue
Diliman, Quezon City

If to the Contractor :

THE PRESIDENT
Benguet Corporation
12 ADB Avenue, Ortigas Complex
Mandaluyong City

Either party may substitute or change such address on notice thereof to the other party

16.3 Government Law

This Agreement and the relation between the parties hereto shall be governed by and construed in accordance with the laws of the Republic of the Philippines. The Contractor hereby agrees and obliges itself to comply with the provisions of the Act, its Implementing Rules and Regulations and other relevant laws and regulations.

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16.4 Suspension of Obligation

- a) Any failure or delay on the part of any party in the performance of its obligation or duties hereunder shall be excused to the extent attributable to Force Majeure.
- b) If Mining Operations are delayed, curtailed or prevented by such Force Majeure causes, then the time for enjoying the rights and carrying out the obligations thereby affected, the term of this Agreement and all rights and obligations hereunder shall be extended for a period equal to the period of delay, curtailment or prevention.
- c) The party whose ability to perform its obligations shall promptly give Notice to the other in writing of any such delay or failure of performance, the expected duration thereof, and its anticipated effect on the Party expected to perform and both parties shall do what is reasonable within their power to remove such cause, except that neither Party shall be under any obligation to settle a labor dispute.

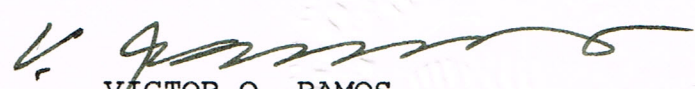
16.5 Amendments

This Agreement shall not be annulled amended or modified in any respect except by mutual consent in writing of the herein parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement, as of the day and year first above written

THE REPUBLIC OF THE PHILIPPINES

BY :



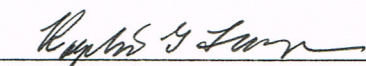
VICTOR O. RAMOS
Secretary

Department of Environment and
Natural Resources

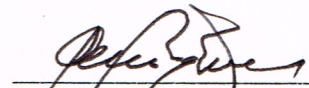


BY :

BENGUET CORPORATION
AS OPERATOR:

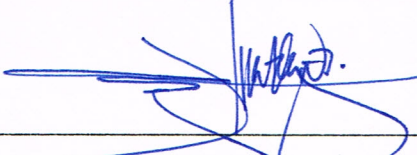


ROGELIO G. LARAYA
Executive Vice President



RAMON V. BOSQUE
Claimholder

SIGNED IN THE PRESENCE OF :



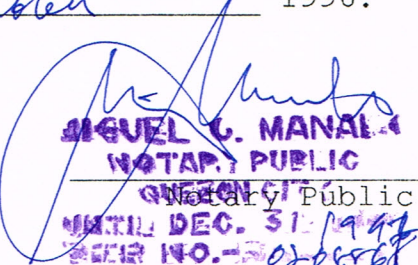
ACKNOWLEDGMENT

Republic of the Philippines)
 Quezon City)s.s.

Before me, a notary Public for and in the City of Quezon personally appeared **HON. VICTOR O. RAMOS**, with Residence Certificate No. 2714 issued on 1/22/96 at Q.C., in his capacity as Secretary of Department of Environment and Natural Resources and **RAMON V. BOSQUE**, with Residence Certificate No. 13110656 issued on January 23, 1996 at Ipil, Zamboanga del Sur, as **CLAIMHOLDER** and **ROGELIO G. LARAYA** with Residence Certificate No. 10402019 issued on April 12, 1996 at Pasig City as authorized officer of **OPERATOR**

all known to me and to me known to be the same persons who executed the foregoing instrument consisting of Twenty nine (29) pages, including this acknowledgment page, and acknowledged to me that the same is their voluntary act and deed and that of the principals they respectfully represent.

IN WITNESS WHEREOF, I have hereto set my hand and affix my notarial seal, this 27th day of October 1996.


AGUEL C. MANALA
 NOTARY PUBLIC
 Notary Public
 UNTIL DEC. 31, 1997
 REG. NO. - 026566
 EXPIRES ON - 1/16/98
 QUEZON CITY
 OFFICE - 255-2100

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