

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1665



Introduced by **HON. RONALD M. COSALAN**

EXPLANATORY NOTE

It is undeniable that the mining industry has potentials for the country's development, given our rich natural and mineral resources.

However, mining has become the bane of the environment, considering its effects on the forests and mountains and the calamities ascribed to have been caused by it. Further, the promised economic advantage, especially for the indigenous peoples and small scale miners, is still yet to be realized despite passage of considerable time.

Hence, there is an overwhelming need for a review of current local mining laws in order to formulate a framework that would focus on prudent use of natural resources, protection of the environment and the people to be affected like indigenous peoples, multi-party participation for sustainable development and poverty reduction. It is this goal that this bill seeks to provide. It is the hope that the experiences from the past has resulted to lessons that would lead to a more responsible, participative and transparent exploration, development and utilization of mineral resources. Protection, mitigation and rehabilitation of the environment should also be top of mind, while prioritizing protection of communities and individuals.

This bill seeks to improve regulation and rationalize the industry which is called for by the times. Support for this bill is earnestly sought.


HON. RONALD M. COSALAN
Lone District, Benguet

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 1665

Introduced by HON. RONALD M. COSALAN

AN ACT
TO REVITALIZE THE MINERAL RESOURCE EXTRACTIVE INDUSTRY,
REGULATE THE RATIONAL EXPLORATION, DEVELOPMENT AND
UTILIZATION OF MINERAL RESOURCES, ENSURE THE EQUITABLE
SHARING OF BENEFITS FOR THE STATE, INDIGENOUS PEOPLES AND
LOCAL COMMUNITIES, AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

CHAPTER I
DECLARATION OF POLICIES

Section 1. Short Title. This Act shall be known as the "*Philippine Mineral Resources Extractive Industry Revitalization Act of 2013*".

Section 2. Declaration of Policies. All mineral resources in public and private lands within the territory and exclusive economic zone of the Republic of the Philippines are owned by the State. It shall be the responsibility of the State to promote their rational exploration, development, utilization and conservation, as well as ensure an equitable sharing of benefits for the state, indigenous peoples and local communities, through the combined efforts of the Government and private sector in order to enhance national growth in a way that effectively safeguards the environment and protects the rights of affected communities.

In so doing, Government shall adhere to the principle of sustainable development which

1 aims to meet the needs of the present without compromising the ability of the future
2 generations to meet their own needs, with the view of improving the total quality of life, both now
3 and in the future. Consequently:

4
5 a. Mineral resource exploration, development, utilization and conservation
6 must lead to sustainable wealth creation and an improved quality of life for impacted communities
7 under the following terms:

8 i. Mining is a temporary land use which, when done responsibly, leads to alternative
9 land uses in the post-mining stage, through progressive and engineered mine
10 rehabilitation work done in cycle with mining operations;

11 ii. Mining activities must always be guided by current best practices in
12 environmental management committed to reducing the impacts of mining and
13 effectively and efficiently protecting the environment;

14
15 iii. The wealth accruing to the Government and communities as a result of mining
16 should also lead to other wealth- generating opportunities for people and to other
17 environment-responsible endeavors;

18
19 iv. Mining activities shall be undertaken with due and equal emphasis on economic
20 and environmental considerations, as well as for health, safety, social and cultural
21 concerns; and

22
23 v. Conservation of minerals is effected not only through recycling of mineral-based
24 products to effectively lengthen the usable life of mineral commodities but also
25 through the technological efficiency of mining operations.

26
27 b. Investments in commercial mining activities from both domestic and
28 international sources shall be promoted in accordance with State policies and the principles and
29 objectives herein stated.

30
31 c. The granting of mining rights shall harmonize existing activities, policies and
32 programs of the Government that promote self-reliance, development and resource management.
33 Activities, policies and programs that promote community-based and community-oriented

development shall be encouraged, consistent with the principles of people empowerment and grassroots development.

Section 3. Objectives. These rules and regulations are promulgated toward the attainment of the following objectives:

- a. To promote the rational exploration, development, utilization and conservation of mineral resources under the full control and supervision of the State;
- b. To enhance the contribution of mineral resources to economic recovery and national development, with due regard to the protection of the environment and the affected communities, as well as the development of local science and technical resources;
- c. To encourage investments in exploration and commercial mining activities to assure a steady supply of minerals and metals for material needs of both present and future society and to generate wealth in terms of taxes, employment generation, foreign exchange earnings and regional development;
- d. To promote equitable access to economically efficient development and fair sharing of benefits and costs derived from the exploration, development and utilization of mineral resources; and
- e. To enable the Government and the investor to recover their share in the production, utilization and processing of minerals to attain sustainable development with due regard to the environment, social equity and fair return of investment.

Section 4. Resource Extraction in Line with a National Industrialization Program.

The State shall formulate a National Industrialization Program pursuant to the principles of agricultural modernization, development of industrial and manufacturing industries, and rational, sustainable, and equitable development of the national economy. Pursuant to the foregoing, the State shall implement a Mineral Management Plan that provides the framework for the utilization and management of the country's mineral resources, which will address the needs of

1 the domestic economy and uphold the rights of industry workers, indigenous peoples and local
2 communities.

3
4 **Section 5. Definition of terms.** As used in and for the purposes of this Act, the following
5 terms, whether used in singular or in plural form, shall mean:

6
7 a. “Act” refers to R.A. No. 7942 otherwise known as the *“Philippine Mining Act of*
8 *1995.”*

9
10 b. “Ancestral Domains”— all areas generally belonging to indigenous cultural
11 communities/indigenous peoples (ICCs/IPs) comprising lands, inland waters, coastal areas, and
12 natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs,
13 by themselves or through their ancestors, communally or individually since time immemorial,
14 continuously to the present except when interrupted by war, force majeure or displacement by
15 force, deceit, stealth or as a consequence of government projects or any other voluntary dealings
16 entered into by government and private individuals/corporations, and which are necessary to
17 ensure their economic, social and cultural welfare. It shall include ancestral lands, forests,
18 pasture, residential, agricultural, and other lands individually owned whether alienable and
19 disposable or otherwise, hunting grounds, burial grounds, areas of worship, bodies of water,
20 mineral and other natural resources, and lands which may no longer be exclusively occupied by
21 ICCs/IPs but from which they traditionally and historically had access to for their subsistence
22 and traditional activities, particularly the home ranges of ICCs/IPs who are still nomadic and/or
23 shifting cultivators.

24
25 c. “Ancestral Lands” refer to all lands exclusively and actually possessed, occupied
26 or utilized by Indigenous Cultural Communities by themselves or through their
27 ancestors in accordance with their customs and traditions since time immemorial, and as
28 may be defined and delineated by law.

29 d. “Annual Environmental Protection and Enhancement Program (AEPEP)” refers
30 to a yearly environmental management work plan based on the approved environmental
31 protection and enhancement strategy.

e. "*Annual Social Development and Management Program*" refers to a yearly community development programs/ projects/ activities based on the approved five-year Social Development and Management Program.

f. "*Archipelagic Sea*" refers to all waters within the baseline of an archipelago except internal waters such as roadsteads, lakes and rivers.

g. "*Beneficiation*" – a process wherein a large fraction of the waste material is removed from the mineral ore;

h. "*Block or Meridional Block*" means an area, bounded by one-half (1/2) minute of latitude and one-half (1/2) minute of longitude, containing approximately eighty-one (81) hectares.

i. "*Buffer Zones*" – identified areas outside the boundaries of and immediately adjacent to designated protected areas designated by law that need special development control in order to avoid or minimize harm to the protected area;

j. "*Built-up Areas*" refer to portions of land within the municipality or barangay actually occupied as residential, commercial or industrial areas as embodied in a duly approved land use plan by the appropriate Sanggunian.

k. "*Bureau*" means the Central Office of the Mines and Geosciences Bureau under the Department of Environment and Natural Resources.

l. "*Carrying Capacity*" – the capacity of natural and human environments to accommodate and absorb change without experiencing conditions of ecological instability and attendant degradation;

m. "*Certificate of Ancestral Domains Title (CADT)*" – title formally recognizing the rights of possession and ownership of ICCs/IPs over their ancestral domains identified and delineated in accordance with law;

n. "*Certificate of Ancestral Lands Title (CALT)*" – a title formally recognizing the rights of ICCs/IPs over their ancestral lands;

o. "City" refers to an independent component city as classified under the Local Government Code.

p. "Commercial Production" refers to 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.

q. "Community Relations Record" refers to the applicant's proof of its community relations which may consist, but is not limited to, sociocultural sensitivity, the character of its past relations with local communities, cultural appropriateness and social acceptability of its resource management strategies; Provided, That this shall not be required in cases where the applicant has no previous community- relations experience in resource use ventures, locally or internationally.

r. "Consensus" – the decision communally reached after appropriate participatory consultation and discussion, free from any external manipulation, interference and coercion, and other analogous cases and obtained after fully disclosing the intent and scope, including the positive and negative impacts of the activity, in a language and process understandable to the community or group.

s. "Consent" – the free, prior and informed assent of the relevant person/s, ICCs/IPs, barangay assemblies, landowner or occupant or possessor, given after fully disclosing the intent and scope, including the positive and negative impacts of the activity, in a language and process understandable to said persons or communities or assemblies;

t. "Conservation" means the wise use and optimum utilization of mineral resources.

u. "Contiguous Zone" refers to water, sea bottom and substratum measured twenty-four (24) nautical miles seaward from the baseline of the Philippine Archipelago.

v. "Contract Area" means the land or body of water delineated under a Mineral Agreement or FTAA subject to the relinquishment obligations of the Contractor and properly defined by longitude and latitude.

1 w. "Contractor" means a Qualified Person acting alone or in consortium who is a
2 party to a Mineral Agreement or FTAA.

3 x. "Critical habitats" – place or environment where species or subspecies naturally
4 occur or has naturally established its population that are crucial to the survival of a species and
5 essential for its conservation;

6
7 y. "Critical Watershed" refers to a drainage area of a river system, lake or water
8 reservoir supporting existing and proposed hydroelectric power, domestic water supply,
9 geothermal power and irrigation works, which need immediate rehabilitation and protection to
10 minimize soil erosion, improve water yield and prevent possible flooding.

11 z. "Cultural Sites" – those that bear a unique or at least exceptional testimony to a
12 cultural tradition or to a civilization which is living or which has disappeared or, directly or
13 tangibly associated with events or living traditions, with ideas, or with beliefs, with artistic and
14 literary works of outstanding universal significance;

15
16 aa. "Customary Laws" – body of written and/or unwritten rules, usages, customs and
17 practices traditionally recognized, accepted and observed by respective ICCs/IPs and local
18 communities;

19
20 bb. "Decommissioning" – the activity or process that begins after cessation of
21 prospecting activities or mineral production (including metallurgical plant production). It
22 involves, among others, the removal of unwanted infrastructure, making excavations and waste
23 repositories safe and stable and surface rehabilitation with a view to negate or minimize any
24 adverse environmental impacts remaining after cessation of mineral production. It includes the
25 after-care or maintenance that may be needed;

26
27 cc. "DENR Project Area" refers to specific portions of land covered by an existing
28 project of the Department such as, but not limited to, Industrial Forest Management Agreement
29 (IFMA), Community Forest Management Agreement (CFMA), Community Forestry Program
30 (CFP), Forest Land Management Agreement (FLMA) and Integrated Social Forestry Program
31 (ISFP).

dd. "*Department*" means the Department of Environment and Natural Resources of the Republic of the Philippines.

ee. "*Development Stage*" as used exclusively for FTAA's means the period to prepare an explored ore body or mineral deposit for mining including the construction of necessary infrastructure and related facilities.

ff. "*Development*" means the work undertaken to explore and prepare an ore body or a mineral deposit for mining, including the construction of necessary infrastructure and related facilities.

gg. "*Direct Milling Costs*" refer to expenditures and expenses directly incurred in the mechanical and physical processing and/or chemical separation of the ore from the waste to produce marketable mineral products: Provided, That, for cement plant operations, direct milling costs are limited to expenditures and expenses directly incurred from raw materials crushing and grinding up to ground raw meal homogenizing, prior to clinker manufacturing.

hh. "*Direct Mining Costs*" refer to expenditures and expenses directly incurred in all activities preparatory to and in the actual extraction of the ore from the earth and transporting it to the mill plant for mineral processing.

ii. "*Director*" means the Director of the Bureau.

jj. "*Downstream industries*" – are activities that cover minerals processing, refining, and manufacturing that result into finished intermediate and capital goods.

kk. "*Ecological Profile or Eco-Profile*" refers to geographic-based instruments for planners and decision-makers, which presents a description of the environmental setting including the state of environmental quality and evaluation of the assimilative capacity of an area.

ll. "*Effluent*" means any wastewater, partially or completely treated, or any waste liquid flowing out of mining operations, wastewater treatment plants or tailings disposal system.

mm. "*Environment*" refers to the physical factors of the total surroundings of human beings, including the land, water, atmosphere, climate, sound, odors, tastes, the biological factors of animals and plants and the social factors of aesthetics. In a broad sense, it shall include the total environment of human beings such as economic, social, cultural, political and historical factors.

nn. "*Environmental Audit*" refers to a systematic, documented verification process of objectively obtaining and evaluating audit evidence (verifiable information, records or statements of facts) to determine whether or not specified environmental activities, events, conditions, management systems or information about these matters conform with audit criteria (policies, practices, procedures or requirements against which the auditor compares collected audit evidence about the subject matter) and communicating the results of this process to the concerned stakeholders.

oo. "*Environmental Compliance Certificate (ECC)*" refers to the document issued by the Secretary or the Regional Executive Director certifying that based on the representations of the proponent and the preparers (the proponent's technical staff or the competent professional group commissioned by the proponent to prepare the EIS and other related documents), as reviewed and validated by the Environmental Impact Assessment Review Committee (EIARC), the proposed project or undertaking will not cause a significant negative environmental impact; that the proponent has complied with all the requirements of the Environmental Impact Assessment System; and that the proponent is committed to implement its approved Environmental Management Plan in the Environmental Impact Statement or mitigation measures in the Initial Environmental Examination.

pp. "*Environmental Impacts*" refer to the probable effects or consequences of proposed projects or undertakings on the physical, biological and socioeconomic environment that can be direct or indirect, cumulative and positive or negative.

qq. "*Environmental Impact Assessment (EIA)*" refers to the process of predicting the likely environmental consequences of implementing projects or undertakings and designing appropriate preventive, mitigating and enhancement measures.

1 rr. “*Environmental Impact Statement (EIS)*” refers to the document(s) of studies on
2 the environmental impacts of a project including the discussions on direct and indirect
3 consequences upon human welfare and ecological and environmental integrity. The EIS may
4 vary from project to project but shall contain in every case all relevant information and details
5 about the proposed project or undertaking, including the environmental impacts of the project
6 and the appropriate mitigating and enhancement measures.

7 ss. “*Environmental Management Record*” refers to an applicant's high regard for the
8 environment in its past resource use ventures and proof of its present technical and financial
9 capability to undertake resource protection, restoration and/or rehabilitation of degraded areas
10 and similar activities: Provided, That this shall not be required in cases where the applicant has
11 no previous experience in resource use ventures, locally or internationally.

12 tt. “*Environmental Protection and Enhancement Program (EPEP)*” refers to the
13 comprehensive and strategic environmental management plan for the life of the mining
14 project on which AEPEPs are based and implemented to achieve the environmental management
15 objectives, criteria and commitments including protection and rehabilitation of the disturbed
16 environment.

17 uu. “*Environmental Work Program (EWP)*” refers to the comprehensive and strategic
18 environmental management plan to achieve the environmental management objectives, criteria
19 and commitments including protection and rehabilitation of the disturbed environment during the
20 exploration period.

21 vv. “*Exclusive Economic Zone*” refers to the water, sea bottom and subsurface
22 measured from the baseline of the Philippine Archipelago up to two hundred (200)
23 nautical miles offshore.

24 ww. “*Exploration*” means searching or prospecting for mineral resources by
25 geological, geochemical and/or geophysical surveys, remote sensing, test pitting, trenching,
26 drilling, shaft sinking, tunnelling or any other means for the purpose of determining their
27 existence, extent, quality and quantity and the feasibility of mining them for profit.

xx. "*Financial or Technical Assistance Agreement (FTAA)*" means a contract involving financial or technical assistance for large-scale exploration, development and utilization of mineral resources.

yy. "*Force Majeure*" means acts or circumstances beyond the reasonable control of Contractor/Permit Holder/Permittee/Lessee including, but not limited to, war, rebellion, insurrection, riots, civil disturbance, blockade, sabotage, embargo, strike, lockout, any dispute with surface owners and other labor disputes, epidemic, earthquake, storm, flood or other adverse weather conditions, explosion, fire, adverse action by Government or by any instrumentality or subdivision thereof, act of God or any public enemy and any cause as herein described over which the affected party has no reasonable control.

zz. "*Foreign-owned Corporation*" means any corporation, partnership, association or cooperative duly registered in accordance with law in which less than fifty percent (50%) of the capital is owned by Filipino citizens.

aaa. "*Forest Reservations*" refer to forest lands which have been reserved by the President for any specific purpose or purposes pursuant to P.D. No. 705, or by an appropriate law.

bbb. "*Forest Reserves or Permanent Forests*" refer to those lands of the public domain which have been the subject of the present system of classification and determined to be needed for forest purposes pursuant to P.D. No. 705.

ccc. "*Free, prior and informed consent (FPIC)*" – the consensus of all members of the ICCs/IPs to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference, coercion, and other analogous acts and obtained after fully disclosing the intent and scope, including the positive and negative impacts, of all the activities, in a language and process understandable and acceptable to the community;

ddd. "*Government Reservations*" refer to all proclaimed reserved lands for specific purposes other than Mineral Reservations.

eee. "*Government*" means the Government of the Republic of the Philippines.

1 fff. *"Gross Output"* means the actual market value of minerals or mineral
2 products from each mine or mineral land operated as a separate entity, without any deduction for
3 mining, processing, refining, transporting, handling, marketing or any other expenses: Provided,
4 That if the minerals or mineral products are sold or consigned abroad by the Contractor under
5 C.I.F. terms, the actual cost of ocean freight and insurance shall be deducted: Provided, further,
6 That in the case of mineral concentrates which are not traded in commodity exchanges in the
7 Philippines or abroad, such as copper concentrates, the actual market value shall be the world
8 price quotations of the refined mineral products content thereof prevailing in the said commodity
9 exchanges, after deducting the smelting, refining, treatment, insurance, transportation and other
10 charges incurred in the process of converting mineral concentrates into refined metal traded in
11 those commodity exchanges.

12 ggg. *"Ground Expenditures"* mean the field and laboratory expenditures incurred for
13 searching and delineating new or extension of ore bodies in an approved FTAA area, including
14 expenditures for social preparation, pre-feasibility studies and reasonable administrative
15 expenses incurred for the FTAA project. Such expenses include those for geological,
16 geophysical, geochemical and air-borne geophysical surveys, borehole drillings, tunnelling, test
17 pitting, trenching and shaft sinking. Contributions to the community and environment-related
18 expenses during the exploration period shall form part of the ground expenditures.

19 hhh. *"Host and Neighboring Communities"* Host community refers to the people
20 living at the barangay(s) outside the mine camp, where the mining project is located, and
21 neighboring communities refer to the people living at the barangay(s), which are adjacent to the
22 host community; areas covered by the mining tenement of the project; areas where mining
23 facilities are located; and, immediate areas which will be affected by the mining operations.

24 iii. *"Indigenous Cultural Community (ICC)"* means a group or tribe of indigenous
25 Filipinos who have continuously lived as communities on communally-bounded and defined
26 land since time immemorial and have succeeded in preserving, maintaining and sharing common
27 bonds of languages, customs, traditions and other distinctive cultural traits, and as may be
28 defined and delineated by law.

1 *jjj. "Initial Environmental Examination (IEE)"* refers to the document required of
2 proponents describing the environmental impact of, and mitigation and enhancement measures
3 for projects or undertakings located in an Environmentally Critical Area (ECA) as listed under
4 Presidential Proclamation No. 2146, Series of 1981, as well as other areas which the President
5 may proclaim as environmentally critical in accordance with Section 4 of P.D. No. 1586.

6 *kkk. "Joint venture agreement"* – an agreement wherein the government and a
7 qualified person organize a joint-venture company, with both parties having equity shares, to
8 develop and manage mineral resources. Aside from earnings on the equity, the Government
9 shall be entitled to a share in the output computed at a certain percentage mutually agreed upon
10 by and beneficial to both parties.

11 *lll. "Key biodiversity areas"* – are sites of established global biodiversity
12 conservation significance. They are defined by standardized criteria and thresholds to guide
13 conservation interventions such as the establishment of protected areas;

14 *mmm. "Lessee"* means a person or entity with a valid and existing mining lease contract.

15 *nnn. "Metallic Mineral"* means a mineral having a brilliant appearance, quite opaque
16 to light, usually giving a black or very dark streak, and from which a metallic
17 element/component can be extracted/utilized for profit.

18 *ooo. "Mill Tailings"* means materials whether solid, liquid or both segregated from the
19 ores during concentration/milling operations which have no present economic value to the
20 generator of the same.

21 *ppp. "Mine Camp"* refers to the portion of the mining/permit/contract area where
22 housing/residential, recreational and other support facilities are built solely for use by the
23 Contractor/Permit Holder/Lessee, including its employees and dependents.

24 *qqq. "Mine development"* – preparing the mine site for production by shaft sinking or
25 pit excavation building of access roads, and constructing of surface facilities;

26 *rrr. "Mine Rehabilitation"* refers to the process used to repair the impacts of mining
27 on the environment. The long-term objectives of rehabilitation can vary from simply converting
28 29 30

an area to a safe and stable condition to restoring the pre-mining conditions as closely as possible with all the area's environmental values intact and establishing a land use capability that is functional and proximate to the land use prior to the disturbance of the mine area.

sss. "*Mine Waste*" means soil and/or rock materials from surface or underground mining operations with no present economic value to the generator of the same.

ttt. "*Mineral Agreement*" means a contract between the Government and a Contractor, involving Mineral Production Sharing Agreement, Co-Production Agreement or Joint Venture Agreement.

uuu. "*Mineral Land*" means any area where mineral resources, as herein defined, are found.

vvv. "*Mineral Processing Permit*" refers to the permit granted to a Qualified Person for mineral processing.

www. "*Mineral Processing*" means the milling, beneficiation, leaching, smelting, cyanidation, calcination or upgrading of ores, minerals, rocks, mill tailings, mine waste and/or other metallurgical by-products or by similar means to convert the same into marketable products.

xxx. "*Mineral Products*" mean materials derived from ores, minerals and/or rocks and prepared into a marketable state by mineral processing.

yyy. "*Mineral Reservations*" refer to areas established and proclaimed as such by the President upon the recommendation of the Director through the Secretary, including all submerged lands within the contiguous zone and Exclusive Economic Zone.

zzz. "*Mineral Resources*" mean any concentration of ores, minerals and/or rocks with proven or potential economic value.

aaaa. "*Minerals*" refer to 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.

1 bbbb. "*Mining Application*" means any application for mining permit, Mineral
2 Agreement or FTAA.

3 cccc. "*Mining Area*" means a portion of the contract area identified by the Contractor
4 as defined and delineated in a Survey Plan duly approved by the Director/Regional Director
5 concerned for purposes of development and/or utilization, and sites for support facilities.

6 dddd. "*Mining Operations*" mean mining activities involving exploration, feasibility
7 study, development and utilization.

8 eeee. "*Mining Permits*" include Exploration, Quarry, Sand and Gravel (Commercial,
9 Industrial and Exclusive), Gratuitous (Government or Private), Guano, Gemstone Gathering and
10 Small-Scale Mining Permits.

11 ffff. "*Mining Right*" means a right to explore, develop or utilize mineral resources.

12 gggg. "*National Industrialization*" – in the mining industry, this shall denote the
13 primacy of mineral production, processing and distribution for the primary benefit of the
14 domestic economy. This includes creating favorable conditions for Filipino entrepreneurs to
15 engage in mining through various state-private agreements that shall ensure that mining shall
16 help spur more domestic investments, increase agricultural production and produce both
17 consumer and producer goods and manufactures;

18 hhhh. "*National Park*" – an area of the public domain essentially natural wilderness,
19 scenic, or historic in character which has been withdrawn from settlement, occupancy, or any
20 form of exploitation except in conformity with an approved management plan and set aside
21 exclusively to conserve the area or preserve the scenery, the natural and historic objects, wild
22 animals, and plants therein mainly for the purpose of biodiversity conservation and/or human
23 enjoyment;

24 iiii. "*Natural Forest*" – forests composed of indigenous trees, not planted by man,
25 whose structure, functions, and dynamics have been largely the result of natural succession
26 processes;
27
28

1 jjjj. "*Natural Parks*" — is a relatively large area not materially altered by human
2 activity where extractive resource uses are not allowed. These parks are maintained to protect
3 outstanding natural and scenic areas of national or international significance for scientific,
4 educational and recreational use;

5
6 kkkk. "*Net Income*" means gross income from operations less allowable deductions
7 which are necessary or related to mining operations.

8 llll. "*Non-Governmental Organization (NGO)*" includes non-stock, non-profit
9 organizations with qualifications, expertise and objectivity in activities dealing with resource and
10 environmental conservation, management and protection.

11 mmmm. "*Non-metallic Mineral*" refers to a mineral usually having a dull luster,
12 generally light-colored, transmits light, usually giving either colorless or light colored streak
13 from which a non-metallic element/component can be extracted/utilized for a profit.

14 nnnn. "*Offshore*" means the water, sea bottom and subsurface from the shore or
15 coastline reckoned from the mean low tide level up to the two hundred (200) nautical miles of
16 the Exclusive Economic Zone.

17 oooo. "*Onshore*" means the landward side from the mean low tide level, including
18 submerged lands in lakes, rivers and creeks.

19 pppp. "*Open-pit mining*" – Extracting metal ores and minerals that lie near the surface
20 by removing the overlying material and breaking and loading the ore. Also known as open-cast
21 mining and open-cut mining;

22
23 qqqq. "*Ore Transport Permit*" refers to the permit that may be granted to a Contractor,
24 accredited dealer, retailer, processor and other Permit Holders to transport minerals/mineral
25 products.

26 rrrr. "*Ore*" means naturally occurring substance or material from which a mineral or
27 an element can be mined and/or processed for profit.

1 ssss. "*People's Organization (PO)*" refers to a group of people which may be an
2 association, cooperative, federation or other legal entity established by the community to
3 undertake collective action to address community concerns and need and mutually share the
4 benefits from the endeavor.

5 tttt. "*Permit Area*" refers to area subject of mining permits.

6 uuuu. "*Permit Holder*" means a holder of any mining permit or of Mineral Processing
7 Permit issued under these implementing rules and regulations except permits that authorize
8 exploration activities only.

9 vvvv. "*Permittee*" means the holder of an Exploration Permit. The Permittee referred
10 to in previous administrative orders shall mean holders of permits subject of such orders.

11 www. "*Pollution Control Devices and Facilities*" refer to infrastructure,
12 machinery, equipment and/or improvements used for impounding, treating or neutralizing,
13 precipitating, filtering, conveying and cleansing mine industrial waste and tailings, as well as
14 eliminating or reducing hazardous effects of solid particles, chemicals, liquids or other harmful
15 by-products and gases emitted from any facility utilized in mining operations for their disposal.

16 xxxx. "*Pollution*" refers to any alteration of the physical, chemical and/or biological
17 properties of any water, air and/or land resources of the Philippines; or any discharge thereto of
18 any liquid, gaseous or solid wastes; or any production of unnecessary noise or any emission of
19 objectionable odor, as will or is likely to create or to render such water, air and land resources
20 harmful, detrimental or injurious to public health, safety or welfare, or which will adversely
21 affect their utilization for domestic, commercial, industrial, agricultural, recreational or other
22 legitimate purposes.

23 yyyy. "*Pre-Operating Expenses*" refer to all exploration expenses, special allowance,
24 administrative costs related to the project, feasibility and environmental studies and all costs of
25 mine construction and development incurred prior to commercial production.

26 zzzz. "*President*" refers to the President of the Republic of the Philippines.

aaaaa. "*Private Land*" refers to land belonging to any private person or entity which includes alienable and disposable land being claimed by a holder, claimant or occupant who has already acquired a vested right thereto under the law, including those whose corresponding certificate or evidence of title or patent has not been actually issued.

bbbbbb. "*Processing*" – includes all treatment an ore receives after its extraction and beneficiation, which involves changes in the chemical nature of the mined minerals;

cccccc. "*Progressive Rehabilitation*" – rehabilitation which involves the staged treatment of disturbed areas during exploration, construction/development and mining operations;

dddddd. "*Protected Areas*" – identified portions of land and water set aside by reason of their unique physical and biological significance, managed to enhance biological diversity and protected against destructive human exploitation;

eeeeee. "*Protected Landscapes, Seascapes, Marine Sanctuaries*" – areas of national significance which are characterized by the harmonious interaction of man and the environs while providing opportunities for public enjoyment through recreation and tourism within the bounds of the normal lifestyle and economic activity of these areas;

fffff. "*Public Land*" refers to land of the public domain which has been classified as agricultural land, mineral land, forest or timber land subject to management and disposition or concession under existing laws.

ggggg. "*Qualified Person*" means any Filipino citizen of legal age and with capacity to contract; or a corporation, partnership, association or cooperative organized or authorized for the purpose of engaging in mining, with technical and financial capability to undertake mineral resources development and duly registered in accordance with law, at least sixty percent (60%) of the capital of which is owned by Filipino citizens: Provided, That a legally organized foreign-owned corporation shall be deemed a Qualified Person for purposes of granting an Exploration Permit, FTAA or Mineral Processing Permit only.

hhhhh. "*Quarry Permit*" refers to the permit granted to a Qualified Person for the extraction and utilization of quarry resources on public or private land.

iiii. "*Quarry Resources*" refer to any common rock or other mineral substances as the Director may declare to be quarry resources such as, but not limited to, andesite, basalt, conglomerate, coral sand, diatomaceous earth, diorite, decorative stones, gabbro, granite, limestone, marble, marl, red burning clays for potteries and bricks, rhyolite, rock phosphate, sandstone, serpentine, shale, tuff, volcanic cinders and volcanic glass: Provided, That such quarry resources do not contain metals or metallic constituents and/or other valuable minerals in economically workable quantities: Provided, further, That non-metallic minerals such as kaolin, feldspar, bull quartz, quartz or silica, sand and pebbles, bentonite, talc, asbestos, barite, gypsum, bauxite, magnesite, dolomite, mica, precious and semiprecious stones and other non-metallic minerals that may later be discovered and which the Director declares to be of economically workable quantities, shall not be classified under the category of "Quarry Resources".

jjjj. "*Quarrying*" means the process of extracting, removing and disposing quarry resources found on or underneath the surface of public or private land.

kkkk. "*Regional Director*" means the Regional Director of any Regional Office.

llll. "*Regional Office*" refers to the Regional Office of the Bureau.

mmmm. "*Rehabilitation*" – the process by which the land will be returned to a form and productivity in conformity with a prior land use plan including a stable ecological state that does not contribute substantially to environmental deterioration and is consistent with surrounding aesthetic values;

nnnn. "*Remediation*" – removal of pollution or contaminants from environmental media for the general protection of the area and the people;

oooo. "*Restoration*" – where the intent is to recreate an ecosystem as close as possible to the original which existed at the site, with most of the structure and productivity matching that of the original ecosystem, and most of the original biodiversity; in time ecological processes and functions will match those of the original forest;

pppp. "*Secretary*" means the Secretary of the Department.

qqqqq. “*Service Contractor*” means a person or entity who enters into an agreement to undertake a specific work related to mining or quarrying operations of a Contractor/Permit Holder/Permittee/ Lessee.

rrrrr. “*Small-scale mining*” – mining activities which rely heavily on manual labor using simple implements and methods and do not use explosives or any heavy mining equipment, primarily engaged in for sustainable living. Impacts from small-scale mining shall not be large-scale, otherwise, the mining activity shall be defined as large-scale mining;

sssss. “*Small-scale mining permit*” – permit issued for small-scale mining;

tttti. “*Social Development and Management Program (SDMP)*” refers to the comprehensive five-year plan of the Contractor, Permit Holder, or Lessee authorized to conduct actual mining and milling operations towards the sustained improvement in the living standards of the host and neighboring communities by creating responsible, self-reliant and resource-based communities capable of developing, implementing and managing community development programs, projects, and activities in a manner consistent with the principle of people empowerment.

uuuuu. “*Special Allowance*” refers to payment to the claim owner or surface right owners particularly during the transition period from P.D. No. 463 and Executive Order No. 279, Series of 1987.

vvvvv. “*Stakeholders*” refer to persons or entities who may be significantly affected by the project or undertaking, such as but not limited to, the Contractor, Permit Holder, Permittee, or Lessee, members of the local community industry, LGUs, Nongovernmental Organizations (NGOs) and People's Organizations (POs).

wwwww. “*State*” means the Republic of the Philippines.

xxxxx. “*Strategic minerals*” – minerals needed for national security and industrialization, including rural development;

yyyyy. “*Tailings Disposal System*” refers to a combination of methods, equipment and manpower used in handling, transporting, disposing and/or impounding mill tailings.

1 zzzzz. "*Utilization*" means the extraction, mineral processing and/or disposition of
2 minerals.

3 aaaaaa. "*Waste Dump*" refers to a designated place where the mine waste is accumulated
4 or collected.

5 bbbbbb. "*Wildlife*"—undomesticated forms and varieties of flora and fauna;
6
7
8

9 **CHAPTER II** 10 **GOVERNMENT MANAGEMENT**

11
12 **Section 6. Authority of the Department.** The Department is the primary Government
13 agency responsible for the conservation, management, development and proper use of the State's
14 mineral resources including those in reservations, watershed areas and lands of the public domain.
15 The Department shall have the following authority, among others:

- 16 a. To promulgate rules and regulations as may be necessary to implement the
17 intent and provisions of the Act;
18 b. To enter into Mineral Agreements on behalf of the Government, or recommend
19 FTAA to the President upon endorsement of the Director;
20 c. To enforce applicable related laws such as Administrative Code, Civil Code, etc.;
21 and
22 d. To exercise such other authority vested by the Act and as provided for in these
23 implementing rules and regulations.

24
25 The Secretary may delegate such authority and other powers and functions to the
26 Director.
27

28 **Section 7. Organization and Authority of the Bureau.** The Mines and Geosciences
29 Bureau shall be a line bureau primarily responsible for the implementation of this Act. It shall be
30 comprised of a Central Office and the necessary regional, district and such other offices as may be
31 established in pertinent administrative orders issued by the Secretary. The staff Bureau created
32 under Department Administrative Order No. 1, Series of 1988, shall become the Central Office of

1 the Mines and Geosciences Bureau while the Mines and Geosciences Development Services created
2 pursuant to Department Administrative Order No. 41, Series of 1990, shall become the Regional
3 Offices.

4
5 The Bureau shall have the following authority, among others:

- 6
7 a. To have direct charge in the administration and disposition of mineral lands
8 and mineral resources;
- 9
10 b. To undertake geological, mining, metallurgical, chemical and other researches, as
11 well as mineral exploration surveys: *Provided*, That for areas closed to mining
12 applications, the Bureau can undertake exploration surveys for purposes of
13 research and development;
- 14
15 c. To be the central repository of information regarding mineral lands, resources,
16 permits, studies and other information relevant to the operation of a mine,
17 including the necessary requirements which a contractor is obliged to submit.
- 18
19 d. To confiscate, after due process, surety, performance and guaranty bonds
20 after notice of violation;
- 21
22 e. To recommend to the Secretary the granting of Mineral Agreements or
23 to endorse to the Secretary for action by the President the grant of FTAAs, in favor
24 of Qualified Persons and to monitor compliance by the Contractor with the
25 terms and conditions of the Mineral Agreements and FTAAs. For this purpose, an
26 efficient and effective monitoring system shall be established to ascertain
27 periodically whether or not these objectives are realized;
- 28
29 f. To cancel or to recommend cancellation, after due process, mining rights, mining
30 applications and mining claims for noncompliance with pertinent laws, rules and
31 regulations;
- 32
33 g. To deputize, when necessary, any member or unit of the Philippine National Police
(PNP) and barangay, duly registered and Department-accredited
Nongovernmental Organization (NGO) or any Qualified Person to police all mining
activities;
- h. To assist the Environmental Management Bureau (EMB) under the Department
and/or the Department Regional Office in the processing or conduct of

Environmental Impact Assessment in mining projects; and

- i. To exercise such other authority vested by the Act and as provided for in these implementing rules and regulations.

The Director may delegate such authority and other powers and functions to the Regional Director.

Section 8. Role of Local Government. Local government units shall have the following roles in mining projects within their respective jurisdictions:

- a. To ensure that relevant laws on public notice, public consultation and public participation are complied with;
- b. In coordination with the Bureau/Regional Office(s) and subject to valid and existing mining rights, to approve applications for small-scale mining, sand and gravel, quarry, guano, gemstone gathering and gratuitous permits and for industrial sand and gravel permits not exceeding five (5) hectares;
- c. To receive their share as provided for by law in the wealth generated from the utilization of mineral resources and thus enhance economic progress and national development;
- d. To facilitate the process by which the community shall reach an informed decision on the social acceptability of a mining project as a requirement for securing an ECC;
- e. To participate in the monitoring of any mining activity as a member of the Multipartite Monitoring Team referred to in Section 185 hereof;
- f. To participate as a member of the Mine Rehabilitation Fund (MRF) Committee;
- g. To be the recipient of social infrastructure and community development projects for the utilization of the host and neighboring communities in accordance with Chapter XIV hereof;

- 1 h. To act as mediator between the ICCs and the Contractor(s) as may be requested;
- 2
- 3 i. To coordinate with the Department and Bureau in the implementation
- 4 of the Act and these implementing rules and regulations in their respective
- 5 jurisdictions. In areas covered by the Southern Philippines Council for
- 6 Peace and Development, Autonomous Region of Muslim Mindanao and future
- 7 similar units, the appropriate offices of said units shall coordinate with the
- 8 Department and Bureau in the implementation of the Act and these implementing
- 9 rules and regulations; and
- 10
- 11 j. To perform such other powers and functions as may be provided for by applicable
- 12 laws, rules and regulations.

13

14 **Section 9. Recording system.** There shall be established a national and regional filing

15 and recording system. A mineral resource database system shall be set up in the Bureau which

16 shall include, among others, a mineral rights management system.

17

18 **Section 10. Publication.** The Bureau shall publish at least annually a mineral gazette of

19 nationwide circulation containing among others, a current list of mineral rights, their locations

20 specified in the appropriate map, mining rules and regulations, other official acts affecting

21 mining, and other information relevant to mineral resources development. A system of

22 publication fund shall be included in the regular budget of the Bureau.

23

24 **Section 11. Inventory of Mineral Resources.** The Bureau shall identify and provide an

25 inventory of the available mineral resources, including the mine tailings and wastes within the

26 country. It shall submit to the DENR a report which shall contain the following information:

- 27 a. the classification of minerals;
- 28 b. the quality and grade of the ore;
- 29 c. the potential mine life;
- 30 d. the geological description of the area;
- 31 e. the economic viability of mine tailings;
- 32 f. whether the area is a key biodiversity area or if it is a critical habitat;
- 33 g. and all other relevant information necessary for potential mineral investments.

The process for mineral exploration and/or approval for a mining permit shall not commence without the said inventory.

Section 12. Identification of strategic minerals. The Bureau shall conduct researches and studies prior to any mining operations to identify strategic mineral resources. Mineral resources needed for local industries, agricultural modernization and rural development shall be prioritized for mining subject to the implementing rules and regulations of this Act.

Section 13. Baseline information on watershed continuums. The baseline information on all watersheds in the country shall be required and made available to the public, online as much as possible. No mining permit shall be issued without this baseline information.

Section 14. Affected local community and local government unit. For purposes of this Act, the affected local community and the affected local government unit are defined in relation to the watershed continuum which is potentially negatively impacted by mining operation in the demarcated area. The local communities and the local government units therefore are those who are dependent on the watershed eco-system and its resources.

CHAPTER III MINERAL RESERVATIONS AND GOVERNMENT RESERVATIONS

Section 15. Establishment, Disestablishment or Modification of Boundary of a Mineral Reservation. The Director shall conduct public hearings allowing all concerned sectors and communities, interested non-governmental and people's organizations, as well as local government units, to air their views regarding the establishment, disestablishment, or modification of any Mineral Reservation. The public shall be notified by publication in a newspaper of general circulation in the province, as well as by posting in all affected municipalities and barangays, at least thirty (30) days before said hearings are conducted.

The recommendation of the Director shall be in writing stating therein the grounds for the establishment, disestablishment or modification of any specific Mineral Reservation and shall likewise be published after submission to the Secretary.

1 No recommendation of the Director shall be acted upon by the Secretary unless the
2 preceding paragraph has been strictly complied with.

3
4 Upon the recommendation of the Director through the Secretary, the President may, subject
5 to valid and existing rights, set aside and establish an area as a Mineral Reservation when the
6 national interest so requires, such as when there is a need to preserve strategic raw materials for
7 industries critical to national development or certain minerals for scientific, cultural or ecological
8 value. The Secretary shall cause the periodic review of existing Mineral Reservations by detailed
9 geological, mineral and ecological evaluation for the purpose of determining whether or not their
10 continued existence is consistent with the national interest and upon his/her recommendation, the
11 President may, by proclamation, alter or modify the boundaries thereof or revert the same to the
12 public domain without prejudice to prior existing rights.

13
14 In the proclamation of such Mineral Reservations, all valid and existing mining rights shall
15 be respected.

16
17 **Section 16. Government Reservations.** For Government Reservations, the Department
18 may directly undertake exploration, development and utilization of mineral resources. In the
19 event that the Department cannot undertake such activities, these may be undertaken by a Qualified
20 Person: *Provided*, That the right to explore, develop and utilize the minerals found therein shall be
21 awarded by the President under such terms and conditions as recommended by the Director and
22 approved by the Secretary: *Provided, further*, That such right shall be granted only after exploration
23 reveals the presence of economically potential deposits: *Provided, finally*, That the Permittee who
24 undertook the exploration of said Reservation shall be given priority.

25
26 **Section 17. Mining Operations within Mineral and Government Reservations.** Mining
27 operations in Mineral Reservations shall be undertaken by the Department or through a
28 Qualified Person under any of the following modes:

- 29 a. Exploration Permit;
- 30 b. Mineral Agreement;
- 31 c. FTAA;
- 32 d. Small-Scale Mining Permit; and

1 e. Quarry Permit.

2
3 In cases where the mining operations shall be directly undertaken by the Department, a
4 Memorandum of Agreement may be entered into by and between the Department and a qualified
5 government corporation/ entity authorizing the latter to explore, develop and/or utilize the mineral
6 resources found therein.

7
8 Mining operations in Government Reservations shall be first undertaken through an
9 Exploration Permit, subject to limitations prescribed therein, before the same is opened for Mineral
10 Agreement/FTAA application or other mining applications.

11
12 Applications for Exploration Permit/Mineral Agreement/FTAA within Mineral Reservations
13 shall be filed in the Regional Office concerned for its initial evaluation and endorsement to the
14 Bureau for final evaluation. In the event that the applied area covers both a Mineral Reservation and
15 a non-Mineral Reservation, the mining applicant may file separate applications covering the
16 Mineral Reservation area and the non-Mineral Reservation area, or file a single application
17 covering the whole area, in the Regional Office concerned.

18
19 **Section 18. Small-Scale Mining Operations within Mineral Reservations.** Small-scale
20 mining operations within Mineral Reservations shall be governed by the pertinent rules and
21 regulations provided for in the Mineral Reservations Development Board (MRDB)
22 Administrative Order No. 3, Series of 1984, and MRDB Administrative Order No. 3-A, Series of
23 1987, as amended, and as may be applicable. Small-Scale Mining Cooperatives shall be given
24 preferential right to apply for a small-scale mining contract for a maximum aggregate area of
25 twenty- five percent (25%) of a Mineral Reservation subject to valid and existing mining rights.

26
27 **Section 19. Payment of Royalty of Minerals/Mineral Products Extracted from**
28 **Mineral Reservations.** The Contractors/Permit Holders/Lessees shall pay to the Bureau a royalty
29 which shall not be less than five percent (5%) of the market value of the gross output of the
30 minerals/mineral products extracted or produced from the Mineral Reservations exclusive of all
31 other taxes. A ten percent (10%) share of said royalty and ten percent (10%) of other revenues such
32 as administrative, clearance, exploration and other related fees to be derived by the Government
33 from the exploration, development and utilization of the mineral resources within Mineral

Reservations shall accrue to the Bureau as a Trust Fund and shall be deposited in a Government depository bank to be allotted for special projects and other administrative expenses related to the exploration, development and environmental management of minerals in Government Reservations.

CHAPTER IV SCOPE OF MINING APPLICATION

Section 20. Areas Open to Mining Applications. The following areas are open to mining applications:

- a. Public or private lands not covered by valid and existing mining rights and mining applications;
- b. Lands covered by expired/abandoned/cancelled mining/quarrying rights;
- c. Mineral Reservations; and
- d. Timber or forest lands as defined in existing laws.

Section 21. Areas Closed to Mining Applications. Pursuant to the Act and in consonance with State policies and existing laws, areas may be either closed to mining applications or conditionally opened therefor.

- a. The following areas are closed to mining applications:
 - i. Areas covered by valid and existing mining rights and mining applications subject to Subsection b(3) herein;
 - ii. Old growth or virgin forests, proclaimed watershed forest reserves, wilderness areas, mangrove forests, mossy forests, national parks, provincial/municipal forests, tree parks, greenbelts, game refuge, bird sanctuaries and areas proclaimed as marine reserves/marine parks and tourist zones as defined by law and identified initial components of the National Integrated Protected Areas System (NIPAS) pursuant to R.A. No. 7586 and such areas expressly prohibited thereunder, as well as under Department Administrative Order No. 25, Series of 1992, and other laws;
 - iii. Areas which the Secretary may exclude based, inter alia, on proper

assessment of their environmental impacts and implications on sustainable land uses, such as built-up areas and critical watersheds with appropriate barangay/municipal/city/ provincial *Sanggunian* ordinance specifying therein the location and specific boundary of the concerned area;

iv. Offshore areas within five hundred (500) meters from the mean low tide level and onshore areas within two hundred (200) meters from the mean low tide level along the coast;

v. In case of seabed/marine aggregate quarrying, offshore areas less than 1,500 meters from the mean low tide level of land or island(s) and where the seabed depth is less than 30 meters measured at mean sea level; and

vi. Areas expressly prohibited by law.

Mining applications which have been made over the foregoing areas shall be reviewed and, after due process, such areas may be excluded from said applications.

b. The following areas may be opened for mining applications, the approvals of which are subject to the following conditions:

i. In Military and other Government Reservations, upon prior written clearance by the Government agency having jurisdiction over such Reservations;

ii. In areas near or under public or private buildings, cemeteries, archaeological and historic sites, bridges, highways, waterways, railroads, reservoirs, dams or other infrastructure projects, public or private works, including plantations or valuable crops, upon written consent of the concerned Government agency or private entity subject to technical evaluation and validation by the Bureau;

iii. In areas covered by FTAA applications which shall be opened for quarry

resources mining applications pursuant to Section 53 hereof, upon the written consent of the FTAA applicants: *Provided*, That sand and gravel permit applications shall not require consent from the FTAA, Exploration Permit or Mineral Agreement applicant, except for Mineral Agreement or Exploration Permit applications covering sand, gravel and/or alluvial gold: *Provided, further*, That the Director shall formulate the necessary guidelines to govern this provision;

- iv. In areas covered by small-scale mining contracts, upon prior consent of the small-scale miners, in which case a royalty payment, upon the utilization of minerals, shall be agreed upon by the concerned parties and shall form a Trust Fund for the socioeconomic development of the concerned community; and
- v. In DENR Project Areas, upon prior consent from the concerned agency.

The Bureau shall cause the periodic review of areas closed to mining applications for the purpose of determining whether or not their continued closure is consistent with the national interest and render its recommendations, if any, to the Secretary for appropriate action.

Section 22. Ancestral Lands. In no case shall Mineral Agreements, FTAA's or mining permits be granted in areas subject of Certificates of Ancestral Domains/Ancestral Land Claims (CADC/CALC) or in areas verified by the Department Regional Office and/or other office or agency of the Government authorized by law for such purpose as actually occupied by ICCs under a claim of time immemorial possession, except with their prior consent.

Prior consent refers to prior informed consent obtained, as far as practicable, in accordance with the customary laws of the ICC concerned. Prior informed consent should meet the minimum requirements of public notice through various media such as, but not limited to, newspaper, radio or television advertisements, fully disclosing the activity to be undertaken and/or sector consultation wherein the Contractor, Permit Holder, or Permittee should arrange for a community assembly, notice of which should be announced or posted in a conspicuous place in the area for at least a month before the assembly: *Provided*, That the process of arriving at an informed

consent should be free from fraud, external influence and manipulations.

In the event that prior informed consent is secured in accordance with the preceding paragraph, the concerned parties shall agree on the royalty payment for the concerned ICC which may not be less than one percent (1%) of the gross output. Expenses for community development may be credited to or charged against said royalty. Representatives from the Bureau or Regional Office(s) concerned, Department offices concerned, LGUs concerned, relevant NGOs/POs and the National Commission on Indigenous Peoples (NCIP) may be requested to act as mediators between the ICCs concerned and the Contractor, Permit Holder, or Permittee in the negotiation for the royalty payment.

In case of disagreement concerning the royalty due the ICCs concerned, the Department shall resolve the same within three (3) months. Said royalty shall form part of a Trust Fund for the socioeconomic well-being of the ICCs in accordance with the management plan formulated by the same in the ancestral land or domain area: *Provided* That the royalty payment shall be managed and utilized by the ICCs concerned.

The implementation of this Section shall be in accordance with Republic Act No. 8371, otherwise known as "*The Indigenous Peoples Rights Act of 1997*" and other pertinent laws.

CHAPTER V EXPLORATION PERMIT

Section 23. Exploration Permit as the Initial Mode of Entry in Mineral Exploration.

Exploration activities may be directly undertaken by the Department or, in the event that the Department cannot undertake such exploration activities, by a Qualified Person in specified areas as determined by the Secretary: *Provided*, that the conduct of mineral exploration by a Qualified Person in all areas open to mining shall be initially undertaken through an Exploration Permit.

In case an immediate technical study of an area is necessary, the Department or any of its authorized agencies or instrumentalities and the Exploration Permit applicant may enter into a Memorandum of Agreement to jointly undertake such study.

Section 24. Term/Maximum Areas Allowed under an Exploration Permit. The term of an Exploration Permit shall be for a period of two (2) years from date of issuance thereof, renewable for like periods but not to exceed a total term of four (4) years for non-metallic mineral exploration or six (6) years for metallic mineral exploration: *Provided*, That no renewal of Permit shall be allowed unless the Permittee has complied with all the terms and conditions thereof, and has not been found guilty of violation of any provision of the Act and these implementing rules and regulations: *Provided, further*, That the conduct of a feasibility study and filing of the declaration of mining project feasibility shall be undertaken during the term of the Exploration Permit, subject to the provisions of Section 30 hereof.

The maximum area that a Qualified Person may apply for or hold at any one time under an Exploration Permit shall be as follows:

a. Onshore, in any one province -

1. For individuals - twenty (20) blocks or approximately One Thousand Six Hundred Twenty (1,620) hectares and
2. For corporations, partnerships, associations or cooperatives - Two Hundred (200) blocks or approximately Sixteen Thousand Two Hundred (16,200) hectares.

b. Onshore, in the entire Philippines -

1. For individuals - forty (40) blocks or approximately Three Thousand Two Hundred Forty (3,240) hectares and
2. For corporations, partnerships, associations or cooperatives - Four Hundred (400) blocks or approximately Thirty-Two Thousand Four Hundred (32,400) hectares.

c. Offshore, in the entire Philippines, beyond Five Hundred Meters (500 m) from the mean low tide level -

1. For individuals - one hundred (100) blocks or approximately Eight Thousand One Hundred (8,100) hectares and
2. For corporations, partnerships, associations or cooperatives - One Thousand

(1,000) blocks or approximately Eighty-One Thousand (81,000) hectares.

The permit area is subject to relinquishment as provided for in Section 22(f) hereof.

Section 25. Application for Exploration Permit/Mandatory Requirements. Any Qualified Person may apply for an Exploration Permit (MGB Form No. 5-1) with the Regional Office concerned, through payment of the required fees and submission of five (5) sets of the following mandatory requirements:

- a. A location map/sketch plan of the proposed permit area showing its geographic coordinates/ meridional block(s) and boundaries in relation to major environmental features and other projects;
- b. A two-year Exploration Work Program duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
- c. Proof of technical competence of the technical personnel who shall undertake the activities in accordance with the submitted Exploration Work Program;
- d. Proof of financial capability to undertake the Exploration Work Program;
- e. The Articles of Incorporation, Partnership or Association By- Laws and Certificate of Registration, duly certified by the Securities and Exchange Commission (SEC); and
- f. A Certificate of Non-Overlap for areas without indigenous cultural communities, or a Certification Precondition from the NCIP for areas with ICCs/IPs, as the case may be.

For offshore Exploration Permit applications, the following additional requirements shall be submitted:

- a. The name, port of registry, tonnage, type and class of survey vessel(s)/platform(s);
- b. A certification from the Coast and Geodetic Survey Department of the NAMRIA that the proposed Exploration Work Program was duly registered to provide update in the publication of "Notice to Mariners" together with a list of safety measures to be regularly undertaken to ensure the safety of navigation at sea and prevent accident;

1 c. An agreement to properly identify all installations, vessels and other crafts
2 involved in exploration recognizable to all vessels within reasonable distance, notify
3 the Bureau thirty (30) calendar days prior to the intention to remove all scientific
4 installations or equipment and apparatus; and allow the Bureau's authorized
5 personnel, Philippine Coast Guard and other authorized persons during reasonable
6 hours to board the vessel(s) while within the Exclusive Economic Zone.

7
8 The Regional Office shall regularly provide the Bureau with a list, consolidated map and
9 status report of the Exploration Permit applications filed in its jurisdiction.
10

11 **Section 26. Transfer or Assignment of Exploration Permit Application.** Transfer or
12 assignment of Exploration Permit applications shall be allowed subject to the approval of the
13 Regional Director concerned taking into account the national interest and public welfare;
14 *Provided,* That such transfer or assignment shall be subject to eligibility requirements and shall
15 not be allowed in cases involving speculation.

16
17 **Section 27. Area Status and Clearance.** Within fifteen (15) working days from receipt of
18 the Exploration Permit application, the Regional Office concerned shall check in the control maps if
19 the area is open for mining applications. Upon notification of the applicant by the Regional
20 Office as to the transmittal of said document to the Department sector(s) concerned and/or
21 Government agency(ies) concerned, it shall be the responsibility of the same applicant to secure the
22 necessary area status consent or clearance from said Department sector and/or Government agency;
23 *Provided,* That the Department sector(s) concerned cannot unreasonably deny area
24 clearance/consent without legal and/or technical basis.

25
26 If the proposed permit area is open for mining applications, the Regional Office(s)
27 concerned shall give written notice to the applicant to pay the corresponding clearance fee:
28 *Provided,* That if a portion of the area applied for is not open for mining applications, the Regional
29 Office concerned shall exclude the same from the coverage of Exploration Permit application.

30
31 **Section 28. Publication of an Exploration Permit Application.** Within five (5)
32 working days from receipt of the necessary area clearances, the Regional Office(s) concerned shall

1 issue the Notice of Application for Exploration Permit to the applicant for publication and radio
2 announcement, and to the Offices concerned for posting. The Notice must contain, among others,
3 the name and complete address of the applicant, duration of the permit applied for, extent of
4 exploration activities to be undertaken, area location, geographical coordinates/meridional block(s)
5 of the proposed permit area and location map/sketch plan with index map relative to major
6 environmental features and projects and to the nearest municipalities.

7
8 Within five (5) working days from receipt of the Notice, the Exploration Permit applicant
9 shall cause the publication thereof once in two (2) newspapers: one of general circulation published
10 in Metro Manila and another published in the municipality or province where the proposed permit
11 area is located. The Regional Office concerned shall cause the posting of the Notice on its
12 bulletin board for one (1) week, copy furnished the Bureau and the barangay(s) where the proposed
13 permit area is located.

14
15 Within five (5) working days from the last date of posting and radio announcement, the
16 authorized officer(s) of the office(s) concerned shall issue a certification(s) that the
17 posting/radio announcement have been complied with. Any adverse claim, protest or opposition
18 shall be filed directly, within ten (10) days from the date of publication or from the last date of
19 posting/radio announcement, with the Regional Office concerned or through any PENRO or
20 CENRO concerned for filing in the Regional Office concerned for purposes of its resolution by the
21 Panel of Arbitrators pursuant to the provisions of the Act and these implementing rules and
22 regulations. However, previously published valid and existing mining claims are exempted from the
23 publication/posting/radio announcement required under this Section.

24
25 **Section 29. Terms and Conditions of an Exploration Permit.** The term of the Permit
26 shall be for a period of two (2) years from date of issuance thereof, renewable for like periods but
27 not to exceed a total term of four (4) years for non-metallic mineral exploration or six (6) years for
28 metallic mineral exploration: *Provided*, That no renewal of Permit shall be allowed unless the
29 Permittee has complied with the terms and conditions of the Permit and has not been found guilty
30 of violation of any provision of the Act and these implementing rules and regulations.

31
32 The Permittee shall annually relinquish at least 20% of the permit area during the first two

(2) years of exploration and at least 10% of the remaining permit area annually during the extended exploration period. However, if the permit area is less than five thousand (5,000) hectares, the Permittee need not relinquish any part thereof. The Secretary or his/her duly authorized representative shall annually review the performance of the Permittee;

The Permittee shall submit to the Bureau or Regional Office concerned a final report upon the expiration or relinquishment of the Permit or its conversion into Mineral Agreement or FTAA and shall incorporate all the findings in the permit area, including locations of samples, assays, chemical analyses and assessment of the mineral potential. Such report shall include complete detailed expenditures incurred during the exploration;

Onshore exploration activities shall be carried out in a manner that will, at all times, safeguard the environment;

Section 30. Conversion of Exploration Permit to Mineral Agreement or Financial or Technical Assistance Agreement. A Permittee may, at its option, convert totally or partially its Exploration Permit to a Mineral Agreement or FTAA for the purpose of undertaking detailed exploration, if the exploration activities indicate a resource discovery; *Provided*, That the term of the Exploration Permit shall be deducted from the terms of the Exploration/Pre-Feasibility Study/Feasibility Study Period of the Mineral Agreement or FTAA.

Section 31. Rights and Obligations of the Permittee. The Permittee, its heirs or successors-in-interest shall have the right to enter, occupy and explore the permit area, all other rights provided for in the Act and these implementing rules and regulations; and the obligation to fully comply with the terms and conditions of the Exploration Permit.

Section 32. Transfer or Assignment of Exploration Permit. An Exploration Permit may be transferred or assigned to another Qualified Person(s) subject to the approval of the Director.

Section 33. Relinquishment of Areas Covered by Exploration Permit. The Permittee may, at any time, relinquish the whole or any portion of the total permit area by filing a notice of relinquishment with the Bureau/Regional Office concerned.

Section 34. Renewal of Exploration Permit. Prior to the expiration of an Exploration Permit, the Permittee may submit to the Bureau, copy furnished the Regional Office concerned, an application to renew the said Exploration Permit accompanied by the following mandatory requirements:

- a. Audited financial statements covering the term of the Exploration Permit; and
- b. Two (2)-year Exploration Work Program (MGB Form No. 5-4) duly prepared, signed and sealed by a licensed Mining Engineer or Geologist.

The Secretary, through the Director, may grant the renewal after field verification by the Bureau, which shall be undertaken at the expense of the Permittee, and compliance with all pertinent requirements, including payment of all required fees and reporting requirements.

Section 35. Cancellation of an Exploration Permit. The Secretary or the Director may cancel the Exploration Permit for violation(s) by the Permittee of the terms and conditions thereof, including the failure to secure the required proof of consultation with/project presentation to the *Sanggunian* concerned pursuant to the pertinent provisions of RA No. 7160, The Local Government Code of 1991, within one (1) year from issuance of the Exploration Permit.

Upon issuance of the Order declaring with finality the cancellation of the Permit covering areas within Government Reservations, the said areas shall automatically be reverted back to its original status.

Section 36. Effect of Relinquishment or Cancellation of Exploration Permit. The foregoing provisions notwithstanding, relinquishment or cancellation shall not release the Permittee from any and all obligations it may have, particularly with regard to ecological management, at the time of relinquishment or cancellation.

Section 37. Declaration of Mining Project Feasibility. If results of exploration reveal the presence of mineral deposits economically and technically feasible for mining operations, the Permittee shall, within the term of the Exploration Permit, file a declaration of mining project

1 feasibility. The approval of the declaration of mining project feasibility by the Director shall grant
2 the Permittee the exclusive right to a Mineral Agreement or FTAA over the permit area: *Provided,*
3 That failure of the Permittee to apply for Mineral Agreement or FTAA within a period of one (1)
4 year from the date of approval of the declaration of mining project feasibility shall mean automatic
5 cancellation of the said declaration.

6 7 8 **CHAPTER V** 9 **MINERAL AGREEMENTS**

10
11 **Section 38. Modes of mineral agreement.** A mineral agreement may only take the
12 following forms as herein defined;

13 a. **Mineral Production Sharing Agreement** – is an agreement where the
14 Government grants to the contractor the exclusive right to conduct mining operations within a
15 contract area and shares in the revenue. The contractor shall provide the financing, technology,
16 management and personnel necessary for the implementation of this agreement;

17
18 b. **Co-production agreement** – is an agreement between the Government and the
19 contractor wherein the Government shall provide inputs to the mining operations other than the
20 mineral resource; and

21
22 c. **Joint Venture Agreement** – is an agreement where a joint-venture company is
23 organized by the Government and the contractor with both parties having equity shares. Aside
24 from earnings in equity, the State shall be entitled to a share in the gross output.

25
26 **Section 39. Eligibility.** The following are Qualified Persons eligible to apply for a Mineral
27 Agreement:

- 28 a. In case of an individual – must be a Filipino citizen of legal age and with capacity to
29 contract; or
30 b. In case of a corporation, partnership, association or cooperative – must be
31 organized or authorized for the purpose of engaging in mining, duly registered in
32 accordance with law, at least sixty percent (60%) of the capital of which is owned
33 by Filipino citizens.

Section 40. Maximum Areas Allowed under a Mineral Agreement. The maximum area that a Qualified Person may apply for or hold at any one time under a Mineral Agreement shall be as follows:

a. Onshore, in any one province -

1. For individuals - ten (10) blocks or approximately eight hundred ten (810) hectares and
2. For corporations, partnerships, associations or cooperatives - five thousand (5,000) hectares for metallic minerals and two thousand (2,000) hectares for non-metallic minerals per final mining area subject to the pertinent provisions of Section 69 hereof.

b. Onshore, in the entire Philippines -

1. For individuals - twenty (20) blocks or approximately one thousand six hundred twenty (1,620) hectares and
2. For corporations, partnerships, associations or cooperatives - five thousand (5,000) hectares per final mining area subject to the pertinent provisions of Section 69 hereof.

c. Offshore, in the entire Philippines, beyond five hundred meters (500 m) from the mean low tide level -

1. For individuals - fifty (50) blocks or approximately four thousand fifty (4,050) hectares,
2. For corporations, partnerships, associations or cooperatives - five hundred (500) blocks or approximately forty thousand five hundred (40,500) hectares, and
3. For the Exclusive Economic Zone - a larger area to be determined by the Secretary upon the recommendation of the Director.

The above-mentioned maximum areas that a Contractor may apply for or hold under a Mineral Agreement shall not include mining/quarry areas under operating agreements between the Contractor and a claim owner/Lessee/Permittee/licensee entered into under P.D. No. 463.

1
2 **Section 41. Term of a Mineral Agreement.** A Mineral Agreement shall have a term not
3 exceeding twenty-five (25) years from the date of execution thereof, and renewable for another term
4 not exceeding twenty-five (25) years under the same terms and conditions thereof, without prejudice
5 to changes that may be mutually agreed upon by the Government and the Contractor.

6
7 After the renewal period, the operation of the mine may be undertaken by the Government
8 or through a Contractor. The contract for the operation of a mine shall be awarded to the highest
9 bidder in a public bidding after due publication of the notice thereof: *Provided*, That the original
10 Contractor shall have the right to equal the highest bid upon reimbursement of all reasonable
11 expenses of the highest bidder.

12
13 **Section 42. Pre-screening of Mining Applications.** Mining applications shall be
14 reviewed by the Bureau upon the submission of the following:

- 15 a. Proof of financial capability;
16 b. Social and environmental track record, including those of its officers and
17 directors;
18 c. Corporate structure and ownership;
19 d. Mining project feasibility;
20 e. Mining operation work plan;
21 f. Proposed operation, mitigation and prevention methods and/or equipment;
22 g. Commitment to contribute to local community development.

23
24 Applicants of MPSAs, Co-production, and Joint Venture Agreements shall be required to
25 have a minimum authorized capital of at least One Hundred Million Pesos (Php100,000,000.00),
26 with a minimum paid-up capital of at least Six Million Two Hundred Fifty Thousand Pesos
27 (Php6,250,000.00).

28
29 **Section 43. Environmental and Social Impact Assessment and Mitigation Plan.** The
30 contractor shall submit an Environmental and Social Impact Assessment and Mitigation Plan
31 (ESIAMP) containing the means, methods, processes and schedule by which the contractor shall
32 conduct its operations and mitigate negative environmental and social impacts. Social impact
33 shall include possible impacts on the enjoyment and exercise of human rights, cultural rights.

1 The ESIAMP shall include plans relative to mining operations; the rehabilitation, regeneration
2 and restoration of mineral areas; slope stabilization of mined out and tailings covered areas;
3 aquaculture, watershed development and water conservation; the relocation and return of
4 displaced population; and provisions for alternative livelihood and socioeconomic development.

5
6 The ESIAMP shall also contain a Social Development Plan which shall likewise contain
7 the plans of the proponent for the development of the community through the establishment of
8 infrastructures and programs that shall be sustainable even after the closure of the mine.

9
10 **Section 44. Posting and publication requirement.** Within five (5) working days from
11 receipt of the necessary area clearances, the Bureau or Regional Office(s) concerned shall issue the
12 Notice of Application for Mining Agreement to the applicant for publication and radio
13 announcement, and to the Offices concerned for posting. The Notice must contain, among others,
14 the name and complete address of the applicant, the nature and duration of the agreement applied
15 for, extent of mining activities to be undertaken, area location, geographical coordinates/meridional
16 block(s) of the proposed permit area and location map/sketch plan with index map relative to major
17 environmental features and projects and to the nearest municipalities.

18
19 Within five (5) working days from receipt of the Notice, the applicant shall cause the
20 publication thereof once in two (2) newspapers: one of general circulation published in Metro
21 Manila and another published in the municipality or province where the proposed mining area is
22 located. The Regional Office concerned shall cause the posting of the Notice on its bulletin
23 board for one (1) week, copy furnished the Bureau and the barangay(s) where the proposed mining
24 area is located.

25
26 Within five (5) working days from the last date of posting and radio announcement, the
27 authorized officer(s) of the office(s) concerned shall issue a certification(s) that the
28 posting/radio announcement have been complied with. Any adverse claim, protest or opposition
29 shall be filed directly, within ten (10) days from the date of publication or from the last date of
30 posting/radio announcement, with the Regional Office concerned or through any PENRO or
31 CENRO concerned for filing in the Regional Office concerned for purposes of its resolution by the
32 Panel of Arbitrators pursuant to the provisions of the Act and these implementing rules and

1 regulations. However, previously published valid and existing mining claims are exempted from the
2 publication/posting/radio announcement required under this Section.

3
4 **Section 45. Issuance of the permit.** After six (6) weeks from the date of the posting and
5 publication, if no contest is filed, the Bureau shall issue a mining agreement in accordance with
6 the decision of the Council on the winning proposal.

7
8 **Section 46. Environmental and Social Impact Compliance Certificate.** The mining
9 proponent shall be issued an Environmental and Social Impact Compliance Certificate by the
10 Bureau with the approval of the Council. *Provided,* That no amendments to the conditions of the
11 Certificate shall be allowed, unless such proposed amendment shall work for the benefit of the
12 communities, and in which case, the Council and the Bureau shall be notified of any
13 amendments to the ESIAMP and that the former should give their consent to the same, after the
14 proponent explaining in detail the reason for such amendment and the possible impacts and
15 consequences of these amendments. *Provided further,* That any violation of the ESIAMP shall
16 cause the cancellation of the Certificate.

17
18 **Section 47. Failure to initiate mining operations.** Failure to commence the
19 development stage of the mining operations in accordance with the work program within two (2)
20 years from the award of the mineral agreement, without due cause, shall result in the cancellation
21 of the mineral agreement. The contractor thereafter forfeits the value of the improvements made
22 upon the land. The contractor shall thereafter be banned from bidding to conduct mining
23 operations for ten (10) years after failure to commence the development stage of the mining
24 operations in accordance with the work program.

25
26 **Section 48. Multi-partite monitoring.** The Bureau shall form a Multi-Partite Monitoring
27 Team (MMT) to monitor compliance by the contractor of the terms and conditions of the mineral
28 agreement. It may conduct ocular inspections of the contract area at any time of the day and
29 night. It shall also inspect all the books of contractors and refer the same to independent auditors.
30 The MMT and/or the Bureau may confiscate surety, performance and guaranty bonds posted
31 through an order to be promulgated by the Director. The Director or the local government
32 authorities may deputize, when necessary, any member or unit of the Philippine National Police,

barangay, duly registered nongovernment organization (NGO) or any qualified person to police any and all mining activities.

Section 49. Withdrawal from the mineral agreement. The contractor may withdraw from the mineral agreement at any time for justifiable cause with one (1) month's notice to the Bureau, as may be provided by law. The Bureau shall issue a clearance for withdrawal upon certifying that the contractor has complied with all its legal obligations, including the appropriate measures for mine closure and rehabilitation. Funds and bonds which have been put up by the contractor in accordance with this Act shall be forfeited.

Section 50. Access to information. All contractors for mineral permits and agreements shall provide information to affected indigenous peoples, local communities, and local governments of their methods and processes of mining, the environmental and social risks involved, their ownership structure and financial sources.

All information and documents related to proposals, mineral agreements, permits and mining operations shall not be considered confidential. Refusal to grant access to this information shall be cause for the disqualification of prospective proponents or cancellation of mineral agreements and permits.

The Bureau, being the repository of all relevant information under this Act is mandated to grant access to the public of any information in its custody. Refusal or unnecessary delay by the officers of the Bureau to give information shall be punishable by a fine of fifty thousand pesos (PhP 50,000.00) for every instance of refusal or unnecessary delay. Information requested by indigents or marginalized sectors shall be given to them for free.

CHAPTER VI SMALL-SCALE MINING

Section 51. People's Small-scale Mining Program. — There is hereby established a People's Small-Scale Mining Program ("*Minahang Bayan*") to be implemented by the Secretary,

in coordination with other concerned government agencies, to achieve an orderly, systematic and rational scheme for the small-scale development and extraction of gold, silver, and chromite deposits in certain mineral areas in order to address the social, economic, technical, and environmental connected with small-scale mining activities.

The *Minahang Bayan* Program shall include the following features:

- a. The identification, segregation and reservation of certain mineral lands as *Minahang Bayan* Areas: Provided, that small-scale mining shall only be applicable for gold, silver, and chromite, as provided for in RA No. 7076;
- b. The recognition of prior existing rights and productivity;
- c. The encouragement of the formation of cooperatives;
- d. The extension of technical and financial assistance, and other social services;
- e. The extension of assistance in processing and marketing;
- f. The generation of ancillary livelihood activities;
- g. The regulation of the small-scale mining industry with the view to encourage growth and productivity; and
- h. The efficient collection of government revenue.

Section 52. Establishment of Minahang Bayan Councils. A Minahang Bayan Council is hereby created in each province or city where gold, silver, and chromite deposits have been identified or known to exist, which shall be the implementing agency of the Department to monitor and regulate Small-scale Mining Activities, and shall exercise the following powers and functions, subject to review by the Secretary:

- a. Declare and segregate *Minahang Bayan* areas for Small-Scale Mining within the Province or City;
- b. Reserve future gold, silver, and chromite deposits other *Minahang Bayan* areas for Small-Scale Mining;
- c. To deliberate and act on applications for Small-scale Mining Contracts;
- d. Formulate and implement rules and regulations related to *Minahang Bayan*;
- e. To monitor the conduct of Small-Scale Mining operations in declared *Minahang Bayan* areas;

- 1 f. Settle disputes, conflicts or litigations over conflicting claims within a *Minahang*
2 *Bayan* area; and
3 g. Perform such other functions as may be necessary to achieve the goals and
4 objectives of this Act.

5
6 **Section 53. Composition of Minahang Bayan Councils.** — The Council shall be
7 composed of the Department of Environment and Natural Resources representative as Chairman;
8 the governor or city mayor, or his representative, as the case may be, as Vice Chairman, one (1)
9 small scale mining representative, one (1) large-scale mining representative, and one (1)
10 representative from a non-government organization, who shall come from an environmental
11 group, as members.

12 The representatives from the private sector shall be nominated by their respective
13 organizations and appointed by the Department regional director. The Department shall provide
14 the staff support to the Board.

15 No mining operations shall be allowed without the Council having been properly
16 convened.

17 **Section 54. Administrative Supervision over the Minahang Bayan Program.** — The
18 Secretary, through his representative, shall exercise direct supervision and control over the
19 program and activities of the small-scale miners within the *Minahang Bayan* area.

20 **Section 55. Declaration of Minahang Bayan Areas.** — The *Minahang Bayan* Council is
21 hereby authorized to declare and set aside *Minahang Bayan* areas in sites onshore suitable for
22 small-scale mining, subject to review by the Secretary, immediately giving priority to areas
23 already occupied and actively mined by small-scale miners before August 1, 1987: *Provided,*
24 That such areas are not considered as active mining areas: *Provided, further,* That the minerals
25 found therein are technically and commercially suitable for small-scale mining activities:
26 *Provided, finally,* That the areas are not covered by existing forest rights or reservations and have
27 not been declared as tourist or marine reserved, parks and wildlife reservations, unless their
28 status as such is withdrawn by competent authority.

Areas may only be declared and set aside as *Minahang Bayan* upon the vote of two-thirds of all the members of the Council pursuant to the guidelines provided by this Act. In determining whether or not such area shall be declared a *Minahang Bayan*, the following shall be required:

- a. Report of the Bureau on any conducted exploration;
- b. Potential environmental impacts;
- c. Potential cultural impacts;
- d. Conflict and risk assessment;
- e. Potential health impacts;
- f. Potential economic benefits of the development and utilization of the minerals;
- g. Carrying capacity and the ecological profile of the area;
- h. Existing and alternative land uses of the area;
- i. Local government land use plan.

No Small-Scale Mining Contract application shall be allowed unless an environmental economic audit or resource valuation of the proposed mining area has been conducted or prepared applying acceptable valuation standards. This audit or resource valuation shall be conducted in coordination with a multi-sectoral group of experts and community stakeholders. It shall include determination of the expected economic returns and the potential negative impacts from mining on the enjoyment and exercise of human rights, cultural rights, and on peace and security. A detailed study must mention the flora, fauna and environment present in the mining claim and the impact of mining operations on the environment, the possible environmental degradation and the attendant loss of subsistence resources cause. There must be mention of existence of sacred areas or areas otherwise of cultural significance and address the impacts of resource exploitation on indigenous peoples and local communities.

Sections 26 and 27 of the Local Government Code on consultation and consent shall be strictly adhered to. Local government units at all levels shall conduct mandatory public hearings with the affected local communities, to be carried out within their respective territories.

Section 56. Future People's Small-scale Mining Areas. — The following lands, when suitable for small-scale mining, may be declared by the Council as *Minahang Bayan* areas:

- a. Public lands not subject to any existing right;

- b. Public lands covered by existing mining rights which are not active mining areas;
and
- c. Private lands, subject to certain rights and conditions, except those with substantial improvements or in bona fide and regular use as a yard, stockyard, garden, plant nursery, plantation, cemetery or burial site, or land situated within one hundred meters (100 m.) from such cemetery or burial site, water reservoir or a separate parcel of land with an area of ten thousand square meters (10,000 sq. m.) or less.

Section 57. Ancestral Lands. — No ancestral land may be declared as a *Minahang Bayan* area without the prior consent of the indigenous cultural communities concerned: Provided that, if ancestral lands are declared as *Minahang Bayan* areas, the members of the indigenous cultural communities therein shall be given priority in the awarding of Small-Scale Mining Contracts.

Section 58. Registration of Small-Scale Miners. — All persons undertaking small-scale mining activities shall organize themselves into cooperatives and register as miners with the Council in order to qualify for the awarding of a Small-Scale Mining Contract.

Section 59. Award of Small-scale Mining Contracts. — A Small-Scale Mining Contract may be awarded by the Council to Small-Scale Mining Cooperatives who have voluntarily organized and have duly registered with the appropriate government agency as a cooperative; provided, that only one (1) Small-Scale Mining Contract may be awarded at any one time to a Small-Scale Mining Cooperative within one (1) year from the date of award.

Section 60. Extent of Contract Area. — The Council shall determine the reasonable size and shape of the Small-Scale Mining Contract Area following the meridional block system established under Presidential Decree No. 463, as amended, otherwise known as the Mineral Resources Development Decree of 1974, but in no case shall the area exceed twenty hectares (20 has.) per contractor and the depth or length of the tunnel or audit not exceeding that recommended by the director taking into account the following circumstances:

- a. Size of membership and capitalization of the cooperative;

- b. Size of mineralized area;
- c. Quantity of mineral deposits;
- d. Safety of miners;
- e. Environmental impact and other considerations; and
- f. Other related circumstances.

Section 61. Easement Rights. — Upon the declaration of a *Minahang Bayan* area, the Council, in consultation with the operator, claim owner, landowner or lessor of an affected area, shall determine the right of the small scale miners to existing facilities such as mining and logging roads, private roads, port and communication facilities, processing plants which are necessary for the effective implementation of the *Minahang Bayan* Program, subject to payment of reasonable fees to the operator, claim owner, landowner or lessor.

Section 62. Rights under a Small-Scale Mining Contract. — A Small-Scale Mining Contract entitles the Small-Scale Mining Cooperative to the right to mine, extract and dispose of mineral ores within the contract area for commercial purposes. In no case shall a Small-Scale Mining Contract be subcontracted, assigned or otherwise transferred.

Section 63. Terms and Conditions of the Contract. — A contract shall have a term of two (2) years, renewable for like periods, but not to exceed a maximum of fifteen (15) years, and for as long as the Small-Scale Mining Cooperative complies with the provisions set forth in this Act, and: Provided, That the holder of a Small-Scale Mining Contract shall have the following duties and obligations:

- a. Undertake small-scale mining activities only in accordance with a mining plan duly approved by the Council;
- b. Abide by the Mines and Geosciences Bureau and the Small-Scale Mining Safety Rules and Regulations;
- c. Comply with his obligations to the holder of an existing mining right;
- d. Pay all taxes, royalties or government production share as are now or may hereafter be provided by law;

- e. Comply with pertinent rules and regulations on environmental protection and conservation, particularly those on tree-cutting mineral-processing and pollution control;
- f. File under oath at the end of each month a detailed production and financial report to the Council; and
- g. Assume responsibility for the safety of persons working in the mines.

Section 64. Rights of Claim owners. — In case a site declared and set aside as a *Minahang Bayan* area is covered by an existing mining right, the claim owner and the small-scale miners therein are encouraged to enter into a voluntary and acceptable contractual agreement with respect to the small-scale utilization of the mineral values from the area under claim. In case of disagreement, the claim owner shall be entitled to the following rights and privileges:

- a. Exemption from the performance of annual work obligations and payment of occupation fees, rental, and real property taxes;
- b. Subject to the approval of the Board, free access to the contract area to conduct metallurgical tests, explorations and other activities, provided such activities do not unduly interfere with the operations of the small-scale miners; and
- c. Royalty equivalent to one and one half percent (1 1/2%) of the gross value of the metallic mineral output or one percent (1%) of the gross value of the non-metallic mineral output to be paid to the claim owner: *Provided*, That such rights and privileges shall be available only if he is not delinquent and other performance of his annual work obligations and other requirements for the last two (2) years prior to the effectivity of this Act.

Section 65. Rights of Private Landowners. — The private landowner or lawful possessor shall be notified of any plan or petition to declare his land as a *Minahang Bayan* area. Said landowner may oppose such plan or petition in an appropriate proceeding and hearing conducted before the Council.

1 If a private land is declared as a *Minahang Bayan* area, the owner and the small-scale
2 mining contractors are encouraged to enter into a voluntary and acceptable contractual agreement
3 for the small-scale utilization of the mineral values from the private land: Provided, That the
4 owner shall in all cases be entitled to the payment of actual damages which he may suffer as a
5 result of such declaration: Provided, further, That royalties paid to the owner shall in no case
6 exceed one percent (1%) of the gross value of the minerals recovered as royalty.

7 **Section 66. Ownership of Mill Tailings.** — The Small-Scale Mining Cooperative shall
8 be the owner of all mill tailings produced from the contract area. The cooperative may sell the
9 tailings or have them processed in any custom mill in the area: Provided, that, if the Small-Scale
10 Mining Cooperative decides to sell its mill tailings, the claim owner shall have a pre-emptive
11 right to purchase said mill tailings at the prevailing market price.

12 **Section 67. Sale of Gold.** — All gold produced by small-scale miners in any mineral area
13 shall be sold to the Bangko Sentral ng Pilipinas, or its duly authorized representatives, which
14 shall buy it at prices competitive with those prevailing in the world market regardless of volume
15 or weight.

16 The Bangko Sentral ng Pilipinas shall establish as many buying stations in gold-rush
17 areas as possible to fully service the requirements of the small-scale minerals thereat.

18 **Section 68. Custom Mills.** — The establishment and operation of safe and efficient
19 customs mills to process minerals or ore-bearing materials shall be limited to mineral processing
20 zones duly designated by the local government unit concerned upon recommendation of the
21 Council.

22 In mining areas where the private sector is unable to establish custom mills, the
23 Government shall construct such custom mills upon the recommendation of the Council based on
24 the viability of the project.

25 The Board shall issue licenses for the operation of custom mills and other processing
26 plants subject to pollution control and safety standards.

1 The Department shall establish assay laboratories to cross-check the integrity of custom
2 mills and to render metallurgical and laboratory services to mines.

3 Custom mills shall be constituted as withholding agents for the royalties, production
4 share or other taxes due the Government.

5 **Section 69. Government Share and Allotment.** — The revenue to be derived by the
6 Government from the operation of the mining program herein established shall be subject to the
7 sharing provided in the Local Government Code.

8 **Section 70. Minahang Bayan Protection Fund.** — There is hereby created a Minahang
9 Bayan Protection Fund which shall be fifteen percent (15%) of the national government's share
10 due the Government which shall be used primarily for information dissemination and training of
11 small-scale miners on safety, health and environmental protection, and the establishment of mine
12 rescue and recovery teams including the procurement of rescue equipment necessary in cases of
13 emergencies such as landslides, tunnel collapse, or the like.

14 The fund shall be administered by the Bureau and shall also be made available to address
15 the needs of the small-scale miners brought about by accidents and/or fortuitous events.

16 **Section 71. Rescission of Contracts and Administrative Fines.** — The non-compliance
17 with the terms and conditions of the contract or violation of the rules and regulations issued by
18 the Secretary pursuant to this Act, as well as the abandonment of the mining site by the
19 contractor, shall constitute a ground for the cancellation of the Small-Scale Mining Contract and
20 the ejectment from the Minahang Bayan area of the contractor. In addition, the Secretary may
21 impose fines against the violator in an amount of not less than Twenty Thousand Pesos
22 (P20,000.00) and not more than One Hundred Thousand Pesos (P100,000.00). Non-payment of
23 the fine imposed shall render the small-scale mining contractor ineligible for other small-scale
24 mining contracts.

25 **Section 72. Reversion of People's Small-scale Mining Areas** — The Secretary, upon
26 recommendation of the director, shall withdraw the status of the Minahang Bayan area when it

1 can no longer feasibly operated on a small-scale mining basis or when the safety, health and
2 environmental conditions warrant that the same shall revert to the State for proper disposition.

3 **Sec. 73. Actual Occupation by Small-scale Miners.** — Small-scale miners who have
4 been in actual operation of mineral lands on or before August 1, 1987 as determined by the
5 Board shall not be dispossessed, ejected or removed from said areas: Provided, that they comply
6 with the provisions of this Act.

7 The Secretary shall within ninety (90) days from the effectivity of this Act promulgate
8 rules and regulations to effectively implement the provisions of the same. Priority shall be given
9 to such rules and regulations that will ensure the least disruption in the operations of the small-
10 scale miners.

11 **Section 74. Traditional small-scale mining within ancestral domains.** The Council
12 shall conduct regular monitoring activities within its jurisdiction to determine if the provisions of
13 relevant laws are complied with in traditional small-scale mining by ICCs/IPs within their
14 respective ancestral domains.
15

16 **Section 75. FPIC in small-scale mining.** Small-scale mining activities within any
17 ancestral domain by any person shall also require the free, prior informed consent of ICCs/IPs.
18

19 **Section 76. Requirement for an Environmental and Social Impact Compliance**
20 **Certificate.** Small-scale mining shall likewise require an Environmental and Social Impact
21 Compliance Certificate. All Small-Scale Mining Applicants or Proponents must show proof of
22 compliance with the terms and conditions of its Environmental and Social Impact Compliance
23 Certificate (ESICC) prior to the issuance of a Small-Scale Mining Contract. Failure to submit
24 this requirement will result in the non-issuance of the small-scale mining permit (SSMP).
25

26 **Section 77. Environmental measures in small-scale mining.** The State shall
27 immediately address the environmental and health hazards and problems in small-scale mining,
28 including the use of hazardous chemicals, such as mercury, cyanide and other chemicals. in the
29 amalgamation of gold by small-scale miners.
30
31

1 **Section 78. Prohibition on the use of mercury.** Mercury use in small-scale mining shall
2 be prohibited. The Bureau shall research, develop and actively promote appropriate technologies
3 in small-scale mining including labor-intensive methods, environmental protection and physical
4 techniques of gold extraction among small-scale miners.

5 **Section 79. Multi-sectoral Monitoring Team.** A multi-sectoral monitoring team shall be
6 organized to monitor the Small-Scale Mining Cooperative's compliance with the terms and
7 conditions of its Contract and ECC. The MMT shall conduct ocular inspections of the Minahang
8 Bayan area at any time of the day and night and shall have visitorial powers.
9

10 **Section 80. Alternative livelihood support.** The State shall support the improvement of
11 the livelihood of small-scale-miners by extending the services for access to other more viable
12 and sustainable forms of livelihood, and, if the same is not possible, the following support
13 services:
14

- 15 a. access to minerals markets and to financing;
- 16 b. facilitating partnership with mining companies or contractors by, among others,
17 requiring mining companies to buy tailings from small-scale mining operations
18 for further processing or recycling;
- 19 c. facilitating partnership among small-scale mining cooperatives; and
- 20 d. other incentives to attract informal small-scale miners to formalize their status.

21

22 CHAPTER VII

23 FINANCIAL OR TECHNICAL ASSISTANCE AGREEMENT

24

25 **Section 81. Eligibility.** Any Qualified Person with technical and financial capability to
26 undertake large-scale exploration, development, and utilization of mineral resources in the
27 Philippines may enter into a Financial or Technical Assistance Agreement (FTAA) directly with
28 the Government through the Department. Provided, that applicants for FTAA's shall be required
29 to have a minimum paid-up capital of Five Hundred Million Pesos (Php500,000,000.00) upon
30 the grant of the FTAA by the President and prior to its registration with the Bureau.

31 **Section 82. Maximum Contract Area.** The maximum contract area that may be granted
32 per qualified person, subject to relinquishment shall be:
33

- a. 1,000 meridional blocks onshore;
- b. 4,000 meridional blocks offshore; or
- c. Combinations of (a) and (b) provided that it shall not exceed the maximum limits for onshore and offshore areas.

Section 83. Terms and Conditions. The following terms, conditions, and warranties shall be incorporated in the financial or technical assistance agreement, to wit:

- a. A firm commitment in the form of a sworn statement, of an amount corresponding to the expenditure obligation that will be invested in the contract area: Provided, That such amount shall be subject to changes as may be provided for in the rules and regulations of this act;
- b. A financial guarantee bond shall be posted in favor of the Government in an amount equivalent to the expenditure obligation of the applicant for any year.
- c. Submission of proof of technical competence, such as, but not limited to, its track record in mineral resource exploration, development, and utilization; details of technology to be employed in the proposed operation; and details of technical personnel to undertake the operations;
- d. Representations and warranties that the applicant has all the qualifications and none of the disqualifications for entering into the agreement;
- e. Representations and warranties that the contractor has or has access to all the financing, managerial and technical expertise and, if circumstances demand, the technology required to promptly and effectively carry out the objectives of the agreement with the understanding to timely deploy these resources under its supervision pursuant to the periodic work programs and related budgets, when proper, providing an exploration period up to two (2) years, extendible for another two (2) years but subject to annual review by the Secretary in accordance with the implementing rules and regulations of this Act, and further, subject to the relinquishment obligations;

- 1 f. Representations and warranties that, except for payments for dispositions for its
2 equity, foreign investments in local enterprises which are qualified for
3 repatriation, and local supplier's credits and such other generally accepted and
4 permissible financial schemes for raising funds for valid business purposes, the
5 contractor shall not raise any form of financing from domestic sources of funds,
6 whether in Philippine or foreign currency, for conducting its mining operations
7 for and in the contract area;
- 8 g. The mining operations shall be conducted in accordance with the provisions of
9 this Act and its implementing rules and regulations;
- 10 h. Work programs and minimum expenditures commitments;
- 11 i. Preferential use of local goods and services to the maximum extent practicable;
- 12 j. A stipulation that the contractors are obligated to give preference to Filipinos in
13 all types of mining employment for which they are qualified and that technology
14 shall be transferred to the same;
- 15 k. Requiring the proponent to effectively use appropriate anti-pollution technology
16 and facilities to protect the environment and to restore or rehabilitate mined out
17 areas and other areas affected by mine tailings and other forms of pollution or
18 destruction;
- 19 l. The contractors shall furnish the Government records of geologic, accounting, and
20 other relevant data for its mining operations, and that book of accounts and
21 records shall be open for inspection by the government;
- 22 m. Requiring the proponent to dispose of the minerals and by products produced
23 under a financial or technical assistance agreement at the highest price and more
24 advantageous terms and conditions as provided for under the rules and regulations
25 of this Act;
- 26
27
28
29
30
31
32
33

n. Provide for consultation and arbitration with respect to the interpretation and implementation of the terms and conditions of the agreements; and

o. Such other terms and conditions consistent with the Constitution and with this Act as the Secretary may deem to be for the best interest of the State and the welfare of the Filipino people.

Section 84. Negotiations. The terms of a Financial or Technical Assistance Agreement shall be negotiated by the Department and executed and approved by the President. The President shall notify Congress of all Financial or Technical Assistance Agreements within thirty (30) days from execution and approval thereof.

Section 85. Filing and Evaluation of Financial or Technical Assistance Agreement Proposals. All financial or technical assistance agreement proposals shall be filed with the Bureau after payment of the required processing fees. If the proposal is found to be sufficient and meritorious in form and substance after evaluation, it shall be recorded with the appropriate government agency to give the proponent the prior right to the area covered by such proposal: *Provided* that existing mineral agreements, financial or technical assistance agreements and other mining rights are not impaired or prejudiced thereby. The Secretary shall recommend its approval to the President.

Section 86. Terms of Financial or Technical Assistance Agreement. A financial or technical assistance agreement shall have a term not exceeding twenty-five (25) years to start from the execution thereof, renewable for not more than twenty-five (25) years under such terms and conditions as may be provided by law.

Section 87. Option to Convert into a Mineral Agreement. The contractor has the option to convert the financial or technical assistance agreement to a mineral agreement at any time during the term of the agreement, if the economic viability of the contract area is found to be inadequate to justify large-scale mining operations, after proper notice to the Secretary as provided for under the implementing rules and regulations: *Provided*, That the mineral agreement shall only be for the remaining period of the original agreement.

1
2 In the case of a foreign contractor, it shall reduce its equity to forty percent (40%) in the
3 corporation, partnership, association, or cooperative. Upon compliance with this requirement by
4 the contractor, the Secretary shall approve the conversion and execute the mineral production-
5 sharing agreement.

6
7 **Section 88. Assignment/Transfer.** A financial or technical assistance agreement may be
8 assigned or transferred, in whole or in part, to a qualified person subject to the prior approval of
9 the President: *Provided*, That the President shall notify Congress of every financial or technical
10 assistance agreement assigned or converted in accordance with this provision within thirty (30)
11 days from the date of the approval thereof.

12
13 **Section 89. Withdrawal from Financial or Technical Assistance Agreement.** The
14 contractor shall manifest in writing to the Secretary his intention to withdraw from the
15 agreement, if in his judgment the mining project is no longer economically feasible, even after he
16 has exerted reasonable diligence to remedy the cause or the situation. The Secretary may accept
17 the withdrawal: *Provided* that the contractor has complied or satisfied all his financial, fiscal or
18 legal obligations.

19
20 **CHAPTER VIII**
21 **QUARRY RESOURCES**
22

23 **Section 90. Quarry resources within ancestral domains.** Gathering of quarry
24 resources, sand and gravel, guano and other organic fertilizer materials, and gemstones within
25 ancestral domains shall likewise be subject to the free prior informed consent of ICCs/IPs.
26 ICCs/IPs and the government shall be entitled to at least ten per cent (10%) of royalties
27 depending on whether the resources are found inside or outside ancestral domains. Permits shall
28 be limited to a maximum term of five (5) years, renewable for like periods but not exceeding a
29 total term of twenty five (25) years, and a maximum area of five (5) hectares.

30
31 **Section 91. Quarry Permit.** Any qualified Filipino may apply for a quarry permit on
32 privately- owned lands except ancestral domains and/or public lands for building and
33 construction materials such as marble, basalt, andesite, conglomerate, tuff, adobe, granite,

1 gabbro, serpentine, inset filling materials, clay for ceramic tiles and building bricks, pumice,
2 perlite and other similar materials that are extracted by quarrying from the ground at the
3 provincial/city mining regulatory board. The provincial governor shall grant the permit after the
4 applicant has complied with all the requirements as prescribed by the rules and regulations set
5 forth by this Act. *Provided*, that gathering/extraction of sand for its metallic contents such as
6 magnetite from the country's rivers and shorelines shall be required a mineral agreement in lieu
7 of a quarry permit.

8
9 The maximum area which a qualified person may hold at any one time shall be limited to
10 a surface area of five hectares (5 has.): *Provided*, That in large-scale quarry operations involving
11 cement raw materials, marble, granite, sand and gravel and construction aggregates, a qualified
12 person and the government may enter into a mineral agreement as defined herein.

13
14 A quarry permit shall have a term of five (5) years, renewable for like periods but not to
15 exceed a total term of twenty-five (25) years. No quarry permit shall be issued or granted on any
16 area covered by a mineral agreement.

17
18 **Section 92. Quarry Fee and Taxes.** A permittee shall pay a quarry fee as provided for
19 under the implementing rules and regulations. The permittee shall also pay the excise tax as
20 provided by pertinent laws.

21
22 **Section 93. Cancellation of Quarry Permit.** A quarry permit may be cancelled by the
23 provincial governor for violations of the provisions of this Act or its implementing rules and
24 regulations or the terms and conditions of said permit: *Provided* that before the cancellation of
25 such permit, the holder thereof shall be given the opportunity to be heard in an investigation
26 conducted for the purpose.

27
28 **Section 94. Commercial Sand and Gravel Permit.** Any qualified person may be
29 granted a permit by the provincial governor to extract and remove sand and gravel or other loose
30 or unconsolidated materials outside ancestral domains which are used in their natural state,
31 without undergoing processing from an area of not more than five hectares (5 has.) and in such
32 quantities as may be specified in the permit.

1
2 **Section 95. Industrial Sand and Gravel Permit.** Any qualified person may be granted
3 an industrial sand and gravel permit by the Bureau for the extraction of sand and gravel and other
4 loose or unconsolidated materials outside ancestral domains that necessitate the use of
5 mechanical processing covering an area of not more than five hectares (5 has.) at any one time.
6 The permit shall have a term of five (5) years, renewable for a like period but not to exceed a
7 total term of twenty-five (25) years.

8
9 **Section 96. Exclusive Sand and Gravel Permit.** Any qualified person may be granted
10 an exclusive sand and gravel permit by the provincial governor to quarry and utilize sand and
11 gravel or other loose or unconsolidated materials from public lands for his own use, *provided*,
12 that there will be no commercial disposition thereof.

13
14 **Section 97. Government Gratuitous Permit.** Any government entity or instrumentality
15 may be granted a gratuitous permit by the provincial governor to extract sand and gravel, quarry
16 or loose unconsolidated materials outside ancestral domains needed in the construction of
17 building and/or infrastructure for public use or other purposes over an area of not more than two
18 hectares (2 has.) for a period coterminous with said construction.

19
20 **Section 98. Private Gratuitous Permit.** Any owner of land may be granted a private
21 gratuitous permit by the provincial governor to extract sand and gravel, quarry or loose
22 unconsolidated materials within his property.

23
24 **Section 99. Guano Permit.** Any qualified person may be granted a guano permit by the
25 provincial governor to extract and utilize loose unconsolidated guano and other organic fertilizer
26 materials in any portion of a municipality where he/she has an established domicile outside
27 ancestral domains. The permit shall be for specific caves and/or for confined sites with locations
28 verified by the Department's field officer in accordance with existing rules and regulations.
29 *Provided*, that extraction does not violate and is consistent with the provisions in the Cave
30 Conservation Act and the Wildlife Act.

1 **Section 100. Gemstone Gathering Permit.** Any qualified Filipino may be granted a
2 non-exclusive gemstone gathering permit by the provincial governor to gather loose stones
3 useful as gemstones in rivers and other locations outside ancestral domains.
4

5
6 **CHAPTER IX**
7 **TRANSPORT, SALE AND**
8 **PROCESSING OF MINERALS**
9

10 **Section 101. Ore transport permit.** A permit specifying the origin and quantity of non-
11 processed mineral ores or minerals shall be required for their transport. Transport permits shall
12 be issued by the mines regional director who has jurisdiction over the area where the ores were
13 extracted. In the case of mineral ores or minerals being transported from the Minahang Bayan
14 areas to the custom mills or processing plants, the Minahang Bayan Council concerned shall
15 formulate their own policies to govern such transport of ores produced by small-scale mining
16 cooperatives. The absence of a permit shall be considered as *prima facie* evidence of illegal
17 mining and shall be sufficient cause for the confiscation of the ores or minerals being
18 transported, the tools and equipment utilized, and the vehicle containing the same.
19

20 **Section 102. Track record.** Only mining companies with demonstrated capacity and
21 good environmental track record in mining and mineral processing shall be allowed to extract
22 and process minerals. The Bureau shall encourage contractors to put up processing plants within
23 the community with the end in view of generating employment and developing other
24 downstream industries.
25

26 **Section 103. Mineral trading registration.** No person shall engage in the trading of
27 mineral products, either locally or internationally, unless registered with the Department of Trade
28 and Industry and accredited by the Department, with a copy of said registration submitted to the
29 Bureau.
30

31 **Section 104. Mineral processing permit.** No person shall engage in the processing of
32 minerals without first securing a minerals processing permit from the Bureau. Mineral
33 processing permits shall be for a period of five (5) years, renewable for like periods but not to
34 exceed a total term of twenty-five (25) years.

Section 105. Eligibility of Foreign-owned/-controlled Corporation. A foreign-owned/-controlled corporation may be granted a mineral processing permit.

CHAPTER X

DEVELOPMENT OF COMMUNITIES, SCIENCE AND TECHNOLOGY

Section 106. Expenditure for community development. A contractor shall assist in the development of the community, and the promotion of the general welfare of its inhabitants towards sustainable development. Community development projects shall in no way decrease the obligation of the corporation with regard to royalties and fees due to communities or local government units. Community development projects should be consistent with the Comprehensive Land Use Plans (CLUP), Ancestral Domains Sustainable Development and Protection Plan (ADSDPP) and annual investment plans of the local governments, CADT/CALT holders and the like.

Section 107. Social Development and Management Program and Community Development Program. All Contractors, Permit Holders, or Lessees shall prepare a Social Development Management Program (SDMP), in consultation and in partnership with the host and neighboring communities. To meet the changing needs and demands of the communities, the Contractor, Permit Holder, or Lessee engaged in mining operations shall submit an SDMP every five (5) years to the Regional Office for approval.

In the case of a holder of an Exploration Permit or a Mineral Agreement or FTAA in the Exploration Stage, the Permittee/Contractor shall develop and implement a Community Development Program (CDP) which implementation shall be supported by a fund equivalent to a minimum of ten percent (10.0%) of the budget of the approved two (2)-year Exploration Work Program: *Provided*, That the CDP shall be developed in consultation and in partnership with the host communities within the area subject of active exploration activities: *Provided, further*, That the CDP shall be submitted to the Regional Office concerned, for approval, within six (6) months upon registration of the approved Exploration Permit, Mineral Agreement or FTAA.

1 **Section 108. Employment of Filipinos and training of members of the local**
2 **community.** A contractor shall maintain an effective program of manpower training and
3 development throughout the term of the mineral agreement and shall encourage and train
4 Filipinos to participate in all aspects of the mining operations, including the management thereof.
5 A contractor and/or permittee shall give preference to Filipino citizens in all types of mining
6 employment within the country: *Provided*, that for highly-technical and specialized mining
7 operations, the contractor may, subject to the necessary government clearances, employ qualified
8 foreigners.

9
10 **Section 109. Use of indigenous goods, services and technologies.** A contractor shall
11 give preference to the use of local goods, services, and the scientific and technical resources in
12 all stages of mining operations, where the same are of equivalent quality and are available on
13 equivalent terms as their imported counterparts.

14
15 **Section 110. Donation/turnover of facilities.** Prior to the cessation of mining operations
16 occasioned by abandonment or withdrawal of operations, on public lands by the contractor, the
17 latter shall have a period of one (1) year therefrom within which to remove improvements;
18 otherwise all the infrastructure, facilities and equipment shall be turned over or donated tax-free
19 to the proper government authorities, national or local, to ensure that said infrastructure facilities
20 and equipment are continuously maintained and utilized by the host and neighboring
21 communities.

22 23 **CHAPTER XI** 24 **BENEFIT SHARING, TAXES AND FEES** 25

26 **Section 111. Taxes and fees.** The contractor shall pay all taxes and fees as required by
27 law, including, but not limited to:

- 28 a. contractor's income tax;
- 29 b. customs, duties and fees on imported capital equipment;
- 30 c. value-added tax on imported goods and services;
- 31 d. withholding tax on interest payments on foreign loans;

- e. withholding tax on dividends to foreign stockholders;
- f. documentary stamps taxes;
- g. capital gains tax;
- h. excise tax on minerals;
- i. local business tax;
- j. real property tax;
- k. community tax;
- l. occupation fees;
- m. registration, accreditation, and permit fees;
- n. Water usage fees.

Section 112. Government Share in Mineral Agreements and FTAAs. The Contractor shall pay the government ten percent (10%) of Gross Revenue, in lieu of all national and local taxes, including royalty payments for indigenous cultural communities, duties and fees, and mayor's and/or business permits from the host local government units: *Provided*, that the Contractor shall still pay real property tax, dividend tax, withholding taxes, donor's tax, environmental protection and enhancement fees, Securities and Exchange Commission fee, and administrative and judicial costs and penalties.

The list of exceptions shall be reviewed annually, or as often as may be necessary; provided however, that none of the exceptions indicated herein shall be delisted.

The Government Share shall be remitted and paid quarterly by the Contractor to the Government, which shall be recorded by the Bureau of Internal Revenue (BIR) as revenue arising from payments of Corporate Income Tax.

Section 113. Additional Government Share. An additional government share shall be remitted and paid by the Contractor to the Government in the event that the Contractor is deemed to have realized extra profits due to increase in the price of mineral product.

Section 114. Government Share in Co-production and Joint Venture Agreements. The share of the Government in Co-production and Joint Venture Agreements shall be negotiated by the Government and the Contractor as prescribed in Section 81 of Republic Act No. 7942, otherwise known as the Philippine Mining Act of 1995; provided, that the

Government Share shall not be less than the share for mineral agreements and FTAAAs as prescribed in Section 111 of this Act.

Section 115. Mining Contract. The revenue sharing arrangement provided herein and the applicable terms and conditions provided under existing laws shall be embodied in the mineral agreements and FTAAAs prepared by the MGB.

Section 116. Scientific research and development fund. A Scientific Research and Development Fund shall be set aside to be devoted to research and development of clean mining technologies, improvement of mining processes, mine rehabilitation, mitigating technologies, setting up and maintenance of an independent pool of experts, and operational expenses of the Bureau.

Section 117. Legal support services fund. A legal support fund shall be set aside for the use of the communities and local government units for cases that they may file against mining permittees or cases that may be filed against them by mining companies in trying to do their responsibility of protecting the rights of the marginalized groups, the environment and sustainable development in general.

Section 118. Allocation of Government Share and Transparency. The Government share as referred to in the preceding sections shall be shared and allocated in accordance with Sections 290 and 292 of Republic Act No. 7160 otherwise known as the Local Government Code of 1991.

In case the development and utilization of mineral resources is undertaken by a government-owned or -controlled corporation, the sharing and allocation shall be in accordance with Sections 291 and 292 of the said Code. *Provided*, however, that any person, natural or juridical, including government agencies or government-owned or -controlled corporations engaged in the utilization and development of the national wealth, shall directly remit to the provincial, city, municipal or barangay treasurer of the host local government unit concerned its Forty Percent (40%) share derived from national wealth taxes under section 290 of the Local Government Code, and the remaining sixty percent (60%) to the national government.

1 A percentage of this amount shall be set aside by the respective local government units
2 for Disaster Risk Management. This fund shall likewise benefit ICCs/IPs within the territory of
3 the local government unit. *Provided*, that the administrative and operational expenses of the
4 Council shall also be taken from this share.

5
6 All taxes, royalties, fees paid or remitted to the national government or to the host local
7 government unit, or the funds set aside for the community/ies concerned shall be published by
8 the Contractor. In the same manner, the government agency or the local government unit shall
9 publish all the taxes, royalties, fees paid or remitted to it by the Contractor.

10
11 The publication requirement and all other related transparency measures shall be
12 governed by the rules, guidelines, or standards set by the Philippine Extractive Industries
13 Transparency Initiative Multi-stakeholder Group (PH-EITI MSG). Local MSGs shall likewise be
14 created for this purpose.

15
16 **Section 119. Mine waste and tailings fees.** A semi-annual fee to be known as mine
17 waste and tailings fee is hereby imposed on all operating mining companies based on the
18 amounts of mine waste and mill tailings it generated for the said period. The amount of fees
19 collected shall accrue to a Mine Waste and Tailings Reserve Fund (MWTRF) and shall be
20 deposited in a Government depository bank to be used for payment of compensation for damages
21 caused by any mining operations. The MWT Reserve Fund shall also be utilized for the
22 rehabilitation and remediation of abandoned mines, upon identification by the Bureau.

23
24 **Section 120. Incentives.** The contractor in mineral agreements, and FTAA's shall be
25 entitled to the applicable fiscal and non-fiscal incentives as provided for under Executive Order
26 No. 226, otherwise known as the Omnibus Investments Code of 1987: *Provided*, That holders of
27 exploration permits may register with the Board of Investments and be entitled to the fiscal
28 incentives granted under the said Code for the duration of the permits or extensions thereof:
29 *Provided*, further, That mining activities shall always be included in the investment priorities
30 plan.

1 **Section 121. Incentives for Pollution Control Devices.** Pollution control devices
2 acquired, constructed or installed by contractors shall not be considered as improvements on the
3 land or building where they are placed, and shall not be subject to real property and other taxes
4 or assessments: *Provided*, however, that payment of mine wastes and tailings fees is not
5 exempted.

6
7 **Section 122. Income Tax-Carry Forward of Losses.** A net operating loss without the
8 benefit of incentives incurred in any of the first ten (10) years of operations may be carried over
9 as a deduction from taxable income for the next five (5) years immediately following the year of
10 such loss. The entire amount of the loss shall be carried over to the first of the five (5) taxable
11 years following the loss, and any portion of such loss which exceeds the taxable income of such
12 first year shall be deducted in like manner from the taxable income of the next remaining four (4)
13 years.

14
15 **Section 123. Income Tax-Accelerated Depreciation.** Fixed assets may be depreciated
16 as follows:

- 17 a. To the extent of not more than twice as fast as the normal rate of depreciation or
18 depreciated at normal rate of depreciation if the expected life is ten (10) years or
19 less; or
20
21 b. Depreciated over any number of years between five (5) years and the expected
22 life if the latter is more than ten (10) years, and the depreciation thereon allowed
23 as deduction from taxable income: *Provided*, That the contractor notifies the
24 Bureau of Internal Revenue at the beginning of the depreciation period which
25 depreciation rate allowed by this section will be used.

26
27 In computing for taxable income, unless otherwise provided in this Act, the contractor
28 may, at his option, deduct exploration and development expenditures accumulated at cost as of
29 the date of the prospecting or exploration and development expenditures paid or incurred during
30 the taxable year: *Provided*, That the total amount deductible for exploration and development
31 expenditures shall not exceed twenty-five per centum (25%) of the net income from mining
32 operations. The actual exploration and development expenditures minus the twenty-five per

centum (25%) net income from mining shall be carried forward to the succeeding years until fully deducted.

Net income from mining operation is defined as gross income from operations less allowable deductions which are necessary or related to mining operations. Allowable deductions shall include mining, milling and marketing expenses, depreciation or properties directly used in the mining operations. This paragraph shall not apply to expenditures for the acquisition or improvement of property of a character which is subject to the allowances for depreciation.

Sec. 124. Investment Guarantees. The contractor shall be entitled to the basic rights and guarantees provided in the Constitution and such other rights recognized by the government, including, but not limited to repatriation of investments and remittance of earnings in the currency in which the investment was originally made and at the exchange rate prevailing at the time of repatriation, and freedom from expropriation or requisition of investment.

Section 125. Deposit of capital and profits requirement. As part of their demonstrated financial capacity, all Contractors are required to deposit their capital investment and profits in banks or financial institutions that are owned, managed and operated by the Philippine government.

Section 126. General rule on profit repatriation. Contractors with foreign financial assistance shall be allowed to repatriate their profits from mining projects that should not exceed fifty percent (50 %) of the total posted at the end of every fiscal year. Full disclosure of profits is required. The full repatriation of profits shall be allowed one year after the cessation of mining activities and the progressive rehabilitation of a mining area as specified in the mineral agreement of each contractor.

CHAPTER XII

SAFETY AND ENVIRONMENTAL PROTECTION

A. Safety

1 **Section 127. Mines safety.** All contractors and permittees shall strictly comply with all
2 the mines and safety rules and regulations concerning the safe and sanitary upkeep of the mines
3 and mining development. Government personnel involved in the implementation of mines
4 safety, occupational health and environmental rules and regulations shall be covered under
5 Republic Act No. 7305 or the Magna Carta of Public Health Workers.

6
7 **Section 128. Mine labor.** No person under sixteen (16) years of age shall be employed in
8 any place of mining operations and no person under eighteen (18) years of age shall be employed
9 in a mine.

10
11 **Section 129. Mine supervision.** All mining and quarrying operations shall have at least
12 one (1) licensed mining engineer for every fifty (50) employees. Such engineer/s shall have at
13 least five (5) years of experience in mining operations, and one (1) registered foreman.

14
15 **Section 130. Safety of workers.** All mining companies shall provide safeguards to the
16 health and well-being of workers. The Regional Office of the Department of Labor and
17 Employment shall inspect all mining sites within their areas of jurisdiction to determine the
18 conditions of workers. Denial of entry shall be punishable under this Act. Representatives of
19 labor unions shall also have visitorial rights.

20
21 **Section 131. Mine inspection.** The mines regional directors shall have jurisdiction over
22 the safety inspection of all installations, surface or underground, in mining operations at
23 reasonable hours of day or night and as much as possible in a manner that will not impede or
24 obstruct work in progress of a contractor or permittee. Monitoring reports and recommendations
25 of the regional directors shall be submitted to the Bureau.

26
27 **Section 132. Power to issue orders.** The mines regional director, in consultation with the
28 Environmental Management Bureau, forthwith or within such time as specified in the order,
29 require the contractor to remedy any practice connected with mining, which is not in accordance
30 with safety and anti-pollution laws and regulations. In case of imminent danger to life or
31 property, the Director may summarily suspend the mining operation until the danger is removed,

1 or appropriate measures are taken by the contractor. Unreasonable delay to remove the danger or
2 introduce the necessary improvements by the contractor shall be a cause for the cancellation of
3 the mineral agreement.

4
5 **Section 133. Report of accidents.** In case of any incident or accident, causing or
6 creating the danger of loss of life or serious physical injuries, the person in charge of operations
7 shall immediately report the same to the regional office where the operations are situated.
8 Failure to report the same without justifiable reason shall be cause for the imposition of
9 administrative sanctions prescribed in the rules and regulations implementing this Act.

10 11 12 **B. Environmental Protection**

13 **Section 134. Environmental Insurance.** Contractors and mineral processing permit
14 holders shall be obliged to execute an insurance contract as an environmental assurance for each
15 and every source of pollution or disaster, relative to the "worst case scenario" costs, following
16 accepted actuarial standards, *Provided*, That in no way shall this provision be construed to
17 remove or reduce the liability of the contractors and/or permit holders to compensate any damage
18 caused by their operations. *Provided further*, that the insurer shall be an accredited international
19 company in good standing.

20
21 Prior to the approval of the insurance contract by the DENR, the DENR shall seek and
22 consider the opinion of an independent expert as to the financial credibility of the insurer.

23
24 **Section 135. Final Mine Rehabilitation and Decommissioning Fund.** Contractors and
25 permittees shall technically and biologically rehabilitate the excavated, mined-out tailings
26 covered and disturbed areas to the condition of environmental safety, in accordance with its
27 approved Final Mine Rehabilitation and Decommissioning Plan (FMRDP). A Final Mine
28 Rehabilitation and Decommissioning Fund (FMRDF) shall be established by each operating
29 Contractor or Permit Holder to ensure that the full cost of the approved Final Mine
30 Rehabilitation and Decommissioning Plan (FMRDP) is accrued before the end of the operating
31 life of the mine. The FMRDF shall be deposited as a trust fund in a Government depository bank
32 and shall be used solely for the implementation of the approved FMR/DP.

Annual cash provisions shall be made by Contractors/Permit Holders to a FMRDF based on the formula:

$$\text{Annual Provision} = \text{Cost of Implementing the Approved FMR/DP} \times \text{Percentage Required Per Table 1}$$

Based on the expected mine life, the initial annual cash provision shall be made to the MRF Committee within sixty (60) days from the date of the FMR/DP's approval and every anniversary date thereafter: *Provided*, That, on application by the Contractor/Permit Holder, the MRF Committee may allow a later date for the payment of the first annual provision. Failure to fulfil the above obligation shall mean immediate suspension or closure of the mining activities of the contractor/permittee concerned.

Mining firms are hereby mandated to reforest 100 hectares of land for every one hectare of land they utilize in the course of their mining operations. Mining firms are also mandated to immediately restore and replant areas that they have already finished excavating as they move on to other development sites: *Provided*, That if mining firms cannot do the reforestation in their immediate area they could do the reforestation in other areas provided they comply with 100:1 hectare ratio.

Section 136. Progressive rehabilitation. Contractors shall also conduct progressive rehabilitation activities.

Section 137. Tailings impoundment. Tailings impoundments shall be built away from critical watershed drainage areas. Furthermore, it shall be ensured that impoundments will not endanger critical watershed areas or low lying valleys in the event of accidents under abnormal conditions. Tailing impoundments and dams shall meet the international standards for large dams.

Section 138. Dumping of waste. Dumping of waste or tailings in any body of water shall be prohibited. Provisions on the Clean Water Act and Clean Air Act shall be strictly implemented.

Section 139. Use of toxic chemicals and methods. At all times, mining contractors shall use chemicals or reagents which would result to the least environmental and social destruction. The use of mercury for the extraction of gold, silver and other minerals shall be prohibited. The use of blow torching to separate gold from amalgam shall likewise be prohibited.

Section 140. Preservation of topsoil. The removed topsoil, or the more productive horizons of the soil shall be preserved for other uses.

Section 141. Priority use for water. The National Water Resources Board shall investigate any existing use of water resources in the area whether or not covered by any existing water permit or registration. Upon determination of any existing use, the applicant shall procure the consent of all water users and/or the free prior and informed consent of ICCs/IPs with or without water permits within the same groundwater network or any downstream users of water resources. In all instances, priority shall be given to use of water for domestic, municipal, and agricultural purposes. If potential negative impact on other water users is identified, the water permit shall not be granted. For water resources within the ancestral domain of indigenous peoples, no water permit shall be granted by the National Water Resources Board without the free and prior informed consent of indigenous peoples.

Section 142. Recycling of water resources. Water used in mining operations shall be recycled. Mining contractors shall be required to provide for the methods or equipment for the recycling or reuse of water. Released contaminated water shall be treated accordingly to meet national standards. Released water must at least be equivalent in quality to the baseline water quality.

C. Acid Mine Drainage

Section 143. Prohibition from using acid-generating waste rock to build roads or dams. To prevent or mitigate acid mine drainage, there shall be a prohibition against using acid-generating waste rock to build roads or dams or other infrastructures. The use of such materials shall only be used after treatment to neutralize the effect of acid mine drainage.

1 **Section 144. Establishment of a prediction and monitoring system.** The Bureau shall
2 establish a prediction and monitoring system to identify potential acid-producing materials and
3 monitor their production of acid waste.

4
5 **Section 145. Avoidance of waterways.** Open pits, waste rock piles and tailings
6 impoundments shall not be built near or on waterways to prevent contact and subsequent acid
7 production and groundwater contamination.

8
9 **Section 146. Remining.** Remining shall be prioritized over the opening of new mines to
10 maximize and recover the remaining minerals from the rejects or wastes of previous mines and
11 mining operations, *Provided*, That remining operations shall follow the processes, standards,
12 parameters and guidelines set for mining operations in this Act.

13 14 **CHAPTER XIII** 15 **RESOLUTION OF CONFLICTS**

16
17 **Section 147. Panel of arbitrators.** There shall be a panel of arbitrators in the regional
18 office of the Department composed of three (3) members, two (2) of whom must be members of
19 the Philippine Bar in good standing and one a licensed mining engineer or a professional in a
20 related field, and duly designated by the Secretary as recommended by the Mines and
21 Geosciences Bureau Director. Those designated as members of the panel shall serve as such in
22 addition to their work in the Department without receiving any additional compensation As
23 much as practicable, said members shall come from the different bureaus of the Department in
24 the region. The presiding officer thereof shall be selected by the drawing of lots. His tenure as
25 presiding officer shall be on a yearly basis. The members of the panel shall perform their duties
26 and obligations in hearing and deciding cases until their designation is withdrawn or revoked by
27 the Secretary. Within thirty (30) working days, after the submission of the case by the parties for
28 decision, the panel shall have exclusive and original jurisdiction to hear and decide on the
29 following:

- 30 a. Disputes involving rights to mining areas;
31 b. Disputes involving mineral agreements or permits;

- c. Disputes involving surface owners, occupants and claimholders/concessionaires;
and
- d. Disputes pending before the Bureau and the Department at the date of the
effectivity of this Act.

Disputes involving contractual obligations and the other causes of action that are outside the technological and technical expertise of the Panel of Arbitrators shall be under the jurisdiction of the regular courts or as otherwise provided by other special laws.

Provided, that disputes pending before the Bureau and the Department at the date of the effectivity of this Act shall undergo an immediate review within sixty (60) working days upon the passage of this Act to determine the cause of action. Those which are outside the technical expertise of the Department or Bureau shall be refiled with the appropriate court, without costs to the complainant or petitioner.

Section 148. Appeal. The decision or order of the panel of arbitrators may be appealed by the party not satisfied thereto to the Mines Adjudication Board within fifteen (15) days from receipt thereof which must decide the case within thirty (30) days from submission thereof for decision.

Section 149. Mines Adjudication Board (MAB). The Mines Adjudication Board shall be composed of three (3) members. The Secretary of the DENR shall be the Chairperson with the Director of the Mines and Geosciences Bureau and the Undersecretary for Operations of the Department as members thereof. The Board shall have the following powers and functions:

- a. To promulgate rules and regulations governing the hearing and disposition of cases before it, as well as those pertaining to its internal functions, and such rules and regulations as may be necessary to carry out its functions;
- b. To administer oaths, summon the parties to a controversy, issue subpoenas requiring the attendance and testimony of witnesses or the production of such books, papers, contracts, records, statement of accounts, agreements, and other documents as may be material to a just determination of the matter under

1 investigation, and to testify in any investigation or hearing conducted in
2 pursuance of this Act;

3
4 c. To conduct hearings on all matters within its jurisdiction, proceed to hear and
5 determine the disputes in the absence of any party thereto who has been
6 summoned or served with notice to appear, conduct its proceedings or any part
7 thereof in public or in private, adjourn its hearings at any time and place, refer
8 technical matters or accounts to an expert and to accept his report as evidence
9 after hearing of the parties upon due notice, direct parties to be joined in or
10 excluded from the proceedings, correct, amend, or waive any error, defect or
11 irregularity, whether in substance or in form, give all such directions as it may
12 deem necessary or expedient in the determination of the dispute before it, and
13 dismiss the mining dispute as part thereof, where it is trivial or where further
14 proceedings by the Board are not necessary or desirable;

15
16 d. To hold any person in contempt, directly or indirectly, and impose appropriate
17 penalties therefor; and

18
19 e. To enjoin any or all acts involving or arising from any case pending before it
20 which, if not restrained forthwith, may cause grave or irreparable damage to any
21 of the parties to the case or seriously affect social and economic stability.

22
23 In any proceeding before the Board, the rules of evidence prevailing in courts of law or
24 equity shall not be controlling and it is the spirit and intention of this Act that shall govern. The
25 Board shall use every and all reasonable means to ascertain the facts in each case speedily and
26 objectively and without regard to technicalities of law or procedure, all in the interest of due
27 process and social justice. In any proceeding before the Board, the parties may be represented by
28 legal counsel. The findings of fact of the Board shall be conclusive and binding on the parties
29 and its decision or order shall be final and executory.
30

1 A petition for review by certiorari and question of law may be filed by the aggrieved
2 party with the Supreme Court within thirty (30) days from receipt of the order or decision of the
3 Board.

4 5 **CHAPTER XIV** 6 **ACCESS TO JUSTICE**

7
8 **Section 150. Obligation to respect human rights.** Corporations shall respect, protect
9 and promote the human rights of communities affected by mining, including the right to life,
10 liberty and property, freedom of movement, right of public participation and the right to self-
11 determination of indigenous cultural communities.

12
13 **Section 151. Violations of human rights.** Extrajudicial killing, torture, involuntary
14 disappearance, forcible displacement of populations, setting up of checkpoints, and imposition of
15 toll fees which impede the freedom of movement within mineral areas, deprivation of food and
16 water sources, vote-buying and bribery for the purpose of securing consent or endorsement for
17 the mining project, and other analogous acts are violations of human rights. Violations of human
18 rights by contractors shall cause the immediate cancellation of mineral agreements. The
19 offending contractor, as well as corporations having the same directors and/or officers as of the
20 offending contractor shall be perpetually disqualified from being granted a mineral agreement.
21 All equipment and assets of the corporation or person shall be confiscated in favor of the
22 government.

23
24 **Section 152. Use of paramilitary and military forces.** All mining companies are strictly
25 prohibited from employing paramilitary groups. Use of private and military forces shall result in
26 the automatic cancellation of the mineral agreement and the filing of appropriate civil, criminal
27 and/or administrative charges.

28
29 **Section 153. Strategic Legal Action Against Public Participation (SLAPP).** SLAPPs
30 shall be strictly prohibited. SLAPP is any legal action, whether civil, criminal or administrative,
31 filed to harass, vex, exert legal action or stifle legal recourses of community members
32 complaining against violations of this Act or enforcing the provisions of the Act, or exercising

1 their freedom of assembly or right of public participation. The investigating prosecutor or court
2 shall immediately determine within a period of thirty (30) days from filing thereof whether a
3 legal action is a SLAPP and accordingly dismiss the same.

4
5 **Section 154. Indigents' suit.** Indigents shall be exempt from payment of any
6 administrative or court fees, including docket fees for the filing of a case. Lawyers shall be
7 provided by the Public Attorney's Office to pauper litigants in case they could not afford legal
8 services.

9
10 **Section 155. Application of the customary laws of ICCs/IPs.** The contractor shall
11 respect the customary laws of the ICCs/IPs and shall submit to the processes of their customary
12 laws, *Provided*, That these laws are not contrary to the provisions of the Constitution.

13
14 **Section 156. Piercing the corporate veil.** When the separate personality of the
15 corporation from its shareholders is being invoked as defense in order to perpetuate a crime,
16 fraud or other machinations, or evade liability, the separate personality of the corporation shall
17 be set aside. Civil, criminal and administrative actions may thus be filed directly against the
18 members of the Board of Directors, officers and/or individual stockholders.

19
20 **Section 157. Citizen suits.** For the purpose of enforcing the provisions of this Act or its
21 implementing rules and regulations, any citizen may file appropriate civil, criminal and
22 administrative suits against any of the following:

- 23 a. Any person who violates or fails to comply with the provisions of this Act or its
24 implementing rules and regulations;
- 25
26 b. Any public officer with respect to orders, rules and regulations inconsistent with
27 this Act;
- 28
29 c. Any public officer who wilfully or grossly neglects the performance of an act
30 specifically enjoined as a duty by this Act or its rules and regulations; or abuses
31 the authority in the performance of a duty/ies under this Act or its implementing
32 rules and regulations.
- 33

1 The court shall exempt such action from the payment of filing fees, except fees for
2 actions not capable of pecuniary estimation, and shall likewise, upon prima facie showing of
3 non-enforcement or violation complained of, exempt the plaintiff from filing an injunction bond
4 for the issuance of a preliminary injunction.

5
6 The court shall determine whether or not the complaint is malicious or baseless and shall
7 accordingly dismiss the petition within thirty (30) days upon the filing of the case.
8

9 CHAPTER XV 10 PENAL PROVISIONS

11 Section 158. Grounds for the cancellation of mineral agreements and permits: 12

- 13 a. Late or Non-compliance with Requirements provided in this Act or in its
14 implementing rules and regulations, without a valid reason, shall be sufficient
15 ground from the suspension of any permit or agreement provided under this Act.
16
- 17 b. Violation of the Terms and Conditions of Permits or Agreements: *Provided*, that,
18 violations of environmental provisions shall cause the immediate cancellation of
19 mining permits, and the contractor shall be required to pay for the rehabilitation,
20 restoration or clean-up of the impacts of such violations: *Provided*, however, that
21 the failure to abide by the terms and conditions of tax incentives and credits shall
22 only cause the suspension or cancellation of said incentives and credits.
23
- 24 c. Human rights violations perpetrated by the contractor or any agent of the
25 contractor;
26
- 27 d. Failure to pay the taxes and fees due the Government for two (2) consecutive
28 years shall cause the cancellation of the exploration permit, mineral agreement,
29 financial or technical assistance agreement and other agreements and the re-
30 opening of the area subject thereof to new applicants.
31
- 32 e. Any falsehood made in the exploration permit, mining agreement and financial or
33 technical assistance which may alter, change or affect substantially the facts set

1 forth in said statements may cause the revocation and termination of the
2 exploration permit, mining agreement and financial or technical assistance
3 agreement. Any person who knowingly presents any false application,
4 declaration, or evidence to the Government or publishes or causes to be published
5 any prospectus or other information containing any false statement relating to
6 mines, mining operations or mineral agreements and permits shall, upon
7 conviction, be penalized by a fine of not exceeding One Hundred Thousand pesos
8 (PhP100,000.00). Corporations, corporate directors/officers found guilty of the
9 above enumeration may be subjected to a perpetual ban in the mining industry in
10 the Philippines.

11
12 **Section 159. Illegal exploration.** Any person undertaking exploration work without the
13 necessary exploration permit shall, upon conviction, be penalized by a fine of not exceeding Five
14 Million pesos (P5,000,000.00).

15
16 **Section 160. Theft of minerals.** Any person extracting minerals and disposing the same
17 without a mining agreement, lease, permit, license, or steals minerals or ores or the products
18 thereof from mines or mills or processing plants shall, upon conviction, be imprisoned from six
19 (6) months to six (6) years or pay a fine from One Hundred thousand pesos (P100,000.00) to One
20 Million pesos (PhP1,000,000.00) or both, at the discretion of the appropriate court. In addition,
21 he shall be liable to pay damages and compensation for the minerals removed, extracted, and
22 disposed of. In the case of associations, partnerships, or corporations, the president and each of
23 the directors thereof shall be responsible for the acts committed by such association, corporation,
24 or partnership.

25
26 **Section 161. Unauthorized dealing, selling, and/or buying of gold.** Any person,
27 partnership or corporation who shall sell, buy or in any manner deal gold from any miner or
28 person without being duly authorized by the Bangko Sentral ng Pilipinas shall be punished as
29 unauthorized dealing and shall be penalized in accordance with the provisions in this Act.

30
31 **Section 162. Destruction of mining structures.** Any person who wilfully destroys or
32 damages structures in or on the mining area or on the mill sites shall, upon conviction, be

1 imprisoned for a period not to exceed five (5) years and shall, in addition, pay compensation for
2 the damages which may have been caused thereby.

3
4 **Section 163. Mines arson.** Any person who wilfully sets fire to any mineral stockpile,
5 mine or workings, fittings or a mine, shall be guilty of arson and shall be punished, upon
6 conviction, by the appropriate court in accordance with the provisions of the Revised Penal Code
7 and shall, in addition, pay compensation for the damages caused hereby.

8
9 **Section 164. Wilful damage to a mine.** Any person who wilfully damages a mine,
10 unlawfully causes water to run into a mine, obstructs any shaft or passage to a mine, renders
11 useless, damages or destroys any machine, appliance, apparatus, rope, chain, tackle, or any other
12 things used in a mine, shall be punished, upon conviction, by the appropriate court, by
13 imprisonment not exceeding a period of five (5) years and shall, in addition, pay compensation
14 for the damages caused thereby.

15
16 **Section 165. Illegal obstruction to permittees or contractors.** Any person who, without
17 justifiable cause, prevents or obstructs the holder of any permit, agreement or lease from
18 undertaking his mining operations shall be punished, upon conviction by the appropriate court,
19 by a fine not exceeding Five thousand pesos (PhP 5,000.00).

20
21 **Section 166. Vitiating of FPIC.** Any person found to have vitiated the consent of the
22 ICCs/IPs through bribery, threat, force, and/or intimidation, or any other similar means, shall
23 suffer the penalty of six (6) years and one (1) day to ten (10) years in prison, and a fine of at least
24 two million pesos (PhP 2,000,000.00). If the perpetrator is a government official, the penalty
25 shall be eight (8) years and one (1) day to twelve (12) years imprisonment, and a fine of at least
26 four (4) million pesos (PhP 4,000,000.00). He/she shall be perpetually prohibited from assuming
27 public office, and shall be disqualified from receiving other benefits by virtue of his/her position
28 in government.

29
30 **Section 167. Penalty for human rights violations.** Contractors or other persons who
31 have violated the human rights of communities in connection with the mining operations shall be

1 penalized with ten (10) years to fourteen (14) years imprisonment and a fine of at least five
2 million pesos (PhP 5,000,000.00) and shall indemnify the victims.

3
4 **Section 168. Amendment to Section 27 of Republic Act No. 7076 or the Small-scale**
5 **Mining Act.** Violations of the provisions of RA 7076 or of the rules and regulations issued
6 pursuant hereto shall be penalized with imprisonment of six (6) years and 1 day to twelve (12)
7 years. The State shall confiscate and seize equipment, tools and instruments; effect immediate
8 suspension or closure of the mining activities of the permittee concerned, and revoke the permit.

9
10 **Section 169. Abandonment.** Contractors and/or permittees who shall abandon mines
11 shall be perpetually banned or disqualified from conducting mining operations, directly or
12 indirectly. The ban and/or disqualification shall include the officers and directors of corporations
13 that have abandoned mines

14
15 **Section 170. Confiscation of equipment and property.** The equipment and property of
16 contractors and permit holders violating this Act shall be forfeited in favor of the government.

17
18 **Section 171. Reinstatement of revoked permits.** After notice and hearing, revoked
19 permits that have undergone due process may be reinstated, *Provided*, That it may only be
20 reinstated once.

21
22 **CHAPTER XV**
23 **TRANSITORY PROVISIONS**

24
25 **Section 172. Separability clause.** The provisions of this Act are hereby declared to be
26 separable and, in the event of any such provisions are declared unconstitutional, the other
27 provisions which are not affected thereby shall remain in force and effect.

28
29 **Section 172. Repealing clause.** Republic Act 7942, Presidential Decree 463, Presidential
30 Decree 512, and other related mining laws are hereby repealed. All provisions in laws, decrees,
31 issuances and other regulations inconsistent with this present law shall be deemed amended or
32 repealed if the inconsistency is irreconcilable.

1 **Section 173. Funds.** The amount of One Hundred Billion Pesos (PhP
2 100,000,000,000.00) is hereby appropriated for the proper functioning of the Bureau, the
3 Council, and other bodies established under this Act of which half of the said amount shall be
4 allotted for the baseline mineral exploration activities of the Bureau.

5
6 **Section 174. Implementing rules and regulations.** The implementing rules and
7 regulations of this Act shall be the product of joint collaboration by the Department, and
8 representatives from the local government units, peoples' organizations, sectoral organizations
9 and non-governmental organizations, and shall be drawn up after appropriate and exhaustive
10 public consultations at all levels nationwide.

11
12 **Section 175. Effectivity clause.** This Act shall take effect within fifteen (15) days
13 following its publication in two national newspapers of general circulation in the Philippines.
14
15

16 Approve,