



REPUBLIC OF MOZAMBIQUE

THE MINISTRY OF MINERAL RESOURCES

MINING CONTRACT

BETWEEN

THE STATE

AND

MINAS DE REVUBOE, LDA.

MAPUTO, APRIL 2013

*[Handwritten signatures and initials]*

## INDEX

### PREAMBLE

1	DEFINITIONS AND INTERPRETATION	2
2	SCOPE	3
3	REPRESENTATIONS AND WARRANTIES	4
4	GRANT OF EXPLORATION RIGHTS AND MINING RIGHTS	5
5	CONTRACT AREA	6
6	TERM AND PHASES OF THE CONTRACT	7
7	EXPLORATION AND FEASIBILITY STUDY PHASE	8
8	DEVELOPMENT PHASE	9
9	MINERAL EXPLOITATION PHASE	10
10	RECLAMATION AND CLOSURE PHASE	11
11	ENABLING PROVISIONS	12
12	RIGHTS AND OBLIGATIONS OF THE PARTIES	13
13	METHOD OF OPERATION	14
14	FINANCING	15
15	FISCAL MATTERS	16
16	EQUITY PARTICIPATION OFFER TO NATIONALS	17
17	FOREIGN EXCHANGE CONTROL	18
18	EMPLOYMENT OF PERSONNEL	19
19	COMMUNITY DEVELOPMENT	20
20	INFORMATION, MINERAL DATA, AND REPORTS	21
21	SALES AND VALUE OF MINERAL PRODUCT	22
22	ASSETS AND EQUIPMENT	23
23	INFRASTRUCTURE AND PUBLIC ACCESS	24
24	ENVIRONMENT, REHABILITATION AND PROTECTION AGAINST LOSS AND WASTE	25
25	CONFIDENTIALITY	26
26	FORCE MAJEURE	27
27	TRANSFER	28
28	TERMINATION	29
29	DISPUTE RESOLUTION	30
30	EXPROPRIATION	31
31	APPLICABLE LAW AND FORUM	32
32	MISCELLANEOUS PROVISIONS	33
33	NOTICES	34
34	ANTI-CORRUPTION	35
35	LANGUAGE	

### ANNEX A. CONTRACT AREA

### ANNEX B. RESOLUTION OF MINING CONCESSIONAIRE'S BOARD OF DIRECTORS

The Government of the Republic of Mozambique, represented in this act by the Minister of Mineral Resources (MIREM), with offices at Avenida Fernão Magalhães, n° 34, Maputo, (hereinafter referred to as the "Government"), and

MINAS DE REVUBOE, LIMITADA, a company incorporated in the Republic of Mozambique, with its headquarters in Maputo, registered with the Legal Entities Registry Office in the commercial registration books under number 17127, at page 135, reverse, of Book C-42, dated 22 April 2005, and with its articles of association registered in book E-73, represented in this act by Denis Wood, in his capacity as Chairman of the Board of Directors (hereinafter referred to as the "Mining Concessionaire").

and

EMPRESA MOÇAMBICANA DE EXPLORAÇÃO MINEIRA, abreviately referred to as EMM, S.A, a company created by Decree n° 29/2009, of 29 June, registered at the Legal Entities Registry as n°100142 562, with headquarters in Bairro Central, Avenida 24 de Julho n° 1895, represented in this act by Victor Zacarias in his quality of Chairman and Mário Fernandes Marques, in the quality of Director.

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## PREAMBLE

WHEREAS, mineral resources located in the soil and subsoil, in the interior waters, in the territorial sea, the continental shelf and the exclusive economic zone are the property of the State, as provided in Article 98 of the Constitution of the Republic of Mozambique;

WHEREAS, the Government by and through the Ministry of Mineral Resources (hereafter MIREM) wishes to promote mineral resource exploration, development and operation in the Country through appropriate technology, and sound principles of resource management and sustainable development;

WHEREAS, the Mining Law confers powers on the Government to enter into mining contracts;

WHEREAS, the Council of Ministers has approved this Contract and has authorized the Minister of Mineral Resources, on behalf of the Government, to execute it;


WHEREAS, the Mining Concessionaire wishes to assist the Government in the exploration, prospecting and mining operation in the Contract Area and possesses financial resources, technical competence and expertise necessary for carrying out the Mining Operations described in this Contract

WHEREAS, the Mining Concessionaire wishes to obtain the exclusive right to conduct Mining Operations in the Contract Area;

WHEREAS, the Government and the Mining Concessionaire wish to establish a transparent investment regime which reflects the following complementary principles:

(1) the Government expects to obtain real contributions to the economic growth of the Country and social welfare of the Mozambican people through the Mining Operations under its national sovereignty, and

(2) the Mining Concessionaire expects to obtain a return on its investment;



NOW, THEREFORE, for and in consideration of the premises, the mutual covenants, and the terms and conditions hereinafter set forth, the Government and the Mining Concessionaire hereby stipulate and agree as follows:

**CLAUSE 1 - DEFINITIONS AND INTERPRETATION**

1.1 Definitions. As used in this Contract, the following words and terms shall have the following respective meanings:

"Affiliate" or "Affiliated Company" means, in relation to the Mining Concessionaire:

- (a) any company which holds five per cent (5%) or more of the Mining Concessionaire's shares or ownership; or
- (b) any company in which the Mining Concessionaire holds five per cent (5%) or more of the shares or ownership; or
- (c) any company affiliated by the same definition in (a) or (b) to an Affiliated Company of the Mining Concessionaire; or
- (d) any company which, directly or indirectly, is controlled by the Mining Concessionaire or controls the Mining Concessionaire or is under common control with the Mining Concessionaire; or
- (e) any shareholder or owner or group of shareholders or owners of the Mining Concessionaire or of an Affiliated Company; or
- (f) any individual or group of individuals in the employment of the Mining Concessionaire or of any Affiliated Company.

For the purposes of the provision of sub clause (d) above, "control" means the power exercisable, directly or indirectly, to direct or control the direction of the management and policies of a company and includes the right to exercise control or power to acquire control directly or indirectly, over the Mining Concessionaire's affairs and the power to acquire not less than fifty per cent (50%) of the share capital or voting power of the Mining Concessionaire; and for this purpose, a creditor who lends, directly or indirectly, to the Mining Concessionaire, unless he has lent money to the Mining Concessionaire in the ordinary course of a money-lending business, may

be deemed to be a Person with power to acquire not less than 50% (fifty per cent) of the share capital or voting power.

**"Applicable Law"** means the Mining Law and other legislative instruments including laws, decrees, regulations, regulatory orders and other rules the compliance with which is mandatory in Mozambique, provided that they have been published in the Official Gazette and are in force at the time they are applied.

**"Calendar Day"** means consecutive Days with no adjustment for official closures, holidays or any other interruption.

**"Calendar Year"** means a period of twelve (12) months commencing 1 January and ending 31 December, according to the Gregorian calendar.

**"Calendar Years"** means consecutive Years.

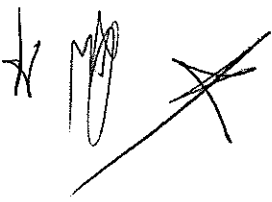
**"Coal-to-Liquids"** means the production of liquid fuels produced by means of the *Fischer-Tropsche* Process or other means using coal as a base.

**"Commercial Production"** means producing annually in the Mining Concession Area no less than 20% (twenty per cent) of the Design Capacity of the mine, or where the Mining Operations consist solely of Processing Operations, not less than 20% (twenty per cent) of the Design Capacity of the processing plant(s).

**"Community Development Agreement"** means the community development agreement negotiated and approved pursuant to Clause 19.

**"Contract"** means, when used as a noun, this agreement with all its annexes and such other modifications and amendments made from time to time pursuant to this agreement.

**"Contract Area"** means the area subject to the terms and conditions of this Contract which is described and delimited in Annex A including any enlargement thereof granted or that may be granted pursuant to the Mining Law, but excluding any portions of such area that the Mining



Concessionaire has relinquished, at any time, pursuant to the Mining Law.

"Day" means a period of twenty-four (24) consecutive hours beginning and ending at midnight.

"Default" means a breach of any material provision of this Contract, of the Applicable Law, or of any Exploration and Prospecting License or Mining Concession related to the Contract Area.

"Design Capacity" means the design capacity of the Processing Operations proposed by the Mining Concessionaire and approved by MIREM, upon which Commercial Production is based.

"Development" means the Exploration and Prospecting Operations and preparing of the Ore deposit for Mining Operations and Processing Operations including the commencement of construction and commissioning of the necessary infrastructure, including Off-Site Infrastructure, and other related facilities (including but not limited to, delineation drilling, roads, stripping, treatment, milling, processing, refining, transportation, communication and electrical infrastructure and other facilities).

"Effective Date" means the date on which the Contract is signed by the Parties or endorsed by the Administrative Court whichever is the latter.

"Environmental Impact Study" means an environmental impact study as defined in the Environmental Regulations for Mining Activities.

"Environmental Management Plan" means the document containing the technical and scientific analysis of the mining activity, as well as the environmental targets, including social, economic and cultural issues, as defined in the Environmental Regulations for Mining Activities, approved by Decree n° 26/2004, of 20 August.

"Environmental Management Programme" means the documentation comprising the set of methods and procedures to achieve the environmental targets and goals, further integrating the environmental monitoring programme and the mine closure plan, including social, economic and cultural issues, as defined in the Environmental Regulations for Mining Activities.

**"Exploration and Development Expenditure"** means accumulated expenditure related to Exploration and Prospecting Operations and Development.

**"Exploration and Prospecting License"** means the mining title n° 693L granted under the terms of the Mining Law to the Mining Concessionaire enabling the exploration and prospecting of Mineral Resources under this Contract.

**"Exploration and Prospecting Operations"** means the operations of discovery, identification, determination of the characteristics and evaluation of the economic value of Mineral Resources, by using different methods of geological, geochemical and geophysical studies relating to surface and subsurface geological structure, boring and drilling, analysis of the physical and chemical properties of the Mineral Resources and examination of the environmental and economic feasibility of developing and operating a deposit of Mineral Resources.

**"Expropriation"** means any nationalization, expropriation or other reversion of tenure compelled by the Government, or any measure or measures which, individually or jointly, have an equivalent effect.

**"Feasibility Study"** means a feasibility study prepared by the Mining Concessionaire pursuant to Clause 7.4 and containing the information required by Clause 7.5.

**"Force Majeure"** has the meaning ascribed to it by Clause 26.1.

**"Government"** means the Government of Mozambique and its administrative divisions, and all the officials who in any capacity conduct the functions of the Government or exercise its authority in relation to the territory of Mozambique.

**"In Default"** means in violation of a material provision of this Contract, the Applicable Law or any Exploration and Prospecting License or Mining Concession relating to the Contract Area.

**"Independent Expert"** means an Independent Expert appointed under Clause 29.

**"Mineral Data"** means borehole logs and maps including drill sections, aerial photos and

satellite images, magnetic tapes, core samples and sample duplicates, as well as all other geological, geochemical, geophysical information and other data, including interpretations and analyses prepared by or for, or obtained by or for, the Mining Concessionaire in the course of carrying out Prospecting Operations, of the Development, and Mining Operations.

**"Mineral Product"** means the Ore/Mineral Resource extracted from the land in the Contract Area that is saleable after treatment or Processing Operations, at the port.

**"Mineral Resource"** means any solid, liquid or gaseous substance formed within the crust of the earth by geological phenomena or related thereto, , excluding methane derived from coal (*coal bed methane*), crude oil, natural gas or other hydrocarbons produced or capable of being produced from crude oil or natural gas, bituminous clay and sand.

**"Mining Concession"** means the mining title n° 4064C emerging from the Prospecting and Exploration License n°693L granted to the Mining Concessionaire, under the terms and conditions of the Mining Law for the exploitation of Mineral Resources.

**"Mining Concessionaire"** means, Minas de Revuboc, Limitada and includes its successors or any other natural or legal person to whom it has totally or partially assigned its contractual position under the terms of this Contract.

**"Mining Concession Area"** means the area for which a Mining Concession is granted to the Mining Concessionaire and for the purposes of this Contract is the same as the Contract Area. Accordingly, references to the area contained within the Mining Concession Area are to be read as the area described as the Contract Area and vice versa.

**"Environmental Regulations for Mining Activities"** means the Regulations approved by Decree n° 26/2004, of 20 August.

**"Mining Law"** means Mining Law n° 14/2002, of 26 June.

**"Mining Law Regulations"** means the Mining Law Regulations, approved by Decree n° 62/2006, of 26 December.

**"Mining Operations"** means the works undertaken in the context of any mining activity.

**"Mining Operator"** means the natural, legal person or company, national or foreign, holder of the Mining Title or authorization or the person contracted by the same to carry out the reconnaissance, exploration and mining exploitation and beneficiation.

**"Mining Production Plan"** means the plan submitted as part of an application for a Mining Concession pursuant to the requirements of the Mining Law.

**"Mining Title"** means the Reconnaissance License, Exploration and Prospecting License, Mining Certificate, Mining Concession or any one of these titles, consistent with the context in which the term "Mining Title" is used.

**"Minister" and "Ministry"** means the Minister of Mineral Resources and the Ministry of Mineral Resources, respectively, or their successors.

**"MIREM"** means the Ministry of Mineral Resources, or its successor, and all of its agencies and instrumentalities.

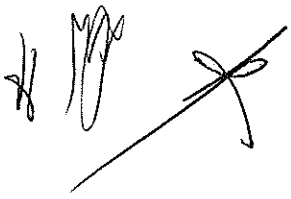
**"Mozambique"** means the Republic of Mozambique.

**"National Director of Mines"** means the National Director of Mines of the NDM.

**"NDM"** means the National Directorate of Mines or its successor, and its agencies and departments.

**"Notice"** means, when used as a noun, a notice delivered in accordance with the provision of Clause 33 of this Contract, and when used as a verb, the act of serving a notice in accordance with the provision of Clause 33 of this Contract.

**"Off-Site Infrastructure"** means Infrastructure, including rail and port infrastructure, essential to the Mining Operations but located outside the Contract Area.

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**"Ore"** means a Mineral Resource from which the Mineral Product can be the object of mining or processing for profit.

**"Party"** means either the Mining Concessionaire or the Government, as the context requires, and **"Parties"** shall mean both jointly.

**"Person"** includes any natural or legal person, including Mining Concessionaires.

**"Processing Operations"** means the operations and work carried out in the course of the Mineral Operation in order to obtain commercial mineral product, which includes the treatment, concentration, beneficiation washing or separation of other mineral substances, whether extracted, or previously subjected to treatment, in accordance with the provisions of the Mining Law and this Contract.

**"Quarter"** means the period of 3 (three) consecutive months, beginning 1 January, 1 April, 1 July and 1 October and ending 31 March, 30 June, 30 September and 31 December, respectively.

**"Reports"** means all reports required under the terms of the Mining Law, the Mining Regulations, the Environmental Regulations for Mining Activities, the Applicable Law or this Contract to be submitted by the Mining Concessionaire to MIREM, and any geological, geophysical, technical, financial, economic and marketing reports, studies, analyses and interpretations prepared by the Mining Concessionaire relating to the Contract Area or to the Mining Operations.

**"Resources"** means an identified Mineral Resource occurrence in situ from which valuable or useful minerals may be recovered.

**"Risk and Emergency Control Programme"** means the set of methods and procedures for the different risks of accidents arising from the activity, including causes, consequences, frequency or probability, prevention measures and risk reduction.

**"State"** means the Government of the Republic of Mozambique as well as any institution and

body thereof.

"Subcontractor" means any natural or legal person, national or foreign who or which under a contract made with the Mining Concessionaire or Mining Operator performs any services connected with, or in relation to, the Mining Operations under this Contract.

"Third Party" means a Person who is not any of the State, the Mining Concessionaire, an Affiliate of any Person constituting the Mining Concessionaire, or any Mining Operator or Subcontractor.

"User of the Land" means any individual or entity using or occupying the land in compliance with the Land Law, Law n° 19/97, of 01 October, and other applicable legislation.

"Year" means a period of 365 consecutive Calendar Days.

1.2 Interpretation. In this Contract, unless the context otherwise requires:

- (a) the singular includes the plural, the masculine includes the feminine, and vice versa;
- (b) the division of this Contract into clauses, paragraphs, subclauses and annexes, the insertion of headings and the provision of an index are for the convenience of reference only and shall not affect its application and interpretation. Unless otherwise indicated, any reference to a clause, paragraph, subparagraph or annex is a reference to a clause, paragraph, subparagraph or annex of this Contract;
- (c) a reference to any laws or other legislation includes any amendments, alterations, additions or successor legislation;
- (d) a reference to a sum of money, unless otherwise expressly provided, is a reference to that sum of money in United States Dollars;
- (e) if any area is described in this Contract both by way of geographical co-ordinates and by way of a sketch or map, the geographical co-ordinates shall prevail in case of any inconsistency;
- (f) a reference to a party includes that party's successors and authorized assignees; and
- (g) terms used in this Contract which are not defined herein have the meaning given to them in the Mining Law.

**CLAUSE 2-SCOPE**

1.3 Annexes. Each annex attached hereto constitutes an integral part of this Contract.

2.1 Scope of the Contract. This Mining Contract is concluded between the Government of the Republic of Mozambique, represented by the Minister of Mineral Resources, and the Mining Concessionaire pursuant to the terms of Article 25 of the Mining Law.

2.2 Object of the Contract. This Contract is aimed at establishing a) the circumstances or other forms by means of which the Government shall exercise the attributions vested in it under the Mining Law and complementary regulation; b) the terms and conditions of the Mining Exploration and Prospecting Licenses; c) the terms and conditions of the Mining Concessions emerging from such Exploration and Prospecting Licenses; d) the rights and obligations of the Parties in respect of the Contract Area; and e) the terms relating the resolution of disputes arising from the Contract or the application of the Mining Law and the complementary regulations.

2.3 Prevalence of Law. This Contract is subject to the provisions of the Applicable Law.

2.4 Mining Operations subject to this Contract. This Contract applies to the Mining Operations existing in the Contract Area.

2.5 Minimal Expenditures. The Mining Concessionaire undertakes to carry out the minimum expenditure in the exploration and prospecting activities stipulated in this Contract during the term of the Exploration and Prospecting Licenses and the Mining Concessions issued for the Contract Area. The Mining Concessionaire also undertakes to carry out the minimum investment stipulated – in infrastructure and Development in the Contract Area. The obligations stipulated in this clause shall be binding on the Mining Concessionaire during the validity of this Contract and shall terminate on its term, by virtue of any reason, including but not limited to rescission arising from a decision by the Mining Concessionaire to terminate this Contract under the terms of Clause 28.

### CLAUSE 3- REPRESENTATIONS AND WARRANTIES

3.1 General warranty. Each of the Parties represents and warrants that: it has full power and authority to enter into this Contract and to perform all of its obligations, that this Contract constitutes a valid binding and enforceable obligation upon the Parties and that all approvals necessary for the Parties to enter into this Contract under the law of its domicile have been obtained.

3.2 Representations and warranties of the Mining Concessionaire. The Mining Concessionaire represents and warrants to the Government as of the Effective Date of this Contract and throughout its term that:

- (a) all information provided by the Mining Concessionaire in its application for this Contract was free of any intentional and material statement or omission of facts;
- (b) the Mining Concessionaire is a limited liability company incorporated and registered under the laws of Mozambique with legal capacity and has the full power and authority to own and operate its properties and to carry on its business according to the laws of Mozambique. There is no pending or threatened action for the dissolution, liquidation, insolvency or rehabilitation of the Mining Concessionaire, whether voluntary or involuntary;
- (c) the Mining Concessionaire is registered at the Maputo Legal Entities Registry Office, as a limited liability company, incorporated in terms of Mozambican laws, with its head office in Maputo, registered in the commercial registration books under number 17127, at page 135, reverse, of Book C-42, dated 22 April 2005, and with its articles of association registered in book E-73, holder of Exploration and Prospecting License 6931;
- (d) the Mining Concessionaire has, or has access to, all the financial, managerial and technical expertise required to promptly and effectively carry out its obligations under this Contract, with the understanding to timely utilize these resources under its supervision to accomplish the objectives of its work obligations;
- (e) the Mining Concessionaire has the full legal right and capacity to execute, deliver and perform this Contract and the transactions contemplated hereby, in accordance with the terms of this Contract;

3.3

Representations and warranties of the Government. The Government represents and warrants to the Mining Concessionaire as of the Effective Date of this Contract and throughout its term that:

- (f) this Contract is executed and delivered by a duly authorized representative of the Mining Concessionaire; and
- (g) a copy of the resolution of the Mining Concessionaire's Board of Directors authorizing its representative to enter into this Contract for and on the Mining Concessionaire's behalf is attached hereto as Annex B.

3.4

Parties to act to give effect to the Contract. Subject to the Applicable Law, each of the Parties agrees to execute and deliver all such further instruments, and to do and perform all such further acts and things as may be necessary or expedient to give effect to the provisions of this Contract.

- (a) the Minister is, for the purposes of this Contract, the authorized representative of the Government and is entitled to enter into this Contract in such capacity;
- (b) upon approval of this Contract by the Council of Ministers, the Government is bound to adhere to the terms of this Contract;
- (c) there are no other Mining Titles, Mining Title applications, claims, options, leases, licenses, operating contracts, or other encumbrances against or affecting the Contract Area or the Mining Concessionaire's rights under this Contract; the Government is not aware of any notices, objections or other proceedings or litigation pending or threatened concerning the Contract Area; and the whole of the Contract Area does not contain areas closed to Mining Title applications under the terms of the Applicable Law;
- (d) the Government has determined prior to executing this Contract that the Mining Concessionaire has all the qualifications and none of the disqualifications, as defined under the Mining Law, to be granted an Exploration and Prospecting License or Mining Concession; and
- (e) the execution, delivery and performance of this Contract in accordance with its terms does not violate any law, regulation or order of any governmental authority, Ministry or agency or of any Mozambican court of law.

3.5 Parties to act in good faith. Each of the Parties undertakes to carry out the terms and provisions of this Contract in accordance with the principles of mutual goodwill and good faith.

#### **CLAUSE 4 - GRANT OF EXPLORATION RIGHTS AND MINING RIGHTS**

4.1 Exclusive rights to Mining Titles. The Mining Concessionaire shall have the exclusive right to apply for and be granted and extended an Exploration and Prospecting License and a Mining Concession. The Government will not issue any Mining Title or mining contract in the Contract Area without having obtained written consent from the Mining Concessionaire.

4.2 For the avoidance of doubt, the Mining Concessionaire has the exclusive right to continue Exploration and Prospecting Operations within the Contract Area with a view to expand or extend Commercial Production.

4.3 Grant of Mining Concession. Upon submission of a valid and complete application by the Mining Concessionaire in accordance with the provisions of the Mining Law, the Minister hereby agrees to:

- (a) grant to the Mining Concessionaire a Mining Concession to undertake mineral exploitation within the Contract Area for the period applied for, subject to Clause 4.5, based on the economic life of the deposit, but not to exceed (25) twenty-five Years, provided all applicable requirements of the Mining Law and of this Contract have been met; and
- (b) subject to the Tax Regime applicable at the time of its authorization, renew, any number of times, any such Mining Concession by the renewal period applied for but not to exceed 25 (twenty-five) Years for each renewal, provided the Mining Concessionaire can demonstrate all of the following: a) the occurrence of ore sufficient to indicate the continued economic viability of Mining Operations, b) the compliance with the obligations specified in the Mining Concession and in this Contract

4.4 Refusal of the Mining Concession Application. If the Minister fails to grant any Mining Concession or renewal thereof under the terms of Clause 4.3, the Mining Concessionaire may refer the matter to arbitration, pursuant to the terms of Clause 29 of this contract. If the result of the arbitration determines that the Mining Concessionaire has met the requirements specified by the Mining Law and this Contract for the grant or renewal of the said Mining Concession, the Minister shall grant the Mining Concessionaire the Mining Concession or its renewal thereof within forty-five (45) Calendar Days from the date of such arbitrator's decision.

4.5 Size of Mining Concession Area. The Mining Concession Area shall not exceed the maximum size specified in Clause 5.1 and 5.5.1.

4.6 Exclusive right of land use. The Mining Concessionaire shall have the exclusive right to use and enjoy land and shall benefit from all and any land portion within the Mining Concession Area, subject to the acquisition of a title to use and enjoy land and the acquisition and extinction of Third Party rights therein upon payment of compensation and/or relocation in accordance with the Applicable Law and this Contract.

4.7 Methane gas derived from coal. For purposes of this Contract, the Parties agree that the Mining Concessionaire shall be entitled to pre-emptive rights on the extraction of methane gas derived from coal that it may detect in the Contract Area, subject to negotiation of another contract under the Applicable Law.

## CLAUSE 5 - CONTRACT AREA

5.1 Maximum size of Mining Concession. The Contract Area shall not exceed the number of cadastral units corresponding to Annex A, including any area enlargements granted pursuant to this Contract.

5.2 Size, Shape and Location of Mining Concession Area. The Mining Concession Area consists of all the area within the boundaries generally described and shown on the map attached as Section 1, of Annex A and whose boundary coordinates and cadastral units are explicitly defined in Section 2, of Annex A.

5.3 Contract Area Survey and Boundary Markers. The Mining Concessionaire is not required to survey the Exploration and Prospecting License area or to place boundary markers on the same area's boundaries pursuant to the Mining Law. The Mining Concessionaire is required to survey and place markers on the boundary limits of the Mining Concession Area, within the Contract Area unless the markers are a hazard, interfere with other approved activities or are located within a watercourse or are otherwise physically difficult to place.

5.4 Relinquishment of Contract Area.

5.4.1 Election to abandon Exploration and Prospecting Area. Pursuant and subject to the Mining Law, the Mining Concessionaire may, for any of its Exploration and Prospecting Licenses issued within the Contract Area, abandon its rights in respect of the whole or any part of any Exploration and Prospecting area. The remaining Exploration and Prospecting License area shall consist of cadastral units which are contiguous or have at least one common side and shall not include any dispersed cadastral units nor those linked through a single vertex.

5.4.2 Election to abandon Mining Concession Area. The Mining Concessionaire may, at any time during the term of any Mining Concession including any of the renewals thereof, abandon the whole or any part of any Mining Concession Area. The remaining Mining Concession area shall consist of cadastral units which are contiguous or have at least one common side and shall not include any dispersed cadastral units nor those linked through a single vertex.

5.4.3 Relinquishment may result in Non-contiguous Contract Area. It is permissible for the Contract Area to become two or more non-contiguous areas as the result of area relinquishment.

5.4.4 Relinquishment of entire Contract Area shall lead to termination. Pursuant and subject to the Mining Law, the Mining Concessionaire may, at any time during the term of this Contract, relinquish the whole of the Contract Area by abandoning all Exploration and Prospecting License areas and the Mining Concession Areas. Provided that the Mining Concessionaire's obligations under the Mining Law have been fulfilled, MIREM shall approve the relinquishment and shall commence with termination of this Contract as per Clause 28.

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In the event that the Parties cannot agree that the area enlargement sought is required as an

- (a) is available; and
- (b) is required as an integral part of Mining Operations; or
- (c) contains Mineral Resources;
- (d) the enlarged Mining Concession Area will not exceed the maximum area specified in Clause 5.5.1; and
- (e) the Mining Concessionaire is not in default of its obligations arising from the Mining Concession and this Contract

5.5.2 Enlargement of Mining Concession Area. Pursuant to the Mining Law, the Mining Concessionaire may apply to MIREM to enlarge the area subject to the Mining Concession, and MIREM shall grant the enlargement of any Mining Concession Area in the Contract Area when the Mining Concessionaire can demonstrate that the area applied for:

5.5.1 Maximum size of Mining Concession Areas. Any Mining Concession Area granted to the Mining Concessionaire within the Contract Area, including any area enlargement, shall correspond to the area required for the carrying out of Mining Operations.

5.5 Enlargement of Mining Concession Area and Contract Area.

5.4.6 Effect of relinquishment. When relinquishment of any area takes place pursuant to Clauses 5.4.1, 5.4.2 or 5.4.4 the area relinquished shall cease to be part of the Contract Area (except for an Exploration and Prospecting License Area that has become part of a Mining Concession), and the Mining Concessionaire shall to that extent be relieved of its obligations hereunder but without affecting any continuing obligations accrued prior to such relinquishment. Any such relinquishment shall be noted in the map and the boundaries described in Annex A.

5.4.5 Date on which relinquishment takes effect. Subject to the Mining Concessionaire's compliance with this Clause 5 and the Mining Law, the area abandonment shall take effect on the date set forth in the Notice to the Mining Concessionaire, which shall not be less than 90 (ninety) days nor greater than 180 (one hundred and eighty) days, as provided for under the Mining Law.

integral part of Mining Operations, or on the fact that the area sought contains Mineral Resources justifying the extent of the area sought, then either Party may refer the matter in dispute for determination, in accordance with Clause 29, by an Independent Expert. Should the Independent Expert determine that the Mining Concessionaire has met the requirements specified in this clause, MIREM shall grant the Mining Concessionaire the Mining Concession enlargement determined to be reasonable by the Independent Expert within (15) fifteen Calendar Days from the notice date of such determination by the Independent Expert.

5.5.3 The Mining Concessionaire may apply to enlarge the Mining Concession Area and the Contract Area. When any ore deposits containing potential Mineral Product discovered by the Mining Concessionaire in the course of Mining Operations under the Mining Concession extends in a contiguous extension beyond the boundaries of the Contract Area or where an enlargement to the Contract Area would provide for a safer or more efficient operation, the Mining Concessionaire may request MIREM to grant the approval of the enlargement of the Mining Concession Area and the Contract Area to include the entire area of such Mineral Resources deposit. Provided that such enlargement does not affect any rights held by any other Person in relation to the Contract Area, the Mining Concession Area will not exceed the maximum size specified in Clause 5.5.1, and the requirements of the Mining Law are met, MIREM shall grant such request, and the extensions which are the object of enlargement shall be subject to the terms and conditions of areas existing prior to the enlargement. When the request for the area enlargement is granted, the Contract Area shall include the subject area and Annex A shall be amended in accordance with the authorization. In the event that a dispute between the Parties arises regarding the size, extent or location of the area, then either Party may refer the determination of the new Mining Concession Area and Contract Area boundaries, in accordance with Clause 29, to an Independent Expert. Should the Independent Expert determine that the boundaries of the Ore deposit containing potential Mineral Product discovered by the Mining Concessionaire in the course of Mining Operations under the Mining Concession extend beyond the boundaries of the Contract Area and the Mining Concessionaire has met the requirements specified by the Mining Law for the grant of a Mining Concession Area enlargement, MIREM shall grant the Contract Area enlargement determined to be reasonable by the Independent Expert within 15 (fifteen) Calendar Days of such determination.

## CLAUSE 6 - TERM AND PHASES OF THE CONTRACT

6.1 Term of Contract. The term of this Contract shall commence on the Effective Date hereof and shall expire when the conditions of Clause 28.1 are met.

6.2 Phases of Mining Operations. This Contract applies to the Exploration and Prospecting, Development, Production, and closure phases of the Mining Operations.

6.3 Contract Area can have multiple phases at the same time. The Mining Concessionaire may undertake exploration, prospecting, feasibility, Development, Mining Operations and reclamation and closure concurrently in various areas within the Contract Area, provided that the relevant Exploration and Prospecting License(s) and or Mining Concession have been first obtained and are in force.

## CLAUSE 7 - EXPLORATION AND PROSPECTING PHASE

7.1 Exploration and Prospecting phase obligations. The Mining Concessionaire shall comply with all obligations under the terms of its Exploration and Prospecting License together with all obligations stipulated under the Mining Law, Mining Law Regulations, and in this Contract.

7.2 Commencement of exploration and prospecting. The Mining Concessionaire shall commence Exploration and Prospecting Operations in the Contract Area no later than twelve (12) months from the date on which the Exploration and Prospecting License was issued.

7.3 Exploration and Prospecting phase work obligation. The Government agrees that the Mining Concessionaire's fulfillment of the obligations arising under this Clause 7.3 satisfies the Mining Law Regulations work plan requirements with regard to the Mining Concessionaire's Exploration and Prospecting License within the Contract Area.

7.3.1 Obligation to meet minimum expenditure requirement. The Mining Concessionaire shall expend on Exploration and Prospecting Operations in each exploration and prospecting area no less than five million US Dollars (US\$5,000,000). Expenditure on Exploration and Prospecting Operations in one Exploration and Prospecting License area cannot be

counted as expenditure in another exploration and prospecting area.

7.3.2

Excessive expenditure. If, during any Calendar Year, the Mining Concessionaire spends, on Exploration and Prospecting Operations in an Exploration and Prospecting License area, an amount that it is higher than what was foreseen, the excess amount may be carried forward and recorded as expenditure for the following Calendar Year.


7.3.3

Deficiency payment. If the Mining Concessionaire does not expend an amount equal to or than the minimum expenditure amount for any of its Exploration and Prospecting Licenses within the Contract Area, the holder shall make a non-refundable deficiency cash payment to MIREM sufficient to make up the difference, or abandon the license.

7.3.4

Work that qualifies to meet work obligation. Work acceptable to meet the minimum Exploration and Prospecting License work obligation included in the Exploration and Prospecting Operations includes the following:

- a) literature research and analysis of previous work;
- b) boundary and control surveys and topographic mapping;
- c) photo geologic and remote imagery interpretations;
- d) geological, geophysical and geochemical surveys;
- e) general prospecting;
- f) establishing grid lines;
- g) trenching, stripping and excavating pits;
- h) shaft sinking, tunnelling and other underground development work;
- i) sample collection including bulk sampling, analyses and assays;
- j) drilling, where core or cuttings are logged and analysed;
- k) geophysical logging of drill holes;
- l) logging of drill core or cuttings;
- m) petrographic, petrologic and mineralogy studies;



### 7.3.5.

- Value of Exploration and Prospecting work. The value of Exploration and Prospecting Operations work, if the costs are reasonable, documented in sufficient detail to establish their authenticity and directly related to the performance of work as listed in Clause 7.3.4 on the Exploration and Prospecting License area, includes, among others:
- Director of Mines.
- n) metallurgical and beneficiation studies, pilot plants;
  - o) pre-feasibility and feasibility studies;
  - p) Mineral Product marketing studies;
  - q) environmental base-line studies, environmental impact assessment work, environmental impact surveys, Environmental Management Programmes;
  - r) social and cultural impact studies and plans;
  - s) preparation of Reports;
  - t) environmental reclamation and rehabilitation;
  - u) such other work as may be reasonably required or approved by the National

#### a) at full cost

i) salaries and benefits of field and laboratory personnel;

ii) food and accommodation;

iii) equipment and instrument rental;

iv) analyses and assays;

v) Subcontracted work;

vi) compensation to User or Occupier of Land;

vii) camp construction; and

viii) domestic transportation to the exploration and prospecting site.

#### b)

to a total of not more than ten percent (10%) of the total of all costs claimed under the terms of subclause a):

(i) international transportation to Mozambique;

(ii) cargo and freight;

(iii) office supplies and services;

(iv) road construction;



- (v) purchase price of equipment that will remain at the site for Mining Operations to be carried out in the future;
- (vi) salaries and benefits of office and administrative personnel;
- (vii) work contracted to an Affiliate; and
- (viii) expenses incurred at the headquarters.

7.3.6 Work to be done under professional supervision. All scientific surveys, studies, interpretations and all logging of drill core and cuttings performed for the purpose of Exploration and Prospecting Operations shall be conducted by a geologist, geophysicist, geochemist, engineer, or technician under the direct supervision of the Mining Concessionaire (or the Mining Concessionaire's Subcontractors).

7.3.7 Mining Concessionaire to Notify MIREM of discovery. The Mining Concessionaire shall, subject to the provisions of this Contract in respect of confidentiality, notify the National Director of Mines within 24 months counting from the discovery of indications or existence of Ore deposits describing the location and nature of such discovery.

7.4 Commencement of Economic Feasibility Study. The Mining Concessionaire upon confirming the discovery of an Ore deposit in the Contract Area which is economically and commercially operable shall prepare as part of any application for a Mining Concession a Feasibility Study, including a Mining Production Plan, describing its proposed development and production program.

7.5 Content of Feasibility Study. The Parties recognize that the content of a Feasibility Study will be dependent on the nature of the Mineral Product, the Ore deposit, the physical location of the Ore deposit, and other factors that cannot be known at the Effective Date of this Contract. Notwithstanding the foregoing, the Parties agree that the requirement for a Feasibility Study to support an application by the Mining Concessionaire for a Mining Concession in the Contract Area shall be satisfied if the Feasibility Study, written in Portuguese, contains all the following: --

- (a) a Mining Production Plan including all information specified in the Mining Law

Regulations as required for a mining production plan and the following

information:

- (i) details of the Ore deposit, including proved, estimated and inferred reserves, the physical and chemical, mineralogical and technical characteristics of the minerals;
- (ii) mine site design showing the likely and approximate location and position of mine workings including pits and shafts, infrastructure, tailings, dams, land filling, embankments, buildings, milling, treatment and processing plants, boreholes, wells, workers' accommodation, maintenance sheds, and other buildings during the first ten (10) Calendar Years of Mining;
- (iii) the operations schedule;
- (iv) expected date to begin mining Development;
- (v) expected date to begin Commercial Production;
- (vi) the Design Capacity of the operation, and the estimated annual amounts of Mineral Product(s) to be produced;
- (vii) detailed description of the likely mining methods to be used in the first ten (10) Calendar Years of mining;
- (viii) in the case of underground mining, description of the rock covering the deposit, fixed and temporary slopes of mine walls and surface ground;
- (ix) in the case of open cast mining, an indication of the location of the dam for waste disposal;
- (x) description of transport, ventilation, lighting, drainage, and safety and security problems;
- (xi) description of local systems for the supply of water, power, and materials and infrastructure requirements;
- (xii) description of the methods to be used to process raw Ore into Mineral Product and a description of any hazards that such methods may pose to employees and the public;
- (xiii) description of infrastructure required for the Mining Operation;
- (xiv) preliminary proposals for anti-pollution measures, environmental protection, and land restoration and rehabilitation measures, including vegetation, as well as proposals aimed at minimizing the effects of the



- mining on land and surface water located in the Contract Area, and in adjacent areas;
- (xv) identification of any safety and health risk to the people involved in mining or in exploration and prospecting and to the general public, and the proposals for the control and elimination of any of those risks;
- (xvi) description of explosives and hazardous chemicals and substances that will be used in mining and how they will be transported, handled, used and stored;
- (xvii) need for qualified and unqualified work force;
- (xviii) other information that the Mining Concessionaire finds relevant;
- (b) description of the Mineral Product(s) likely to be produced and sold and how the Mining Concessionaire intends to market or sell the Mineral Product;
- (c) description of any plans for Mineral Product to be sold to Affiliates and a detailed description of how the Mining Concessionaire intends to provide proof for each shipment sold to such Affiliates that the sales price and any commissions and fees associated with that shipment were done on an arms' length basis;
- (d) description of how the Mining Concessionaire plans to finance the development of the mine site;
- (e) description of any financing plans by means of loans from an Affiliate including a detailed description of how the Mining Concessionaire intends to ensure that the terms and conditions of each loan including repayment period, interest rate, and other fees are no more than would have been obtained had the funds been sourced from non-affiliated sources;
- (f) economic study of the projected mining income and costs including estimated yearly sales, revenues, capital and operating costs, depreciation and other deductions, profits, cash-flows, break-even year and internal rate of return;
- (g) description of any plans for goods and services to be purchased from Affiliates and a detailed description of how the Mining Concessionaire intends to ensure that the price and any commissions and fees associated with that purchase shall be done on an arms' length basis;
- (h) summary program of how the Mining Concessionaire intends to meet the employment and training requirements specified in Clause 18;
- (i) description of how the Mining Concessionaire intends to meet the goods and

## CLAUSE 8 - DEVELOPMENT PHASE

8.1 Submission and approval of a Mining Concession application. The Mining Concessionaire shall submit an application for a Mining Concession in the Contract Area and the processing and approval of such application shall be done in accordance with the Mining Law.

8.2 Minister to approve reasonable Design Capacity. The Mining Concessionaire shall specify in a Mining Production Plan submitted by it in support of any Mining Concession application the Design Capacity of the planned operation, which may be in phases, and the Minister shall approve the proposed Design Capacity if reasonable. If the Minister, considering the relevant circumstances, believes that the proposed Design Capacity is not reasonable because it is materially inadequate, she shall so notify the Mining Concessionaire, stating the reasons for her refusal, and the Mining Concessionaire may submit an amended proposal. If such amended proposal is denied approval, the Mining Concessionaire may submit the matter of determining whether the Design Capacity is reasonable to an Independent Expert as per Clause 29. Should the Independent Expert determine that the Design Capacity is reasonable the proposed Design Capacity shall be approved.

8.3 Development phase preconditions. The Mining Concessionaire shall not commence any Development on any area within the Contract Area until the Mining Concessionaire has:

- (a) obtained a Mining Concession for the area to be developed for mining;
- (b) initiated the process for obtaining the provisional or definitive title to use and enjoy land for the area to be developed for mining;
- (c) obtained an environmental license and approval of an Environmental Management Programme, as per Clause 24.4;
- (d) obtained from the Minister the approval of the Design Capacity of the Mining Operations subject to the Mining Concession for that area;
- (e) initiated negotiations for concluding a Community Development Agreement pursuant to Clause 19;
- (f) where required for initial Mining Operations, extinguished all land rights held by

Third Parties in the Contract Area upon payment or deposit of compensation due in favour of Third Parties and persons relocated; and

(g) provided a Notice of commencement of Development to MIREM that specifies the date when the Mining Concessionaire intends to commence Development which shall include a written report on the work plan, a copy of the Mining Concession, a copy of the provisional or definitive title to use and enjoy land, a copy of the environmental license, a copy of the Community Development Agreement, if available.

8.4 Development phase work obligation. The Mining Concessionaire shall commence Development within 24 (twenty-four) months from the date of issuing of the environmental license or the authorization to use and enjoy land (including in relation to any Off-Site Infrastructure to be constructed by or for the benefit of the Mining Concessionaire) whichever is the latter to be granted. The Mining Concessionaire shall expend a minimum investment of fifty million US Dollars (US\$50,000,000) on infrastructure and Development during the three-year period following the date of the last license or authorization to be issued. The obligations of the Mining Concessionaire under these clauses shall end on the termination of this Contract or on the expiry of the Mining Concession for any reason, including, but not limited to, an election by the Mining Concessionaire to terminate this Contract as provided for under Clause 28.

8.5 Mining Concessionaire to notify National Director of Mines that expenditure commitment has been met. At such time as the Mining Concessionaire has met its obligations under Clauses 7.3.1 and 8.4 in respect of expenditure commitment, it shall notify the National Director of Mines and attach a copy of the Cumulative Expenditure Report prepared pursuant to the provision of Clause 20.6.

8.6 National Director of Mines to notify Mining Concessionaire that expenditure obligation is satisfied. Within 45 (forty-five) Calendar Days from receipt of a Notice submitted by the Mining Concessionaire pursuant to the provision of Clause 8.5, the National Director of Mines shall Notify the Mining Concessionaire whether the Mining Concessionaire has met its Clause 7.3.1 and 8.4 expenditure commitment, and if the commitment is not deemed met, he shall indicate the reasons why it is not met. In the event the National Director of Mines fails to give

Notice within the required period, the expenditure commitment shall be deemed not to have been satisfied.

8.6.1 In the event the National Director of Mines Notifies the Mining Concessionaire that the Clause 7.3.1 and 8.4 expenditure commitment has not been met or the same has been tacitly considered not satisfied in accordance with Clause 8.6, the Mining Concessionaire may, as the case may be, amend the Cumulative Expenditure Report or submit the matter of determining whether the Clause 7.3.1 and 8.4 expenditure commitment has been satisfied to an Independent Expert pursuant to Clause 29.

8.6.2 Should the Independent Expert determine that the Clause 7.3.1 and 8.4 expenditure commitment has been met the expenditure commitment shall be deemed to have been approved pursuant to the terms of this Contract.

## **CLAUSE 9 - MINERAL OPERATION PHASE**

9.1 Mineral Operation phase obligations. The Mining Concessionaire shall comply with all obligations under its Mining Concession together with all obligations related thereto as specified in the Mining Law and in this Contract.

9.2 Commencement of Commercial Production. Provided that the Mining Concessionaire, any Mining Operator and Subcontractors having access to rail transport, and to suitable, fit-for-purpose and timely port facilities for the handling and loading of Mineral Product for export, on commercially viable terms, the Mining Concessionaire shall commence Commercial Production in the Mining Concession Area within the period of 36 (thirty-six) months from the date of issuance of the environmental license or the authorization to use and enjoy land (including in relation to any Off-Site Infrastructure to be constructed by or for the benefit of the Mining Concessionaire), whichever is the latter to be granted. Without prejudice to the provisions of Clause 28.3.1, if the Mining Concessionaire does not comply with this requirement, the Minister may revoke the respective Mining Concession pursuant to the Mining Law.

9.3 Notice of Commercial Production. The Mining Concessionaire shall notify the National

Director of Mines before the commencement of Commercial Production and before achieving the Mining Concession Commercial Production. Such Notice must be made at least 30 (thirty) Calendar Days before such commencement.

#### 9.4 Mineral Operation phase work obligations.

9.4.1 Notification of changes. The Mining Concessionaire shall notify the National Director of Mines of any material change in operating methods, alteration of the extent of work, and change to the Mining Production Plan.

9.4.2 Mining Concessionaire may submit amended Mining Production Plan. From time to time, the Mining Concessionaire may submit an amended Mining Production Plan and may also include a revised estimate of the Design Capacity. The Minister shall approve such revised Mining Production and Design Capacity if reasonable, taking into consideration the rail and port capacity available to the Mining Concessionaire. If approval of an application for a change to the Mining Production Plan and Design Capacity is not granted or denied within 45 (forty-five) Calendar Days from the date that the application for approval is submitted by the Mining Concessionaire to the Minister, the Mining Concessionaire agrees that the approval is deemed denied. If the Minister believes that the proposed Mining Production Plan and Design Capacity amendment is not reasonable because it is materially inadequate taking into consideration all relevant circumstances, the Minister shall so notify the Mining Concessionaire, within 30 (thirty) Calendar Days from the date of submission of the application, stating the reasons and detailing the reasonable and appropriate amendments to the Mining Production Plan, Design Capacity and/or budget. The Mining Concessionaire may submit a further amended Mining Production Plan and Design Capacity. If such amended Mining Production Plan and Design Capacity are denied approval, either expressly or tacitly, the Mining Concessionaire may submit the matter for determination by an Independent Expert as per Clause 29. Should the Independent Expert determine that the proposed amended Mining Production Plan and Design Capacity is reasonable, the proposed amended Mining Production Plan and Design Capacity shall be deemed approved.

9.4.3 Mining Concessionaire to maintain Commercial Production. Subject to Clause 9.2, the

Mining Concessionaire shall use best endeavours to maintain Commercial Production in each of its Mining Concession Areas in each Calendar Year, after the Calendar Year in which Notice of Commencement of Commercial Production for that area is submitted to the National Director of Mines pursuant to Clause 9.3.

9.4.4

Commercial Production satisfies minimum work obligations. The Government agrees that the Mining Concessionaire's fulfilment of the requirement specified in Clause 9.4.3 to maintain Commercial Production in a Mining Concession Area fulfils the Mining Concessionaire's annual production obligation for that Mining Concession.

9.4.5

Discontinuance of Operations. Subject to Clause 9.4.2, the Mining Concessionaire shall maintain Commercial Production from a Mining Concession Area in the Contract Area during any five (5) consecutive years occurring after the Mining Concessionaire has provided a Notice of Commercial Production in compliance with Clause 9.3 for that Mining Concession.

9.4.6

Expansion, modification of facilities, development of additional Ore deposits. The Mining Concessionaire shall, before undertaking an expansion of its Mining Operations, before making a major modification of its facilities, and before developing additional deposits within a Mining Concession Area, submit, for approval by the National Director of Mines, an amended estimate of the Design Capacity, Mineral Product to be produced annually and the means for producing it, pursuant to Clause 9.4.2.

## CLAUSE 10 - RECLAMATION AND CLOSURE PHASE

10.1

Closure and reclamation phase obligations. In respect of its Exploration and Prospecting License and Mining Concessions in the Contract Area, the Mining Concessionaire shall comply with all reclamation and closure obligations as specified in the Mining Law, the Mining Environmental Regulations, the Environmental Management Plan and the Environmental Management Programme approved under those regulations, and this Contract.

10.2

Reclamation of Exploration and Prospecting License area. The Mining Concessionaire

shall, on a continuous basis, reclaim any area disturbed by Mining Operations carried out under an Exploration and Prospecting License during and before the expiry of the term thereof to a condition reasonably similar to that existing prior to the issuance of the Exploration and Prospecting License.

10.3 Reclamation of Mining Concession area. The Mining Concessionaire shall, on a continuous basis, reclaim any area disturbed by Mining Operations carried out under a Mining Concession in accordance with the Environmental Management Programme approved pursuant to Clause 24.4 before the expiry of that Mining Concession.

10.4 Financial guarantees. The Mining Concessionaire is obligated to provide and maintain amounts of financial guarantees in the types and amounts as approved in the Environmental Management Programme pursuant to Clause 24.4.2.

#### 10.5 Mine closure.

10.5.1 Declaration of Closure. The Mining Concessionaire shall notify the National Director of Mines 6 (six) months before permanently closing a mine within the Contract Area, and such notice shall include the reasons for the decision to close the mine.

10.5.2 Duty to make safe. The Mining Concessionaire shall make safe the area disturbed by Mining Operations under its Mining Concession before the expiry of that Mining Concession so as to ensure the safety of the public and future Land Users and Occupiers. This obligation includes, but is not limited to, the following:

- (a) all shafts, including those for access and ventilation shall be sealed in a permanent manner;
- (b) all power distribution lines used solely by the Mining Concessionaire shall be removed;
- (c) all steep - sloped pits and artificial precipices shall be contoured to make their boundaries safe from inadvertent falls, and where necessary, fenced and with permanent signs posted warning of danger;
- (d) all dams whether for water, tailings or spoils shall be made safe to withstand collapse.

10.5.3 Mine Closure Plan. The Mining Concessionaire shall regularly develop and update in every

five-year period as part of the Environmental Management Programme, and in consultation with the beneficiary community and local authority, a mine closure programme that seeks to prepare the beneficiary community for the eventual closure of the Mining Operations. Such programme should complement the Community Development Agreement pursuant to Clause 19.2.1.

10.5.4 Disposition of movable, non-movable and non-removable items. Subject to the

Government purchasing movable, non-movable and non-removable items pursuant to Clause 22.2, the Mining Concessionaire shall upon mine closure remove all movable items. All non-movable items such as buildings, facilities, and fences (except for those necessary to preserve safety) shall be demolished and the site contoured unless ownership is transferred to a land user or occupier or community. Non-removable items, such as tailings dams and pits, shall be made safe pursuant to Clause 10.5.2. Without prejudice to these requirements and provisions of the Mining Law regulations pertaining to destination of property, any of the Mining Concessionaire's movable, non-movable and non-removable items remaining on land formerly the subject of the Mining Concessionaire's Mining Concession shall be deemed abandoned and become the property of the State free of charge.

CLAUSE 11 - ENABLING PROVISIONS

11.1 Mining Concessionaire's right to use land. Subject to Clause 11.2, for the purpose of carrying out Mining Operations and subject to Applicable Law and the other terms of this Contract, the Mining Concessionaire shall have the following described rights in addition to any rights granted under a Mining Title in the Contract Area: -

(a) the right to enter upon and occupy the Exploration and Prospecting License and Mining Concession areas granted to the Mining Concessionaire within the Contract Area;

(b) the right to enter and occupy the Exploration and Prospecting License and Mining

Concession areas granted to the Mining Concessionaire within the Contract Area on an exclusive basis, after any Third Party rights of occupation or use have been

- extinguished or compensated in accordance with the Applicable Law;
- (c) subject to the rights of any Third Party and any land use requirements and restrictions, the right to use, lay on, build over or under land or water, such roads, railways, pipes, pipelines, sewers, drains, wires, lines and similar facilities as may be necessary and appropriate;
- (d) the right to use public domain and State-owned infrastructure and other assets in accordance with the terms of Clause 23;
- (e) the right to construct airport, rail, port and other infrastructure, installations and facilities reasonably required to support the Mining Operations;
- (f) the exclusive right to remove, treat and dispose of overburden, soil and sub-soil, timber and other material including Ore and other obstructions, to make boreholes, test pits, galleries and other excavations, to take, remove, and if required, to export samples including bulk samples for testing and analysis in a laboratory or as part of a pilot plant or for market study and survey;
- (g) the right to enter upon, utilize and occupy areas outside the Contract Area, as may be necessary and appropriate, subject to any land use licensing requirements and restrictions for the purposes of, including but not limited to, the following: (i) the construction and maintenance of any roads, rail, port and other infrastructure required for the Contract Operations; (ii) the right to, at its own expenses, take and use from the Mining Concession Area (in the case of use for construction purposes) such timber, soil, stone, gravel, and other products and materials as specified in the Mining Plan and as necessary for or to be used in Mining Operations, but not for commercial sale or trade unless as part of a broader Community Development program; (iii) the right to extract and use water in accordance with the Applicable Law, (iv) the right to use parts of the Contract Area for agricultural and livestock purposes for the use and consumption of the personnel of the Mining Operations;
- (h) the right to remove and otherwise dispose of any buildings, installations, equipment, machinery or other materials found within the Mining Concession Area, provided that prior to disposing of any building, the Mining Concessionaire shall give 10 (ten) days' prior written notice to MIREM requesting MIREM to reply if interested in the acquisition of those assets and in case MIREM does not reply, the Mining Concessionaire shall have the right to do so.

11.2

Reserved areas and protection of certain sites. In compliance with the Mining Law, the Mining Concessionaire shall not, in the course of exploration and prospecting and mining exploration, carry out any operations in any reserved or excluded areas. The Government agrees that after the Effective Date it shall not designate any area within the Contract Area as reserved or excluded from exploration and prospecting or mining unless such reservation or excluded area is a site of significant archaeological or historical importance. The Mining Concessionaire shall not conduct Exploration and Prospecting Operations in partial or total protection zones without the required written approval of the Minister and the competent provincial authority. The Mining Concessionaire shall conduct its Mining Operations in such a way, wherever practical, to minimize damage to sites within the Contract Area, and to infrastructure and premises of historical, cultural, religious or other public interest.

11.3

No new reserved minerals. The Government agrees that any mineral newly designated as reserved or excluded after the Effective Date of and pursuant to the Mining Law, shall not be considered as reserved or excluded for the purposes of this Contract.

11.4

Mining Concessionaire to respect Third Party rights during Exploration and Prospecting. In the exercise of rights granted to the Mining Concessionaire in its Exploration and Prospecting License, the Mining Concessionaire shall take into account other rights recognized or granted by the State to Third Parties such as grazing, fishing, water, timber cutting, agricultural rights and rights-of-way, by conducting its Exploration and Prospecting Operations so as to minimize interference, to the extent possible, with the exercise of such other rights by Third Parties.

11.5

Mining Concessionaire to allow certain uses by Third Parties during Mining. As provided for and according to the Mining Law, the Mining Concessionaire shall allow certain Third Party uses of Contract Area subject to Mining Concession including allowing:

(a) scientific surveys by educational institutions and government agencies;

- (b) necessary access through or over the Contract Area to any adjoining areas as shall not interfere with Mining Operations;

- (c) the construction and use of waterways, canals, pipelines, gas-pipes, sewers, drains, cables, transmission lines and roads, as long as they do not interfere with Mining Operations.

11.6 Infrastructure must comply with Stipulations. Subject to Applicable Law and the other terms and conditions of this Contract, in the planning, construction, establishment, use and maintenance of all facilities and infrastructures required for Mining Operations the Mining Concessionaire shall:

- (a) consult and coordinate its actions with any regional or national studies and plans undertaken by or for the State or approved by the State;
- (b) comply with any treaty or the Applicable Law standards; and
- (c) observe any mandatory directives from the regional and national State authorities responsible for physical planning and administration.

11.7 Mining Concessionaire responsible to compensate for damages. The Mining Concessionaire shall be responsible for any direct damage by the Mining Concessionaire or its Subcontractors to any property including crops, the restriction or denial of access to the Contract Area by any Person entitled to use and enjoy land or in respect of rights of way. Upon establishing responsibility, the Mining Concessionaire shall pay compensation to injured parties as provided for in Applicable Law.

11.8 Mining Concessionaire to compensate or assist to resettle Users or Occupiers of Land. If the Environmental Impact Assessment recommends that the continued presence of Users or Occupiers of Land within a Mining Concession Area is incompatible with Mining Operations, the Mining Concessionaire shall compensate and assist in the resettlement of such Users or Occupiers of Land, in the terms of the Applicable Law. The Mining Concessionaire shall pay compensation for such displacement and for any loss of the right to use and enjoy land, dwelling, crops, economic trees, other improvements, loss of land use profits on any such area occupied or damaged by the Mining Concessionaire in connection

with activities under this Contract. The aforesaid compensation shall be equivalent to an amount of money needed to place such Users or Occupiers of Land in substantially the same condition as enjoyed prior to the displacement and shall also include the fair market value of any crops destroyed as well as moving costs resulting from the displacement. The Mining Concessionaire shall further be liable for the arrangement, including the costs, of alternative rights of way, access rights or any resettlement of local inhabitants whose restriction of access to or resettlement from any land area required for the Mining Operations is necessary. Arrangements shall be made and compensation paid prior to any such closure of the area or displacement taking place. If the Mining Concessionaire and the Users and Occupiers of the Land cannot agree on the amount of compensation, they may request MIREM to mediate and MIREM shall use its best endeavours to assist in such efforts. If such Users or Occupiers of Land refuse to be displaced or resettled or to agree on the amount of compensation then they or the Mining Concessionaire may refer the case to the competent tribunal.

11.9 Aerial photography. The Mining Concessionaire shall obtain the written permission of the Minister and other appropriate Government offices as indicated by the Minister before taking aerial photographs.

11.10 MIREM to assist Mining Concessionaire. MIREM shall use its best endeavours to assist, expedite and procure any consent or other act by other Government entities necessary or desirable for the Mining Concessionaire's execution of Mining Operations.

11.11 MIREM to assist in acquiring certain information. MIREM shall, if so requested by the Mining Concessionaire, use its best endeavours to assist the Mining Concessionaire to obtain all geological, borehole, Mining Operation and other information relating to the Contract Area, including borehole location maps, held by MIREM or held by any other Government entity, subject to payment by the Mining Concessionaire of the normal fees charged by the relevant entity. Nothing in this provision shall apply to Mineral Data or information that is treated by the State as confidential.

11.12 Mining Concessionaire may export samples. The Mining Concessionaire may remove, transport, analyse and export minerals for testing, processing, laboratory examination,

analysis or marketing research and dispose of such samples provided that such exportation and disposal is done in compliance with procedures specified in the Mining Law.

11.13 Mining Concessionaire to pay customary charges. The Mining Concessionaire shall pay the applicable fees and charges for any services performed for, facilities provided and special rights granted to the Mining Concessionaire by the Government at the request of the Mining Concessionaire in connection with the Mining Operations.

11.14 Cooperation when rights conflict. The Mining Concessionaire may exercise all the rights provided under this clause during the term of this Contract and MIREM shall co-operate with the Mining Concessionaire in a joint endeavour to alleviate any interference or difficulties which may arise from any Third Party operating under conflicting rights.

11.15 Construction Contractors and works licensing: non-resident construction and engineering contractors and subcontractors. Any foreign owned company or any subsidiary of a foreign owned company contracted by the Mining Concessionaire for the purposes of the Mining Operations shall benefit from a special licensing regime under which they shall be issued a temporary license (*always*) by the competent authority, valid for the period of the contract or subcontract, upon submission of a letter by the Mining Concessionaire stating the appointment, providing the identification details of the contract or subcontract, including the name, address and other contract details of the local representative, the duration of the contract and the Mining Operations to be carried out. MIREM shall use best efforts to assist with and accelerate the obtaining, by the Mining Concessionaire, of the authorisations necessary for the purposes set out in this clause.

## **CLAUSE 12 - RIGHTS AND OBLIGATIONS OF THE PARTIES**

12.1 Obligations of the Mining Concessionaire. The Mining Concessionaire shall have all the obligations imposed under this Contract, the Applicable Law, and under its Exploration and Prospecting License and Mining Concessions.

12.2 Rights of the Mining Concessionaire. Subject to any restrictions imposed by this Contract and the Applicable Law, the Mining Concessionaire shall have all the rights

accorded to it under this Contract, the Applicable Law, the Exploration and Prospecting Licenses and the Mining Concessions within the Contract Area, including but not limited to the following rights:

- (a) the exclusive right to carry out all kinds of Exploration and Prospecting Operations within the Exploration and Prospecting License area;
- (b) the exclusive right to carry out all kinds of Exploration and Prospecting Operations, Development, Mining Operations and Processing Operations within the Mining Concession Area;
- (c) to construct all industrial, administrative, residential, medical and other buildings, facilities and installations or infrastructure necessary for Mining Operations;
- (d) to dispose freely of its property and organize its enterprise as it wishes;
- (e) to hire and fire workers, and obtain the required work permits, visas and residence documents in favour of its foreign workers;
- (f) to utilize the water, timber and other necessary raw materials within the Exploration and Prospecting License area for the purposes of Exploration and Prospecting Operations, but not for commercial sale or trade, unless part of a broader community development program;
- (g) to utilize a portion of Mining Concession Area for agricultural or cattle-raising or animal farming, to produce food and consumer goods or materials for consumption by those involved with Mining Operations;
- (h) to import necessary goods, services and funds;
- (i) to do bulk sampling and trial processing of Mineral Resources from within the Contract Area not exceeding such limit as is reasonably required for determining mining potential;
- (j) to dispose freely of all Mineral Product extracted in the course of its Exploration and Prospecting Operations, provided the Mining Concessionaire does not proceed with Mining Operations, and provided that it so declares to the National Director of Mines and pays royalty, fees and other applicable taxes;
- (k) to sell, export and dispose of Mineral Product from its Mining Concessions within the Contract Area in domestic and foreign markets;
- (l) to dispose of Mineral Product from its Exploration and Prospecting License within the Contract Area in domestic markets;

13.1.1 Dispute resolution in event of dispute. In the event that a dispute between the Parties

Operations to be in accordance with accepted practices. During the term of this Contract the Mining Concessionaire shall carry out the Mining Operations in a safe, good workmanlike manner and fulfill all other obligations hereunder in accordance with Applicable Law and best international exploration, and prospecting, Mining Operations and environmental practice and shall have full responsibility to ensure compliance therewith and assume all risks thereof.

### CLAUSE 13 - METHOD OF OPERATION

12.4 Rights of the Government. Subject to any restrictions imposed by this Contract and the Applicable Law, the Government shall have all the rights accorded to it under this Contract and the Applicable Law.

12.3 Obligations of the Government. The Government, with respect to its dealings with the Mining Concessionaire, shall have all the obligations imposed on it under this Contract, the Applicable Law and the Exploration and Prospecting Licenses and Mining Concessions within the Contract Area.

- (m) during the term of the Mining Concession, and the six (6) subsequent months, without any particular formality, transport or have its operating products including Mineral Product transported to storage, treatment and loading sites;
- (n) if the State concludes contracts with other states designed to facilitate transportation of products through such other states' territory, all advantages arising out of such agreements;
- (o) to establish processing plants within Mozambique for conditioning, treatment, refining and transformation, including working of metals and alloys, compounds or raw derivatives of such mining substances; and
- (p) to acquire, use and operate, in compliance with Applicable Law, radio and other communication facilities, helicopters, or any other type of non-military aircraft, and other transportation facilities, together with auxiliary equipment and facilities, necessary for Mining Operations.

arises under Clause 13.1 regarding what constitutes good workmanlike manner or best and standards, then either Party may refer the matter in dispute for determination, in accordance with Clause 29, by an Independent Expert.

13.2 Indemnification and no liability for prior operations. The Mining Concessionaire shall indemnify the State against any action or claim against the State, resulting from any act or omission on the part of the Mining Concessionaire in the implementation of this Contract.

The Mining Concessionaire shall have no direct or derivative liability whatsoever as a consequence of the Exploration and Prospecting Operations, Development, Mining Operations or Processing Operations or other operations relating to any part of the Contract Area carried out by any Third Party prior to the Effective Date of this Contract.

13.3 Mining Operators, Subcontractors, payments to Affiliates, price and cost transfers, local goods and services.

13.3.1 Mining Operators and Subcontractors. The Mining Concessionaire may appoint Mining Operators or other Subcontractors including the Mining Concessionaire's Affiliates for the carrying out of its rights and obligations hereunder, provided that

- (a) the Mining Concessionaire shall at all times remain wholly liable for its obligations hereunder;
- (b) the Mining Operators or Subcontractors shall be selected prudently and in accordance with industry standards; and
- (c) the Mining Operators or Subcontractors shall have no rights or obligations in respect of this Contract which are independent or separate from that of the Mining Concessionaire.

13.3.2 Payments to Affiliates. Any payments to any Affiliate for the carrying out or performance of any service or for the purchase of any goods connected with or in relation to Mining Operations whether pursuant to a formal contract or other arrangement, such as assistance

with personnel, shall be documented in detail and shall be reasonable and competitive with fees and prices charged by Third Parties for comparable services and goods and no higher than the most favourable fees and prices charged by such Affiliate to Third Parties for comparable services and goods. If any payment made by the Mining Concessionaire to an Affiliate for the carrying out or performance of any service or for the purchase of any goods is not reasonable and competitive with fees and prices charged by Third Parties for comparable services or goods, MIREM, in consultation with the relevant Government tax authority shall adjust such amount to reflect the payment that would have been made based on market prices for a similar transaction carried out at the time at arms' length for the purpose of calculating any tax or distribution payable to the Government.

13.3.3 Purchases to be accurately reported. When the Mining Concessionaire employs a purchasing agent, all prices for goods must be discriminated and show the actual price of the goods, any commission or discount and any fee for the services of the agent.

13.3.4 Price or cost transfers. The Mining Concessionaire commits itself not to engage in transactions involving price or cost transfers in the sale of Mineral Product and in the purchase of input goods and services resulting either in the illegitimate loss or reduction of Government tax revenues.

13.3.5 Preference for Mozambique goods and services. In accordance with the Mining Law, the Mining Concessionaire and all working for them shall give preference to Mozambique Persons for all construction, supply or service contracts (including shipping and transportation), provided that such Mozambique Persons offer prices, quantities, qualities and delivery schedules that are at least comparable. The Mining Concessionaire shall give preference to the purchase of goods and materials available in Mozambique which are of internationally comparable quality, are available at the required time and in sufficient quantities, and are offered at competitive prices on delivery. The Mining Concessionaire agrees that it shall initialize and maintain a system whereby all intended purchases of goods and services associated with Mining Operations after the grant of its first Mining Concession will be publicly made known either through publication in Mozambican newspapers or on an appropriate website

13.3.6 Disputes related to payments to Affiliates, payment reporting, and preferential purchasing.

If a dispute between the Parties arises under Clauses 13.3.2, 13.3.3, 13.3.4 or 13.3.5, either Party may refer the matter in dispute for determination, in accordance with Clause 29, by an Independent Expert.

13.4

Resident manager and representative. For so long as this Contract subsists, the Mining Concessionaire shall entrust the management of the Mining Operations to a resident manager in Mozambique and, in his absence, a substitute, resident in Mozambique, whose name shall be notified to MIREM within 30 (thirty) Calendar Days of the Effective Date. This Resident Manager, or in his absence, his substitute, shall constitute the official representative of the Mining Concessionaire in Mozambique and shall be authorized on behalf of the Mining Concessionaire to take all steps as may be necessary to carry out the Mining Operations in accordance with the Mining Law and terms of this Contract. The Mining Concessionaire shall Notify the National Director of Mines within 14 (fourteen) Calendar Days of any change in the person who is designated as the Resident Manager.

13.5

Maintenance and Inspection

13.5.1 Equipment to be in safe condition. The Mining Concessionaire shall keep and maintain all machinery, equipment and other assets acquired for the Mining Operations in good and safe working condition.

13.5.2

Method for determining amount of Mineral Product. The method of measurement or weighing of Mineral Product extracted for commercial sale or for any other form of commercial transfer shall be subject to the approval of MIREM, and MIREM shall have the right, from time to time, to test or examine any measurement or weighing device in such manner, upon such intervals and by such means as it deems fit. The Mining Concessionaire shall not make any alteration in the method or methods of measurement and/or weighing used by it or in any appliances, equipment or other machinery used for that purpose without the consent in writing of MIREM, who shall in any case require that no alteration be made save in the presence of an authorized representative of the NDM.

13.5.3

Effect of defective measuring device or method. In the event that any defect or disorder in

the measuring devise or method is detected, such defect or disorder shall be immediately repaired. Unless the Mining Concessionaire demonstrates to the reasonable satisfaction of the National Director of Mines, such defect or disorder shall be presumed to have existed for the preceding three months or since the last testing and examination of the equipment, whichever is the lesser period and all consequent adjustments shall be made to any payments to the State in respect of the Mining Operations affected thereby.

13.5.4 MIREM may observe and inspect. Without prejudice to any obligation or right to observe or inspect an operation subject to an Exploration and Prospecting License or Mining Concessions, MIREM through its duly appointed representatives shall be entitled to observe the conduct of the Mining Operations in the Contract Area by the Mining Concessionaire and to inspect, examine and audit all assets, accounts, records, machinery, equipment, Mineral Data and information kept by the Mining Concessionaire in respect of such Mining Operations.

13.5.5 MIREM to bear observation and inspection costs. In the exercise of its rights of inspection, examination and audit as provided above and elsewhere under this Contract, MIREM shall do so at its own cost, except that the Mining Concessionaire shall provide copies of any document to which MIREM is otherwise entitled or which is required for the purpose of conducting any audit including the verification of the purchase price of any input or service or sale price of any asset or Mineral Product, free of cost. The Mining Concessionaire shall further provide MIREM or its duly authorized representatives free of cost all other reasonable assistance and facilities usually available to the Mining Concessionaire and its employees and representatives in the conduct of the Mining Operations in order to ensure the effective exercise of these aforesaid rights of inspection, examination and audit.

13.5.6 State powers not diminished by Contract. Nothing in this Contract shall be construed as limiting in any way the right of the State pursuant to any Applicable Law or legal power to audit, examine or inspect the assets, accounts, records, Mineral Data, and information kept by the Mining Concessionaire in respect of the Mining Operations.

## CLAUSE 14 - FINANCING

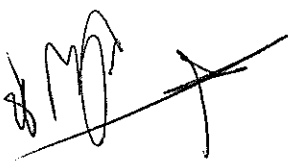
14.1 Good financial practices. The source and method of financing Mining Operations shall be in accordance with good financial practice prevalent in the international mining industry.

14.2 Mining Concessionaire to determine means of finance. The Mining Concessionaire may determine the extent to which the financing of Mining Operations shall be accomplished through issuance of shares of the Mining Concessionaire, through borrowings by the Mining Concessionaire or by an Affiliate, or any other means. However, no financing of Mining Operations shall result in debt financing, whether provided by non-affiliated or affiliated party, exceeding 80% (eighty percent) of the total Mining Operations financing.

14.3 Financing to be made on reasonable basis. Any long-term borrowing or other financing by the Mining Concessionaire or by an Affiliate for the Mining Operations shall be on such repayment terms and at such effective rates of interest (including discounts, compensating balances and other costs of obtaining such borrowings) which are reasonable and appropriate for mining companies in circumstances then prevailing in the international finance markets.

14.4 Mining Concessionaire to comply with laws on foreign loans. The Mining Concessionaire shall comply with the law on foreign loans. The Mining Concessionaire shall comply with all procedures specified by the Applicable Law in respect of foreign loan contracting and reporting.

14.5 Consideration of Amendments to Facilitate Financing. It is recognized that a portion of the financing for the Mining Operations, may be funded by debt or equity financing, and that the Mining Concessionaire may be subject to reporting and other requirements of stock exchanges and for regular principal repayments and interest payments on its loans. Furthermore, it is recognized that the success of the Mining Concessionaire in availing of financing for its operations and its associated facilities depends largely on the assurance that can be offered by the Mining Concessionaire to its financiers that they will have a certain reasonable degree of control over the cash flow of the project being financed. Therefore, MIREM shall, to the extent consistent with Applicable Law and national interests, favourably consider any request from the Mining Concessionaire for amendment, interpretation or



application of this Contract which are necessary in order for the Mining Concessionaire to successfully obtain the financing for the Mining Operations under this Contract.

14.6 Financing by Affiliate to be reported and approved. In the event that any loan or other financing requiring repayment is to be provided to the Mining Concessionaire by an Affiliate for Mining Operations in the Contract Area, copies of all related loan and other finance agreements and arrangements are to be provided to the Bank of Mozambique for approval under the terms of the Applicable Law. The Bank of Mozambique shall not unreasonably withhold approval of repayment terms, effective rates of interest, payment schedule, fees and other matters including discounts, compensating balances and other costs of obtaining such borrowings, provided that they conform to internationally accepted and practiced standards for investments of a comparable degree of risk. The Bank of Mozambique shall not approve any note, bond or loan which carries a dividend or interest rate in excess of LIBOR plus 5% (fivepercent).

14.7 Disputes related to financing. If a dispute between the Parties arises under Clause 14.3, Clause 14.4, or 14.6 either Party may refer the matter in dispute for determination, in accordance with Clause 29, by an Independent Expert.

## CLAUSE 15 - FISCAL MATTERS

15.1 General principles. The Mining Concessionaire, the Mining Operator and its Subcontractors, except to extent they are exempted therefrom, shall, during the period of conducting of Mining Operations, be subject to Mozambican Applicable Law in respect of the fiscal regime.

15.1.1 The extensions of the mining concession are subject to the tax regime applicable at the date of the authorization of the extensions.

15.1.2 During the term of this Contract, the Mining Concessionaire and the Mining Operator shall be entitled to fiscal incentives and exemption from custom duties under the terms of Law no. 13/2007 of 27 June.

15.2 Deductions of tax losses. Tax losses obtained in a particular tax year, if any, shall be deducted in one or more of the subsequent five tax years, when there are any.

15.3 Production Tax - The Mining Concessionaire shall pay the production tax levied on the value of the amount of Mineral Product extracted from the land as a result of mining activity carried out in the national territory, whether or not under the aegis of a mining title, at the rate of 3%, regardless of the sale, export or other manner of disposal of the Mineral Product.

15.3.1 Tax base correction. The tax administration of the taxpayer's domicile may make corrections by altering the declared taxable amount if:

a) there are anomalies and errors in the documents of sale or lack thereof so as not to allow the verification and direct and accurate quantification of the elements essential to determining the value of Mineral Product;

b) the sale or other form of disposal has been made at an amount below the nominal market value or has been made without taking into account the commercial criteria.

15.4 The Mining Concessionaire shall benefit from the temporary import regime by means of guarantee of customs charges on import of equipment, machinery, specific material, probes, accessories, provided that the same show brands and references through which the necessary cross-checking at the time of re-export can be made.

15.4.1 Loan principal received and repaid by the Mining Concessionaire shall not be considered taxable as income and capital contribution by the shareholders of the Mining Concessionaire shall not be considered to be taxable as income to the Mining Concessionaire.

15.4.2 a) Income of financial nature such as interest, dividends and other participation in profits, discounts, premiums, transfers, exchange rates differences realised, premiums of issuance of bonds shall be considered income.

b) Expenses of financial nature such as interest of third party capital invested in exploration, discounts, premiums, transfers, exchange rates differences realised, and costs from credit operations, debt collection and issuance of shares, bonds and other titles and reimbursement premiums shall be considered as costs.

## **CLAUSE 16 - EQUITY PARTICIPATION OFFER TO THE STATE AND TO NATIONALS**

16.1.a) The Mining Concessionaire shall offer, on commercial market terms and for a price equal to the fair market value of the interest at the time it is acquired, a participation of 10% of the share capital to Empresa Moçambicana de Exploração Mineira – EMM – SA on terms no more favourable than the existing quotas holders. The precise terms for the acquisition of such participating interest shall be set out in a subscription agreement mutually agreed on by the Parties. If the Parties are unable to agree on what constitutes fair market value, either Party may refer the matter in dispute to arbitration in accordance with Clause 29.

16.1.b) From this participation, 5% is reserved for alienation via Stock Exchange in favour of economic inclusion in commercial market terms preferably to Mozambican individuals, under the terms of Law n° 15/2011, of 10 August, Article 33, paragraph 1(a).

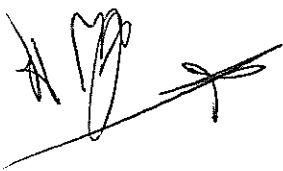
16.2 The Parties agree that the allocations to Empresa Moçambicana de Exploração Mineira – EMM – SA as set forth in Clause 16.1 shall be held to meet in full the requirements of Law n° 15/2011, of 10 August, Article 33, paragraph 1, clauses a) and b), and its regulations.

## **CLAUSE 17 - FOREIGN EXCHANGE REGIME**

17.1 Foreign exchange regime. The Mining Concessionaire shall comply with the procedures and formalities relating to foreign exchange transactions which are or may come to be in force in the Republic of Mozambique.

17.2 Accounts. The Mining Concessionaire shall have the right but not the obligation:

(a) To open, keep and operate one or more accounts denominated in Mozambican



currency with any bank in the Republic of Mozambique and to dispose freely of the sums deposited therein without restriction. Such accounts may be credited with:

- i) the proceeds of the conversion into Mozambican currency pursuant to clause 17.2 (c), of funds in foreign currency deposited in the external accounts referred to in clause 17.2 (b); and

- ii) the amounts received in Mozambican currency in respect of funds related to Mining Operations including sale of Ore or of any rental, refund or other credit received by the Mining Concessionaire which apply to any charges made to the accounts under the terms of this Contract.

- (b) To open, keep and operate one or more foreign currency accounts with any bank in the Republic of Mozambique authorized for the purpose by the Bank of Mozambique in order to freely import and deposit into such account funds required for the conduct of Mining Operations; and

- (c) To convert to Mozambican currency the foreign convertible currencies accepted by banks in the Republic of Mozambique at rates of exchange quoted by commercial banks operating in the Republic of Mozambique.

17.2.1 Upon request addressed to the Bank of Mozambique and in accordance with the procedures in force, the Mining Concessionaire shall have the right to a special authorization to open and operate bank accounts with banks abroad that correspond to licensed banks in Mozambique, for purposes of depositing the proceeds of sale, other funds from any other lawful source and payments made abroad under this Contract.

- 17.2.1 (a) Upon approval of the account(s), the Mining Concessionaire shall have the obligation to report to the Bank of Mozambique the account number(s) of account (s) and the indication of its domicile bank within 45 days.

17.2.2 The portion of proceeds to be maintained abroad shall be in a proportion that allows the payment of the costs inherent to the Contract, and the remainder shall be repatriated to a

bank in Mozambique or kept in its correspondent abroad within 180 days after the exports of goods.

17.2.3—(a) The Mining Concessionaire undertakes to report periodically on the banking transactions involving the accounts referred to in clause 17.2.1. The Mining Concessionaire shall inform its banker to provide the Bank of Mozambique with quarterly copies of extracts of such accounts. The Bank of Mozambique shall have the right to order audits on such accounts. The costs of any such audits shall be regarded as recoverable costs borne by the Mining Concessionaire. The Mining Concessionaire waives its rights to banking secrecy for the benefit of the Bank of Mozambique in relation to the accounts mentioned above so as to facilitate such audits.

(b) Without prejudice to the flat tax due, the Mining Concessionaire shall have the right to freely declare and pay dividends to its shareholders and to transfer them abroad in the terms of the foreign exchange regulations in force.

(c) The payment of taxes to the State shall be made in national currency. For the purposes of payment of taxes, the Mining Concessionaire shall obtain national currency in exchange for foreign currency sold to the Bank of Mozambique.

17.3 The Mining Concessionaire shall have the right to sell the Mineral Product to Affiliates or Third Parties located outside Mozambique in foreign currency payable offshore and within Mozambique.

17.4 Subject to approval by the Bank of Mozambique and in the terms of the legislation in force, the Mining Concessionaire shall have the right to contract external loans, pay interest, capital and other expenses.

17.5 Expatriate employees, foreign contractors and subcontractors of the Mining Concessionaire, the Mining Operator or of the Subcontractors have the right to receive in any currency other than the Mozambican currency all or any part of their remunerations outside Mozambique as well as to remit to an account abroad their respective salaries and contract payments received in convertible foreign exchange in Mozambique from the Mining

Concessionaire in respect of services provided for the Mining Operations.

17.6 The registration of foreign direct investment will be made as follows:

- a) by means of a copy of the bank bordereaux issued by the bank of the Mining Concessionaire proving receipt of foreign currency in favour of the undertaking, when the investment is made through the entry of foreign currency;

- b) by means of presentation of Unique [Importation] Documents (*Documentos Únicos*), when the investment is made through the import of equipment, machinery and other goods foreseen under the terms of this Contract;

- c) by means of expenses incurred in reconnaissance, exploration and prospecting, development, duly accounted for and confirmed by an audit firm authorized to operate in Mozambique by the Ministry of Finance.

17.7 Any omissions shall be regulated by the rules contained in the foreign exchange legislation in force.

17.8 For the purposes of the provision of Law n.º 11/2009, of 11 March 2010, Article 28, sub-clause f), the Parties agree that the Mining Concessionaire, the Mining Operators and the Subcontractors shall be considered special cases, and that the decree which approves this Contract shall be considered special legislation.

## CLAUSE 18 - EMPLOYMENT OF PERSONNEL

18.1 Conformity with labour standards. The Mining Concessionaire shall conform to Applicable Law regarding labour hiring standards and safety.

18.2 Preference for local hiring. In the hiring of personnel for employment in the Mining Operations and subject to Clauses 18.3 and 18.4, the Mining Concessionaire shall give preference to Mozambican citizens, undertake training and recruitment programs at its expense, to identify suitably qualified Mozambicans in the beneficiary and neighbouring

communities with the aptitude to acquire the necessary skills and expertise.

18.3 Preference for Mozambican professionals. Subject to Clause 18.4, the Mining Concessionaire shall give preference to Mozambican citizens from anywhere, in the hiring of positions requiring a university education.

18.4 Right to hire expatriate experts. Considering the specialization and qualification level required by the Project and under the applicable Law, the Mining Concessionaire and its Subcontractors may globally hire expatriate workers, on average, no more than:

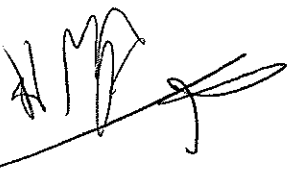
(a) 30% (thirty per cent) of the total number of employees during the Development phase of the Project,

(b) 20% (twenty per cent) of the total number of employees after 5 (five) years of the Development Phase, which percentage shall be considered on an annual basis,

(c) 10% (ten per cent) of the total number of employees after the Development Phase, which percentage shall be considered on an annual basis,

18.5 In circumstances in which the Mining Concessionaire, its Mining Operators and its Subcontractors have made best efforts to recruit and train Mozambican citizens, and the Mining Concessionaire still runs the risk of defaulting on its obligation under Clause 9.2, as long as the Mining Concessionaire obtains the opinion of the competent entity on the relevance or not, of hiring foreign workers in percentages higher than those indicated above, as foreseen in clause e) of paragraph 1 of Article 10 of the Regulation for employment of foreign workers for the petroleum and mining sectors approved by Decree n° 63/2011 of 07 December the percentage limits mentioned above shall be reviewed.

18.5.1 The expatriate employees of the Mining Concessionaire shall be required to obtain the appropriate residence visa, which shall be issued by the Migration Services within 5 (five) Calendar Days from submission of the [corresponding] application.



18.6 At the Mining Concessionaire's, the Mining Operator's or a Subcontractor's request, MIREM shall use its best endeavours to ensure that the Mining Concessionaire obtains promptly from the Government all necessary employment permits for the expatriate employees (including, without limitation, entry and exit permits, work permits, visas and any other permits) in terms of Applicable Law.

18.7 Mining Concessionaire to submit Exploration and Prospecting License and Mining Concession training and employment programs for Mozambicans. Subject to Clause 18.8, the Mining Concessionaire shall annually submit to MIREM, the program for employment and training of Mozambicans to be followed during the following Calendar Year in relation to its Exploration and Prospecting License and Mining Concession within the Contract Area, within 30 (thirty) and 60 (sixty) Calendar Days, respectively, prior to the end of each Calendar Year. Such program shall include the anticipated number of employees, their category of employment (unskilled, skilled, clerical, technical and management) and their origin (from the beneficiary or neighbouring communities, from elsewhere in Mozambique or abroad). The program shall also describe planned training activities and any planned use of Subcontractors. The level of employment and training shall be commensurate with the nature and extent of Exploration and Prospecting Operations and Mining Operation, respectively.

18.8 National Director of Mines to approve training and employment program for Mozambicans. MIREM, in consultation with the Ministry responsible for labour matters, shall, if the programs submitted pursuant to the preceding clauses describe a reasonable program to meet the objectives of Clauses 18.2, 18.3, and 18.4, approve such programs. If the program is not approved, the National Director of Mines shall within 45 (forty-five) Calendar Days from the date the program was submitted Notify the Mining Concessionaire, and such Notice shall contain the specific reasons for denial and the means or directions enabling the Mining Concessionaire to address such reasons. The Mining Concessionaire may submit any number of revised programs.

18.9 Only one training and employment program is required. If the Mining Concessionaire has more than one Mining Title in the Contract Area, it may annually submit a single training and employment program to meet the requirements of Clauses 18.7 and 18.8.

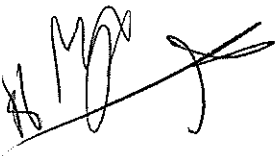
## CLAUSE 19 - COMMUNITY DEVELOPMENT

19.1 General obligation to promote development. The Mining Concessionaire shall assist in the development of its beneficiary community to promote the general welfare and enhance the quality of life of the inhabitants living in the beneficiary and neighbouring communities.

19.2 Community Development Agreement. The Mining Concessionaire shall enter into a memorandum of understanding, entitled a Community Development Agreement, with the Government. The amount to be invested in social projects, in terms of the Community Development Agreement shall correspond to the equivalent of US\$38,000,000 (thirty-eight million United States Dollars) by the end of the Mining Concession, and of this total, US\$5,000,000 (five million United States Dollars) shall be spent during the first 5 (five) years after the signature of the Community Development Agreement.

19.2.1 Community Development Agreement must have certain provisions. The Mining Concessionaire shall negotiate with the beneficiary community the terms of the Community Development Agreement, and such agreement shall include at least the following provisions:

- (a) the person, persons or entity who represent the beneficiary community for the purposes of the Community Development Agreement;
- (b) the obligations of the Mining Concessionaire with regard to the beneficiary community including but not necessarily limited to:
  - (i) undertakings with respect to the social and economic contributions that the project will make to the sustainability of the community;
  - (ii) assistance in creating self-sustaining, income-generating activities, such as production of goods and services needed by the mine and the community;
  - (iii) consult with the community in the development of a Mine Closure Program that seeks to prepare the community for the eventual closure of the Mining Concessionaire's Mining Operations;
- (c) the obligations of the beneficiary community with regard to the Mining Concessionaire;
- (d) the means by which the Community Development Agreement shall be reviewed by the Mining Concessionaire and beneficiary community every 5 (five) calendar years, and the



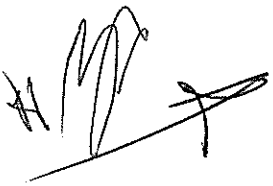
commitment to be bound by the current agreement in the event that any modifications to the agreement sought by one party cannot be mutually agreed with the other party;

- (e) the consultative and monitoring frameworks between the Mining Concessionaire and the beneficiary community, and the means by which the community may participate in the planning, implementation, management and monitoring of activities carried out under the Contract; and
- (f) a statement to the effect that both the Mining Concessionaire and beneficiary community agree that any dispute regarding the agreement shall in the first instance be resolved by consultation between the Mining Concessionaire and the beneficiary community representatives, and if this fails to resolve the dispute, either party may submit the matter for the Minister, in consultation with the Local Administration, to decide, and the decision of the Minister shall be final and binding on the Mining Concessionaire and the beneficiary community.

#### 19.2.2 Examples of obligations to be considered. The Parties recognize that a Community Development Agreement will need to take into account the unique circumstances of any Mining Concession and beneficiary community, and the issues to be considered cannot be predetermined. Thus, a Community Development Agreement may address all or some of the following issues when relevant to the beneficiary community:

- (a) educational schooling, apprenticeship, technical training and employment opportunities for the people of the community;
- (b) financial or other forms of contributory support for infrastructural development and maintenance such as education, health or other community services, roads, water and power;
- (c) assistance with the creation, development and support to small-scale and micro enterprises by the Mining Concessionaire;
- (d) agricultural product marketing;
- (e) HIV awareness and prevention;
- (f) methods and procedures of environmental and socio-economic management and local governance capacity-building;

#### 19.2.3 Community Development Agreement to be approved if conditions are met. A Community Development Agreement agreed and signed by authorized representatives of the Mining



20.2 Mining Concessionaire to maintain samples and drill core. The Mining Concessionaire shall maintain splits or, as the case may be, samples of drill cores and final concentrates as well as

20.1 Mining Concessionaire to maintain current records. The Mining Concessionaire shall prepare and at all times while this Contract is in force maintain comprehensive, accurate and current records of the Exploration and Prospecting Operations, Development, Mining Operations and Processing Operations in respect of the Contract Area. The original or a true copy of said records shall at all times be maintained in Mozambique readily available for review by MIREM during normal business hours. All such Reports, records and data, other than drill core, referred to in this Contract can be maintained in electronic format.

## CLAUSE 20 - INFORMATION, MINERAL DATA, AND REPORTS

19.3 Mining Concessionaire to respect traditions. The Mining Concessionaire shall recognize and respect the rights, customs and traditions of local communities.

19.2.5 Copy of Community Development Agreement to be on file. The National Directorate of Mines shall retain a copy of all Community Development Agreements in a place accessible by the public, and the Provincial Government, the Provincial Directorate of Mineral Resources and Energy and the District Administration shall also have copies of the same Agreements.

19.2.4 Community Development Agreement. The commencement of the Development works within the Mining Concession Area shall not hinder the process of negotiation of the Community Development Agreement for that Mining Concession.

Concessionaire and the beneficiary community shall be submitted for approval to the Minister who shall, if the Contract meets the requirements of Clause 19.2.2, approve such agreement within 45 (forty-five) Calendar Days of it being submitted. If the application is not approved, the Minister shall notify the Mining Concessionaire and the beneficiary community representatives and such Notice shall contain the specific reasons for denial and the means or directions by which such reasons may be corrected. The Mining Concessionaire and beneficiary community may submit any number of revised agreements.

monthly composites of mill head and tailing samples for a minimum period of 5 (five) years. The aforesaid shall be made available to MIREM upon request and reasonable Notice. In the event the Mining Concessionaire withdraws from the Contract Area or wishes to destroy the retained samples after the minimum period of 5 (five) years, the Mining Concessionaire shall notify MIREM and, if so requested, deliver same to MIREM or, if otherwise, it may dispose of the material.

**20.3 Reports required by Applicable Law.** The Mining Concessionaire shall submit all reports required by Applicable Law or this Contract to the appropriate Government departments.

**20.4 Mining Title Reports.** The Mining Concessionaire shall submit separate Reports, as may be required under the Mining Law, for each Exploration and Prospecting License and Mining Concession within the Contract Area.

**20.5 Annual Expenditure Reports.** Annually, the Mining Concessionaire shall prepare and submit to MIREM, not later than 60 (sixty) Calendar Days after the end of each Calendar Year, an annual report of its Exploration and Prospecting Operations expenditures (Annual Exploration and Prospecting Operations Expenditure Report) for each of its Exploration and Prospecting Licenses within the Contract Area and an annual report of its expenditures for Development and Infrastructure (Annual Development Expenditure Report), signed by a licensed mining engineer or geologist. At such time as the Mining Concessionaire no longer holds an Exploration and Prospecting License within the Contract Area, it shall no longer be required to submit the Annual Exploration and Prospecting Operations Expenditure Report. Such reports shall be sufficiently detailed to determine the amount of expenditure that qualifies to meet minimum work obligations, and may include copies of customs documentation and the private capital import bulletins in order for the Government to verify such amounts.

**20.6 Cumulative expenditure report.** At such time as the Mining Concessionaire has expended the amount required under Clauses 7.3.1 and 8.4, the Mining Concessionaire shall prepare a Cumulative Expenditure Report signed by the Mining Concessionaire's representative in Mozambique attesting that the Mining Concessionaire has expended such required amount. Such Cumulative Expenditure Report shall be sufficiently detailed to demonstrate the amount

and types of expenditure that qualifies to meet the Mining Concessionaire's Clauses 7.3.1 and 8.4 expenditure requirement, on a cumulative basis, including copies of customs documents relating to the importation of goods and the private capital import bulletins as will allow the Government to verify such amounts.

**20.7 Annual Community Development Agreement report.** Annually, the Mining Concessionaire shall prepare and submit to MIREM, not later than 60 (sixty) Calendar Days after the end of each Calendar Year, an Annual Community Development Agreement Report which shall include at least the following information:

- a) a qualitative assessment of whether objectives under the Contract are being met or not;
- b) as the case may be, the justification for not meeting the objectives, and what will be done to meet the objectives in the future;
- c) detailed list of any amounts being spent by the Mining Concessionaire pursuant to the Community Development Agreement;
- d) any special or recurring problems with the beneficiary community;
- e) progress made on the Mine Closure Program.

**20.8 Annual employment report.** The Mining Concessionaire shall submit annually to MIREM, no later than January 31<sup>st</sup>, an employment Report. Such Report shall include the number of Mining Concessionaire employees on December 31 of the previous Calendar Year, the number of employees in each employment category (unskilled, skilled, clerical, technical or management), and for each employment category the respective percentage by employee origin (from the beneficiary or neighbouring communities, from elsewhere in Mozambique, or abroad).

## **CLAUSE 21 - SALES AND VALUE OF MINERAL PRODUCT**

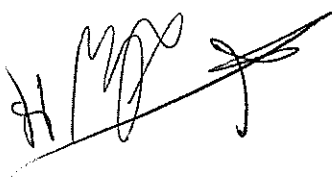
**21.1 Sales of Mineral Product.** The Mining Concessionaire shall endeavour to dispose of Mineral Product produced at the highest commercially achievable market price and lowest commercially achievable commissions and related fees in the circumstances then prevailing and to negotiate for sales terms and conditions compatible with world market conditions. The

Mining Concessionaire may enter into long term sales and marketing contracts or foreign exchange and commodity hedging contracts notwithstanding that the sale price of Mineral Product, including spot market prices, may from time to time be lower or higher, or the terms and conditions of sales are less favourable than those available under other conditions.

21.2 State may request access to production. The Minister may request by Notice, between July 1

and July 31 in any year that the Mining Concessionaire sell to the State, to a legal person owned by it, or to any Mozambique entity, up to 5% (five percent) of the Mining Concessionaire's Mineral Product production in the subsequent Calendar Year. The price paid to the Mining Concessionaire for such Mineral Product shall be the fair market value of the Mineral Product that the Mining Concessionaire would have likely realized had the sale been to a Third Party. Should the Parties be unable to agree on the fair market value of the Mineral Product, either Party may refer the determination of fair market value to an Independent Expert pursuant to Clause 29. The sale(s) shall take the form of the standard form of Mineral Product sales contract customarily used by the Mining Concessionaire and in accordance with the payment terms in its sales of Mineral Product to Third Parties. The Mining Concessionaire shall be under no obligation to sell any Mineral Product to the party specified by the Minister in his Notice where such Mineral Product is already contracted for sale under a long term or other form of contract to a Third Party at the time it receives the Minister's Notice. If the Mining Concessionaire is not able to meet the Minister's request because of such prior contractual commitments, it shall provide to the Minister copies of such contracts or other proof to demonstrate such commitments.

21.3 Notification of Sale to an Affiliate. Sales commitments with Affiliates, if any, shall be made only at prices based on or equivalent to arm's length sales and in accordance with such terms and conditions at which such agreements would have been made if the parties had not been Affiliates, with due allowance for normal selling discounts, commissions or fees taking into consideration the content, quantity, duration and other terms of the sale contract. Such discounts, commissions or fees allowed the Affiliate must be no greater than the prevailing rate so that such discounts or commissions will not reduce the net proceeds of sales to the Mining Concessionaire or below those which it would have received if the Parties had not been Affiliates.



21.4 MIREM has right to inspect sales. MIREM is entitled to verify and inspect all sales and other disposals of Mineral Product including the terms and conditions of all sales and disposal commitments. The Government shall treat information so provided as confidential.

21.5 Adjustment to fair market value. When MIREM has reason to believe based on research into internationally practiced pricing methodologies and after due consideration of clauses 21.1 and 21.4, that the proceeds as declared by the Mining Concessionaire for the sale and disposal of Mineral Product do not reflect their fair market value in terms of either the price obtained, the quality or quantity of production or other factor, without prejudice to the further provisions of this Clause 21, the value for the purposes of the payment of production taxes, income taxes or other payments to the State shall be adjusted to reflect the fair market value.

21.6 MIREM to advise disputed price in writing. When MIREM disputes the fairness or validity of the actual realized prices or value of all or any portion of the sales or disposals of Mineral Product during the relevant period in respect of the calculation and payment of production taxes and other payments due to the State under this Contract or Applicable Law, it shall so Notify the Mining Concessionaire in writing.

21.7 Requirement to provide price documentation. The Mining Concessionaire shall, within 15 (fifteen) Calendar Days of such Notice from MIREM, submit written documentation to MIREM to demonstrate that the actual proceeds represents the fair market value of the sale or disposal of the Mineral Product in question. Information so provided shall be treated as confidential. MIREM shall take into account the documentation submitted by the Mining Concessionaire and shall notify the Mining Concessionaire in writing of its decision.

21.8 Parties shall agree on fair market value or refer the matter to Independent Expert. Within 30 (thirty) Calendar Days of Notice under Clause 21.7 the Parties shall meet to resolve MIREM's objections and consistent with the terms of Clause 21.1 shall agree on the fair market value of the sale price or disposal of Mineral Product for the period in question. In the event that the Parties are unable to agree on the fair market value as provided for herein, then either Party may refer the matter in dispute for determination, in accordance with Clause 29, by an Independent Expert.

21.9 Where an Independent Expert determines that the fair market value of the sale or disposal of Mineral Product was too low, the Mining Concessionaire shall pay, within 60 (sixty) Calendar Days of the Notice sent pursuant to Clause 21.7 any taxes or fees, including the ISP, that would have been payable had the Mineral Product been valued at the fair market value determined by the Independent Expert having due regard to prevailing market conditions at the relevant time. Should an Independent Expert make a determination pursuant to Clause 21.8 that the fair market value calculated by MIREM was too high, the Government shall refund to the Mining Concessionaire within 60 (sixty) Calendar Days of the decision by the Independent Expert or set off against any amount of tax due by the Mining Concessionaire, the difference between the fair market value calculated by MIREM and the fair market value determined by the Independent Expert.

## CLAUSE 22 - ASSETS AND EQUIPMENT

22.1 Acquisition. The Mining Concessionaire, Mining Operators and Subcontractors shall acquire for the Mining Operations only such assets that they reasonably assess to be required in carrying out such operations.

22.2 Government has option to acquire assets. Upon the closure, termination or expiry of the Mining Concessionaire's Mining Concession, the Government may acquire all of the movable, non-movable, and non-removable property used in Mining Operations, including any Mining Concessionaire-owned infrastructure used exclusively for Mining Operations, at a price equal to the market value (as assessed by an independent third party) of such assets, or at such lower price as the Mining Concessionaire may set. If the Government does not exercise such right, within 90 (ninety) Calendar Days from the date of the mine closure Notice sent pursuant to Clause 10.5.1 or within 90 (ninety) days prior to the termination or expiry of the Mining Concession, the Mining Concessionaire shall be free to remove or dispose of such assets as it deems appropriate in accordance with Applicable Law and the Mine Closure Program or the Environmental Management Plan.

22.3 Removal and export. Subject to Clause 22.2, all materials, equipment, plant and other installations erected or placed on the Contract Area of a movable nature by the Mining

Concessionaire shall remain the property of the Mining Concessionaire and the Mining Concessionaire shall have the right to sell, remove and re-export such materials and equipment, plant and other installations from Mozambique, subject to Applicable Law.

## **CLAUSE 23 - INFRASTRUCTURE AND PUBLIC ACCESS**

**23.1 Use of public infrastructure.** The Mining Concessionaire and any Mining Operators and Subcontractors shall, subject to Applicable Law, have access to and the right to use roads, bridges, railways, airfields, port facilities and other transportation facilities, and power, fuel, telephone or other communication, and water services, owned or held by concession assigned or provided by any agency or entity owned or controlled by the Government, provided that its use by the Mining Concessionaire shall not impair the existing and approved use thereof by other Persons. Public infrastructures intended for non-civilian use are excluded from the foregoing.

**23.1.1 Construction, improvement and maintenance of public and private infrastructure.** The Mining Concessionaire shall, subject to the provisions of this Clause and Applicable Law, have the right to construct, use, improve and maintain such additional roads, bridges, railways, airfields, port facilities and other transportation facilities, and to construct, use, improve or maintain any power plants, power lines, telephone lines or other communication facilities, pipelines, water conveyance facilities, or other utility lines or facilities, required for Mining Operations, both within and outside of the Contract Area for the use of the Mining Concessionaire. The Mining Concessionaire shall be granted the right of first refusal in the use of such infrastructures. Upon the request of a concerned Third Party, the Mining Concessionaire and the Government may review these infrastructure and other requirements of the Mining Operations including, but not limited to, transportation, power, water and port requirements, with the objective of providing a fair and equitable sharing of the cost and benefits derived from the infrastructure use and requirements in the Mining Operations. The Mining Concessionaire shall not carry out construction without approval from the competent authority and without having compensated any Third Party entitled to the right to use and occupy land.

**23.1.2 Construction in Exploration and Prospecting License area.** The Mining Concessionaire has

the right within its Exploration and Prospecting License areas within the Contract Area to construct all infrastructures necessary for Exploration and Prospecting Operations including facilities for camps, roads, communications and power. All such construction shall be of a temporary nature and shall be removed, and the area rehabilitated, prior to the termination or to the relinquishment of the Exploration and Prospecting License area on which such construction is located, unless otherwise agreed in writing by MIREM.

23.1.3 Right to construct in Mining Concession Area without further approval. The Mining Concessionaire has the right, subject to Applicable Law, within any Mining Concession Area within the Contract Area to construct all infrastructure necessary for Development, Mining Operations, Processing Operations, and reclamation including but not limited to roads, tramways, railroads, ditches, canals, pipelines, power lines, communications facilities, and dams upon or below the land and the subject of the Mining Concession, which has been included in the Mining Production Plan and the Environmental Management Plan.

23.2 Conformance with standards. In the planning, construction, establishment, use and maintenance of all infrastructure required for Mining Operations, the Mining Concessionaire shall comply with any Applicable Law standards as well as with good international practice and standards.


23.3 Reimbursement for damages to infrastructure. The Mining Concessionaire shall be liable for and shall compensate the State for the cost of repair and restoration of infrastructure resulting from damage to public domain assets resulting from the Mining Concessionaire's use of the infrastructure. Where Mining Concessionaire use of public domain infrastructure will substantially cause excessive degradation or wear of that infrastructure, the Parties agree to negotiate in good faith a reasonable maintenance fee or payment by the Mining Concessionaire.

23.4 Maintenance of roads and transport facilities within Mining Concession Area. The Mining Concessionaire shall maintain and be otherwise responsible for, during the term of its Mining Concession, all roads and other transport facilities located within the Mining Concession Area or any transport facilities located outside of the Mining Concession Area whose use is dedicated to the Mining Concessionaire's mining exploration. For the purpose

of maintenance, the Mining Concessionaire may close or limit access to roads and other transport facilities constructed for its own use without compensation to any Third Party or the State.

23.5 Mining Concessionaire to have priority of use. In respect of transport facilities built within or outside the Contract Area by the Mining Concessionaire for the purposes of Mining Operations, the Mining Concessionaire shall have priority of use of such facilities in the carrying on of Mining Operations. If the transport facility is of a public character (such as roads and ports) the Mining Concessionaire shall allow the public to use the Mining Operations' transport facilities provided that the extent and manner of such use shall not unduly prejudice or interfere with the Mining Operations. If a Third Party wishes to use such transport facilities and provided that such use will not prejudice the Mining Operations, the Mining Concessionaire shall allow the Third Party to use the transport facilities on such terms and subject to payment of such user charges as are equitable having regard to the use which such Third Party makes of the facilities, the nature of the facilities and, if necessary, as approved by the appropriate authority in accordance with Applicable Law. The Mining Concessionaire may restrict or prohibit public access to roads in a Mining Concession Area in the event of danger to the users or Mining Concessionaire's personnel or nuisance or obstruction to the Mining Operations. Should a dispute arise between the Mining Concessionaire and a Third Party user of such transport facilities outside the Mining Concession Area, the Mining Concessionaire shall notify the Minister who shall determine the reasonable level of use by such Third Parties, and the amount of user fees, if any. If the Minister and the Mining Concessionaire do not agree on the level of use or user fees, the Mining Concessionaire may refer the matter to independent expert in accordance with Clause 29.

23.6 MIREM to assist with the obtaining of authorizations for developing infrastructures. MIREM undertakes to assist and cooperate with the Mining Concessionaire in obtaining any necessary license, permit or authorization for the financing, construction, use, maintenance and repair of infrastructure required for Mining Operations and which are described in its Mining Production Plan and in obtaining from other relevant authorities any approval required for the utilization of the public infrastructure available in Mozambique subject to payment of such charges as may be appropriate or otherwise



generally applicable and without prejudicing the public character of such infrastructure.

23.7

~~Mining Concessionaire may allow Third Parties a limited use privilege. The Mining Concessionaire may allow former Users and Occupiers of Land and members of the beneficiary community a limited privilege to graze livestock upon or to cultivate the surface of the land within its Mining Concession Area in so far as such activities do not interfere with the Mining Operations. If the Mining Concessionaire determines at some time that such activities will interfere with Mining Operations, the Mining Concessionaire shall Notify such Third Parties of the area where such activities are to be discontinued, the date by which they are to be discontinued, and the time period during which they are to be discontinued. If such usage continues beyond the date by which usage was to be discontinued, the Mining Concessionaire may request, by Notice, the assistance of the National Director of Mines to stop the Third Parties from such usage. MIREMshall within 30 (thirty) Calendar Days of such Notice take such action as is necessary stop the usage.~~

## **CLAUSE 24 - ENVIRONMENT, REHABILITATION AND PROTECTION AGAINST**

### **LOSS AND WASTE**

~~24.1 Mining Concessionaire to minimize environmental impact and pollution. The Mining Concessionaire shall carry on its activities and operations under this Contract in a manner that is reasonably practicable in order to:~~

- (a) minimize, manage and mitigate any environmental impact including but not limited to pollution resulting from such activities and operations; and
- (b) rehabilitate and reclaim, where and when practical, the land disturbed, excavated, explored, developed, mined or covered with tailings arising from Mining Operations in the Contract Area to such safe state as may be specified in the Mining Law, and other Applicable Laws, and in accordance with established best international mining practices.

~~24.2 Environmental Impact Survey, Environmental Management Plan and Environmental Management Programme - Procedures. The Mining Concessionaire shall prepare and submit any required Environmental Management Plan, Environmental Impact Studies, including the Environmental Management Programme and the Risk and Emergency Control Programme in~~

conformity with this Contract and the Mining Environmental Regulations. The submission, processing, consideration and approval or disapproval of such surveys, plans and programmes submitted by the Mining Concessionaire shall, except as provided in Clause 24.5.1, be in accordance with the Mining Environmental Regulations. The fees for conducting any such surveys, plans and programmes submitted by the Mining Concessionaire shall be borne by it.

**24.3 Mining Concessionaire to obtain environmental and risk control approval before Exploration and Prospecting Operations.** The Mining Concessionaire shall not commence any Level 2 Exploration and Prospecting Operations on any Exploration and Prospecting License Area within the Contract Area until pursuant to the Mining Environmental Regulations it has obtained approval of the Environmental Management Plan and a Risk and Emergency Control Programme. A separate Environmental Management Plan and Risk and Emergency Control Programme are required for each non-contiguous Exploration and Prospecting License in the Contract Area.

**24.3.1 Environmental Management Plan.** An Environmental Management Plan prepared by or for the Mining Concessionaire shall conform to the Mining Environmental Regulations, contain the types of information and analysis reflecting best international mining practice for such a plan, shall cover a period of 5 (five) years and shall include at least the following:

- (a) Exploration and Prospecting License number, location, and basic description of the exploration project;
- (b) methods and procedures regarding Exploration and Prospecting Operations;
- (c) major environmental impacts and mitigation measures;
- (d) monitoring programme; and
- (e) rehabilitation program for the affected area.

**24.3.2 Mining Concessionaire shall update Environmental Management Plan and Risk and Emergency Control Programme.** The Mining Concessionaire shall submit for each non-contiguous Exploration and Prospecting License an updated Environmental Management Plan and Risk and Emergency Control Programme for approval by the Minister responsible for overseeing the environment in accordance with this Contract and the Mining Environmental Regulations every five (5) Calendar Years from the date of such plan's and programme's first approval, not later than February 1 and whenever it proposes



to make a change in its Exploration and Prospecting Operations that would cause a need for a material change in such plan and programme.

24.4

Mining Concessionaire to obtain environmental approvals before Development and Mineral Operation. The Mining Concessionaire shall not commence any Development work or mining exploration on any Mining Concession Area within the Contract Area until pursuant to the Mining Environmental Regulations it has obtained approval of an Environmental Management Programme and been issued an environmental license. A separate Environmental Management Programme and environmental license are required for each Mining Concession in the Contract Area.

24.4.1

Environmental Impact Study. An Environmental Impact Study prepared by or for the Mining Concessionaire shall be based on environmental base line assessment work, shall conform to requirements as specified in the Mining Environmental Regulations, and shall contain the types of information and analysis reflecting best international mining practices for such surveys.

24.4.2

Environmental Management Programme. An Environmental Management Programme prepared by or for the Mining Concessionaire shall conform to the Mining Environmental Regulations, contain the types of information and analysis reflecting best international mining practices for such a programme, and shall include at least the following:

- (a) Mining Concession number;
- (b) Description of the project;
- (c) Identification of the likely major environmental biophysical impacts, including but not limited to pollution impacts;
- (d) Identification of the likely major social, cultural and economic impacts;
- (e) A review of residual and immittigable environmental impacts;
- (f) Broad objectives regarding each major environmental biophysical impact;
- (g) Detailed objectives regarding each environmental biophysical impact so as to minimize or mitigate such impact;
- (h) Broad objective regarding each major negative social, cultural and economic impact;
- (i) Detailed objectives regarding each negative social, cultural, and economic impact so as to minimize or mitigate such impact;

(j) The means of achieving environmental objectives;

(k) The predicted / expected effect of each mitigation activity;

(l) Timetables for implementation;

(m) Projected budget and budget timetable to achieve environmental objectives;

(n) The officers or employees' position within the Mining Concessionaire responsible for implementation of environmental mitigation;

(o) An ongoing scheme to rehabilitate the Mining Concession Area;

(p) The estimated cost of ongoing rehabilitation work on an annual basis;

(q) The final scheme to rehabilitate the Mining Concession Area;

(r) The estimated cost of the final rehabilitation scheme;

(s) The cost of the final rehabilitation scheme in each year for the first ten years of the Mining Concession assuming that if mining were to cease in that year, final rehabilitation would take place in that year;

(t) The type of financial guarantee instrument or means that the Mining Concessionaire will offer in order that the full cost of rehabilitation in each year, as described (s) above, will be available, beginning from the Calendar Year in which the Mining Concessionaire issues a notice of Commercial Production, in the event that the Mining Concessionaire does not for any reason have the money available to complete the rehabilitation work (such as escrow cash account, certificate of deposit, irrevocable letter of credit, performance bond, insurance, cash or asset trust fund, third party guarantee where such guarantor has assets in excess of US\$10 million, or similar methods agreeable to the Minister responsible for overseeing the environment but not merely an accounting provision);

(u) The officer or employee position within the Mining Concessionaire responsible for implementation of rehabilitation activities;

(v) The environmental monitoring programme, the methodologies to be used for monitoring of potential negative impacts, the effectiveness of mitigation and the source of funding for monitoring;

(w) The Mine Closure Programme described in Clause 10.5.3 addressing the social-economic issues;

(x) Details of the agency responsible for taking action in the event of non-compliance and procedures to be activated in the event that monitoring reveals a failure of mitigation and/or unacceptable negative impacts arising even with full mitigation.

24.4.3 Mining Concessionaire may submit amended proposed programme. If an Environmental Management Programme is denied approval, the Mining Concessionaire may submit such other number of amended Environmental Management Programmes as may be necessary in order to obtain the approval.

24.4.4 Mining Concessionaire shall update Environmental Management Programme. The Mining Concessionaire shall submit an updated Environmental Management Programme for approval by the Minister responsible for overseeing the environment in accordance with this Contract and the Mining Environmental Regulations every five (5) Calendar Years from the date of first approval of such plan and programme, and whenever it proposes to make a change in its Mining Operations that would cause a need for a material change in such programme.

24.5 Approval by the Minister responsible for overseeing the environment. In considering an Environmental Management Plan and Environmental Management Programme or the updates thereof, the Minister responsible for overseeing the environment shall take into account the recommendation of the steering committee constituted under the Mining Environmental Regulations, and if the Minister denies such plan or the update thereof he shall notify the Mining Concessionaire and Steering Committee of his reasons for such denial.

24.5.1 Mining Concessionaire may request determination by Independent Expert. If the Mining Concessionaire's proposed Environmental Management Programme, or the update thereof is rejected twice by the Minister responsible for overseeing the environment, and such plan has received a recommendation for approval by the steering committee constituted under the Mining Environmental Regulations, the Mining Concessionaire may refer the matter for determination, in accordance with Clause 29 by an Independent Expert. Should such Independent Expert determine that the Mining Concessionaire's programme, or the update thereof meets the requirements of the Mining Environmental Regulations and reflects international best practices for projects of a similar nature and circumstances, such programme, or the update thereof shall be deemed to be approved.

24.6

Annual reporting obligation for each Environmental Management Programme. The Mining Concessionaire shall in each Calendar Year after the first year in which Commercial Production first occurs, not later than 31 March, for each of its Environmental Management Programs in the Contract Area, submit in duplicate to the Minister responsible for overseeing the environment an environmental management report in compliance with the Mining Environmental Regulations covering each of the items listed in Clause 24.4.2, indicating their current status. Such report shall be sufficiently detailed so that the Minister responsible for overseeing the environment can determine whether the programme is succeeding.

24.7

Mining Concessionaire to implement and comply with Environmental Management Programme. Notwithstanding the generality of Clause 24.1 the Mining Concessionaire shall comply with and implement any Environmental Management Programme approved by the Government for the Mining Concessionaire's Mining Concession Area within the Contract Area.

24.8 Optimal recovery of Mineral Product. The Mining Concessionaire undertakes that any mining, processing or treatment of Ore by the Mining Concessionaire shall be conducted in accordance with such generally accepted international practices as are customary, and in accordance with such practices the Mining Concessionaire undertakes to use all reasonable efforts to optimize the mining recovery of Ore from proven reserves and metallurgical recovery of Mineral Product from the Ore provided it is safe, economically and technically feasible to do so. The Mining Concessionaire may use new methods and treatments when such methods and treatments will enhance Mineral Product recovery.

## CLAUSE 25 - CONFIDENTIALITY

25.1 Contract not confidential. This Contract is not confidential and a copy of the same shall be made available by MIREM at its central office for consulting by the general public during normal office hours.

25.2 Reports, plans and information are confidential. All Reports, plans, and information obtained, prepared or submitted by or for the Mining Concessionaire pursuant to this

Contract or a Mining Title comprising part or all of the Contract Area shall be treated as confidential information unless specified as not confidential by this Contract, the Mining Law, or by Applicable Law. Any confidential information supplied by the Mining Concessionaire pursuant to this Contract or Applicable Law shall be treated as such by MIRBM and the Government. The Parties may by mutual agreement in writing decide that any other information is not confidential.

25.3 Matters not confidential. Subject to Clause 25.2, and without prejudice to the provisions of clause 25.5, the Parties agree that the following matters shall not be classified as confidential:

- (a) Annual quantities of Ore produced from any Mining Concession in the Contract Area;
- (b) Employment, including the Mining Concessionaire's training programs;
- (c) Tax on Production and other tax payment amounts from any Mining Concession in the Contract Area, but not the particular terms of calculating the amount of such payments;
- (d) Information related to the number and frequency of accidents resulting from any Mining Operations in the Contract Area;
- (e) Payment of any amount or provision of any service pursuant to a Community Development Agreement;
- (f) Information related to relinquished areas;
- (g) Environmental Impact Studies, Environmental Management Plans, Environmental Management Programmes, annual environmental management Reports;
- (h) Information in the possession of the Government prior to receipt from the Mining Concessionaire which has been lawfully disclosed by another Person not under a confidentiality obligation to the Mining Concessionaire.

25.4 Confidentiality time period. The time period for confidentiality of any confidential Reports, plans, Mineral Data, or information obtained, prepared, or submitted by or for the Mining Concessionaire pursuant to this Contract or a Mining Title comprising part or all of the Contract Area shall be in accordance with this Contract and the Mining Law, and if no time period is specified, the period of confidentiality shall end 5 (five) Years after its date of submission.

25.5 When written consent is required to disclose confidential information. Disclosure of confidential Reports, plans, Mineral Data and information shall only be made by either Party with the prior written consent of the other Party (which consent shall not unreasonably be withheld). However, in addition to the exceptions permitted by the Mining Law, disclosure shall be permitted:

- (a) to any employee of a Party, to an Affiliate, to the Mining Operator and Subcontractors for the purpose of carrying out Mining Operations;
- (b) by the Mining Concessionaire to any shareholder in respect of any legally required disclosure arising by virtue of the shareholder's relation to the Mining Concessionaire as a shareholder;
- (c) by the Mining Concessionaire to any potential new investor in the Mining Operations or purchaser, direct or indirect, of an interest in the Mining Concessionaire;
- (d) to any bank, stock exchange, or other recognized financial institution for the purpose of obtaining a loan or financial accommodation for the Mining Operations, or to an assignee as to the whole or part of any loan or financial accommodation, hedging or insurance provided for the Mining Operations by any bank or other recognized financial institution;
- (e) by either Party to any accountant, auditor, attorney, or other financial or legal advisor or other consultant engaged by the Party in connection with Mining Operations;
- (f) by the Mining Concessionaire, its Affiliate including any shareholder of the Mining Concessionaire or Affiliate as required by the rules of any recognized stock exchange of which the Mining Concessionaire, its Affiliate or a shareholder is a member;
- (g) by MIREM to any agency of the Government or any Person acting as a consultant to MIREM or the Government;
- (h) by the Mining Concessionaire or its Affiliates to any agency of the Government where it is domiciled or registered to do business as required by the law in force in such country;
- (i) if and as required in connection with legal, conciliatory or arbitral proceedings; or
- (j) if the information enters the public domain other than as a result of a breach of

confidence.

25.6 Recipient to keep confidential information confidential. Any confidential information disclosed under Clause 25.5 shall be disclosed on terms that ensure that such information is treated and maintained as confidential by the recipient. The Parties shall each take such reasonable steps to ensure that their respective officers and employees and the officers and employees of their respective Affiliates, shareholders and their technical and professional advisors do not disclose information that is confidential under the terms of this Clause and do not make improper use of any of it for their own, their employer's or any other Person's benefit.

25.7 Treatment of proprietary technology or information. Any proprietary technology or information subject to licensing and payment of royalties or other fees which is used in Mining Operations under this Contract shall not be disclosed to any Third Party except as may be provided under the terms of the respective licensing agreements.

## CLAUSE 26 - FORCE MAJEURE

26.1 Meaning of Force Majeure. "Force Majeure" means any event, cause, circumstance or any combination of events, cause or circumstance beyond the reasonable control of the Party claiming to be affected by such event, cause or circumstance, which has not been caused by it and which it was not reasonably able to avoid or overcome and includes, without limitation the following:

- (a) war (whether declared or not), terrorist act, revolution, public disorder, political or military disorder or violence, rebellion, insurrection, riots, civil disturbances, blockade, sabotage, embargo, and coups d'état;
- (b) industrial actions, strikes, lockouts and any other labour disputes, whether or not the affected party is a Party to this Contract or would be able to influence or procure the settlement of such labour disputes;
- (c) any dispute with Persons who claim they may be significantly affected by Mining Operations, such as but not limited to, other holders of Mining Titles or Mining Title applications, members of the local community, central, regional and local

government units, Users or Occupiers of Land, and other communities;

(d) lack of access by the Mining Concessionaire to the Sena railway or other rails lines and/or Beira Port terminal or other port or other means to transport and export the Mineral Product on terms satisfactory to the Mining Concessionaire, by facts not imputable to the Mining Concessionaire;

(e) epidemic, earthquake, storm, flood, volcanic eruption, tidal wave or other natural disasters and adverse or severe weather conditions, explosion, fire;

(f) any failure on the part of the Government to grant or deny any approval, permit, license or consent which is necessary, and for which the Mining Concessionaire has duly submitted all applicable requirements;

(g) expropriation, Government requisition, or nationalization;

(h) any Act of Nature;

(i) malicious damage and sabotage;

(j) unavailability, failure or suspension of electricity or water supply for a period of seven (7) days, in total, in any period of 52 (fifty-two) weeks;

(k) equipment failure or breakdown that could not have been prevented by prudent engineering, maintenance and operation practices;

(l) delay in delivery by a supplier due to Force Majeure events;

(m) adverse geological conditions;

(n) any other cause as herein described over which the affected Party has no reasonable control, excluding economic hardship resulting from market price fluctuation;

provided, that the Government shall not be entitled to claim Force Majeure by reason of any event described in clause (c), (d), (f), (g), (i) and (l) above.

26.2 Effect of Force Majeure on obligations. The non-performance or delay in performance by a Party of any obligation under this Contract, or, the Mining Law of any obligation arising under an Exploration and Prospecting License or Mining Concession within the Contract Area, shall not be treated as a Default of this Contract and shall be justified, if and only to the extent that such non-performance or delay is caused by Force Majeure or the performance by that Party of its obligations under or pursuant to this Contract is materially and adversely affected by such event or the effects of such Force Majeure.

26.3 Contract term to be extended. All periods of interruption due to the occurrence or impact of Force Majeure events shall be added to the total length of the Contract's term in its calculation and for the performance of the obligations under this Contract.

26.4 Force Majeure notification. A Party claiming suspension of its obligations under this Contract on account of the Force Majeure event shall:

(a) promptly notify the other Party of the Force Majeure event thereof, if practicable within 48 (forty-eight) hours (but in no event not later than 7 (seven) Calendar Days from the date of Force Majeure event), by the most expeditious method available followed by written confirmation thereof;

(b) take all actions that are reasonable and lawful to remove the cause of the Force Majeure event; and

(c) upon removal or termination of the Force Majeure event, to promptly Notify the other Party and take all reasonable action for the resumption of its obligations under this Contract as soon as possible after the removal or termination of the Force Majeure event.

26.5 Parties to meet to review situation. When a Force Majeure event or the effect thereof continues for more than 15 (fifteen) consecutive Calendar Days the Parties shall meet as soon as possible in order to review the situation and to agree on the measures to be taken for the removal of the cause of the Force Majeure event and the resumption in accordance with the provisions of this Contract of the performance of the obligations hereunder.

26.6 No obligation to resolve Third Party disputes. Neither Party shall be obliged to resolve any dispute with Third Parties, except under conditions acceptable to it or pursuant to the final decision of any arbitral, judicial or statutory agencies having jurisdiction to finally resolve the dispute.

## **CLAUSE 27 - TRANSFER**

**27.1 Mining Concessionaire has right to transfer its contractual position.** Under the terms of this clause, the Mining Law and applicable Law, the Mining Concessionaire may transfer its rights and obligations under this Contract or any undivided interest thereof.

**27.2 Approval of transfer not to be unreasonably withheld.** The transfer by the Mining Concessionaire of all or part of its rights and obligations under this Contract shall be subject to the prior written approval of the Minister, which shall not be unreasonably withheld.

**27.3 Mandatory conditions to be met before transfer.** The following conditions must be satisfied before the Minister may approve an application by the Mining Concessionaire to transfer all or part of its interests, rights and obligations hereunder:

- (a) the Mining Concessionaire is not in default in respect of its obligations under the Mining Law;
- (b) the transferee undertakes to be bound by the terms and conditions of this Contract and the lawful instrument of transfer so provides;
- (c) the transferee has demonstrated access to the financial requisites and demonstrated it has technical resources and expertise to carry out the Contract Operations;
- (d) a copy of the instrument of transfer and any operating or other agreement is provided to MIREM; and
- (e) the instrument of transfer has been duly executed stating, among others, that the transferee assumes all the pertinent obligations of the Mining Concessionaire, provided, that denial of the application for transfer shall result in the automatic revocation of such instrument.

**27.4 Non-complying transfer is null and void.** Any transfer that does not comply with the provisions of this Clause 27 shall be null and void.

**27.5 Time period for approval decision.** The Minister shall review any Mining Concessionaire request for approval of any proposed transfer within a period of 90 (ninety) Calendar Days of receipt of the Mining Concessionaire's written request therefor together with

documentation in respect of the requirements set forth in Clause 27.3(a) to (e).

27.6 Refusal of approval may be submitted to arbitration. If the Minister fails to give her approval under Clause 27.2, the Mining Concessionaire may refer the matter in dispute to arbitration in accordance with Clause 29.

27.7 Transfer of controlling interest in shares of mining concession holder. Any direct or indirect disposition of all or part of the voting securities of the Mining Concessionaire, by sale, voting trust, or otherwise shall be deemed a transfer and shall require the consent of the Minister except for any direct or indirect disposition of all or part of the voting securities of the Mining Concessionaire (i) that is made through the sale of shareholding held in the Mining Concessionaire or an Affiliate of the Mining Concessionaire on any stock exchange, or (ii) that does not entail a change of control in the Mining Concessionaire or that is made through a sale of all or part of the voting securities in a person whose direct or indirect interests in the Mining Concessionaire accounts for 50% (fifty per cent) or less in value of the total assets of such person, and any such change in ownership shall not affect any of Mining Concessionaire's rights or obligations under this Contract and the applicable law.

27.8 Subcontracting does not require approval. Nothing in the foregoing clauses of this Clause shall prevent the Mining Concessionaire from subcontracting all or a portion of the Mining Operations to a Mining Operator or other Subcontractor. The subcontracting of all or a portion of the Mining Operations to a Mining Operator or Subcontractor shall not require the prior approval of the Minister.

27.9 Transfer of a Mining Title. The Mining Concessionaire may apply to transfer or assign any Exploration and Prospecting License or Mining Concession comprising all or a part of the Contract Area by application to MIREM pursuant to and in compliance with the Mining Law.

## CLAUSE 28 - TERMINATION

28.1 When Contract shall terminate. Subject to further provisions of this Clause 28, this Contract shall terminate upon the relinquishment or surrender by the Mining Concessionaire of the

entire Contract Area or expiration, relinquishment or revocation of all subsisting Exploration and Prospecting Licenses and Mining Concessions, in accordance with the provisions of the Mining Law.

28.2 When Exploration and Prospecting License and Mining Concession to be revoked. In addition to any grounds for the revocation of an Exploration and Prospecting License or Mining Concession specified in the Mining Law, the Minister may, in accordance with the revocation procedures specified in the Mining Law, revoke any Exploration and Prospecting License or Mining Concession held by the Mining Concessionaire covering all or any portion of the Contract Area for any of the reasons set out in Clause 28.4.

28.3 Minister may terminate Contract if Mining Concessionaire is in Default. The Minister may, by Notice to the Mining Concessionaire and in accordance with this Clause 28, terminate this Contract if the Mining Concessionaire is in Default or for any reason set out in Clause 28.4.

28.3.1 Opportunity to remedy Default. "In Default" shall mean:

- (a) the Mining Concessionaire has committed a Default; and
- (b) MIREM has given the Mining Concessionaire a Notice to remedy the Default; and
- (c) the Mining Concessionaire has failed within 90 (ninety) Calendar Days after said notification to remedy the Default or, as may be reasonably specified in the Notice, to take any steps necessary to remedy the Default or, when the Default is not capable of being remedied, has failed to pay such fair and equitable compensation as may have been agreed between MIREM and the Mining Concessionaire.

28.3.2 Time period to remedy Default may be extended. The 90 (ninety) Calendar Day period to remedy a Default may be extended by the Minister when the Mining Concessionaire is diligently and in good faith taking measures to remedy the Default and pursuant to a request duly made by the Mining Concessionaire, additional time is reasonably and necessarily required to complete the remedy of the Default. The Minister shall in her discretion grant an extension of time such as is reasonably and necessarily required to complete the remedy of the Default.

28.3.3 Remedy to include payment of fines and penalties. The remedy of a Default shall include the payment of any fine or other penalty which may be payable under Applicable Law.

28.4 Reasons for termination. This Contract may be terminated, or any Exploration License or Mining Concession held by the Mining Concessionaire within the Contract Area may be revoked, if:

- (a) an order is made or a resolution is passed by a court of competent jurisdiction winding up the Mining Concessionaire unless the winding up is for the purpose of amalgamation or reconstruction and MIREM has been notified of the amalgamation or reconstruction; or
- (b) a declaration of bankruptcy or other reorganization is filed against the Mining Concessionaire or an agreement or composition with its creditors is entered into; or
- (c) the Mining Concessionaire, if a corporate entity, has been transformed or dissolved, unless the Minister has approved the transformation or when, in the case of a dissolution, it is for the purpose of amalgamation or reconstruction and the prior consent of the Minister has been obtained; or
- (d) the Mining Concessionaire fails to comply with any final decision reached as a result of arbitration proceedings or with any determination by an Independent Expert, pursuant to Clause 29; and
- (e) the Mining Concessionaire has failed to meet the requirement to maintain Commercial Production on all of its Mining Concessions within the Contract Area as required by Clause 9.4.3.

28.5 Notice period. The Minister shall not, under clause 28.3, terminate this Contract on any ground specified therein unless:

- (a) she has given the Mining Concessionaire not less than 90 (ninety) Calendar Days Notice of her intention to terminate this Contract, stating in detail the reasons for the intended termination; and
- (b) during the 90 (ninety) Calendar Day period specified in clause 28.3.1, the Mining Concessionaire has failed to remedy the Default or remove the ground for

termination.

28.6 Time limit to submit termination to dispute resolution. In the event that the Mining Concessionaire disputes -

- (a) any ground for Default or any Notice terminating this Contract, or
- (b) any ground for the revocation or any Notice revoking an Exploration and Prospecting License or Mining Concession held by the Mining Concessionaire covering all or any portion of the Contract Area,
- (c) any submission by the Mining Concessionaire of the matter under Clause 29 to arbitration or for determination by an Independent Expert shall be made within 60 (sixty) Calendar Days of receipt of the respective Notice. In the case of alleged Default, during the period of arbitration or determination by an Independent Expert, the ninety (90) day period for remedy of Default under Clause 28.3.1 shall be suspended until the outcome of arbitration is known or a determination made by the Independent Expert, as the case may be.

28.7 Minister may allow other Mining Concessionaire Persons to carry on. In any of the events referred to in Clauses 28.3 or 28.4 and where the Mining Concessionaire includes more than one Person, this Contract may be terminated only in respect of the Person constituting the Mining Concessionaire who is In Default if the event which gave rise to termination lies only with such Person and provided further that the other Persons constituting the Mining Concessionaire demonstrate to the Minister's satisfaction their financial and technical resources and capacity to carry out this Contract in an appropriate and adequate manner.

28.8 Obligations after termination. Upon termination of this Contract, the Mining Concessionaire shall have no further rights or obligations in respect of the Contract Area under this Contract except (a) to enter upon the Contract Area in order to effect the removal, destruction or other disposal of any assets in accordance with the Mining Law, and (b) in respect of any liability which accrued prior to termination or any other continuing obligation either in respect of the State, any Third Party, or otherwise arising under the terms of this Contract

28.9 Effect of Contract termination on Exploration and Prospecting License and Mining

Concession. The termination of this Contract shall not affect the rights and obligations of the Mining Concessionaire arising from any Exploration and Prospecting License or Mining Concession held by the Mining Concessionaire within the Contract Area.

28.10 Contract and licenses to remain in force during arbitration period. Any dispute as to whether any reason exists to revoke a Mining Concession or Exploration and Prospecting License within the Contract Area may be referred by either Party to binding arbitration under Clause 29. In the case of any such dispute this Contract and any such Exploration and Prospecting License or Mining Concession shall remain in force until the final determination of the dispute by arbitration or mutual Contract.

28.11 Withdrawal. At any time during the term of this Contract, after having used "Reasonable Diligence", as defined hereinafter, in its Exploration and Prospecting Operations, Development, Mining Operations and Processing Operations under this Contract, if in the opinion of the Mining Concessionaire continued Exploration and Prospecting Operations, Development, Mining Operations or Processing Operations are no longer desirable, the Mining Concessionaire may, by giving Notice to the Government, apply for its withdrawal.

For the purpose of Clause 28.11, Reasonable Diligence shall mean that the Mining Concessionaire:

- (a) for any withdrawal occurring before the revocation or expiry of the Mining Concessionaire's Exploration and Prospecting License covering all or a portion of the Contract Area, has met the clause 7.3.1 accrued exploration and prospecting expenditure requirements and submitted all reports required by the Mining Law for said Exploration and Prospecting License;
- (b) for any withdrawal occurring before the revocation or expiry of all of the Mining Concessionaire's Mining Concessions within the Contract Area, if any, has complied with all its obligations under Applicable Law to rehabilitate and reclaim the Mining Concession Area and submitted all Reports required by the Mining Law for said licenses;
- (c) has paid all taxes, fees and other financial obligations due to the State for any Exploration and Prospecting License or Mining Concession held or previously held by the Mining Concessionaire in the Contract Area;

- (d) has performed all obligations to be fulfilled by the Mining Concessionaire under a Community Development Agreement that are explicitly required by that agreement to be fulfilled before this Contract may be terminated; and
- (e) has satisfied all of its other financial, environmental and legal obligations arising under this Contract.

After verification by MIREM that these requirements have been satisfied, which verification shall be completed within 60 (sixty) Calendar Days after receipt of Notice, the Mining Concessionaire's withdrawal shall be approved by the Minister. This Contract shall then be terminated and the Mining Concessionaire shall be relieved of its obligations hereunder.

## CLAUSE 29 - DISPUTE RESOLUTION

29.1 For the purpose of this article there are three Parties, the Government, the Mining Concessionaire and Empresa Mogambicana de Exploração Mineira - EMMEM, SA.

29.2 A dispute shall be resolved, if possible, by negotiation between the Parties. A Notice of the existence of a dispute shall be given by a Party to another in accordance with the provisions of Clause 33. In the event that no agreement is reached within thirty (30) days after the date one Party Notifies the other that a dispute exists, or such longer period that is specifically provided for under further provisions of this Contract, either Party shall have the right to have such dispute determined by arbitration or an Independent Expert as provided for in this Clause 29. Arbitration and Independent Expert determination as aforesaid shall be the exclusive method of determining a dispute under this Contract.

29.3 Subject to the provisions of this Clause 29, and save for any matter to be referred to an Independent Expert as provided in Clause 29.5, the Parties shall submit any dispute arising out of or in connection with this Contract which cannot be resolved by negotiation as provided in Clause 29.2 to arbitration as hereinafter provided:

- a) The dispute shall be submitted to the International Centre for Settlement of Investment Disputes ("ICSID" or "Centre") for settlement by arbitration pursuant to

the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the "Convention") in accordance with the arbitration rules thereof in effect on the Effective Date. It is hereby stipulated that the transaction to which this Contract relates is an investment. The Parties agree that the Mining Concessionaire shall be treated as a national of Mauritius for the purposes of ICSID;

b) The seat of the arbitration shall be Geneva, Switzerland, and the law of the merits of the arbitration shall be Mozambique law. The arbitration shall be conducted in the English language with simultaneous translation. If for any reason an ICSID arbitral tribunal declines to approve Geneva as the place of arbitration, the place of arbitration for that case shall be the Permanent Court of Arbitration in The Hague. Notwithstanding the provisions of Clause 35, the English version of this Contract signed by the Parties shall be used as the official translation in arbitral proceedings;

c) If the dispute is not between one or more Parties who are nationals of a Contracting State, on the one hand, and the Government, on the other hand, or if for any reason ICSID refuses to register a request for arbitration or an arbitral tribunal established in accordance with the ICSID Arbitration Rules determines that the dispute is not within the jurisdiction of ICSID, the dispute shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules. In the event that UNCITRAL Arbitration Rules shall be applied, the appointing authority shall be the Permanent Court of Arbitration in The Hague;

d) Any award by an arbitrator or arbitrators shall be final and binding on all Parties;

e) The arbitral panel shall be composed of 3 (three) arbitrators to be appointed in accordance with the ICSID Rules, provided that, upon mutual agreement of both Parties, the arbitration may be conducted by a sole arbitrator appointed under the ICSID Rules. Unless both Parties have agreed that the dispute shall be settled by a sole arbitrator, the claimant Party shall nominate in the request for arbitration, and the respondent Party shall nominate within 30 (thirty) days of the registration of the request, 1 (one) arbitrator pursuant to the ICSID Rules. Within a period of 30 (thirty) days from the date when both arbitrators have accepted their appointments, the arbitrators so appointed shall agree on a third arbitrator, who shall act as Chairman of the arbitral tribunal. If either Party fails to nominate an arbitrator as provided above, or if the arbitrators nominated by the Parties fail to agree on a third arbitrator within the period specified above, then ICSID shall make such appointments as necessary in

accordance with the ICSID Rules. If both Parties have agreed that the dispute shall be settled by a sole arbitrator the sole arbitrator shall be nominated by agreement between them subject to acceptance by the nominated arbitrator; provided that if the Parties are unable to agree on a nominee for sole arbitrator within 30 (thirty) days from the date of the registration of the request, then ICSID shall appoint the sole arbitrator in accordance with the ICSID Rules;

f) Insofar as practicable, the Parties shall continue to implement the terms of this Contract notwithstanding the initiation of arbitral proceedings and any pending disputes;

g) Any evaluations of economic value by the arbitrators shall necessarily be computed as of a date as close as possible in time to the date of the event that gave rise to the arbitration and shall be taken into account in the determination of any award;

h) The provisions set out in this Clause 29 shall continue after the termination of this Contract; and

i) Neither any Independent Expert nor any arbitrator of the arbitral tribunal, as applicable, shall be of the same nationality as any Party.

29.4

Any award or decision, including an interlocutory award or decision granted in the course of the arbitration process carried out under the terms of this Clause 29, shall be binding on the Parties, and the recognition and enforcement thereof may be sought in any court that has jurisdiction for the purpose. Each Party hereby waives, irrevocably, any defence based on sovereign immunity and waives invocation of immunity:

a) In respect of claims for the execution of any of the arbitral awards or decisions referred to above, including, namely, immunity related to service of process and the jurisdiction of any court; and

b) In respect of immunity from execution of the arbitral awards referred to above against the property of Mozambique held for commercial purposes.

29.5

Any matter in dispute of a technical nature not involving interpretation of law or the application of this Contract and which is required to be referred to an Independent Expert for determination under the provisions of this Contract, or other issues of a substantially equivalent nature (or with respect to any other matter which the Parties may otherwise

agree to so refer) shall be referred to an Independent Expert for determination by a Party giving Notice to such effect pursuant to. Clause 33. Such Notice shall contain a statement describing the dispute and all relevant information associated therewith. An Independent Expert shall be an independent and impartial person of international standing with relevant qualifications and experience appointed pursuant to the mutual agreement of the Parties. The Independent Expert appointed shall act as an expert and not as an arbitrator or mediator and shall be instructed to endeavour to resolve the dispute referred to him within 30 (thirty) days of his appointment, but in any event within 60 (sixty) days of the appointment. Upon the selection of the Independent Expert, the Party receiving the Notice of referral above shall submit its own statement containing all information it considers relevant with respect to the matter in dispute. Any evaluations of economic value by the Independent Expert shall necessarily be computed as of a date as close as possible in time to the date of the event that gave rise to the dispute and shall be taken into account in the determination of any decision. The decision of the Independent Expert shall be final and binding and not subject to any appeal, save for fraud, corruption or manifest disregard of applicable procedure of this Contract. If the Parties are unable to agree on the appointment of an Independent Expert within 20 (twenty) days after a Party has received a Notice of referral under this clause, the Independent Expert shall be selected by the ICC Centre for Expertise, and the person so selected shall be appointed by the Parties.

29.6 The Independent Expert shall decide the manner in which any determination is made, including whether the Parties shall make oral or written submissions and arguments, and the Parties shall co-operate with the Independent Expert and provide such documentation and information as the Independent Expert may request. All correspondence, documentation and information provided by a Party to the Independent Expert shall be copied to the other Party, and any oral submissions to the Independent Expert shall be made in the presence of all Parties and each Party shall have a right of response. The Independent Expert may obtain any independent professional or technical advice as the Independent Expert considers necessary. The English version of this Contract signed by the Parties shall be used as the official translation in any determination by the Independent Expert. The fees and expenses of an Independent Expert appointed under the provisions of Clause 29.5 shall be borne equally by the Parties.

29.7 The Parties hereby agree not to exercise any right to institute proceedings to set aside any interim or final arbitral award made pursuant to this Clause 29, except that nothing in this Clause 29.7 shall be read or construed as imposing any limitation or constraint on either Party's right to seek to nullify any such interim or final arbitral award (a) rendered by an ICSID arbitral tribunal on the limited grounds and in accordance with the procedure set forth in Article 52 of the Convention or (b) rendered by the arbitral tribunal pursuant to the UNCITRAL Arbitration Rules on the limited grounds set forth in Article 52 of the Convention.

## **CLAUSE 30 - EXPROPRIATION**

30.1 No expropriation or nationalization of Mining Operations. Subject to clause 30.2:

- (a) no Mining Operation of the Mining Concessionaire in the Contract Area shall be nationalized or expropriated by the State;
- (b) no Person who owns, whether wholly or in part, the capital of the Mining Concessionaire shall be compelled by law to surrender his interest in the capital to any other Person.

30.2 Expropriation or nationalization must be for national interest or public purpose.

The State shall not undertake any act of expropriation in relation to the Mining Operations in the Contract Area unless such expropriation is (i) undertaken in the national interest, (ii) undertaken on a non-discriminatory basis, (iii) undertaken in accordance with the Applicable Law, including the Treaty between the Republic of Mauritius and the Republic of Mozambique concerning the Promotion and Reciprocal Protection of Investment, set forth in Resolution n.º 47/98 of 28 July (the "Bilateral Investment Treaty") and (iv) accompanied by the payment of fair and adequate compensation pursuant to the terms below. The Parties agree that the investments made by the Mining Concessionaire under this Mining Contract qualify as an investment for the purposes of Article 2 of the Bilateral Investment Treaty and the Mining Concessionaire shall be entitled to the benefit of the undertakings thereunder relating to expropriation, nationalization and compensation therefor, as well as treatment on a basis that is not less favourable than that accorded to investments and activities associated with investments of other foreign owned or controlled companies in Mozambique.

30.3

Compensation in the event of Expropriation. If the State expropriates or nationalizes any of the Mining Concessionaire's Mining Operations, the State agrees promptly to pay the Mining Concessionaire effective and equitable compensation in freely convertible currency outside of Mozambique, based on the market value of the Mining Operations at its global value for the Mining Concessionaire in operation.

30.4

Amount of compensation. The market value of a Mining Operation for the purpose of compensation in the event of Expropriation or nationalization shall be the fair market value of the Mining Operation immediately prior to any announcement or publication of the State's intent to expropriate the Mining Operation.

30.5

Resolution of disputed market value. If the State and the Mining Concessionaire do not agree on the market value of expropriated or nationalized Mining Operations, the Parties may refer the matter to arbitration in accordance with Clause 29.

## CLAUSE 31 - APPLICABLE LAW & FORUM

31.1

Governing law. This Contract, subject to Clause 30, shall be governed by and construed in all respects and for all purposes in accordance with and by the Applicable Law, the rules of international law and applicable industry practice.

31.2 Forum. Without prejudice to the provisions of Clause 29, the applicable forum for this

Contract shall be Maputo, Mozambique.

## CLAUSE 32- MISCELLANEOUS

32.1 Entire Agreement. The terms of this Agreement constitute the entire agreement between the Parties and supersede all previous communications, representations, contracts or agreements, either oral or written, between the Parties (or their Affiliates or predecessors in interest) with respect to the subject matter of this Agreement.

32.2 Effect of waiver on other terms and conditions. Performance of any condition or obligation to be performed under this Contract shall not be deemed to have been waived or postponed

except by an instrument in writing signed by the Party which is claimed to have granted such waiver or postponement. No waiver by either Party of any obligation or Default of the terms or conditions of this Contract to be performed by the other Party nor any waiver of any right under this Contract shall be construed as a waiver by the Party of any other right, obligation or subsequent Default of the same or any other terms or condition to be performed by the other Party.

32.3 Contract is binding. The terms, undertakings and conditions of this Contract shall inure to the benefit of and be binding upon the Parties hereto and, subject to this Contract, their respective successors and assigns.

32.4 No partnership; Third Party beneficiaries. Neither this Contract nor the performance by the Parties hereto of their obligations hereunder shall constitute a partnership between the Parties. Neither Party shall have any authority, unless expressly conferred in writing and not for the time being revoked, to bind the other. This Contract shall be construed to benefit the Parties and their respective successors and permitted assigns only, and shall not be construed to create Third Party beneficiary rights in any other party or in any governmental organization or agency.

32.5 Parties to execute and deliver documents and instruments. From time to time, as and when requested by a Party, the other Party shall execute and deliver or cause to be executed and delivered all such documents and instruments, and shall take or cause to be taken all such further or other actions, as such Party may reasonably deem necessary or desirable to give effect to the provisions of this Contract.

32.6 Costs. Each Party shall bear its own legal costs and expenses in relation to the preparation and, except as provided otherwise provided herein, the implementation of this Contract.

32.7 Mining Concessionaire to take responsibility for claims and indemnify Government. To the extent required by Applicable Law, the Mining Concessionaire shall hold the Government free and harmless from all claims and accounts of all kinds, as well as demands and actions arising out of the accidents or injuries to persons or properties caused by Mining Operations of the Mining Concessionaire and indemnify the Government for any

reasonable expenses or costs it incurs in connection with the defence of any such claims accounts, demands or actions.

32.8

Effect of illegality. If for any reason, any provision of this Contract is or becomes invalid, illegal or unenforceable, or is declared by any arbitral court or court of law of competent jurisdiction or any competent authority to be invalid, illegal or unenforceable, all other conditions and provisions of this Contract shall nevertheless remain in full force and effect so long as the economic, other than tax matters, and legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to either Party. Upon such determination that any term or covenant is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Contract so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible. In the absence of an agreement between MIREM and the Mining Concessionaire within 60 (sixty) Calendar Days of receipt by MIREM of written Notice from the Mining Concessionaire (or such further period as may be agreed), either Party may refer the issue to arbitration for resolution under Clause 29.

32.9

Computation of time. Times referred to in this Contract are times in Maputo, Mozambique. Unless otherwise provided by Applicable Law or this Contract, in computing any period of time under this Contract the year of the act, event or default, or the day of the act, event, or default, as the context requires, from which period of time begins to run shall be included. A period of time, unless otherwise stated, shall consist of Years, Calendar Years or Calendar Days, as the context requires.

32.10

Currency conversion. Insofar as it is necessary for the purpose of this Contract to adopt a currency conversion rate for conversion of a foreign currency to Meticals or vice versa, the Parties shall use the daily rate (average between purchase and sale) set by the Bank of Mozambique.

32.11

Amendments. No amendment may be made to this Contract other than in a writing signed by both Parties hereto.

## CLAUSE 33 - NOTICES

33.1 Form of notice. Any Notices, declarations and other communications given or made by one Party to the other Party shall, unless otherwise specifically provided herein, be sufficiently given or made if given or made in writing, in Portuguese, and delivered by hand or sent by to such other Party at the address specified in this clause, by courier, electronic mail, or facsimile with all charges prepaid, provided that in the case of electronic mail or facsimile it is followed by confirmation thereof by letter sent by courier. If the Party actually receives the Notice, it shall not be a defence that the Notice was not delivered or received as prescribed in this clause.

33.2 Date of Notice. Any Notices, declarations and other communications given or made shall be deemed to have been given

- (a) if delivered personally - on the working day of personal delivery;
- (b) if delivered by courier - on the working day of delivery confirmation;
- (c) if sent by facsimile - on receipt by the sender of a transmission control report from the dispatching machine showing the relevant facsimile machine number and the result of the transmission as "OK", or similar response, provided, that hard copy confirmation is received by the addressee by courier not later than 14 (fourteen) Calendar Days from the date of transmission;
- (d) if sent by email - on receipt by the sender of a transmission control report from the dispatching server machine showing the receiving server identification and its confirmation of message receipt, or similar response, provided, that hard copy confirmation is received by the addressee by courier not later than 14 (fourteen) Calendar Days from the date of transmission.

33.3 Address for Notice delivery. Notices shall be sent:

If to the Government, other than the National Director of Mines, or to the Minister.--

**Excellency Minister of Mineral Resources**  
**MINISTER OF MINERAL RESOURCES**

Address: Av. Fernão Magalhães, Nº 34, 1º Andar;  
POBOX 2904;  
Telephone 21314843;  
Fax No: 21320618  
Email:

**If to the National Directorate of Mines**

National Director of Mines  
Ministry of Mineral Resources

Address: Praça 25 de Junho  
FAX No 21 36 0198

Email:

**If to the Mining Concessionaire**

Address: Rua Beijo da Mulata, nr.276, Sommerschild II, Maputo  
Att: Sofia Ruas

Telephone: 21 498 177

Fax no.: 21 493428

Mobile: 84 3360 471

Email: sruas@revuboe.com

33.4

Mining Concessionaire to maintain place of service. The Mining Concessionaire shall at all times maintain an address in Mozambique for the purposes of service of Notice.

33.5

Change of Notice address. A Party may at any time and from time to time designate a substitute address for the purposes hereof by giving Notice thereof to the other Party at least 5 (five) Calendar Days in advance of the effective date of such designation. Failure to do so will not excuse such Party from the consequences of its non-receipt of any document, Notice or communication.

## CLAUSE 34 - ANTI-CORRUPTION

34.1 The Government and the Mining Concessionaire agree to cooperate in the prevention of corruption.

34.1.2 The Parties undertake to adopt rapid disciplinary and legal measures with respect to their respective responsibilities to prevent, investigate and draft complaints against any person who is a perpetrator of corruption or any other conduct that is intentionally abusive in accordance with Applicable Law.

34.1.3 No offer, gift, payment or benefit which is could be construed as constituting an illegal or corrupt act shall be accepted, directly or indirectly, as a stimulus or compensation for the execution of this Contract or for the taking or not taking of action or decision in relation to this Contract.

34.1.4 The preceding provision shall apply equally to the Mining Concessionaire, its Affiliates, Mining Operators and Subcontractors when such offer, gift, payment or benefit violates:

1. the Applicable Law; or
2. the laws of the country in which the Mining Concessionaire or the Mining Concessionaire's parent company (or the principal location where it carries out its activities) is incorporated.

In addition, the Parties agree that the laws of the country in which the Mining Concessionaire or the Mining Concessionaire's parent company is incorporated (or the principal location where it carries out its activities), in respect of corruption, may be applied when they punish the corrupt practices more severely.

## CLAUSE 35- LANGUAGE

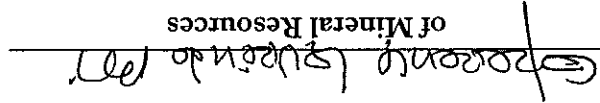
35.1 Language for Reports, Notices, and documents. All Reports, Notices and other documents required or which may come to be required by this Contract shall be submitted in Portuguese.

35.2 Portuguese language version to prevail. This Contract has been drawn up in Portuguese and English languages and 3 (three) duplicate originals of each text have been prepared for execution by the Government and the Mining Concessionaire. An original signed version of each text shall be kept by the Parties. Both the Portuguese and the English texts are binding. However, in the event of any conflict between the two versions, the Portuguese text shall prevail.

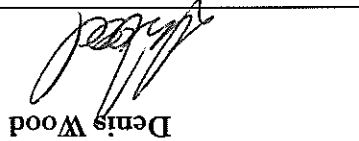
IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be executed by their duly authorized representatives as of the day and year first written above.

Signed for and on behalf of the Government of the Republic of Mozambique

Esperança Francisco Laurinda Nhuané Bias

  
of Mineral Resources

Signed for and on behalf of the Mining Concessionaire

  
Denis Wood

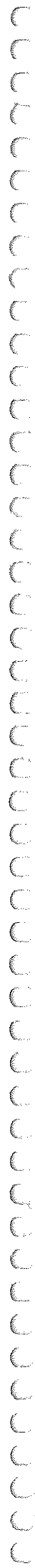
Chairman of the Board of Directors

Signed for and on behalf of Empresa Mocambicana de Exploração Mineira - EMEM, S.A

Victor Manuel Zacarias

Chairman of the Board of Directors





Mário Fernandes Marques

Director