

'22 JUL 12 A11 :46

SENATE

S.B. No. 376

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INTRODUCED BY SENATOR RISA HONTIVEROS

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

EXPLANATORY NOTE

The Philippines holds a large reserve of mineral resources and is considered as among the most mineralized countries in the world. It is 3rd richest in the world for gold per unit area, 4th richest in copper, 5th in nickel, and 6th for chromite. These mineral resources have been sought to contribute to national development, however in the past twenty years, the mining industry has not contributed significantly to the economy and even caused negative impacts to communities, including detrimental environmental destructions where the mines are located.

The present mining law (Republic Act 7942) has clearly failed to regulate the development and exploitation of our mineral resources in a way where benefits are maximized by Filipino communities and by the State, with mitigated impacts to other environmental and natural resources, industries and the rights of Filipino communities. The present fiscal regime for mining does not allow us to maximize the benefits of our non-renewable resource.

Mining as an economic activity is not only an issue of resource use but also concerns water and food security, environment, human rights and indigenous people's rights and a rights-based approach to sustainable development.

In the past decade, the mining industry has only contributed an annual average of 0.7-1% to the Gross Domestic Product compared to other industries because the government receives only 2% excise tax share, and employs 200,000-250,000 or only 0.6% of total employment.

Meanwhile, it should be noted that the ecotourism, agriculture, fisheries and forestry sectors have been found to be seriously threatened by the mining industry.

Downstream mining activities are not necessarily promoted because our present mining law allows for export of our ores and processing elsewhere.

Mining largely affects forest covers, watersheds, agricultural lands and water systems that sustain us. With only 10% forest cover, entry of mining projects will further threaten our biodiversity—including important bird and key biodiversity areas. Other than land and water pollution, mining also causes coral reef degradation as tailings and siltation find its way to the sea, and eventually affects our food source.

Mining concessions have encroached in areas where indigenous and rural communities, including farmers and fisher folks reside, and this threaten their health, food supply, livelihood, culture, integrity of their ancestral domain—their rights. Under the current system, mining is prioritized over other land uses. Further the current mining policy gives companies the right to water, timber, and easement, and to use explosives.

Many cases of mining-related conflicts, violence and human rights violations have been documented and reported, most of which are continuing and remain unaddressed. This is aggravated by the presence of paramilitary forces in mining areas, also allowed for by the government.

Needless to say, the present law has allowed for the plunder of our finite mineral resources at the expense of the environment and the Filipino people.

The present mining law, an outdated one, also has not considered the occurrence of impacts of climate change and disaster risks. In the past five years alone, many large-scale mining-related disasters have been reported. The Philippines is among the top five most vulnerable countries to the impacts of climate change. Mining operations and climate-induced extreme weather events aggravate the impacts of disasters to the ecosystem and communities.

There is a need to overhaul the current mining policy framework to ensure the proper management and utilization of our mineral resources, and to address the current mining issues. Likewise, the new policy must also be climate sensitive and should factor in the impacts of climate change to the industry and Filipino communities.

In order to address the challenges in the mining industry and the proper management of our mineral, this measure is being proposed. This bill seeks to guarantee that the exploration, development and utilization of mineral resources will primarily benefit the Filipino people; prioritizes sustainable livelihood choices for communities; gives utmost importance to food security and livable conditions for the people; ensures that the gains from the mining industry would be maximized while preventing or mitigating its adverse effects; recognizes that the issue of environment and sustainable development is local and thus prioritizes local participation in decisions surrounding

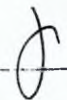
mining; ensures the protection of human rights of communities and individuals; and imposes harsh penalties for the violation of its provisions.

The passage of this bill is earnestly sought.


RISA HONTIVEROS
Senator

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COMMUNITIES, AND FOR OTHER PURPOSES

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

CHAPTER I
DECLARATION OF POLICIES

- 1 Section 1. *Short Title.* – This Act shall be known as the “*Alternative Minerals*
2 *Management Act of 2022.*”
- 3 Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to:
- 4 a) Maintain peace and order, protect life, liberty and property and promote
5 the general welfare;
- 6 b) Advance the medium- and long-term needs of the Philippines;
- 7 c) Encourage the advancement of the industry’s technology with emphasis
8 on existing indigenous knowledge, research and development;
- 9 d) Protect and advance the right of the people to a balanced and healthful
10 ecology in accord with the rhythm and harmony of nature;
- 11 e) Value the dignity of every human person and guarantees full respect for
12 human rights;
- 13 f) Promote social justice in all phases of national development;
- 14 g) Recognize and promote the rights of indigenous cultural communities
15 within the framework of national unity and development and protect the
16 right to self-determination of the indigenous and Moro peoples;
- 17 h) Protect and promote the right to health of the people and instill health
18 consciousness among them;

- i) Pursue an independent foreign policy. In its relations with other states the paramount consideration shall be national sovereignty, territorial integrity, national interest, and the right to self-determination;
- j) Develop a self-reliant and independent national economy effectively controlled by Filipinos;
- k) Ensure the autonomy of local governments;
- l) Give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good;
- m) Encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation; and
- n) Adopt and accept the generally accepted principles as embodied in the International Covenant on Civil and Political Rights, International Covenant on Economic, Social, Cultural Rights, UN Declaration on the Rights of Indigenous Peoples, UN Convention on Biodiversity and other international accords on human rights, labor rights, the rights of women and children, and the protection and preservation of the environment, of which the State is a party.

Sec. 3. – The State shall formulate a National Industrialization Program pursuant to the principles of agricultural modernization, development of industrial and manufacturing industries, and rational, sustainable, and equitable development of the national economy. The State shall, therefore, promote the development of mineral processing to maximize the benefits or value-added from mining. Towards this end, it shall encourage the establishment and development of manufacturing plants that will utilize locally processed mineral products as well as mining firms that will process mineral ores first for domestic purposes and before exporting them to other countries.

Pursuant to the foregoing, the State shall implement a Mineral Management Plan that provides the framework for the utilization and management of the country's mineral resources, which will address the needs of the domestic economy and uphold the rights of industry workers, indigenous peoples and local communities.

Sec. 4. – The judicious stewardship of our mineral resources, as well as its exploration, development and utilization shall comply with the following principles:

- a) The current export-orientation of mining is hereby reversed, and a domestic needs-based development of the industry shall be pursued by the State as a step towards achieving genuine economic development;

- b) The mining industry shall be geared towards national industrialization and shall be built for the production of raw materials such as base metals, basic chemicals and petrochemicals needed by the basic, medium and heavy industries to produce as much consumer, intermediate and capital goods with the country's stock of finite mineral and non-mineral industrial raw materials and in the process provide jobs to the country's vast human resources;
- c) The community shall actively participate in the stewardship of mineral resources. Community-based initiatives shall be encouraged and supported;
- d) The State and its members shall develop its human resources and encourage the evolution of its own appropriate technologies. The State shall provide the appropriate support and protection to Filipino corporations to further develop and increase their participation in the industry. All mining industry investments shall be mutually-beneficial and help achieve the specific target and goals of the National Industrialization Program. To come up with the large capital requirement for mining, the State must use local sources such as but not limited to the granting of incentives and financial aid to local private sector investors, re-channeling of government budget allocations for foreign debt payments and military expenditures, and the proceeds from the government shares of the Malampaya Natural Gas Project;
- e) The State shall allow, in exceptional cases, foreign corporations to invest in the mineral industry. Based on the National Industrialization Program and the country's capability and capacity, the government must identify the mineral areas where foreigners can help and invest subject to rigorous screening and strict regulations as provided in this Act and related laws. The participation of foreign companies in the critical stages of minerals extraction and processing shall be in accordance with a mandatory program or agreement for technology transfer and equity shares that do not exceed forty (40) percent of the full capital requirements.
- Provided, That capital accumulation and reinvestment within the country shall be primarily encouraged over profit repatriation by the foreign companies and that foreign mining corporations, their principals, local firms and conduits that have a bad track record in the Philippines are banned from investing in the country;*

- 1 f) In land and water use, the production of sufficient food free from pollution
2 towards food security shall always be the priority;
- 3 g) Long-term mining development shall be programmed by the State in
4 accordance with the country's availability of resources, capability and well-
5 being of the people, technological capacity and people's acceptability. The
6 right of Muslim Filipinos and indigenous peoples to self-determination and
7 ancestral domain shall be recognized and their collective property rights
8 are guaranteed by this Act;
- 9 h) Job security, adequate wages, benefits, and safe working conditions for
10 mine workers shall be ensured in state- and privately-owned mining
11 corporations. Their right to organize and form their own associations, to
12 collective bargaining and to strike shall be upheld. The state will strictly
13 prohibit forced and child labor in the industry;
- 14 i) Small-scale mining operations shall be supported and regulated by the
15 state. The state will encourage the formation of cooperatives among
16 small-scale miners and provide financial and technical support to develop
17 the labor-intensive and upgrade the backward technologies into a more
18 efficient and less environmentally destructive mining process. Whenever
19 small- scale mining is stopped, alternative and sustainable livelihood shall
20 be provided to the small-scale miners.
- 21 j) Mining operations shall not in any way create or exacerbate conflicts. In
22 no instance shall the Armed Forces of the Philippines (AFP), the Philippine
23 National Police (PNP) and private security and paramilitary groups be used
24 to coerce or force the entry and protection of mining operations;
- 25 k) Mining industry research and development shall focus on harnessing more
26 economically- efficient and less environmentally destructive methods. The
27 advanced technologies from other countries that are proven to be
28 appropriate locally shall be adopted in the industry;
- 29 l) All mining operations shall be strictly regulated to ensure the domestic
30 processing of mineral ores up to the secondary and tertiary stages of
31 industrial production to develop our own basic and medium industries.
32 Recycling programs and substitution in the use of minerals shall be
33 incorporated in the overall plan of mining development to reduce mine
34 waste and pollution, and mining rehabilitation techniques. Indigenous
35 technologies that are relevant and appropriate, particularly with respect

1 to the domestic processing of minerals shall be promoted, harnessed,
2 expanded and upgraded;

3 m) The State and its members shall share in the burden of satisfying the need
4 for mineral resources primarily through reusing and recycling existing
5 mineral products. Ecologically-sound practices at all stages of mining shall
6 be promoted. Mining technologies such as open-pit mining and
7 submarine mine tailing disposal methods that are banned abroad and/or
8 proven inappropriate in countries like the Philippines must all be banned.
9 Environmental standards shall be set to ensure the protection and efficient
10 utilization of the country's mineral resource base. Ecological
11 considerations in mining development shall be given due emphasis and
12 attention to substantially eliminate destructive effects that certain mining
13 industrial processes might have on the people's health and the
14 environment. Monitoring mechanisms with strong participation from the
15 local communities will be instituted;

16 n) Mining in environmentally critical areas such as small island ecosystems,
17 primary and secondary forests and watersheds shall be banned. Dumping
18 of mine wastes and tailings to rivers, lakes and seas are prohibited; The
19 integrity of the environment shall not be compromised; and

20 o) Areas affected by mining shall be rehabilitated, including abandoned
21 mines. Violators shall be strictly punished and made to pay heavy
22 compensation to the State and the affected communities;

23 Sec. 5. – The exploration, development and utilization of natural resources must
24 comply with the principles of intergenerational responsibility.

25 Sec. 6. – For purposes of, or in relation to expropriation, it is hereby declared that
26 mining is not for a public purpose.

27 Sec. 7. – Mining agreements shall not be considered as vested rights, but, are
28 mere privilege that the State can grant or revoke anytime for a legitimate purpose.

29
30 **CHAPTER II**
31 **SCOPE AND GENERAL PRINCIPLES**
32

33 Sec. 8. *Scope.* – This Act shall govern the ownership, management and
34 governance of both metallic and non-metallic ore minerals onshore and offshore, as well
35 as quarry resources, sand and gravel, guano, and gemstones, and the conservation,
36 exploration, development, utilization, processing and transportation thereof. The
37 ownership, management and governance of petroleum, natural gas and coal shall be

1 governed by special laws. Offshore mining shall also be governed by special laws.

2 This Act shall cover onshore and offshore, large-scale and small-scale mining operations
3 in the country, including mining projects in ancestral domains in accordance to the
4 existing national and international policies on our indigenous peoples.

5 Sec. 9. – Ore minerals form part of the country’s irreplaceable and non-renewable
6 natural wealth and capital. The conservation of our mineral wealth is a paramount public
7 interest and mineral resources shall be utilized only in a rational manner for national and
8 local development as specified by law and the National Industrialization Program and the
9 Mineral Management Plan. The economic benefits derived from mining shall be equitably
10 distributed by, among others, prioritizing development for local communities and all other
11 stakeholders directly affected by mining operations.

12 Sec. 10. – The State shall have primary role, responsibility and concern in the
13 management, conservation, utilization, and development of the mining industry and shall
14 ensure the peoples participation in policy making and implementation of the same at all
15 levels of government. The management of mineral resources shall be a shared concern
16 and responsibility among the national government, corporations, all levels of local
17 government, and the communities affected by the exploration, development, and
18 utilization of mineral resources.

19 Sec. 11. – The State shall accord support to communities dependent on small-scale
20 mining whose operations shall strictly adhere to the provisions of this law.

21 Sec. 12. – Subject to their right to self-determination, indigenous cultural
22 communities/ indigenous peoples (ICCs/IPs) own and have the responsibility to manage
23 the mineral resources in their respective ancestral domains, free from external
24 manipulation, interference, force threat, intimidation, coercion and other analogous acts.
25 The State shall support indigenous cultural communities in developing capacities to
26 effectively exercise their right and responsibility.

27 Sec. 13. – Mining shall be limited in scale in accordance with this Act.

28 Sec. 14. – Mineral resources development, utilization and processing shall be
29 reserved for Filipino citizens and for Filipino corporations. Exploration shall be undertaken
30 directly by the State for the benefit of the nation.

31 Sec. 15. – Remining and recycling of mineral resources shall be prioritized over the
32 opening of new mines to maximize and recover the remaining minerals resources from
33 the rejects or wastes of previous mines and mining operations.

34 Sec. 16. – The State shall prioritize the rehabilitation of the abandoned mines in
35 the country. The State shall ensure the fullest compliance of all government and
36 corporate entities in and on the closure of mines, the rehabilitation/restoration of the

immediate environs or each mining project/activity in the country as provided by law.

Sec. 17. – The State shall encourage and support Filipino private corporations and mining cooperatives to participate and invest in the mining industry on mutually-beneficial grounds that will push forward the National Industrialization Program in both small-scale and large-scale projects.

Sec. 18. – Mineral resource extraction shall be allowed based on the Philippine Government's National Industrial Plan. The sharing of profits from mining activities, including the anticipated environmental and social costs on the affected local communities of each mining project, should far outweigh ecological and social benefits and costs from other land uses. The anticipated cost of environmental and social impacts on the affected local communities, which shall at all times be prevented and/or mitigated through the allocation of sufficient funds for this purpose. In mining projects with foreign participation, a just return of investment scheme for the foreign entrants into the industry shall be prescribed by law.

Sec. 19. – The State shall prioritize the development of mineral resources needed for national development and the creation of domestic processing capacity for industrial metals, the integration of agricultural modernization and other labor-intensive downstream industries. Mine planning shall be conducted to meet this principle. The National Industrial Plan shall support national development based on the principles of sustainable development and modernization of its economic base. This framework will define minerals to be extracted, volume to be extracted and when to be extracted. This shall be matched with the approved mining areas as identified by the Councils. These matched areas are eligible for mining operations.

CHAPTER III

DEFINITION OF TERMS

Sec. 20. *Definition of Terms.* – As used in and for the purposes of this Act, the following terms, whether used in singular or in plural form, shall mean:

a) *Abandonment* – the act of the contractor leaving a mine without rehabilitating the affected areas or completing such rehabilitation despite the legal obligation to do the same;

b) *Acid mine drainage* – the dissolution, mobilization and transportation of toxic metals from rocks resulting from the chemical reaction of the acid-generating minerals in rock and waste materials having high permeability to both air and rainfall and other water inflows when land is opened up for mining and initiates the chemical reaction, resulting to a perpetual

- 1 machine of acid generation;
- 2 c) *Ancestral domains* – all areas generally belonging to indigenous cultural
3 communities/indigenous peoples (ICCs/IPs) comprising lands, inland
4 waters, coastal areas, and natural resources therein, held under a claim
5 of ownership, occupied or possessed by ICCs/IPs, by themselves or
6 through their ancestors, communally or individually since time
7 immemorial, continuously to the present except when interrupted by war,
8 force majeure or displacement by force, deceit, stealth or as a
9 consequence of government projects or any other voluntary dealings
10 entered into by government and private individuals/corporations, and
11 which are necessary to ensure their economic, social and cultural welfare.
12 It shall include ancestral lands, forests, pasture, residential, agricultural,
13 and other lands individually owned whether alienable and disposable or
14 otherwise, hunting grounds, burial grounds, areas of worship, bodies of
15 water, mineral and other natural resources, and lands which may no
16 longer be exclusively occupied by ICCs/IPs but from which they
17 traditionally and historically had access to for their subsistence and
18 traditional activities, particularly the home ranges of ICCs/IPs who are still
19 nomadic and/or shifting cultivators
- 20 d) *Ancestral lands* – lands occupied, possessed and utilized by individuals,
21 families and clans who are members of the ICCs/IPs by themselves or
22 through their predecessors-in-interest, under claims of individual or
23 traditional group ownership, continuously, to the present except when
24 interrupted by war, force majeure or displacement by force, deceit,
25 stealth, or as a consequence of government development aggression
26 projects and other voluntary dealings entered into by government and
27 private individuals/corporations including, but not limited to, residential
28 lots, rice terraces or paddies, private forests, swidden farms and tree lots;
- 29 e) *Beneficiation* – a process wherein a large fraction of the waste material is
30 removed from the mineral ore;
- 31 f) *Buffer Zones* – identified areas outside the boundaries of and immediately
32 adjacent to designated protected areas designated by law that need
33 special development control in order to avoid or minimize harm to the
34 protected area;
- 35 g) *Bureau* – the Mines and Geosciences Bureau (MGB) under the Department
36 of Environment and Natural Resources (DENR);

- h) *Carrying capacity* – the capacity of natural and human environments to accommodate and absorb change without experiencing conditions of ecological instability and attendant degradation;
- i) *Certificate of Ancestral Domains Title (CADT)* – title formally recognizing the rights of possession and ownership of ICCs/IPs over their ancestral domains identified and delineated in accordance with law;
- j) *Certificate of Ancestral Lands Title (CALT)* – a title formally recognizing the rights of ICCs/IPs over their ancestral lands;
- k) *Closure of mines* – permanent cessation of operations at a mine or mine processing site after completion of the decommissioning process;
- l) *Consensus* – the decision communally reached after appropriate participatory consultation and discussion, free from any external manipulation, interference and coercion, and other analogous cases and obtained after fully disclosing the intent and scope, including the positive and negative impacts of the activity, in a language and process understandable to the community or group.
- m) *Consent* – the free, prior and informed assent of the relevant person/s, ICCs/IPs, barangay assemblies, landowner or occupant or possessor, given after fully disclosing the intent and scope, including the positive and negative impacts of the activity, in a language and process understandable to said persons or communities or assemblies;
- n) *Contract area* – the area delineated as specifically provided by a mineral agreement for the development or utilization of mineral resources found therein;
- o) *Critical watershed* – refers to a drainage area of a river system, lake or water reservoir supporting existing and proposed hydroelectric power, domestic water supply, geothermal power and irrigation works, which needs immediate rehabilitation and protection to minimize soil erosion, improve water yield and prevent possible flooding. The term shall also include areas which are traditional human settlements, land-uses, or sea-uses which are representative of a culture/cultures, or human interaction with the environment especially when it has become vulnerable under the impact of irreversible change;
- p) *Critical habitats* – place or environment where species or subspecies naturally occur or has naturally established its population that are crucial to the survival of a species and essential for its conservation;

- 1 q) *Cultural sites* – those that bear a unique or at least exceptional testimony
2 to a cultural tradition or to a civilization which is living or which has
3 disappeared or, directly or tangibly associated with events or living
4 traditions, with ideas, or with beliefs, with artistic and literary works of
5 outstanding universal significance;
- 6 r) *Customary laws* – body of written and/or unwritten rules, usages, customs
7 and practices traditionally recognized, accepted and observed by
8 respective ICCs/IPs and local communities;
- 9 s) *Decommissioning* – the activity or process that begins after cessation of
10 prospecting activities or mineral production (including metallurgical plant
11 production). It involves, among others, the removal of unwanted
12 infrastructure, making excavations and waste repositories safe and stable
13 and surface rehabilitation with a view to negate or minimize any adverse
14 environmental impacts remaining after cessation of mineral production. It
15 includes the aftercare or maintenance that may be needed;
- 16 t) *Downstream industries* – are mining activities that cover minerals
17 processing, refining, manufacturing of intermediate and capital goods and
18 marketing of such;
- 19 u) *Ecological profile or eco-profile* – geographic-based instruments for
20 planners and decision-makers which present an evaluation of the
21 environmental quality and carrying capacity of an area and measures the
22 specific interactions that will be affected by any and all mining operations;
- 23 v) *Exploration* – covers the methods of searching or prospecting for mineral
24 resources by non-invasive means for the purpose of determining the
25 existence, extent, quantity and quality thereof, which may include but not
26 limited to seismic, gravity, magnetic, electromagnetic, radar, induced
27 polarization, radio-wave and electro geochemical;
- 28 w) *Extraction* – ore-removal activities that take place at the mine site itself;
- 29 x) *Free, prior, and informed consent (FPIC)* – the consensus of all members
30 of the ICCs/IPs to be determined in accordance with their respective
31 customary laws and practices, free from any external manipulation,
32 interference, coercion, and other analogous acts and obtained after fully
33 disclosing the intent and scope, including the positive and negative
34 impacts, of all the activities, in a language and process understandable
35 and acceptable to the community;
- 36 y) *Indigenous peoples/Indigenous cultural communities (IP/ICC)* – refer to a

1 group of people or homogenous societies identified by self-ascription and
2 ascription by others, who have continuously lived as organized community
3 on communally bounded and defined territory, and who have, under
4 claims of ownership since time immemorial, occupied, possessed and
5 utilized such territories, sharing common bonds of language, customs,
6 traditions and other distinctive cultural traits, or who have, through
7 resistance to political, social and cultural inroads of colonization, non-
8 indigenous religions and cultures, became historically differentiated from
9 the majority of Filipinos. ICCs/IPs shall likewise include peoples who are
10 regarded as indigenous on account of their descent from the populations
11 which inhabited the country, at the time of conquest or colonization, or at
12 the time of inroads of non-indigenous religions and cultures, or the
13 establishment of present state boundaries, who retain some or all of their
14 own social, economic, cultural and political institutions, but who may have
15 been displaced from their traditional domains or who may have resettled
16 outside their ancestral domains. They are peoples who have a spiritual
17 relationship with the land;

18 z) *Indigenous political structure* – refers to organizational and cultural
19 leadership systems, institutions, relationships, patterns and processes for
20 decision-making and participation, identified by ICCs/IPs such as, but not
21 limited to, Council of Elders, Council of Timuays, Bodong Holders, and any
22 other tribunal or body of similar nature;

23 aa) *Joint venture agreement* – an agreement wherein the government and a
24 qualified person organize a joint-venture company, with both parties
25 having equity shares, to develop and manage mineral resources. Aside
26 from earnings on the equity, the Government shall be entitled to a share
27 in the output computed at a certain percentage mutually agreed upon by
28 and beneficial to both parties.

29 bb) *Key biodiversity areas* – are sites of global biodiversity conservation
30 significance. They are defined by standardized criteria and thresholds to
31 guide conservation interventions such as the establishment of protected
32 areas;

33 cc) *Large-scale mining* – mining in areas with more than twenty (20)
34 hectares, using mechanized tools and equipment, requiring considerable
35 capital and having large-scale environmental, social, cultural and
36 economic impacts with regard to resource use and/or consumption;

- 1 dd) *Mineral agreement* – a contract entered into by the government, in behalf
2 of the State, and a private Filipino person, granting such person/s the
3 privilege to mine a specific contract area;
- 4 ee) *Mineral resource* – any concentration of minerals/rocks with potential
5 economic value;
- 6 ff) *Mineral processing* – the milling, beneficiation or upgrading of ores or
7 minerals and rocks or by similar means to convert the same into
8 marketable products;
- 9 gg) *Minerals* – all naturally occurring inorganic substance in solid, gas, liquid,
10 or any intermediate state excluding energy materials such as coal,
11 petroleum, natural gas, radioactive materials, and geothermal energy;
- 12 hh) *Mine development* – preparing the mine site for production by shaft
13 sinking or pit excavation building of access roads, and constructing of
14 surface facilities;
- 15 ii) *Mine wastes and tailings* – rock materials from surface or underground
16 mining and milling operations with little or no economic value to the
17 generator of the same;
- 18 jj) *Mining activity* – any or all of the following activities: exploration,
19 extraction, utilization, processing, transportation and other activities
20 conducted for the same;
- 21 kk) *Mining area* – a portion of the contract area which has been identified by
22 the contractor wherein actual mining operations are conducted;
- 23 ll) *Mining operations* – either all or any of the mining activities involving
24 exploration, feasibility, development, utilization, and processing;
- 25 mm) *National industrialization* – in the mining industry, this shall denote the
26 primacy of mineral production, processing and distribution for the primary
27 benefit of the domestic economy. This includes creating favorable
28 conditions for Filipino entrepreneurs to engage in mining through various
29 state-private agreements that shall ensure that mining shall help spur
30 more domestic investments, increase agricultural production and produce
31 both consumer and producer goods and manufactures;
- 32 nn) *National park* – an area of the public domain essentially natural
33 wilderness, scenic, or historic in character which has been withdrawn from
34 settlement, occupancy, or any form of exploitation except in conformity
35 with an approved management plan and set aside exclusively to conserve
36 the area or preserve the scenery, the natural and historic objects, wild

- 1 animals, and plants therein mainly for the purpose of biodiversity
2 conservation and/or human enjoyment;
- 3 oo) *Natural forest* – forests composed of indigenous trees, not planted by
4 man, whose structure, functions, and dynamics have been largely the
5 result of natural succession processes;
- 6 pp) *Natural parks* – is a relatively large area not materially altered by human
7 activity where extractive resource uses are not allowed. These parks are
8 maintained to protect outstanding natural and scenic areas of national or
9 international significance for scientific, educational and recreational use;
- 10 qq) *Open-pit mining* – Extracting metal ores and minerals that lie near the
11 surface by removing the overlying material and breaking and loading the
12 ore. Also known as open-cast mining and open-cut mining;
- 13 rr) *Ore* – a material that contains minerals in such quantities that it can be
14 mined and worked commercially to extract that mineral. The mineral is
15 usually contained in chemical combination with some other element in
16 addition to various impurities;
- 17 ss) *Pollution control and infrastructure devices* – infrastructure, machinery,
18 equipment and/or improvements used for impounding, treating, or
19 neutralizing, precipitating, filtering, conveying and cleansing mine
20 industrial waste and tailings as well as eliminating or reducing hazardous
21 effects of solid particles, chemicals, liquids or other harmful by-products
22 and gases emitted from any facility utilized in mining operations for their
23 disposal;
- 24 tt) *Private land* – any land belonging to any private person which includes
25 alienable and disposable land being claimed by a holder, claimant, or
26 occupant who has already acquired a vested right thereto under the law,
27 although the corresponding certificate or evidence of title or patent has
28 not been actually issued;
- 29 uu) *Processing* – includes all treatment an ore receives after its extraction
30 and beneficiation, which involves changes in the chemical nature of the
31 mined minerals;
- 32 vv) *Progressive rehabilitation* – rehabilitation which involves the staged
33 treatment of disturbed areas during exploration,
34 construction/development and mining operations;
- 35 ww) *Protected areas* – identified portions of land and water set aside by
36 reason of their unique physical and biological significance, managed to

enhance biological diversity and protected against destructive human exploitation;

xx) *Protected landscapes, seascapes, marine sanctuaries* – areas of national significance which are characterized by the harmonious interaction of man and the environs while providing opportunities for public enjoyment through recreation and tourism within the bounds of the normal lifestyle and economic activity of these areas;

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

zz) *Quarrying* – process of extracting, removing and disposing quarry resources found on or underneath the surface of private or public land;

aaa) *Regional Director* – the regional director of any mines' regional office;

bbb) *Regional Office* – any of the mines' regional offices;

ccc) *Recycling* – shall refer to the treating of used or waste materials through a process of making them suitable for beneficial use and for other purposes, and includes any process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identity, and which may be used as raw materials for the production of other goods or services: *Provided*, That the collection, segregation and re-use of previously used packaging material shall be deemed recycling under the Act;

ddd) *Rehabilitation* – the process by which the land will be returned to a form and productivity in conformity with a prior land use plan including a stable

ecological state that does not contribute substantially to environmental deterioration and is consistent with surrounding aesthetic values;

eee) *Remediation* – removal of pollution or contaminants from environmental media for the general protection of the area and the people;

fff) *Remining* – maximizing and recovering the remaining minerals from the rejects or wastes of previous mines and mining operations;

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

hhh) *Self-determination* – refers to the right of a people to determine its own political destiny as defined by existing Philippine laws. The right to self-determination has includes the right of ICCs/IPs to choose their form of government within existing national borders to achieve a greater degree of autonomy to help preserve their culture, ancestral domain, and way of life;

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

jjj) *Small-scale mining permit* – permit issued for small-scale mining;

kkk) *Strategic minerals* – minerals needed for national industrialization, including rural development;

III) *Tailings Disposal System or Tailings Placement* – the method wherein the waste from mining operations are dumped, placed, or disposed;

mmm) *Traditional small-scale mining* – small-scale mining using traditional means and without the use of chemical or mechanized extraction and separation means, methods, implements, and/or equipment;

nnn) *Watershed continuum* – shall refer to an area consisting of the watershed and its divide including its connection from the headwaters to the reef or a land area drained by a stream or a fixed body of water and with tributaries having a common outlet for surface runoff. It is the system by which the mining-affected communities shall be determined following the drainage of a stream or fixed body of water with tributaries having a

common outlet for surface runoff;
ooo) *Wildlife* – undomesticated forms and varieties of flora and fauna.

CHAPTER IV **OWNERSHIP AND GOVERNANCE**

Sec. 21. *Authority of the Bureau.* – The Mines and Geosciences Bureau shall be a scientific research institution under the Department of Environment and Natural Resources (DENR) primarily conducting and developing research of mineral resources and mining technologies and training of local communities, local government units and indigenous peoples. It shall also regulate the operations of persons involved in mining activities. It shall also work with the Multi-Sectoral Mineral Council in the monitoring of mining activities.

Sec. 22. *Regional offices.* – The Bureau shall have as many regional offices in the country as may be established by the Secretary, upon the recommendation of the Director.

Sec. 23. *Bureau as repository of information.* – The Bureau shall be the central repository of information regarding mineral lands, resources, permits, studies and other information relevant to the operation of a mine, including the necessary requirements which a contractor is obliged to submit. All other governmental offices and other bodies created under this Act shall copy furnish the Bureau of all other information related to mining.

Sec. 24. *Recording system.* – There shall be established a national and regional filing and recording system. A mineral resource database system shall be set up in the Bureau which shall include, among others, a mineral rights management system.

Sec. 25. *Publication.* – The Bureau shall publish at least annually a mineral gazette of nationwide circulation containing among others, a current list of mineral rights, their locations specified in the appropriate map, mining rules and regulations, other official acts affecting mining, and other information relevant to mineral resources development. A system of publication fund shall be included in the regular budget of the Bureau.

Sec. 26. *Bureau to conduct exploration activities.* – Exploration of mineral resources shall be exclusively and directly undertaken by the State through the Bureau. In no case shall this function be delegated or contracted out to private corporations or persons.

Sec. 27. *Non-invasive exploration.* – Exploration activities shall only be non-invasive such as seismic, gravity, magnetic, electromagnetic, radar, induced polarization, radio-wave and electro-geochemical.

Sec. 28. *Consent.* – The Bureau shall not conduct any exploration activity without

1 the free, prior and informed written consent of relevant landowner, possessor and/or
2 occupant; the affected communities; and/or of the ICC/IP. Neither shall the Bureau enter
3 into any part of the ancestral domains/lands of ICCs/IPs without their free and prior
4 informed consent. Further, the Bureau shall not enter into any distributed land under the
5 Comprehensive Agrarian Reform Program within the 10 years prohibited period of the
6 said program.

7 Sec. 29. *Ownership of ICCs/IPs.* – The mineral resources within ancestral
8 domains/ancestral lands are the collective private property of the indigenous cultural
9 communities/indigenous peoples (ICCs/IPs) as provided by law. The management of such
10 mineral resources shall build on the indigenous knowledge systems and practices of the
11 ICCs/IPs.

12 Sec. 30. *Free, prior, and informed consent.* – No mining activity shall be conducted
13 within the ancestral domains/lands of ICCs/IPs without their free, prior, and informed
14 consent (FPIC), in addition to the conditions set forth under the succeeding sections of
15 this Act.

16 Sec. 31. *When ancestral domain is not formally recognized.* – When ancestral
17 domain is not covered by a Certificate of Ancestral Domain Title/Certificate of Ancestral
18 Land Title (CADT/CALT), or is covered by a different title issued in favor of members of
19 the ICCs/IPs, mineral resources shall nevertheless be managed by the ICCs/IPs concerned
20 when it can be presumed that the area is part of ancestral domain. An area is presumed
21 to be part of ancestral domain by virtue of historic rights and self-delineation by the
22 ICCs/IPs.

23 Sec. 32. *When ICCs/IPs displaced from ancestral domain, and when ancestral*
24 *domain is already covered by other titles emanating from the State other than*
25 *CADT/CALT.* – IP/ICC rights over ancestral domain subsists notwithstanding the fact that
26 the ICCs/IPs who hold such rights have been displaced therefrom or that such ancestral
27 domains have been occupied by other persons or corporations under another claim of
28 title emanating from the State. In such cases, ICCs/IPs shall continue to own such
29 mineral resources.

30 Sec. 33. *Questions on the validity of FPIC.* – In instances that there are questions
31 on the legality or validity of the issued free, prior, and informed consent, mining operations
32 shall not be allowed to be conducted in the ancestral domains or lands of the ICCs/IPs
33 without the final resolution of such question on the legality or validity of the FPIC.

34 Sec. 34. *Ownership of the State.* – The mineral resources found outside ancestral
35 domains/lands shall be owned by the State. The State shall ensure that the management
36 of mineral resources shall be primarily for the benefit of the local communities in whose

territory the same shall be found. Any minerals extracted shall be solely used for local industries consistent with the Minerals Management Plan. The State may directly undertake development, utilization and processing of mineral resources or it may enter into mineral agreements with eligible parties pursuant to the provisions of this Act.

Sec. 35. *Inventory of mineral resources.* – The Bureau shall identify and provide an inventory of the available mineral resources, including the mine tailings and wastes within the country. It shall submit to the DENR a report which shall contain the following information:

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

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

Sec. 36. *Identification of strategic minerals.* – The Bureau shall conduct researches and studies prior to any mining operations to identify strategic mineral resources. Only mineral resources that shall be needed for local industries, agricultural modernization and rural development shall be opened to mining subject to the implementing rules and regulations of this Act.

Sec. 37. *Demarcation of mineral areas.* – The Bureau shall demarcate the boundaries of all areas identified as containing commercial quantities of mineral resources on the ground.

Sec. 38. *Baseline information on watershed continuums.* – The baseline information on all watersheds in the country shall be required and made available to the public, online as much as possible. No mining permit shall be issued without this baseline information.

Sec. 39. *Affected local community and local government unit.* – For the purposes of this Act, the affected local community and the affected local government unit are defined in relation to the watershed continuum which is potentially negatively impacted by mining operation in the demarcated area. The local communities and the local government units therefore are those who are dependent on the watershed eco-system and its resources.

Sec. 40. *Establishment of Multi-Sectoral Mineral Councils.* – A Multi-Sectoral

Mineral Council shall be established for the purposes of this Act. There shall be as many Multi-Sectoral Mineral Councils as there are watershed continuums with demarcated mineral areas.

Sec. 41. *Powers of the Council.* – The Council shall have the following powers, among others:

- a. To determine whether or not mining operations shall be allowed;
- b. To deliberate on proposals for mineral agreements;
- c. To approve the proposal for mineral agreements;
- d. To monitor the conduct of mining operations; and
- e. To establish its internal rules of procedure which are not contradictory to this Act.

Sec. 42. *Composition of the Multi-Sectoral Mineral Council.* – The Multi-Sectoral Mineral Council shall be composed of representatives from the Bureau, one representative from each of the affected provincial governments/independent component cities/highly urbanized cities, representatives from peoples/community/sectoral/non-governmental organizations as many as the representatives of local government units, and the affected ICCs/IPs within the watershed continuum. The Bureau shall be the convener of the Council.

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

Sec. 43. *Areas open to mining.* – The Council shall have the power to determine whether or not the land where mineral resources are found shall be opened to mining. Areas may only be opened to mining upon the vote of two-thirds of all the members of the Council pursuant to the guidelines provided by this Act. In determining whether or not such area shall be opened, the following shall be required:

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

1 common outlet for surface runoff;
2 (ooo) *Wildlife* – undomesticated forms and varieties of flora and fauna.
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4 **CHAPTER IV**
5 OWNERSHIP AND GOVERNANCE
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21 mining.
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36 of mineral resources shall be primarily for the benefit of the local communities in whose

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

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

Sec. 36. *Identification of strategic minerals.* – The Bureau shall conduct researches and studies prior to any mining operations to identify strategic mineral resources. Only mineral resources that shall be needed for local industries, agricultural modernization and rural development shall be opened to mining subject to the implementing rules and regulations of this Act.

Sec. 37. *Demarcation of mineral areas.* – The Bureau shall demarcate the boundaries of all areas identified as containing commercial quantities of mineral resources on the ground.

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3	Mineral areas.	3
4	Sec. 41. <i>Powers of the Council.</i> – The Council shall have the following powers,	4
5	among others:	5
6	a. To determine whether or not mining operations shall be allowed;	6
7	b. To deliberate on proposals for mineral agreements;	7
8	c. To approve the proposal for mineral agreements;	8
9	d. To monitor the conduct of mining operations; and	9
10	e. To establish its internal rules of procedure which are not contradictory to	10
11	this Act.	11
12	Sec. 42. <i>Composition of the Multi-Sectoral Mineral Council.</i> – The Multi-Sectoral	12
13	Mineral Council shall be composed of representatives from the Bureau, one representative	13
14	from each of the affected provincial governments/independent component cities/highly	14
15	urbanized cities, representatives from peoples/community/sectoral/non-governmental	15
16	organizations as many as the representatives of local government units, and the affected	16
17	ICCs/IPs within the watershed continuum. The Bureau shall be the convener of the	17
18	Council.	18
19	No mining operations shall be allowed without the Council having been properly	19
20	convened.	20
21	Sec. 43. <i>Areas open to mining.</i> – The Council shall have the power to determine	21
22	whether or not the land where mineral resources are found shall be opened to mining.	22
23	Areas may only be opened to mining upon the vote of two-thirds of all the members of	23
24	the Council pursuant to the guidelines provided by this Act. In determining whether or	24
25	not such area shall be opened, the following shall be required:	25
26	a. Report of the Bureau on the conducted exploration;	26
27	b. Existence of downstream industries for the mineral resources;	27
28	c. Potential environmental impacts;	28
29	d. Potential cultural impacts;	29
30	e. Conflict and risk assessment;	30
31	f. Potential health impacts;	31
32	g. Potential economic benefits of the development and utilization of the	32
33	minerals;	33
34	h. Carrying capacity and the ecological profile of the area;	34
35	i. Existing and alternative land uses of the area; and	35
36	j. Local government land use plan.	36

1	No mining application shall be allowed unless an environmental economic audit or
2	resource valuation of the proposed mining area has been conducted or prepared applying
3	acceptable valuation standards. This audit or resource valuation shall be conducted in
4	coordination with multisectoral group of experts and community stakeholders. It shall
5	include determination of the expected economic returns and the potential negative
6	impacts from mining on the enjoyment and exercise of human rights, cultural rights, and
7	on peace and security. A detailed study must mention the flora, fauna and environment
8	present in the mining claim and the impact of mining operations on the environment, the
9	possible environmental degradation and the attendant loss of subsistence resources
10	cause. There must be mention of existence of sacred areas or areas otherwise of cultural
11	significance and address the impacts of resource exploitation on indigenous peoples and
12	local communities.
13	This information shall be accessible to the public at all times. <i>Provided That</i> in no case
14	shall the Council open the following areas to mining:
15	a) Areas declared by Local Government Units as No-Mining Zones as specified by
16	local ordinances, and other issuances;
17	b) Densely populated areas, especially residential areas;
18	c) Head waters of watershed areas;
19	d) Areas with potential for acid mine drainage;
20	e) Critical watersheds;
21	f) Critical habitats;
22	g) Climate disaster-prone areas;
23	h) Geohazard areas;
24	i) Small island ecosystems;
25	j) Cultural sites, which may include, but not limited to, sacred sites and burial
26	grounds;
27	k) Traditional swidden farms and hunting grounds;
28	l) Lands covered by the Comprehensive Agrarian Reform Law or Republic Act No.
29	6657, as amended;
30	m) Prime agricultural lands, irrigable and irrigated lands as defined by Republic
31	Act No. 9700;
32	n) Cultural property enumerated under the National Cultural Heritage Act of 2009
33	or Republic act No. 10066;
34	o) Community sites;
35	p) Key biodiversity areas;
36	q) High conflict areas;

1 r)The Province of Palawan pursuant to Republic Act No. 7611 and other areas
2 covered by local ordinances;

3 s) In military and other government reservations, except upon prior written
4 clearance by the government agency/agencies concerned;
5 t)Near or under public or private buildings, cemeteries, archaeological and historic
6 sites, bridges, highways, waterways, railroads, reservoirs, dams or other
7 infrastructure projects, public or private works including plantations or valuable
8 crops, except upon written consent of the government agency/agencies or
9 private entity concerned;

10 u) In areas expressly prohibited by law or ordinances;
11 v) In areas covered by small-scale miners as defined by law unless with prior
12 consent of the small-scale miners, in which case a royalty payment upon the
13 utilization of minerals shall be agreed upon by the parties, said royalty forming a
14 trust fund for the socioeconomic development of the community concerned; and
15 w)Old growth, natural or primary and secondary forests, watershed forest
16 reserves, wilderness areas, mangrove forests, mossy forests, national parks,
17 protection forests, provincial/municipal forests, parks, greenbelts, game refuges
18 and bird sanctuaries and their respective buffer zones prohibited under the
19 National Integrated Protected Area System (NIPAS) under Republic Act No. 7586,
20 Department Administrative Order No. 25, series of 1992 and other laws and
21 ordinances and those expressly prohibited by other laws.

22 The determination whether or not the same are absolutely closed to mining shall not only
23 be limited to the existence of a law or ordinance declaring it as protected areas, but also
24 to the actual use of said area.
25 Sec. 44. *Process of determination for opening an area to mining.* – After the
26 submission of the exploration report and the resource valuation report, the Bureau shall
27 convene the Council. The Council shall thereafter convene their respective constituents
28 to determine whether or not their respective territories shall be opened for mining.
29 Sections 26 and 27 of the Local Government Code on consultation and consent shall be
30 strictly adhered to. Local government units at all levels shall conduct mandatory public
31 hearings with the affected local communities, to be carried out within their respective
32 territories and presenting those enumerated under Section 41.

33 The decision of the respective Sanggunians of all the local government units in the
34 watershed continuum shall be made in accordance to the sentiment of the peoples of the
35 local government unit as a result of the consultations conducted.

36 *Provided,* That each Sangguniang Barangay within the watershed continuum shall

1 convene their respective barangay assemblies for the purpose of this section. Local
2 government units shall ensure that the Bureau shall comprehensively explain the goals
3 and objectives of the project or program, its negative and positive impact upon the people
4 and the community in terms of environmental or ecological balance, and the measures
5 that will be undertaken to prevent or minimize the adverse effects thereof. The free prior
6 and informed consent of all barangay assemblies within the watershed continuum shall
7 be a condition precedent for any mining activity.
8 *Provided further,* That no mining activity shall be approved by the council without the free
9 and prior informed consent of all indigenous peoples within the watershed continuum.
10 For the purposes of declaring that an area is open for mining, the Council shall ensure
11 that all the requisites under Section 41 and 42 have been complied with.
12 *Provided finally,* That any member of the community may file a protest with the Council
13 during the period of consultations and deliberations for the Council's consideration.
14 Sec. 45. *Violation of Section 54.* – Local government officials who are
15 administratively found to violate the preceding section and Section 54 of this Act vis-à-
16 vis the pertinent sections of the Local Government Code shall be removed from office and
17 perpetually disqualified from holding any elective or appointive position in government,
18 its divisions, subsidiaries and any government owned and controlled corporations.
19 Sec. 46. *Pool of consultants.* – There shall be a pool of independent consultants
20 that may assist the local government units, local communities or ICCs/IPs with regard to
21 the technical aspects of mining.
22 Sec. 47. *Publication, posting and radio announcement requirements.* The decision
23 of the Council shall be published by the Bureau in the local newspaper in the local
24 language, shall be announced on the local radio programs for not less than six (6) weeks
25 and notices shall be distributed widely in communities. The notice containing relevant
26 information shall likewise be posted in conspicuous places for the information of the
27 general public and shall be announced during the local market day.
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CHAPTER V
MINERAL AGREEMENTS

a) *Mineral production sharing agreement* – is an agreement where the

following forms as herein defined;

Sec. 48. *Modes of mineral agreement.* – A mineral agreement may only take the

Government grants to the contractor the exclusive right to conduct mining
operations within a contract area and shares in the gross output. The

1 common outlet for surface runoff;
2 ooo) *Wildlife* – undomesticated forms and varieties of flora and fauna.

3
4 **CHAPTER IV**
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8 domains/ancestral lands are the collective private property of the indigenous cultural
9 communities/indigenous peoples (ICCs/IPs) as provided by law. The management of such
10 mineral resources shall build on the indigenous knowledge systems and practices of the
11 ICCs/IPs.

12 Sec. 30. *Free, prior, and informed consent.* – No mining activity shall be conducted
13 within the ancestral domains/lands of ICCs/IPs without their free, prior, and informed
14 consent (FPIC), in addition to the conditions set forth under the succeeding sections of
15 this Act.

16 Sec. 31. *When ancestral domain is not formally recognized.* – When ancestral
17 domain is not covered by a Certificate of Ancestral Domain Title/Certificate of Ancestral
18 Land Title (CADT/CALT), or is covered by a different title issued in favor of members of
19 the ICCs/IPs, mineral resources shall nevertheless be managed by the ICCs/IPs concerned
20 when it can be presumed that the area is part of ancestral domain. An area is presumed
21 to be part of ancestral domain by virtue of historic rights and self-delineation by the
22 ICCs/IPs.

23 Sec. 32. *When ICCs/IPs displaced from ancestral domain, and when ancestral*
24 *domain is already covered by other titles emanating from the State other than*
25 *CADT/CALT.* – IP/ICC rights over ancestral domain subsists notwithstanding the fact that
26 the ICCs/IPs who hold such rights have been displaced therefrom or that such ancestral
27 domains have been occupied by other persons or corporations under another claim of
28 title emanating from the State. In such cases, ICCs/IPs shall continue to own such
29 mineral resources.

30 Sec. 33. *Questions on the validity of FPIC.* – In instances that there are questions
31 on the legality or validity of the issued free, prior, and informed consent, mining operations
32 shall not be allowed to be conducted in the ancestral domains or lands of the ICCs/IPs
33 without the final resolution of such question on the legality or validity of the FPIC.

34 Sec. 34. *Ownership of the State.* – The mineral resources found outside ancestral
35 domains/lands shall be owned by the State. The State shall ensure that the management
36 of mineral resources shall be primarily for the benefit of the local communities in whose

territory the same shall be found. Any minerals extracted shall be solely used for local industries consistent with the Minerals Management Plan. The State may directly undertake development, utilization and processing of mineral resources or it may enter into mineral agreements with eligible parties pursuant to the provisions of this Act.

Sec. 35. *Inventory of mineral resources.* – The Bureau shall identify and provide an inventory of the available mineral resources, including the mine tailings and wastes within the country. It shall submit to the DENR a report which shall contain the following information:

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

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

Sec. 36. *Identification of strategic minerals.* – The Bureau shall conduct researches and studies prior to any mining operations to identify strategic mineral resources. Only mineral resources that shall be needed for local industries, agricultural modernization and rural development shall be opened to mining subject to the implementing rules and regulations of this Act.

Sec. 37. *Demarcation of mineral areas.* – The Bureau shall demarcate the boundaries of all areas identified as containing commercial quantities of mineral resources on the ground.

Sec. 38. *Baseline information on watershed continuums.* – The baseline information on all watersheds in the country shall be required and made available to the public, online as much as possible. No mining permit shall be issued without this baseline information.

Sec. 39. *Affected local community and local government unit.* – For the purposes of this Act, the affected local community and the affected local government unit are defined in relation to the watershed continuum which is potentially negatively impacted by mining operation in the demarcated area. The local communities and the local government units therefore are those who are dependent on the watershed eco-system and its resources.

Sec. 40. *Establishment of Multi-Sectoral Mineral Councils.* – A Multi-Sectoral

Mineral Council shall be established for the purposes of this Act. There shall be as many Multi-Sectoral Mineral Councils as there are watershed continuums with demarcated mineral areas.

Sec. 41. *Powers of the Council.* – The Council shall have the following powers, among others:

- a. To determine whether or not mining operations shall be allowed;
- b. To deliberate on proposals for mineral agreements;
- c. To approve the proposal for mineral agreements;
- d. To monitor the conduct of mining operations; and
- e. To establish its internal rules of procedure which are not contradictory to this Act.

Sec. 42. *Composition of the Multi-Sectoral Mineral Council.* – The Multi-Sectoral Mineral Council shall be composed of representatives from the Bureau, one representative from each of the affected provincial governments/independent component cities/highly urbanized cities, representatives from peoples/community/sectoral/non-governmental organizations as many as the representatives of local government units, and the affected ICCs/IPs within the watershed continuum. The Bureau shall be the convener of the Council.

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

Sec. 43. *Areas open to mining.* – The Council shall have the power to determine whether or not the land where mineral resources are found shall be opened to mining. Areas may only be opened to mining upon the vote of two-thirds of all the members of the Council pursuant to the guidelines provided by this Act. In determining whether or not such area shall be opened, the following shall be required:

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

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

13 This information shall be accessible to the public at all times. *Provided* That in no case
14 shall the Council open the following areas to mining:

- 15 a) Areas declared by Local Government Units as No-Mining Zones as specified by
16 local ordinances, and other issuances;
- 17 b) Densely populated areas, especially residential areas;
- 18 c) Head waters of watershed areas;
- 19 d) Areas with potential for acid mine drainage;
- 20 e) Critical watersheds;
- 21 f) Critical habitats;
- 22 g) Climate disaster-prone areas;
- 23 h) Geohazard areas;
- 24 i) Small island ecosystems;
- 25 j) Cultural sites, which may include, but not limited to, sacred sites and burial
26 grounds;
- 27 k) Traditional swidden farms and hunting grounds;
- 28 l) Lands covered by the Comprehensive Agrarian Reform Law or Republic Act No.
29 6657, as amended;
- 30 m) Prime agricultural lands, irrigable and irrigated lands as defined by Republic
31 Act No. 9700;
- 32 n) Cultural property enumerated under the National Cultural Heritage Act of 2009
33 or Republic act No. 10066;
- 34 o) Community sites;
- 35 p) Key biodiversity areas;
- 36 q) High conflict areas;

- 1 r)The Province of Palawan pursuant to Republic Act No. 7611 and other areas
2 covered by local ordinances;
- 3 s) In military and other government reservations, except upon prior written
4 clearance by the government agency/agencies concerned;
- 5 t)Near or under public or private buildings, cemeteries, archaeological and historic
6 sites, bridges, highways, waterways, railroads, reservoirs, dams or other
7 infrastructure projects, public or private works including plantations or valuable
8 crops, except upon written consent of the government agency/agencies or
9 private entity concerned;
- 10 u) In areas expressly prohibited by law or ordinances;
- 11 v) In areas covered by small-scale miners as defined by law unless with prior
12 consent of the small-scale miners, in which case a royalty payment upon the
13 utilization of minerals shall be agreed upon by the parties, said royalty forming a
14 trust fund for the socioeconomic development of the community concerned; and
- 15 w)Old growth, natural or primary and secondary forests, watershed forest
16 reserves, wilderness areas, mangrove forests, mossy forests, national parks,
17 protection forests, provincial/municipal forests, parks, greenbelts, game refuges
18 and bird sanctuaries and their respective buffer zones prohibited under the
19 National Integrated Protected Area System (NIPAS) under Republic Act No. 7586,
20 Department Administrative Order No. 25, series of 1992 and other laws and
21 ordinances and those expressly prohibited by other laws.

22 The determination whether or not the same are absolutely closed to mining shall not only
23 be limited to the existence of a law or ordinance declaring it as protected areas, but also
24 to the actual use of said area.

25 *Sec. 44. Process of determination for opening an area to mining.* – After the
26 submission of the exploration report and the resource valuation report, the Bureau shall
27 convene the Council. The Council shall thereafter convene their respective constituents
28 to determine whether or not their respective territories shall be opened for mining.

29 Sections 26 and 27 of the Local Government Code on consultation and consent shall be
30 strictly adhered to. Local government units at all levels shall conduct mandatory public
31 hearings with the affected local communities, to be carried out within their respective
32 territories and presenting those enumerated under Section 41.

33 The decision of the respective Sanggunians of all the local government units in the
34 watershed continuum shall be made in accordance to the sentiment of the peoples of the
35 local government unit as a result of the consultations conducted.

36 *Provided,* That each Sangguniang Barangay within the watershed continuum shall

1 convene their respective barangay assemblies for the purpose of this section. Local
2 government units shall ensure that the Bureau shall comprehensively explain the goals
3 and objectives of the project or program, its negative and positive impact upon the people
4 and the community in terms of environmental or ecological balance, and the measures
5 that will be undertaken to prevent or minimize the adverse effects thereof. The free prior
6 and informed consent of all barangay assemblies within the watershed continuum shall
7 be a condition precedent for any mining activity.

8 *Provided further,* That no mining activity shall be approved by the council without the free
9 and prior informed consent of all indigenous peoples within the watershed continuum.

10 For the purposes of declaring that an area is open for mining, the Council shall ensure
11 that all the requisites under Section 41 and 42 have been complied with.

12 *Provided finally,* That any member of the community may file a protest with the Council
13 during the period of consultations and deliberations for the Council's consideration.

14 Sec. 45. *Violation of Section 54.* – Local government officials who are
15 administratively found to violate the preceding section and Section 54 of this Act vis-à-
16 vis the pertinent sections of the Local Government Code shall be removed from office and
17 perpetually disqualified from holding any elective or appointive position in government,
18 its divisions, subsidiaries and any government owned and controlled corporations.

19 Sec. 46. *Pool of consultants.* – There shall be a pool of independent consultants
20 that may assist the local government units, local communities or ICCs/IPs with regard to
21 the technical aspects of mining.

22 Sec. 47. *Publication, posting and radio announcement requirements.* The decision
23 of the Council shall be published by the Bureau in the local newspaper in the local
24 language, shall be announced on the local radio programs for not less than six (6) weeks
25 and notices shall be distributed widely in communities. The notice containing relevant
26 information shall likewise be posted in conspicuous places for the information of the
27 general public and shall be announced during the local market day.

29 **CHAPTER V**

30 **MINERAL AGREEMENTS**

31

32 Sec. 48. *Modes of mineral agreement.* – A mineral agreement may only take the
33 following forms as herein defined;

- 34 a) *Mineral production sharing agreement* – is an agreement where the
35 Government grants to the contractor the exclusive right to conduct mining
36 operations within a contract area and shares in the gross output. The

contractor shall provide the financing, technology, management and personnel necessary for the implementation of this agreement;

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

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

In no case shall Financial or Technical Assistance Agreements, or any other similar agreements, contracts, and/or executive issuances granting license or permission to explore, develop and/or utilize mineral resources be awarded to foreign entities or persons.

Sec. 49. *Eligibility.* – Only Filipino citizens or corporation's sixty percent (60%) of whose equity is owned or controlled by such citizens shall be allowed to conduct development, utilization and processing of mineral resources within the country.

Sec. 50. *Identification of mining projects.* – With the vote of two-thirds of all the members of the Council, to open areas for mining operations, the Bureau shall prepare the necessary information sheets on the said area for potential investments. The Bureau shall call for proposals to develop the mining area based on the Mineral Management Plan.

Sec. 51. *Pre-screening of mining proposals.* – Mining proposals shall be pre-screened by the Bureau according to the National Industrialization Program and Mineral Management Plan upon the submission of interested parties of the following:

- a) demonstration of financial capability;
- b) proven social and environmental track record, including those of its officers and directors;
- c) clear corporate structure and ownership;
- d) proof of physical office and operations of the proponent within the Philippines;
- e) identification of potential investors;
- f) mining project feasibility;
- g) mining operation work plan;
- h) proposed operation, mitigation and prevention methods and/or equipment;
- i) capacity to process minerals;
- j) intent to develop downstream industries;
- k) intent to contribute to local community development; and

1 I) Submission of the Environmental and Social Impact Assessment and
2 Mitigation Plan

3 The Council shall fix the minimum capitalization that any bidder must satisfy based on its
4 determination of the expected economic returns and the potential negative impacts from
5 mining, upon reference to an independent study proposing such minimum capitalization.

6 *Sec. 52. Environmental and Social Impact Assessment and Mitigation Plan.* – The
7 contractor shall submit an Environmental and Social Impact Assessment and Mitigation
8 Plan (ESIAMP) containing the means, methods, processes and schedule by which the
9 contractor shall conduct its operations and mitigate negative environmental and social
10 impacts. Social impact shall include possible impacts on the enjoyment and exercise of
11 human rights, cultural rights. The ESIAMP shall include plans relative to mining
12 operations; the rehabilitation, regeneration and restoration of mineral areas; slope
13 stabilization of mined out and tailings covered areas; aquaculture, watershed
14 development and water conservation; the relocation and return of displaced population;
15 and provisions for alternative livelihood and socioeconomic development.

16 The ESIAMP shall also contain a Social Development Plan which shall likewise contain the
17 plans of the proponent for the development of the community through the establishment
18 of infrastructures and programs that shall be sustainable even after the closure of the
19 mine.

20 *Sec. 53. Pre-qualification.* – The Bureau shall thereafter identify the top three (3)
21 proposals and shall recommend the same to the Council for deliberation.

22 *Sec. 54. Deliberation of the proposals.* – Pre-conditions provided in Section 45 on
23 the free, prior and informed consent of persons, landowners, possessors or occupants,
24 communities or barangay assemblies, IPs/ICCs, and/or local Sanggunians shall likewise
25 be required under this Section.

26 *Sec. 55. Posting and publication requirement.* – After notice, the Bureau shall notify
27 the proponent of the accepted proposal and cause the publication and posting of the
28 accepted proposal.

29 *Provided,* That any member of the community may contest the decision of the Council
30 within six (6) weeks upon the posting and publication of notice of the acceptance of the
31 proposal in the manner provided in Section 44. No mining operations shall be allowed to
32 be conducted pending any action questioning the legality or validity of the proposal.

33 *Sec. 56. Issuance of the permit.* – After six (6) weeks from the date of the posting
34 and publication, if no contest is filed, the Bureau shall issue a permit in accordance with
35 the decision of the Council on the winning proposal.

36 *Sec. 57. Environmental and Social Impact Compliance Certificate.* – The mining

proponent shall be issued an Environmental and Social Impact Compliance Certificate by the Bureau with the approval of the Council.

Provided, That no amendments to the conditions of the Certificate shall be allowed, unless such proposed amendment shall work for the benefit of the communities, and in which case, the Council and the Bureau shall be notified of any amendments to the ESIAMP and that the former should give their consent to the same, after the proponent explaining in detail the reason for such amendment and the possible impacts and consequences of these amendments.

Provided further, That any violation of the ESIAMP shall cause the cancellation of the Certificate.

Sec. 58. *Maximum areas for mineral agreements.* – The maximum area under mineral agreements that a person can hold at any one time shall be determined by the Council. *Provided,* That the contract area per agreement shall not exceed five hundred (500) hectares;

Provided further, That no person shall be awarded in excess of the total contract area of seven hundred-fifty (750) hectares in any given watershed area. For the purposes of this Act, the prohibition on the maximum area shall also include corporations that shall have common directors or significant shareholders.

Sec. 59. *Term of mineral agreement.* – The term of the mineral agreement shall be equivalent to the mine life plus an additional five (5) years for the rehabilitation of the mining area. *Provided,* That in no case shall a Mineral Agreement have a term beyond fifteen (15) years. *Provided further,* That the contractor shall already include rehabilitation/remediation of the mining area within the ten-year term.

In no case shall a Mineral Agreement be extended without just cause to be determined by the Council, *Provided,* That the extension shall not cause the term of the agreement to exceed the fifteen (15) year term mentioned in the preceding section. *Provided further,* That for the purposes of this Act, just cause shall mean acts or events resulting from war, force majeure or those beyond the control of the mining proponent not attributable to the same.

Provided finally, That in no case shall mineral agreements be renewed after the expiration of the fifteen-year period.

Sec. 60. *Prohibition on open-pit mining method and submarine tailings disposal.* – Open-pit mining method for the extraction of mineral ores and the submarine tailings disposal method shall be prohibited.

Sec. 61. *Failure to initiate mining operations.* – Failure to commence the development stage of the mining operations in accordance with the work program within

1 two (2) years from the award of the mineral agreement shall cause the cancellation of
2 the mineral agreement. The contractor thereafter forfeits the value of the improvements
3 made upon the land. The contractor and other corporations who are also run by the same
4 directors and officers are thereafter banned from bidding to conduct mining operations
5 for ten (10) years after failure to commence the development stage of the mining
6 operations in accordance with the work program.

7 *Sec. 62. Mandatory consultations in each mining phase.* – Mandatory consultations
8 with affected persons and communities shall be undertaken in each phase of mining
9 operation: exploration, extraction, processing, and mine closure to ensure that the
10 peoples shall be informed of the proposed plans and methods that are proposed to be
11 conducted.

12 *Sec. 63. FPIC on each stage of mining operation.* – The free and prior informed
13 consent of the ICCs/IPs, the barangay assemblies, and private landowners, possessors,
14 occupants shall be required at each and every stage of the mining operations.
15 As to ICCs/IPs, their free and prior informed consent shall be secured in accordance with
16 their laws, practices and processes. Violation of any of the conditions imposed by the
17 ICCs/IPs on the contractor shall cause the cancellation of the mineral agreement.
18 Included in this process is the explanation of the rights of ICCs/IPs of ownership and self-
19 determination.

20 *Sec. 64. Multi-partite monitoring.* – The Council shall form a multi-partite
21 monitoring team to monitor compliance by the contractor of the terms and conditions of
22 the mineral agreement. It may conduct ocular inspections of the contract area at any
23 time of the day and night. It shall also inspect all the books of contractors and refer the
24 same to independent auditors. The Multi-partite monitoring team and/or the Bureau may
25 confiscate surety, performance and guaranty bonds posted through an order to be
26 promulgated by the Director. The Council, the Director or the local government
27 authorities may deputize, when necessary, any member or unit of the Philippine National
28 Police, barangay, duly registered nongovernment organization (NGO) or any qualified
29 person to police any and all mining activities.

30 *Sec. 65. Withdrawal from the mineral agreement.* – The contractor may withdraw
31 from the mineral agreement at any time for justifiable cause with one (1) month's notice
32 to the Bureau, the Council and/or the ICCs/IPs, and other government agencies as may
33 be provided by law. The Council, in cooperation with other concerned government
34 agencies, shall issue a clearance for withdrawal upon certifying that the contractor has
35 complied with all its legal obligations, including the appropriate measures for mine closure
36 and rehabilitation. Funds and bonds which have been put up by the contractor in

accordance with this Act shall be forfeited.

Sec. 66. Non-transferability of mineral agreements – In no case shall mining rights under this Act be transferrable. The contractor shall also immediately notify the Council and the Bureau of any substantial change in the ownership and/or control of the corporation. Violation of this provision shall cause the cancellation of the agreement and forfeiture of assets and equipment of the contractor in favor of the State.

Sec. 67. Access to information. – All contractors for mineral permits and agreements shall provide information to affected indigenous peoples, local communities, and local governments. The following information, among others, shall be required:

- a) The full disclosure of methods and processes of mining;
- b) The full disclosure of environmental and social risks;
- c) The full disclosure of ownership structure; and
- d) The full disclosure of financial sources.

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

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

CHAPTER VI SMALL-SCALE MINING

Sec. 68. Applicability of RA 7076. – Small-scale mining shall continue to be governed by the provisions of Republic Act No. 7076 or the People's Small-Scale Mining Act of 1991, *Provided*, That the Provincial/City Mining Regulatory Board shall be composed of the Governor or City Mayor, as chairperson, as the case may be, a representative from the DENR as co-chairperson, one (1) small-scale mining representative, one (1) large-scale mining representative, one representative from a nongovernment organization who shall come from an environmental group, one representative from a people's organization (PO) coming from the marginalized sector, and at least one (1) representative from the indigenous communities, whenever applicable, as members. The representatives from the private sector, non-government

1 organization and indigenous communities shall be selected by their respective
2 organizations and/or communities, and appointed by the PMRB or CMRB: *Provided*
3 *further*; That the conduct of small-scale mining shall also comply with the prohibitions and
4 regulations established herein for large-scale mining. Only qualified individuals and
5 cooperatives may apply for a small-scale mining permit.

6 Sec. 69. *Maximum term of small-scale mining permits.* – The term for small-scale
7 mining permits shall be three (3) years, extendable to a maximum of fifteen (15) years.

8 Sec. 70. *Traditional small-scale mining within ancestral domains.* – The Council
9 shall conduct regular monitoring activities within its jurisdiction to determine if the
10 provisions of relevant laws are complied with in traditional small-scale mining by ICCs/IPs
11 within their respective ancestral domains.

12 Sec. 71. *FPIC in small-scale mining.* – Small-scale mining activities within any
13 ancestral domain by any person shall also require the free, prior, and informed consent
14 of ICCs/IPs.

15 Sec. 72. *Requirement for an Environmental and Social Impact Compliance*
16 *Certificate.* – Small-scale mining shall likewise require an Environmental and Social Impact
17 Compliance Certificate. All small-scale mining applicants or proponents must show proof
18 of compliance with the terms and conditions of its Environmental and Social Impact
19 Compliance Certificate (ESICC) prior to the issuance of a small-scale mining permit.
20 Failure to submit this requirement will result in the non-issuance of the small-scale mining
21 permit (SSMP).

22 Sec. 73. *Environmental measures in small-scale mining.* – The State shall
23 immediately address the environmental and health hazards and problems in small-scale
24 mining, including the use of hazardous chemicals, such as mercury, cyanide and other
25 chemicals, in the amalgamation of gold by small-scale miners.

26 Sec. 74. *Prohibition on the use of mercury.* – Mercury use in small-scale mining
27 shall be prohibited. The Bureau shall research, develop and actively promote appropriate
28 technologies in small-scale mining including labor-intensive methods, environmental
29 protection and physical techniques of gold extraction among small-scale miners.

30 Sec. 75. *Multisectoral monitoring team.* – A multisectoral monitoring team shall be
31 organized to monitor the SSMP permittee's compliance with the terms and conditions of
32 its SSMP and ECC. The MMT shall conduct ocular inspections of the SSMP area at any
33 time of the day and night and shall have visitorial powers.

34 Sec. 76. *Alternative livelihood support.* – The state shall support the improvement
35 of the livelihood of small-scale-miners by extending the services for access to other more
36 viable and sustainable forms of livelihood, and, if the same is not possible, the following

support services:

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

Sec. 77. Buying stations. – The Bangko Sentral ng Pilipinas shall ensure that buying stations acquire gold from small-scale traders at prevailing international gold market prices and the prevailing exchange rate set by the BSP Treasury Department on a daily basis.

CHAPTER VII QUARRY RESOURCES

Sec. 78. Quarry resources within ancestral domains. – Gathering of quarry resources, sand and gravel, guano and other organic fertilizer materials, and gemstones within ancestral domains shall likewise be subject to the free prior informed consent of ICCs/IPs. ICCs/IPs and the government shall be entitled to at least ten per cent (10%) of royalties depending on whether the resources are found inside or outside ancestral domains. Permits shall be limited to a maximum term of five (5) years, renewable for like periods but not exceeding a total term of twenty five (25) years, and a maximum area of five (5) hectares.

Sec. 79. Quarry Permit. – Any qualified Filipino may apply for a quarry permit on privately- owned lands except ancestral domains and/or public lands for building and construction materials such as marble, basalt, andesite, conglomerate, tuff, adobe, granite, gabbro, serpentine, inset filling materials, clay for ceramic tiles and building bricks, pumice, perlite and other similar materials that are extracted by quarrying from the ground at the provincial/city mining regulatory board. The provincial governor shall grant the permit after the applicant has complied with all the requirements as prescribed by the rules and regulations set forth by this Act. *Provided,* That gathering/extraction of sand for its metallic contents such as magnetite from the country's rivers and shorelines shall be require a mineral agreement in lieu of a quarry permit.

The maximum area which a qualified person may hold at any one time shall be limited to a surface area of five hectares (5 has.): *Provided,* That in large-scale quarry operations involving cement raw materials, marble, granite, sand and gravel and construction

1 aggregates, a qualified person and the government may enter into a mineral agreement
2 as defined herein.

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

6 Sec. 80. *Quarry Fee and Taxes.* – A permittee shall pay a quarry fee as provided
7 for under the implementing rules and regulations. The permittee shall also pay the excise
8 tax as provided by pertinent laws.

9 Sec. 81. *Cancellation of Quarry Permit.* – A quarry permit may be cancelled by the
10 provincial governor for violations of the provisions of this Act or its implementing rules
11 and regulations or the terms and conditions of said permit: *Provided,* That before the
12 cancellation of such permit, the holder thereof shall be given the opportunity to be heard
13 in an investigation conducted for the purpose.

14 Sec. 82. *Commercial Sand and Gravel Permit.* – Any qualified person may be
15 granted a permit by the provincial governor to extract and remove sand and gravel or
16 other loose or unconsolidated materials outside ancestral domains which are used in their
17 natural state, without undergoing processing from an area of not more than five hectares
18 (5 has.) and in such quantities as may be specified in the permit.

19 Sec. 83. *Industrial Sand and Gravel Permit.* – Any qualified person may be granted
20 an industrial sand and gravel permit by the Bureau for the extraction of sand and gravel
21 and other loose or unconsolidated materials outside ancestral domains that necessitate
22 the use of mechanical processing covering an area of not more than five hectares (5 has.)
23 at any one time. The permit shall have a term of five (5) years, renewable for a like period
24 but not to exceed a total term of twenty-five (25) years.

25 Sec. 84. *Exclusive Sand and Gravel Permit.* – Any qualified person may be granted
26 an exclusive sand and gravel permit by the provincial governor to quarry and utilize sand
27 and gravel or other loose or unconsolidated materials from public lands for his own use,
28 *Provided,* That there will be no commercial disposition thereof.

29 Sec. 85. *Government Gratuitous Permit.* – Any government entity or instrumentality
30 may be granted a gratuitous permit by the provincial governor to extract sand and gravel,
31 quarry or loose unconsolidated materials outside ancestral domains needed in the
32 construction of building and/or infrastructure for public use or other purposes over an
33 area of not more than two hectares (2 has.) for a period coterminous with said
34 construction.

35 Sec. 86. *Private Gratuitous Permit.* – Any owner of land may be granted a private
36 gratuitous permit by the provincial governor to extract sand and gravel, quarry or loose

unconsolidated materials within his property.

Sec. 87. Guano Permit. – Any qualified person may be granted a guano permit by the provincial governor to extract and utilize loose unconsolidated guano and other organic fertilizer materials in any portion of a municipality where he/she has an established domicile outside ancestral domains. The permit shall be for specific caves and/or for confined sites with locations verified by the Department's field officer in accordance with existing rules and regulations. *Provided,* That extraction does not violate and is consistent with the provisions in the Cave Conservation Act and the Wildlife Act.

Sec. 88. Gemstone Gathering Permit. – Any qualified Filipino may be granted a non-exclusive gemstone gathering permit by the provincial governor to gather loose stones useful as gemstones in rivers and other locations outside ancestral domains.

Sec. 89. Council recommendation for approval. – All permits under Chapter VII of this Act shall require the recommendation of the Multi-Sectoral Mineral Council prior to approval by the provincial government unit. The absence of a recommendation from the Council prohibits the approval of any permit in this Chapter.

CHAPTER VIII

TRANSPORT, SALE AND PROCESSING OF MINERALS

Sec. 90. Ore transport permit. – A permit specifying the origin and quantity of non-processed mineral ores or minerals shall be required for their transport. Transport permits shall be issued by the Bureau. The absence of a permit shall be considered as prima facie evidence of illegal mining and shall be sufficient cause for the confiscation of the ores or minerals being transported, the tools and equipment utilized, and the vehicle containing the same.

Sec. 91. Mineral trading registration. – No person shall engage in the trading of mineral products, either locally or internationally, unless registered with the Department of Trade and Industry and accredited by the Department, with a copy of said registration submitted to the Bureau.

Sec. 92. Track record. – Only mining companies with demonstrated capacity and good environmental track record in mineral processing shall be given mineral processing permit. The Council shall encourage contractors to put up processing plants within the community with the end in view of generating employment and developing other downstream industries.

Sec. 93. Mineral processing permit. – No individual, partnership, partnership, cooperative, corporation or other entity shall engage in the Secretary of the Department. Of Environment and Natural Resources (DENR).

1 In the case of small-scale miners, the processing of mineral ores they produce, as well as
2 the licensing of their custom mills or processing plants, shall continue to be governed by
3 the provisions of Republic Act No. 7076.

4 In the case of individuals, corporations, partnerships, cooperatives or other entities who
5 are parties to a Mineral Agreement or a Financial or Technical Assistance Agreement,
6 holders of quarry and industrial sand and gravel permits, the approved work program for
7 the production period shall be sufficient requirement for them to process minerals in lieu
8 of a mineral processing permit.

9 A mineral processing permit shall be for a period of ten (10) years, renewable for like
10 periods: *Provided*, That renewal shall not be allowed unless the permit holder has
11 complied with all the terms and conditions of the permit and has not been found guilty
12 of violation of any provision of this Act and its implementing rules and regulations.

13 After due process, a mineral processing permit may be suspended, revoked or cancelled
14 by the DENR for violation of its terms and conditions, or of pertinent laws, rules and
15 regulations.

16 Mineral processing shall be included in the Investment Priority plan to be prepared by the
17 Board of Investment in accordance with Executive Order No. 226, as amended, otherwise
18 known as the Omnibus Investment Code of 1987 and shall always be listed as a preferred
19 area of investment.

21 **CHAPTER IX** 22 **DEVELOPMENT OF COMMUNITIES, SCIENCE, AND TECHNOLOGY** 23

24 *Sec. 94. Expenditure for community development.* – A contractor shall assist in the
25 development of the community, and the promotion of the general welfare of its
26 inhabitants towards sustainable development. Community development projects shall in
27 no way decrease the obligation of the corporation with regard to royalties and fees due
28 to communities or local government units. Community development projects should be
29 consistent with the Comprehensive Land Use Plans (CLUP), Ancestral Domains
30 Sustainable Development and Protection Plan (ADSDPP) and annual investment plans of
31 the local governments, CADT/CALT holders and the like.

32 *Sec. 95. Employment of Filipinos and training of members of the local community.*
33 – A contractor and/or permittee shall give preference to Filipino citizens in all types of
34 mining employment within the country. Members of the local community shall be trained
35 in all aspects of the mining operations, including remining, recycling, rehabilitation, and
36 the management thereof.

37 *Sec. 96. Use of indigenous goods, services and technologies.* – A contractor shall

1 give preference to the use of local goods, services, and the scientific and technical
2 resources in all stages of mining operations, where the same are of equivalent quality
3 and are available on equivalent terms as their imported counterparts.

4 *Sec. 97. Donation/turnover of facilities.* – Prior to the cessation of mining
5 operations occasioned by abandonment or withdrawal of operations, on public lands by
6 the contractor, the latter shall have a period of one (1) year therefrom within which to
7 remove improvements; otherwise all the infrastructure, facilities and equipment shall be
8 turned over or donated tax-free to the proper government authorities, national or local,
9 to ensure that said infrastructure facilities and equipment are continuously maintained
10 and utilized by the host and neighboring communities. A fine of one hundred thousand
11 pesos (PhP100,000.00) shall be imposed for every day of delay.

12 13 **CHAPTER X** 14 **BENEFIT SHARING, TAXES AND FEES** 15

16 *Sec. 98. Taxes and fees.* – The contractor shall pay all taxes and fees as required
17 by law, including, but not limited to:

- 18 a) contractor's income tax;
- 19 b) customs, duties and fees on imported capital equipment;
- 20 c) value-added tax on imported goods and services;
- 21 d) withholding tax on interest payments on foreign loans;
- 22 e) withholding tax on dividends to foreign stockholders;
- 23 f) documentary stamps taxes;
- 24 g) capital gains tax;
- 25 h) excise tax on minerals;
- 26 i) local business tax;
- 27 j) real property tax;
- 28 k) community tax;
- 29 l) occupation fees;
- 30 m) registration, accreditation, and permit fees; and
- 31 n) water usage fees.

32 *Sec. 99. Government share.* – Aside from the taxes and fees referred to in the
33 preceding section, Government shall have at least a share equivalent to ten per cent
34 (10%) of the gross revenues from the development and utilization of mineral resources
35 that are owned by it to be set aside for the general fund of the government to be used,
36 among others, for special projects such as energy development and generation and the
37 management and conservation of protected areas in areas within the vicinity or adjacent

1 to mining operations.

2 Sec. 100. *Indigenous cultural communities' royalty.* – In case of mineral operations
3 within ancestral domains, the contractor shall pay at least ten percent (10%) of the gross
4 revenues as royalty to the ICCs/IPs. Community development programs shall not be
5 considered as royalty payment. The payment of the royalties shall directly be given to the
6 communities in a process that build on the ICCs/IPs' traditional and customary laws:
7 *Provided,* That the royalty established in this Act shall be a minimum royalty payment and
8 may still be subject to other conditions to be agreed by the parties, free from any external
9 manipulation, interference, coercion, and other analogous acts, and obtained after fully
10 disclosing the intent and scope, including the positive and negative impacts of the activity,
11 in a language and process understandable and acceptable to them.

12 Sec. 101. *Scientific research and development fund.* – A Scientific Research and
13 Development Fund shall be set aside to be devoted to research and development of clean
14 mining technologies, improvement of mining processes, mine rehabilitation, mitigating
15 technologies, setting up and maintenance of an independent pool of experts, and
16 operational expenses of the Bureau.

17 Sec. 102. *Legal support services fund.* – A legal support fund shall be set aside
18 for the use of the communities and local government units for cases that they may file
19 against mining permittees or cases that may be filed against them by mining companies
20 in trying to do their responsibility of protecting the rights of the marginalized groups, the
21 environment and sustainable development in general.

22 Sec. 103. *Local Government Unit share.* – Local Government Units shall be entitled
23 to a share of the net revenues from mining operations which shall be paid directly to the
24 provincial/independent component city/highly urbanized city treasurer/s for distribution
25 to other local government units. To determine the government share, the following
26 variables shall be considered:

- 27 a) Classification of local government;
- 28 b) Vulnerability; and
- 29 c) Human development index.

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

34 Sec. 104. *Mine wastes and tailings fees.* – A semi-annual fee to be known as mine
35 wastes and tailings fee is hereby imposed on all operating mining companies in
36 accordance with the implementing rules and regulations. The mine wastes and tailings

1 fee shall accrue to a fund to be used as support funds for monitoring activities of the
2 Council. The Secretary is authorized to increase mine wastes and tailings fees, when
3 public interest so requires.

4 Sec. 105. *Incentives.* – Incentives that shall be given to the contractors shall only
5 be limited to pollution control or mitigation devices.

6 Sec. 106. *Deposit of capital and profits requirement.* – As part of their
7 demonstrated financial capacity, all large-scale mining companies/contractors are
8 required to deposit their capital investment and profits in banks or financial institutions
9 that are owned, managed and operated by the Philippine government.

10 Sec. 107. *General rule on profit repatriation.* – Contractors with foreign financial
11 assistance shall be allowed to repatriate their profits from mining projects that should not
12 exceed fifty percent (50 %) of the total posted at the end of every fiscal year. Full
13 disclosure of profits is required. The full repatriation of profits shall be allowed one year
14 after the cessation of mining activities and the progressive rehabilitation of a mining area
15 as specified in the mineral agreement of each contractor.

16 The guidelines for Sections 106 and 107 shall be issued by the Bangko Sentral ng Pilipinas
17 and shall be furnished to the Department, Bureau, Council and all respective contractors
18 in the industry.

20 **CHAPTER XI** 21 **SAFETY AND ENVIRONMENTAL PROTECTION**

23 **A. SAFETY**

25 Sec. 108. *Mines safety.* – All contractors and permittees shall strictly comply with
26 all the mines and safety rules and regulations concerning the safe and sanitary upkeep
27 of the mines and mining development. Government personnel involved in the
28 implementation of mines safety, occupational health and environmental rules and
29 regulations shall be covered under Republic Act No. 7305 or the Magna Carta of Public
30 Health Workers.

31 Sec. 109. *Mine labor.* – No person under sixteen (16) years of age shall be
32 employed in any place of mining operations and no person under eighteen (18) years of
33 age shall be employed in a mine.

34 Sec. 110. *Mine supervision.* – All mining and quarrying operations shall have at
35 least one (1) licensed mining engineer for every fifty (50) employees. Such engineer/s
36 shall have at least five (5) years of experience in mining operations, and one (1) registered
37 foreman.

38 Sec. 111. *Safety of workers.* – All mining companies shall provide safeguards to

1 the health and well-being of workers. The Regional Office of the Department of Labor
2 and Employment shall inspect all mining sites within their areas of jurisdiction to
3 determine the conditions of workers. Denial of entry shall be punishable under this Act.
4 Representatives of labor unions shall also have visitorial rights.

5 Sec. 112. *Mine inspection.* – The mines regional directors and the Council shall
6 have jurisdiction over the safety inspection of all installations, surface or underground, in
7 mining operations at reasonable hours of day or night and as much as possible in a
8 manner that will not impede or obstruct work in progress of a contractor or permittee.
9 Monitoring reports and recommendations of the Bureau shall be submitted to the Council.

10 Sec. 113. *Power to issue orders.* – The mines regional director, in consultation with
11 the Environmental Management Bureau, forthwith or within such time as specified in the
12 order, require the contractor to remedy any practice connected with mining, which is not
13 in accordance with safety and anti-pollution laws and regulations. In case of imminent
14 danger to life or property, the Director may summarily suspend the mining operation until
15 the danger is removed, or appropriate measures are taken by the contractor.
16 Unreasonable delay to remove the danger or introduce the necessary improvements by
17 the contractor shall be a cause for the cancellation of the mineral agreement.

18 Sec. 114. *Report of accidents.* – In case of any incident or accident, causing or
19 creating the danger of loss of life or serious physical injuries, the person in charge of
20 operations shall immediately report the same to the regional office where the operations
21 are situated. Failure to report the same without justifiable reason shall be cause for the
22 imposition of administrative sanctions prescribed in the rules and regulations
23 implementing this Act.

24 25 **B. ENVIRONMENTAL PROTECTION** 26

27 Sec. 115. *Environmental Insurance.* – Contractors and mineral processing permit
28 holders shall be obliged to execute an insurance contract as an environmental assurance
29 for each and every source of pollution or disaster, relative to the “worst case scenario”
30 costs, following accepted actuarial standards, *Provided*, That in no way shall this provision
31 be construed to remove or reduce the liability of the contractors and/or permit holders to
32 compensate any damage caused by their operations. *Provided further*, That the insurer
33 shall be an accredited international company in good standing.

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

36 Sec. 116. *Calamity and Human Rights Protection Fund.* – Persons issued a mineral
37 agreement shall deposit five million pesos (PhP 5,000,000.00) semi-annually in an

1 interest-bearing account a common fund maintained by the national government which
2 shall be used for responding to, or ameliorating the effects of calamities, natural disasters
3 and human rights violations including militarization, displacement, and forcible evacuation
4 in any part of the country in relation to mining activities. *Provided,* That in no way shall
5 this provision be construed to remove or reduce the liability of the contractors and/or
6 permit holders to compensate any damage caused by their operations.

7 Sec. 117. *Performance Bond.* – The contractor shall put up a bond in an amount
8 equivalent to fifty per cent (50%) of the projected cost of rehabilitation as validated by
9 independent studies. This amount shall be deposited in an interest-bearing account. The
10 bond shall be forfeited in the event that the contractor shall fail or default in the
11 rehabilitation or remediation of the mining area as included in the work plan of the
12 contractor or abandons the mine at any time of its operations.

13 Sec. 118. *Rehabilitation.* – Contractors and permittees shall technically and
14 biologically rehabilitate the excavated, mined-out, tailings covered and disturbed areas to
15 the condition of environmental safety, as may be provided in the implementing rules and
16 regulations of this Act. A mine rehabilitation fund shall be created, based on the
17 contractor's approved work program, and shall be deposited as a trust fund in a
18 government depository bank and used for physical and social rehabilitation of areas and
19 communities affected by mining activities and for research on the social, technical and
20 preventive aspects of rehabilitation. Failure to fulfill the above obligation shall mean
21 immediate suspension or closure of the mining activities of the contractor/permittee
22 concerned.

23 Mining firms are hereby mandated to reforest 100 hectares of land for every one hectare
24 of land they utilize in the course of their mining operations. Mining firms are also
25 mandated to immediately restore and replant areas that they have already finished
26 excavating as they move on to other development sites: *Provided,* That if mining firms
27 cannot do the reforestation in their immediate area they could do the reforestation in
28 other areas provided they comply with 100:1 hectare ratio. Any mining firm found to have
29 violated or have not complied with the foregoing mandatory provisions shall be held liable
30 with the penalty of revocation of their mining permits and payment of a fine of not less
31 than One Million Pesos (PhP 1,000,000).

32 The owners, officers and management employee of said mining firms shall also be held
33 liable and be subject to imprisonment of not less than one (1) year nor more than three
34 (3) years.

35 Sec. 119. *Progressive rehabilitation.* – Contractors shall also conduct progressive
36 rehabilitation activities.

1 Sec. 120. *Adoption of Precautionary Principle.* – When an activity related to mining
2 raises threats of harm to human health or the environment, precautionary measures shall
3 be taken proactively even if some cause and effect relationship are not fully established
4 scientifically. The mining proponent and the Bureau shall also be obliged to disclose
5 whether or not the cause and effect have not yet been scientifically established.

6 Sec. 121. *Adoption of Polluter Pays Principle.* – Polluters shall pay for the damage
7 they cause to the environment. The amount of damages shall be determined by
8 accredited independent consultants, to be chosen from a list and agreed upon by both
9 the mining proponent and by the Council.

10 Sec. 122. *Tailings impoundment.* – Tailings impoundments shall be built away from
11 critical watershed drainage areas. Furthermore, it shall be ensured that impoundments
12 will not endanger critical watershed areas or low-lying valleys in the event of accidents
13 under abnormal conditions. Tailing impoundments and dams shall meet the international
14 standards for large dams.

15 Sec. 123. *Dumping of waste.* – Dumping of waste or tailings in any body of water
16 shall be prohibited. Provisions on the Clean Water Act and Clean Air Act shall be strictly
17 implemented.

18 Sec. 124. *Use of toxic chemicals and methods.* – At all times, mining contractors
19 shall use chemicals or reagents which would result to the least environmental and social
20 destruction. The use of mercury and cyanide for the extraction of gold, silver and other
21 minerals shall be prohibited. The use of blow torching to separate gold from amalgam
22 shall likewise be prohibited.

23 Sec. 125. *Preservation of topsoil.* – The removed topsoil, or the more productive
24 horizons of the soil shall be preserved for other uses.

25 Sec. 126. *Priority use for water.* – The National Water Resources Board shall
26 investigate any existing use of water resources in the area whether or not covered by any
27 existing water permit or registration. Upon determination of any existing use, the
28 applicant shall procure the consent of all water users and/or the free prior and informed
29 consent of ICCs/IPs with or without water permits within the same groundwater network
30 or any downstream users of water resources. In all instances, priority shall be given to
31 use of water for domestic, municipal, and agricultural purposes. If potential negative
32 impact on other water users is identified, the water permit shall not be granted. For water
33 resources within the ancestral domain of indigenous peoples, no water permit shall be
34 granted by the National Water Resources Board without the free and prior informed
35 consent of indigenous peoples.

36 Sec. 127. *Recycling of water resources.* – Water used in mining operations shall be

1 recycled. Mining contractors shall be required to provide for the methods or equipment
2 for the recycling or reuse of water. Released contaminated water shall be treated
3 accordingly to meet national standards. Released water must at least be equivalent in
4 quality to the baseline water quality.

5 Sec. 128. *Water user fee.* – A water user fee that reflects the value of water to
6 the country and community shall be imposed by the Council for water used in mining
7 operations. Contractors shall pay the fee to the National Water Resources Board which
8 shall use the same for monitoring and improvement of the affected waterways and
9 systems and the mitigation of negative impacts thereon to ensure that communities shall
10 have access to clean water.

11 12 **C. ACID MINE DRAINAGE** 13

14 Sec. 129. *Prohibition from using acid-generating waste rock to build roads or dams.*
15 – To prevent or mitigate acid mine drainage, there shall be a prohibition against using
16 acid-generating waste rock to build roads or dams or other infrastructures. The use of
17 such materials shall only be used after treatment to neutralize the effect of acid mine
18 drainage.

19 Sec. 130. *Establishment of a prediction and monitoring system.* – The Bureau shall
20 establish a prediction and monitoring system to identify potential acid-producing materials
21 and monitor their production of acid waste.

22 Sec. 131. *Avoidance of waterways.* – Open pits, waste rock piles and tailings
23 impoundments shall not be built near or on waterways to prevent contact and subsequent
24 acid production and groundwater contamination.

25 Sec. 132. *Remining.* – Remining shall be prioritized over the opening of new mines
26 to maximize and recover the remaining minerals from the rejects or wastes of previous
27 mines and mining operations, *Provided*, That remining operations shall follow the
28 processes, standards, parameters and guidelines set for mining operations in this Act.

29 Sec. 133. *Suits after the termination of contracts or projects.* – Recognizing that
30 the effects of mining may be seen or felt, actions relating to the health of affected
31 communities or peoples, environmental degradation and other similar effects may be
32 maintained against the project proponent and/or persons even after the mineral
33 agreement or mining project has terminated.

34 35 **CHAPTER XII** 36 **RESOLUTION OF CONFLICTS** 37

1 Sec. 134. *Panel of arbitrators.* – There shall be a panel of arbitrators in the regional
2 office of the Department composed of three (3) members, two (2) of whom must be
3 members of the Philippine Bar in good standing and one a licensed mining engineer or a
4 professional in a related field, and duly designated by the Secretary as recommended by
5 the Mines and Geosciences Bureau Director. Those designated as members of the panel
6 shall serve as such in addition to their work in the Department without receiving any
7 additional compensation. As much as practicable, said members shall come from the
8 different bureaus of the Department in the region. The presiding officer thereof shall be
9 selected by the drawing of lots. His tenure as presiding officer shall be on a yearly basis.
10 The members of the panel shall perform their duties and obligations in hearing and
11 deciding cases until their designation is withdrawn or revoked by the Secretary. Within
12 thirty (30) working days, after the submission of the case by the parties for decision, the
13 panel shall have exclusive and original jurisdiction to hear and decide on the following:

- 14 a) Questions involving compliance with the established technical guidelines
15 and standards herein established, or those to be established by the
16 implementing rules and regulations of this Act;
17 b) Questions involving the compliance with technical procedures herein
18 established, or those to be established by the implementing rules and
19 regulations; and
20 c) Other similar instances wherein the technological and technical expertise
21 of the Department shall be needed.

22 Disputes involving real rights, contractual obligations and the other causes of action that
23 are outside the technological and technical expertise of the Panel of Arbitrators shall be
24 under the jurisdiction of the regular courts or as otherwise provided by other special laws.
25 *Provided,* That disputes pending before the Bureau and the Department at the date of
26 the effectivity of this Act shall undergo an immediate review within sixty (60) working
27 days upon the passage of this Act to determine the cause of action. Those which are
28 outside the technical expertise of the Department or Bureau shall be refiled with the
29 appropriate court, without costs to the complainant or petitioner.

30 Sec. 135. *Appeal.* – The decision or order of the panel of arbitrators may be
31 appealed by the party not satisfied thereto to the Mines Adjudication Board within fifteen
32 (15) days from receipt thereof which must decide the case within thirty (30) days from
33 submission thereof for decision.

34 Sec. 136. *Mines Adjudication Board (MAB).* – The Mines Adjudication Board shall
35 be composed of three (3) members. The Secretary of the DENR shall be the Chairperson
36 with the Director of the Mines and Geosciences Bureau and the Undersecretary for

1 Operations of the Department as members thereof. The Board shall have the following
2 powers and functions:

- 3 a) To promulgate rules and regulations governing the hearing and disposition
4 of cases before it, as well as those pertaining to its internal functions, and
5 such rules and regulations as may be necessary to carry out its functions;
- 6 b) To administer oaths, summon the parties to a controversy, issue subpoenas
7 requiring the attendance and testimony of witnesses or the production of
8 such books, papers, contracts, records, statement of accounts,
9 agreements, and other documents as may be material to a just
10 determination of the matter under investigation, and to testify in any
11 investigation or hearing conducted in pursuance of this Act;
- 12 c) To conduct hearings on all matters within its jurisdiction, proceed to hear
13 and determine the disputes in the absence of any party thereto who has
14 been summoned or served with notice to appear, conduct its proceedings
15 or any part thereof in public or in private, adjourn its hearings at any time
16 and place, refer technical matters or accounts to an expert and to accept
17 his report as evidence after hearing of the parties upon due notice, direct
18 parties to be joined in or excluded from the proceedings, correct, amend,
19 or waive any error, defect or irregularity, whether in substance or in form,
20 give all such directions as it may deem necessary or expedient in the
21 determination of the dispute before it, and dismiss the mining dispute as
22 part thereof, where it is trivial or where further proceedings by the Board
23 are not necessary or desirable;
- 24 d) To hold any person in contempt, directly or indirectly, and impose
25 appropriate penalties therefor; and
- 26 e) To enjoin any or all acts involving or arising from any case pending before
27 it which, if not restrained forthwith, may cause grave or irreparable damage
28 to any of the parties to the case or seriously affect social and economic
29 stability.

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

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

4
5 **CHAPTER XIII**
6 **ACCESS TO JUSTICE**
7

8 Sec. 137. *Obligation to respect human rights.* – Corporations shall respect, protect
9 and promote the human rights of communities affected by mining, including the right to
10 life, liberty and property, freedom of movement, right of public participation and the right
11 to self-determination of indigenous cultural communities.

12 Sec. 138. *Violations of human rights.* – Extrajudicial killing, torture, involuntary
13 disappearance, forcible displacement of populations, setting up of checkpoints, and
14 imposition of toll fees which impede the freedom of movement within mineral areas,
15 deprivation of food and water sources, vote-buying and bribery for the purpose of
16 securing consent or endorsement for the mining project, and other analogous acts are
17 violations of human rights. Violations of human rights by contractors shall cause the
18 immediate cancellation of mineral agreements. The offending contractor, as well as
19 corporations having the same directors and/or officers as of the offending contractor shall
20 be perpetually disqualified from being granted a mineral agreement. All equipment and
21 assets of the corporation or person shall be confiscated in favor of the government.

22 Sec. 139. *Use of paramilitary and military forces.* – All mining companies are strictly
23 prohibited from employing paramilitary groups. Use of private and military forces shall
24 result in the automatic cancellation of the mineral agreement and the filing of appropriate
25 civil, criminal and/or administrative charges.

26 Sec. 140. *Strategic Legal Action Against Public Participation (SLAPP).* – SLAPPs
27 shall be strictly prohibited. SLAPP is any legal action, whether civil, criminal or
28 administrative, filed to harass, vex, exert legal action or stifle legal recourses of
29 community members complaining against violations of this Act or enforcing the provisions
30 of the Act, or exercising their freedom of assembly or right of public participation. The
31 investigating prosecutor or court shall immediately determine within a period of thirty
32 (30) days from filing thereof whether a legal action is a SLAPP and accordingly dismiss
33 the same.

34 Sec. 141. *Indigents' suit.* – Indigents shall be exempt from payment of any
35 administrative or court fees, including docket fees for the filing of a case. Lawyers shall
36 be provided by the Public Attorney's Office to pauper litigants in case they could not afford
37 legal services.

Sec. 142. *Application of the customary laws of ICCs/IPs.* – The contractor shall respect the customary laws of the ICCs/IPs and shall submit to the processes of their customary laws, *Provided,* That these laws are not contrary to the provisions of the Constitution.

Sec. 143. *Strict liability.* – Mining corporations are strictly liable for all damages that the mining operations might cause. In case of any actual damage, the burden of proof shall lie with the corporations.

Sec. 144. *Piercing the corporate veil.* – When the separate personality of the corporation from its shareholders is being invoked as defense in order to perpetuate a crime, fraud or other machinations, or evade liability, the separate personality of the corporation shall be set aside. Civil, criminal and administrative actions may thus be filed directly against the members of the Board of Directors, officers and/or individual stockholders.

Sec. 145. *Citizen suits.* – For the purpose of enforcing the provisions of this Act or its implementing rules and regulations, any citizen may file appropriate civil, criminal and administrative suits against any of the following:

- a) Any person who violates or fails to comply with the provisions of this Act or its implementing rules and regulations;
- b) Any public officer with respect to orders, rules and regulations inconsistent with this Act; or
- c) Any public officer who willfully or grossly neglects the performance of an act specifically enjoined as a duty by this Act or its rules and regulations; or abuses the authority in the performance of a duty or duties under this Act or its implementing rules and regulations.

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

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

CHAPTER XIV

PENAL PROVISIONS

Sec. 146. *Grounds for the cancellation of mineral agreements and permits.* –

- a) Violation of any provision of this Act;

- b) Human rights violations perpetrated by the contractor or any agent of the contractor;
- c) Non-payment of taxes;
- d) Bribery, use of force, intimidation, threat, coercion of public officials and communities;
- e) Any act that shall create or contribute to conflicts; and
- f) Other analogous acts.

Provided, That, violations of environmental provisions shall cause the immediate cancellation of mining permits, and the contractor shall be required to pay for the rehabilitation, restoration or clean-up of the impacts of such violations.

Corporations, corporate directors and/or officers found guilty of the above enumeration may be subjected to a perpetual ban in the mining industry in the Philippines.

Sec. 147. *False statements.* – Any person who knowingly presents any false application, declaration, or evidence to the Government or publishes or causes to be published any prospectus or other information containing any false statement relating to mines, mining operations or mineral agreements and permits shall, upon conviction, be penalized by a fine of not exceeding One Hundred Thousand pesos (PhP100,000.00).

Sec. 148. *Illegal exploration.* – Any person undertaking exploration work without the necessary exploration permit shall, upon conviction, be penalized by a fine of not exceeding Five Million pesos (P5,000,000.00).

Sec 149. *Theft of minerals.* – Any person extracting minerals and disposing the same without a mining agreement, lease, permit, license, or steals minerals or ores or the products thereof from mines or mills or processing plants shall, upon conviction, be imprisoned from six (6) months to six (6) years or pay a fine from One Hundred thousand pesos (P100,000.00) to One Million pesos (PhP1,000,000.00) or both, at the discretion of the appropriate court. In addition, he shall be liable to pay damages and compensation for the minerals removed, extracted, and disposed of. In the case of associations, partnerships, or corporations, the president and each of the directors thereof shall be responsible for the acts committed by such association, corporation, or partnership.

Sec. 150. *Unauthorized dealing, selling, and/or buying of gold.* – Any person, partnership or corporation who shall sell, buy or in any manner deal gold from any miner or person without being duly authorized by the *Bangko Sentral ng Pilipinas* shall be punished as unauthorized dealing and shall be penalized in accordance with the provisions in this Act.

Sec. 151. *Destruction of mining structures.* – Any person who willfully destroys or damages structures in or on the mining area or on the mill sites shall, upon conviction,

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

3 Sec. 152. *Mines arson.* – Any person who willfully sets fire to any mineral stockpile,
4 mine or workings, fittings or a mine, shall be guilty of arson and shall be punished, upon
5 conviction, by the appropriate court in accordance with the provisions of the Revised
6 Penal Code and shall, in addition, pay compensation for the damages caused hereby.

7 Sec. 153. *Willful damage to a mine.* – Any person who willfully damages a mine,
8 unlawfully causes water to run into a mine, obstructs any shaft or passage to a mine,
9 renders useless, damages or destroys any machine, appliance, apparatus, rope, chain,
10 tackle, or any other things used in a mine, shall be punished, upon conviction, by the
11 appropriate court, by imprisonment not exceeding a period of five (5) years and shall, in
12 addition, pay compensation for the damages caused thereby.

13 Sec. 154. *Illegal obstruction to permittees or contractors.* – Any person who,
14 without justifiable cause, prevents or obstructs the holder of any permit, agreement or
15 lease from undertaking his mining operations shall be punished, upon conviction by the
16 appropriate court, by a fine not exceeding Five thousand pesos (PhP 5,000.00).

17 Sec. 155. *Vitiating of FPIC.* – Any person found to have vitiated the consent of the
18 ICCs/IPs through bribery, threat, force, and/or intimidation, or any other similar means,
19 shall suffer the penalty of six (6) years and one (1) day to ten (10) years in prison, and
20 a fine of at least two million pesos (PhP 2,000,000.00). If the perpetrator is a government
21 official, the penalty shall be eight (8) years and one (1) day to twelve (12) years
22 imprisonment, and a fine of at least four (4) million pesos (PhP 4,000,000.00). He/she
23 shall be perpetually prohibited from assuming public office and shall be disqualified from
24 receiving other benefits by virtue of his/her position in government.

25 Sec. 156. *Penalty for human rights violations.* – Contractors or other persons who
26 have violated the human rights of communities in connection with the mining operations
27 shall be penalized with ten (10) years to fourteen (14) years imprisonment and a fine of
28 at least five million pesos (PhP 5,000,000.00) and shall indemnify the victims.

29 Sec. 157. *Amendment to Section 27 of Republic Act No. 7076 or the Small-scale*
30 *Mining Act.* – Violations of the provisions of RA 7076 or of the rules and regulations issued
31 pursuant hereto shall be penalized with imprisonment of six (6) years and 1 day to twelve
32 (12) years. The State shall confiscate and seize equipment, tools and instruments; effect
33 immediate suspension or closure of the mining activities of the permittee concerned and
34 revoke the permit.

35 Sec. 158. *Abandonment.* – Contractors and/or permittees who shall abandon mines
36 shall be perpetually banned or disqualified from conducting mining operations, directly or

1 indirectly. The ban and/or disqualification shall include the officers and directors of
2 corporations that have abandoned mines.

3 Sec. 159. *Confiscation of equipment and property.* – The equipment and property
4 of contractors and permit holders violating this Act shall be forfeited in favor of the
5 government.

6 Sec. 160. *Non-application of the corporate veil.* – Any person violating the
7 provisions of Commonwealth Act No. 108, or the Anti-Dummy Law of the Philippines as
8 amended, or is found to have used the corporate structure to defeat the provisions of this
9 Act shall suffer the penalty of five million pesos (PhP 5,000,000.00) and perpetual ban in
10 the mining industry.

11 Sec. 161. *Reinstatement of revoked permits.* – After notice and hearing, revoked
12 permits that have undergone due process may be reinstated, *Provided*, That it may only
13 be reinstated once.

14
15 **CHAPTER XV**
16 **TRANSITORY PROVISIONS**
17

18 Sec. 162. – There shall be a moratorium on all mining activities until all the systems
19 are in place for the proper implementation of the law.

20 Sec. 163. – All existing mining permits, licenses and agreements are hereby
21 deemed cancelled. Those mine workers and their families that may be displaced during
22 the transition period shall receive livelihood support and job placements to be facilitated
23 by the appropriate agencies of the State.

24 Sec. 164. – The classification of public lands as mineral reservations pursuant to
25 pre-existing laws shall hereby cease. All such lands shall be closed to mining unless
26 opened thereto in accordance with the provisions of this Act. The President's power to
27 declare mineral reservations shall henceforth cease to exist. A review of the current
28 mineral land classification shall be conducted to determine the best livelihood and
29 economic option for the said area.

30 Sec. 165. – The members of the panels of arbitrators and the provincial or city
31 mining regulatory boards established under Republic Act No. 7942 shall hold-over their
32 positions until replaced in accordance with provisions of this Act.

33
34 **CHAPTER XVI**
35 **FINAL PROVISIONS**
36

37 Sec. 166. *Separability Clause.* – The provisions of this Act are hereby declared to
38 be separable and, in the event of any such provisions are declared unconstitutional, the

1 other provisions which are not affected thereby shall remain in force and effect.

2 Sec. 167. *Repealing Clause.* – Republic Act No. 7942, Presidential Decree 463,
3 Presidential Decree 512, and other related mining laws are hereby repealed. All provisions
4 in laws, decrees, issuances and other regulations inconsistent with this present law shall
5 be deemed amended or repealed if the inconsistency is irreconcilable.

6 Sec. 168. *Funds.* – The amount of One Hundred Billion Pesos (PhP
7 100,000,000,000.00) is hereby appropriated for the proper functioning of the Bureau, the
8 Council, and other bodies established under this Act of which half of the said amount
9 shall be allotted for the baseline mineral exploration activities of the Bureau.

10 Sec. 169. *Implementing Rules and Regulations.* – The implementing rules and
11 regulations of this Act shall be the product of joint collaboration by the Department, and
12 representatives from the local government units, peoples' organizations, sectoral
13 organizations and non-governmental organizations, and shall be drawn up after
14 appropriate and exhaustive public consultations at all levels nationwide.

15 Sec. 170. *Effectivity.* – This Act shall take effect within fifteen (15) days following
16 its publication in two (2) national newspapers of general circulation in the Philippines.

Approved,