



Mineral agreement between Utah International Inc and The Republic of Mali

The first document in our series on mining agreements covers gold mining in Mali.

It is an important agreement, which shows how a weak African government tries to exercise influence over a strong transnational mining corporation through taxation rather than through ownership.

The agreement was signed in 1987 and the first shipment of ore was made in 1990.

The original agreement was published in French. The unofficial translation published in RMR was made by the UN.

ESTABLISHMENT CONVENTION

Between:

The *Republic of Mali*, hereafter called the "State", represented by the Minister of Industrial Development and Tourism, Mr Drissa Reita, on the one hand,

and *Utah International Inc.*, a company incorporated in the State of Delaware, the principal offices of which are located 550 California Street, San Francisco, California 94104, hereafter called "UTAH", represented by Robert O. Wheaton pursuant to a power of attorney granted by UTAH, attached hereto as Annex I, on the other hand.

After having set forth:

The State has carried out during the past years exploration in the Project Area defined in Annex II.

Such exploration has led to the discovery of a mineralized zone containing gold situated within said Project Area, more specifically around Syama.

UTAH has expressed the desire to carry out additional exploration for gold in said Project Area and in case the existence of a gold deposit is confirmed, to undertake the development and the commercial production of said deposits and, if appropriate, of other mineral substances discovered as a result of said exploration.

This desire conforms to the policy of the State to promote mining exploration and exploitation, in all its aspects.

Consequently, the Parties have approached one another in order to determine the conditions under which exploration, to be carried out by UTAH alone, will be pursued and joint commercial production of the deposits which may be discovered will be undertaken.

And have agreed as follows:

PART I GENERAL PROVISIONS

Article 1

Definitions for the purpose of this Agreement:

1.1 "Affiliate" means any person, partnership, joint venture, corporation or other form of enterprise which directly or indirectly controls, is controlled by, or is under common control with, a Party hereto. For purposes of the preceding sentence, "control" means possession, directly or indirectly, of the power to direct or cause direction of management and taking of decisions through ownership of voting rights.

1.2 "Agreement" means this Establishment Convention, including all amendments and modifications thereof, and all schedules and annexes.

1.3 "Budget" means a detailed estimate of all costs to be incurred by the Parties with respect to a Work Plan and a schedule of cash advances to be made by the Parties in order to conduct operations under such Work Plan including without limitation, capital costs estimates for a proposed mine, and estimates of the expenses listed in Article VIII of the Operation Contract, attached hereto as Annex V.

1.4 "Deposit" means a prospective ore body of Subject Minerals identified by a Feasibility Study as being commercially producible.

1.5 "DNGM" means the *Direction Nationale de la Géologie et des Mines de la République du Mali* or any successor body which would exercise identical or similar duties.

1.6 "Exploration" means all surface investigations, as well as all superficial or underground work carried out for the purpose of establishing the existence or the continuity of traces of minerals discovered, of confirming the existence of Deposits and of studying the conditions

under which they may be brought to commercial production.

1.7 "Feasibility Study" means a report showing the feasibility and proposed plan of placing a prospective ore body or Deposit of Subject Minerals within the Project Area into production and shall include, without limitation the generality of the-foregoing:

(a) assessments of the size and quality of the mineable reserves of Subject Minerals;

(b) assessments of the amenability of the Subject Minerals to metallurgical treatment;

(c) memorandum on the social and economic impact of the Project;

(d) a Work Plan and Budget for constructing a Mine setting forth the descriptions of the work, permits, equipment, facilities and supplies required to bring the prospective ore body or Deposit of Subject Minerals into commercial production, and the estimated costs thereof with a schedule of expenditures by year or the costs necessary to bring the Project into production;

(e) a marketing plan for marketing Products, including anticipated points of sale, customers, terms of sale and prices to be received;

(f) a mining plan;

(g) conclusions and recommendations regarding the economic feasibility and timing for bringing the prospective ore body or Deposit of Subject Minerals into commercial production, taking into account items (a) through (g) above; and

(h) such other information as the Party preparing such Feasibility Study may deem appropriate to allow banking or other financial institutions familiar with the mining business to make a decision to lend funds sufficient to undertake production of the Deposit.

1.8 "First Production" means the date upon which the first sale or delivery of Products is made, either within or outside Mali, excluding trial operations.

1.9 "LIBOR" means three months interest rate quoted as the London Interbank Offered Rate by any international bank at 11:00 a.m. London time on any day.

1.10 "Management Committee" means the management body established for each SEP under Article 21 of this Agreement.

1.11 "Mine" means:

(a) any shaft, strip mine, tunnel, or opening, underground or otherwise, made or constructed after preparation of a Feasibility Study, and from which Subject Minerals have been or may be removed or extracted by any method whatsoever, whether now known or hereafter developed, in quantities larger than those required for purposes of sampling, analysis or evaluation;

(b) mills and other facilities for the treatment, processing and storage, and disposal of Subject Minerals and waste, including tailings;

(c) machinery, equipment, tools, buildings, facilities and improvements for mining, processing, handling, and transporting Subject Minerals, waste and materials; and

(d) housing, offices, roads, airstrips, power lines, power generation facilities, evaporation and drying facilities, pipelines, railroads, infrastructure, and other facilities for any of the foregoing purposes.

1.12 "Mining" means any operations which consist of the development and construction of a Mine and/or the extracting of mine substances from a Deposit for the purpose of disposing of same for commercial ends.

1.13 "Mining Code" means the laws of Mali identified as Ordinance N^o 34/CMLN of September 3, 1970, Decree N^o 112/PG of September 3, 1970, and Order (arrete) N 65/MDITP of January 23, 1971.

1.14 "Net Cash Flow" shall be defined as the excess of the total gross revenue over the total of all costs (including capital costs), expenses, and losses actually paid.

For the purposes of this definition, gross revenue shall be defined as amounts actually received by UTAH in selling its share of the Products.

Costs, expenses and losses shall be defined as all costs of refining, smelting, treating, processing and selling such Products, including the costs of transportation, insurance, sampling, weighing and assaying charges, if any, which have not already been deducted by the purchaser, and all other amounts actually paid by UTAH (including capital costs) for the Project and shall include interest at the rate of LIBOR plus 2% on all costs, expenses and losses unrecouped and a reasonable charge for administration and management as set forth in the Operating Contract described in Annex V.

Unrecouped costs, expenses and losses shall mean that amount of UTAH's cumulated costs, expenses and losses which exceed UTAH's cumulated gross revenue. Interest expense will cease whenever cumulated gross revenue is equal to or greater than cumulated costs, expenses and losses.

The terms cumulated gross revenue and cumulated costs, expenses and losses shall be defined as total gross revenues and total costs, expenses, and losses, respectively, actually received and/or paid since the Effective Date of this Agreement to the date of computation.

1.15 "Operator" means the person or entity appointed by the Management Committee to manage the SEP and conduct Mining.

1.16 "Participating Interest" shall mean, in the case of the State, the initial interest described in Article 18.1 of the Agreement plus any Working Interest purchased by the State as described in

Article 18.2 of the Agreement. In the case of UTAH, "Participating Interest," shall mean 100% less the State's Participating Interest.

1.17 "Party" means UTAH or the State; "Parties" means UTAH and the State.

1.18 "Products" means all ores, minerals and mineral resources produce from the Project Area or commercial purposes under this Agreement.

1.19 "Project" means all activities relating to the Project Area conducted under this Agreement.

1.20 "Project Area" means the area described in Annex II as may be modified pursuant to Article 9.2 of this Agreement.

1.21 "SEP" means the joint venture business arrangement, in the form of a Societe en Participation, of the Parties established under Articles 17 through 21 of this Agreement, or under any other form of commercial entity determined by the Parties.

1.22 "State" means the Government of the Republic of Mali, its Ministries, Departments, Agencies, Instrumentalities, Regional, Provincial or District Authorities.

1.23 "Subject Minerals" means gold, silver, lead, zinc, cobalt, and copper as well as other mineral substances which may be added pursuant to Article 15.1 of this Agreement.

1.24 "UTAH" means Utah International Inc., or any wholly owned subsidiary thereof.

1.25 "Working Interest" shall mean that ownership interest acquired by a Party in an SEP through cash contribution which obliges such Party to contribute its pro rata share in all subsequent costs, expenses, and losses of Mining and which entitles such Party to that same pro rata share of Products

from Mine according to the provisions of Article 18.2. UTAH's Working Interest shall be 100% less the State's Working Interest acquired and held as provided for in Article 18.2.

1.26 "Work Plan" means a description in reasonable detail of Exploration and/or Mining activities to be conducted and objectives to be accomplished by UTAH and/or the Operator within the Project Area.

Article 2 Purpose of the Agreement

This Agreement is entered into for the purpose of defining the general economic, legal, administrative, financial, fiscal, and social conditions under which UTAH shall undertake Exploration within the Project Area in view of determining the possible existence of commercially exploitable Deposits within the Project Area and, if appropriate, Mining of said Deposits in association with the State within an SEP.

Article 3 Description of the Project

3.1 The activities under this Agreement shall be undertaken in two phases. The first shall consist of the carrying out by UTAH, at its own expense, of Exploration work for Subject Minerals and, in the event UTAH determines it is appropriate, of the preparation of a Feasibility Study for each prospective ore body discovered. In the event a decision is made by UTAH to proceed with mine construction, the second phase shall consist of the Mining of the Deposit (s) by one or more SEP's to be created by UTAH and the State according to the conditions set out in Part III, below.

3.2 It is understood by the Parties that, in the Project Area concerned, the different phases of Exploration and Mining may be carried out in parallel, with the Mining of one Deposit being

begun while Exploration by UTAH continues for the discovery of other Deposits.

Article 4 Administrative cooperation

The State declares its intention to facilitate, to the maximum possible extent, all Exploration to be carried out by UTAH; the same intention applies to the Mining and sales of Products by the Parties and/or each Operator.

Article 5 Applicable law

The law applicable to this Agreement is the law of the Republic of Mali, subject to the following conditions:

The State declares that this Agreement is authorized by Malian law. It is expressly understood that, for the entire period of its validity, the present Agreement shall constitute the law applicable between the Parties.

Consequently, domestic law of the Republic of Mali, as in force and effect on the date of signature of this Agreement, shall be applicable in the interpretation of this Agreement, as a complementary tool, only to the extent that this Agreement does not exhaustively govern the issue.

Article 6 Effective date

This Agreement, which shall have the standing of a law, shall be effective after execution by both Parties and upon either:

(a) the date of the issuance of the Exploration permit to UTAH by arrete of the Minister in charge of mines, or

(b) the date of the issuance of the ordinance of approval of this Agreement.

Article 7 Duration

7.1 The duration of this Agreement shall be 30 years from the Effective Date. If the Mining Period of a Deposit

exceeds the term of this Agreement the Parties agree to request an extension which, in accordance with Article 46 of the Mining Code, may only be granted by a special law.

7.2 This Agreement shall terminate prior to its term in the following cases:

(a) by written agreement of the Parties;

(b) if UTAH abandons totally its mining title or same is cancelled in accordance with the provisions of the Mining Code;

(c) in case of bankruptcy, judicial settlement, liquidation of assets or any similar collective action against UTAH.

Article 8 Arbitration

8.1 The Parties agree:

(a) to seek amicable resolution of any disputes concerning the interpretation or application of this Agreement;

(b) in the case of any controversy or dispute relating exclusively to technical matters, including Work Programs and Budgets, to submit such controversy or dispute to any expert recognized for his technical knowledge, chosen jointly by the Parties, and not being of either of the Parties' nationality or related to them.

The decision of such expert must be rendered within 30 days. Such decision shall be final, and not subject to appeal. In case of disagreement as to the technical nature of the difference or dispute or in case of disagreement between Parties over the choice of the expert, the controversy or dispute will be submitted to arbitration in accordance with the provisions of 8.2.

The expenses of technical arbitration shall be split equally between the Parties.

8.2 Subject to the provisions of Article 8.1, any controversy or dispute relating to this Agreement shall be settled by arbitration in accordance with the

Convention for Settlement of Investment Disputes between States and nationals of other States in effect since October 14, 1966 (hereafter "the Convention").

In all cases of arbitration:

(a) arbitration shall take place in Paris unless the Parties decide otherwise;

(b) the language of the arbitration shall be French, with translation into English;

(c) the costs of the arbitration shall be borne by the losing Party.

8.3 For the purposes of arbitration, the Parties agree that the transactions to which this Agreement relates constitute an investment within the meaning of Article 25 (1) of the Convention.

8.4 In case, for whatever reason, the International Center for Settlement of Investment Disputes should not accept jurisdiction or should reject the arbitration request, the dispute shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce and the remaining provisions of Article 8.2 shall apply.

Arbitration shall be conducted by one sole arbitrator appointed by mutual agreement of the Parties. This arbitrator shall be of a nationality other than that of the Parties and shall have extended experience in the mining field.

In case the Parties cannot agree on the choice of the arbitrator, arbitration shall be conducted by three arbitrators named in accordance with the rules and regulations of the International Chamber of Commerce.

8.5 The Parties agree to execute the decision rendered by the arbitrators without delay and hereby waive any rights of appeal. The execution of the decision may be carried out by any tribunal having jurisdiction.

PART II EXPLORATION WORK AND FEASIBILITY STUDY

Article 9 Issuance of exploration permit to UTAH

9.1 Within 30 days following signature of this Agreement the State shall issue to UTAH, by "arrete" of the Minister in charge of Mines, an exclusive Exploration permit covering Subject Minerals and relating to the Project Area. Such Exploration permit shall give UTAH the rights and obligations provided for in the Mining Code relating to Exploration permits. It is understood that in order to obtain such permit, UTAH shall comply with the formalities provided for in the Mining Code and shall furnish the bank guarantee referred to in Article 12.4 of this Agreement.

The duration of any such permit shall be for three (3) years and shall be renewable once for an additional three years as described in Article 12.5.

9.2 UTAH agrees to relinquish, at the end of the second year of Exploration, half of the surface area described in the permit initially issued. At the time of any renewal, half of the surface area then remaining shall be released.

Article 10 Office of UTAH in Mali

10.1 Within 90 days of the Effective Date of this Agreement, UTAH shall domicile a branch and open an office in Mali for the duration of Exploration activities.

10.2 Within 30 days of the Effective Date of this Agreement, UTAH shall appoint a local representative who will be the designated representative ("interlocutor") of UTAH to the State for all matters concerning the carrying out of the Exploration work. Such representative shall be a natural person, and shall have sufficient mining experience to direct a mineral Exploration team. The

representative shall be approved by the Director of Mines, which approval shall not be unreasonably withheld.

10.3 The representative shall be given sufficient authority to decide all matters relating to the Exploration work which may be considered as question of day-to-day operations.

Article 11 Exploration Work Plans

11.1 UTAH shall be solely responsible for the conception, execution, and financing of Exploration.

11.2 During the first period of two years of validity of the Exploration permit, UTAH agrees to carry out the Exploration Work Plan titled Initial Work Plan" set forth in Annex IV to this Agreement.

11.3 At least one month before the end of the above-mentioned two-year period, UTAH shall submit to the DNG an Exploration Work Plan and estimate of expenses covering the third year of validity of the Exploration permit. This Work Plan will be consistent with the provisions of Article 9.3, above and will indicate the new boundaries of the Permit and the surface area to which the Work Plan shall apply.

11.4 In the event UTAH desires to renew the Exploration permit in accordance with Article 12.5, at least 2 months before end of the third year of the existing permit term UTAH shall submit to the DNGM an Exploration Work Plan and estimate of expenses for the first year of the renewal period. Subsequently, UTAH shall submit to the DNGM, one month before the end of each annual period, a similar Work Plan and estimate of expenses for each succeeding year.

11.5 It is agreed that one officer of DNGM will be seconded to UTAH to participate in the carrying out of the UTAH Exploration Work Plans. The

reasonable cost of this officer shall be for the account of UTAH. This officer will report to and be under the authority of the UTAH designated representative.

11.6 Analysis of samples shall be carried out in Mali, either in existing analytical laboratories or in fixed or mobile laboratories established by UTAH for this purpose. However, UTAH may, upon justification, carry out analyses outside Mali. The results of such analyses shall be communicated to DNGM.

11.7 UTAH shall carry all insurance normally carried by a diligent operator, including third party liability insurance, insurance covering the risk of accidental loss or damage of equipment, and life, disability and health insurance for employed persons.

Article 12 Expenditure Obligation for Exploration Work

12.1 The costs of any Exploration Work Plan shall be borne by UTAH, from its own funds, except in the case of Exploration undertaken within the area of a Mining permit.

12.2 UTAH agrees that it will spend a minimum of US\$1,500,000 for Exploration during the first two (2) years of the Exploration permit described in Article 9.

12.3 Consistent with Article 14.1, UTAH shall have the right to abandon its Exploration activities at any time before the end of the two (2) year period described in Article 12.2. If UTAH exercises such right, it shall pay to the State the difference between the amounts for Exploration actually spent and US\$1,500,000.

12.4 UTAH shall furnish to the State a bank guarantee in the sum of US\$1,500,000 within 30 days of the Effective Date of this Agreement, the form of which is attached to this Agree-

ment as Annex III. Such guarantee shall be decreased as expenditures are made and be dissolved upon the actual expenditure of the US\$1,500,000 described in Article 12.2.

12.5 UTAH shall have the right to renew the initial Exploration permit for a period of three years in accordance with the Mining Code if during the first three (3) years UTAH has spent a minimum of US\$3,500,000 for Exploration activities.

12.6 Apart from the salaries and related costs for personnel actually engaged in Exploration work in Mali, only the following expenses shall be taken into account in the calculation of the above minimum expenses:

(a) amortization of capital equipment actually used in Exploration for the periods corresponding to their use;

(b) expenses incurred within or outside Mali for actual Exploration, including costs relating to the Work Plan, testing, analyses, overseas studies, etc., as well as technical services performed by UTAH or an Affiliate at rates which include base salary, employee benefits, payroll taxes and other related costs. Overhead costs of UTAH shall be taken into consideration at a fixed rate of 6% of the above mentioned costs. To permit verification of expenses, accounts shall be organized so as to permit a distinction between Exploration costs and administrative costs.

Article 13 Information during exploration

13.1 UTAH shall provide reports to the state concerning Exploration activities as required by the Mining Code.

13.2 At the final termination of all Exploration permits, (including all renewals thereof provided for in Article 12.5), UTAH shall submit to the State a final report, with all maps, drill logs, aerial data and all other non-interpretive data which it has acquired during its Exploration. The same obligation will

apply to any other Exploration permits granted under this Agreement.

13.3 Reports and data referred to in Article 13.1 may not be communicated by the State to third parties without the prior written consent of UTAH which shall not be unreasonably withheld. In case of abandonment of an Exploration permit, such reports and data shall become the property of the State.

Article 14

Termination of Exploration Work

14.1 UTAH may terminate the Exploration work prior to the expiration of the term of the Exploration permit if it concludes that the results obtained do not justify continued Exploration.

14.2 In the event of a definitive termination in the Exploration work, all mineral rights held by UTAH and the rights held by virtue of this Agreement shall be extinguished. UTAH shall then submit to the State the final report envisaged in Article 13.2, above.

Article 15

Discovery of Other Substances

15.1 If, during the course of Exploration, UTAH discovers indications of substances other than Subject Minerals, it shall have the right to extend its existing Exploration permit to the new substances in conformance with the Mining Code.

15.2 The Parties will enter into negotiations to determine the terms and conditions of an appropriate investment agreement permitting the Exploration and Mining of such new substances.

Article 16

Feasibility Studies

16.1 Each time that UTAH is of the opinion that, based on data obtained during Exploration, a prospective ore body of Subject Minerals may exist within the Project Area in sufficient quantity and quality to justify commer-

cial production, UTAH shall prepare a Feasibility Study for such ore body. UTAH shall submit such Feasibility Study to the State upon completion.

16.2 If UTAH decides to develop a Deposit based upon such a Feasibility Study, it shall notify the State upon submission of the Feasibility Study to the State and the State shall have 180 days after such submission within which to notify UTAH whether and to what extent it chooses to participate in the Mining of the Deposit described in said Feasibility Study and to indicate the percentage of its Participating Interest, as more particularly described in Article 18.2.

PART III: MINING

Article 17

Formation of a SEP

17.1 Each time a decision to develop a Deposit is reached by UTAH, a new *Société en Participation* (SEP) may be created between the State and UTAH to develop a Mine for such Deposit. However, the Mining of the new Deposit may, with the agreement of the Parties, be undertaken by an existing SEP.

17.2 Within 30 days of the formation of each SEP, the State shall grant to the Parties a Mining permit for such Deposit which permit shall be held by the Parties on an undivided interest basis in accordance with their Participating Interests.

Article 18

Participating Interests of the Parties

18.1 At the time of the creation of each SEP as described in Article 17, the state shall receive an initial interest in the SEP in the amount of 15%. Such interest shall not require any financial commitment by the State and shall be held by the State for the life of the SEP.

Such interest shall entitle the State to 15% of the Net Cash Flow from the Mine developed by such SEP. However such 15% Net Cash Flow shall be distributed to the State only when the cumulative gross revenue shall exceed the cumulated total of all costs, including capital costs, expenses and losses attributable to the Exploration and Mining activities conducted by UTAH in connection with such Mine. Such distributions will be made within 45 days after the end of each calendar quarter.

18.2 In addition, the State shall have the option to increase its Participating Interest in the SEP by purchase of an interest of up to 20 in each SEP, termed a Working Interest. Such option may be exercised in whole or in part (but not for less than 10%) either:

(a) within 180 days of the notification to the State of UTAH's decision to proceed with the Mining of the Deposit; or

(b) five (5) years after the First Production from such Deposit.

18.3 (a) If the State exercises the option pursuant to 18.2 (a), the purchase price of the Working Interest in each SEP shall be equal to the percentage of such interest selected by the State (10% to 20) multiplied by the total cost of the Exploration and Feasibility Study work associated with the Deposit incurred by UTAH prior to the decision to develop the Deposit, increased by interest at LIBOR plus 2%. The Exploration expenses already spent by the State in the Project Area in the amount of US\$ 1,700,000, increased by interest at the same rate from the date of this Agreement, shall be deducted from the purchase price for the first Working Interest purchased by the State. Any excess of such Exploration expenses of the State over the purchase price shall be credited to the State's account for purposes of meeting future cash calls by the Operator.

(b) If the State exercises the option provided in 18.2 (a) within the time allotted, but is not able to finance the purchase of its Working Interest within the said 180 day period, the State shall advise UTAH at the time of the exercise of its option and UTAH shall grant an extension of time which shall not exceed two years from the submission of the Feasibility Study to the State to obtain financing for its Working Interest. The exercise of such an option shall not prevent UTAH from undertaking and financing on its own the Mining operations.

In such case, and as soon as the State obtains the financing necessary for the acquisition of its Working Interest, the State shall pay the purchase price referred to in Article 18.3 (a) above and shall reimburse UTAH the Mining expenses corresponding to the Working Interest of the State incurred by UTAH since its decision to develop the Mine until full payment, increased by interest at the rate of LIBOR plus 2%, during this period. If the State does not pay the purchase price, within the extension granted by UTAH, the State shall be deemed not to have exercised its option and shall be able to acquire the Working Interest only under the conditions set forth in the Article 18.2 (b), above.

18.4 To the extent that the option is not exercised pursuant to Article 18.2 (a), or is only partially exercised, the State shall have the right to purchase a Working Interest of 20%, or a percentage representing the balance of 20%, as the case may be, five years after First Production from the Deposit. The purchase price for such Working Interest shall be equal to the fair market value of the Mine as a going concern multiplied by the percentage of Working Interest to be purchased. The State must give notice to UTAH of its intent to exercise such option within 90 days of the end of the 5th year. In case of the exercise of the option, UTAH shall set such

fair market value determined by the level of the Mine's estimated future cash flows and its rate and duration of growth. If the State disagrees with the price determined by UTAH, the fair market value of the Mine will be determined by an independent expert chosen by mutual agreement. The Exploration expenses incurred by the State, i.e. US\$1,700,000, as increased by interest at LIBOR plus 2% from the date of this Agreement, shall be credited against the purchase price for the Working Interest of the first Mine to the extent such amount was not previously deducted as provided above. Any excess of such Exploration expenses of the State over the purchase price shall be credited to the State's account for purposes of meeting future cash calls by the Operator.

18.5 The rights and benefits associated with the State's Working Interest shall be obtained upon full payment for such Working Interest as provided above.

A Working Interest shall entitle the State to the corresponding percentage of Products from the subject Mine, and obligate it to the corresponding percentage of costs, expenses and losses for the subject Mine.

18.6 Each Party shall take in kind and separately dispose of its share of all Products in accordance with its Working Interest. If a Party fails to take in kind, the Operator may purchase and sell the Product as provided in the Operating Contract in Annex V.

In the event a Party fails to meet a cash call submitted to it by the Operator as provided in the Operating Contract (Annex V), such Party's right to take in kind shall be subject to the rights of the Operator to withhold and sell all or a portion of such Party's share of the Products as provided in Article VIII of the Operating Contract

18.7 Each Party agrees to obtain financing corresponding to its own Work-

ing Interest and shall not be held to assume the share of the financing incumbent on the other Party.

It is, however, understood that the Parties shall assist each other in seeking financing for the Project and shall furnish, in accordance with international practice, the information requested by the financial institutions. This Article 18.7 cannot have the effect of imposing upon a Party the obligations of guaranteeing the loans of the other Party.

The ratio between debt and equity applicable for UTAH will be in accordance with international practice, and the usual requirements of financing institutions at the time of the arrangement of funding. However, it is agreed that in no way will interest payable on loans be deductible from taxable income if such loans exceed a ratio of 30% equity to a 70% debt. In addition, any interest allocable for deduction shall be at international commercial rates prevailing at the time the debt is incurred.

Article 19 Purpose of SEP

19.1 The purpose of the SEPs shall be for Mining of Subject Minerals within that portion of the Project Area described in a Feasibility Study and for which a Mining permit has been granted and shall include all operations necessary or useful for Mining of the Deposit.

19.2 Once the Mining permit for the Deposit requested has been issued for a Mine, the SEP will undertake the development of such a Mine in an expeditious manner consistent with proper Mining practices.

Article 20 Organization of the SEP

20.1 The Parties shall decide upon a name for each SEP at the appropriate time.

20.2 The headquarters of each SEP shall be in the Republic of Mali, at a place to be decided upon by the Parties.

20.3 Each SEP shall be managed by UTAH acting as Operator of the Mining activities (hereafter "Operator"). The Operator shall conduct its activities in accordance with the Operating Contract (Annex V) which shall become effective upon the creation of each SEP.

20.4 The fiscal year of each SEP shall begin on January 1 of each calendar year and shall terminate on December 31 of the same year.

20.5 Fixed assets and other assets acquired in common such as all equipment, tools, installations, material, machines are the indivisible property of the Parties held on a pro rata basis with their respective Working Interests.

All expenses financed and executed on the Mining Permit area by one Party alone shall be allocated to this Party.

Article 21

Organization of the SEP

21.1 Conduct of Business

The business of the SEP will be conducted in conformance with the dispositions of this Agreement and with the Operating Contract between the Operator and the SEP.

21.1 (a) A Management Committee will be established composed of one representative of the State and one representative of UTAH.

The Management Committee will decide on all questions relative to the general policy of the SEP, notably on Work Programs and Budgets submitted by the Operator with a view to their adoption or possible modification. The day-to-day management of the Mine in conformance with these Programs and Budgets, is within the sole competence and the sole responsibility of the Operator.

(b) The representatives will have a right of vote which will correspond to

the percentages of Participating Interests held in the SEP by the Parties that they represent.

(c) The Management Committee shall meet at least one time per year, and at any other time agreed to by the Parties, upon call notice of the Operator.

(d) The Parties declare that their primary objective is to ensure the maximum long term profitability of the Mine and that the principal preoccupation during the examination of the Work Programs and Budgets will be to attain this objective.

21.3 The following questions will be within the competence of the Management Committee and decisions relative to these questions will be taken at a majority of at least 76% of the Participating Interests:

(a) Adoption or any modification of all Work Plans and Budgets submitted by the Operator relating to Mining and if need be, to Exploration, as provided in Annex V. The Work Plan and Budget for construction and development of the Mine contained in the Feasibility Study submitted by UTAH to the State as provided in Article 16.1 of the Agreement shall be deemed approved by the Management Committee and shall be carried out by the Operator.

(i) the Parties agree to vote in favor of any Work Program and any Budget which conforms to the general orientation of the project described in the Feasibility Study;

(ii) approval of any Work Program and any Budget related to a modification of the Mine with a view to attaining the objectives set forth in the Feasibility Study shall not be unreasonably withheld;

(iii) within thirty (30) days following submission by the Operator to the Parties of the proposed Work Programs and Budgets as is provided for in Article 6.2 of Annex V, the Management Committee must

meet in order to approve the Work Programs and Budgets.

If, during this meeting, the members of the Management Committee cannot agree that the provisions of the Work Programs and annual Budgets conform to the project described in the Feasibility Study, the Management Committee will examine the reasons for the disagreement and will attempt to find an agreement and, if necessary, will modify the Work Program and the Budget in order to make it conform to the project as initially approved, and will then approve the said Work Programs and Budgets as have been modified. If an agreement on the Work Program and budget cannot be reached by the Management Committee during the meeting and the disagreement persists for a duration of thirty (30) days after said meeting, the Management Committee will meet again, at the latest sixty (60) days before the expiry of the Work Program then in progress in order to approve a Work Program and Budget allowing the Operator to maintain the Mining operations at the then current level, while the members of the Management Committee will continue, in good faith, to resolve their disagreement.

(iv) After a budget has been approved, the Operator shall be authorized to undertake any unforeseen modifications and expenditures subject to the condition that said modifications and expenditures contribute to the profitability of the project and do not exceed the budget already adopted by more than 10.

(b) Any borrowing on behalf of the SEP;

(c) Pledging, mortgaging or in any way encumbering all or part of the property of the SEP.

(d) Any extension or modification of an existing Mine for which the objective would be to increase the production capacity or the profitability of the Mine as compared to those original provided for in the Feasibility Study. If a Party should not give its consent to such extension or alteration, the other Party may proceed alone, at its sole expense and risk, and the Party which finances the expansion shall receive the economic benefit of the expansion or alteration while preserving the value of the other Party's rights in the Mine prior to expansion or alteration.

(e) The appointment of independent accountants, which shall be a firm of internationally recognized standing.

(f) Approval of a decision of an existing SEP to undertake mining of a new Deposit.

Article 22

Right of the State to Proceed on Sole Risk Basis for New Mines

Notwithstanding the management powers of the Operator as set forth in the Operating Contract in Annex V, if the State believes that a new Deposit should be developed in the Project Area, it may request UTAH to prepare a Feasibility Study for such new Deposit. If UTAH does not agree that a Feasibility Study should be prepared as requested, the State may prepare its own Feasibility Study for such new Deposit and shall submit it to UTAH and indicate if it desires to proceed to mining. UTAH shall notify the State within 180 days from the date of receipt by UTAH of the State's Feasibility Study, if it wishes to participate in the Mining of the Deposit described in the Feasibility Study.

In case UTAH fails to respond within such period, or in case of a negative response by UTAH, the State may undertake the Mining of said Deposit alone at its own expense and risk and no SEP will be established. The State, in this case, will have a Working Interest

of 100% in said Deposit. If UTAH does choose to participate in the Mining of such Deposit, an SEP will be formed and the Parties will proceed as provided in Articles 17 through 21.

Article 23

Default Relating to Work Plans and Budgets

23.1 If either Party fails to make a contribution or cash call which it is committed to make under an approved Work Plan and Budget, such Party shall be in default. The Operator shall give the defaulting Party notice of the default, which shall be in writing and shall set forth the nature of the default. Failure of the non-defaulting Party to give any such notice shall not release the defaulting Party from any of its obligations under this Agreement. The non-defaulting Party may elect to advance the unpaid cash call. In such case, the unpaid cash call shall bear interest as of its due date until payment to the Operator at the rate of LIBOR plus 2%. The non-defaulting Party which has advanced an unpaid cash call shall be reimbursed principal plus such interest by the Operator upon receipt of the funds paid by the defaulting Party.

23.2 The Operator shall have the right to retain and sell all or part of the defaulting Party's share of the Products up to the amount of the unpaid cash call, plus interest, in accordance with Article VIII of the Operating Contract.

Article 24

Purchase and Supplies

UTAH, the Operator and their Affiliates and sub-contractors shall and to the fullest practicable extent utilize services and raw materials produced from Malian sources and products manufactured in Mali to the extent such services and products are available on a competitive cost, quality and delivery-time basis.

Article 25

Employment of Malian Personnel

25.1 During the term of this Agreement, UTAH, and/or the Operator, and their Affiliates and sub-contractors agree to:

a. Employ Malian personnel to the extent they have equal qualifications.

b. Prepare and establish a comprehensive program for training Malian personnel.

c. Ensure the housing of workers employed on site in conditions of health and safety conforming to existing or future regulations.

d. Respect the existing and future sanitary laws and regulations in force from time to time.

e. Respect the existing and future labor laws and regulations relating specifically to conditions of work, minimum wages, the prevention and remedying of work-related accidents and occupational illness, as well as relating to professional associations and trade unions.

25.2 From the date of First Production from the first Mine in the Project Area, the Operator, the Parties, and/or their Affiliates agree to:

(a) the establishment or expansion and improvement of medical and educational facilities at a reasonable distance from the Mine corresponding to the normal needs of the workers and families of the enterprise;

(b) the organization at the local level of recreational facilities for employees.

25.3 The State agrees to provide to UTAH, the Operator, and/or the SEP, Affiliates and sub-contractors, the authorizations required to permit employees to undertake overtime work, to work at night, or to work on holidays, in conformance with the existing laws of Mali.

25.4 The State agrees not to impose on UTAH, the Operator, the SEP, their Affiliates and sub-contractors nor on their personnel any measure relating to

employment or social legislation or the conduct of its activities which can be considered discriminatory with respect to enterprises carrying out similar activities in Mali.

Article 26 Employment of Expatriate Personnel

26.1 UTAH, the Operator, and their Affiliates and sub-contractors may bring into Mali such non-Malian personnel as in UTAH's and/or the Operator's respective judgments are required to carry out the conduct of business efficiently and successfully and the State shall assist in making arrangements for the acquisition of all necessary permits for such personnel (including entry and exit permits, work permits, visas and such other permits as may be required).

26.2 The State guarantees that it will not, during the term of this Agreement, extend to or impose upon UTAH, the Operator and/or their Affiliates and sub-contractors any measure applying a restriction on the conditions under which the existing or future regulations permit:

(a) the entry, stay and departure of all agents or representatives of UTAH, the Operator and/or their Affiliates and sub-contractors, the families of such personnel, and their personal effects;

(b) subject to Article 25.1 above, the hiring and employment by UTAH, the Operator and their Affiliates and sub-contractors, of persons of their choice, whatever their nationality or nature of their professional certification.

26.3 The State nonetheless reserves the right to bar the entry or stay of persons whose presence threatens security or public order or who undertake political activity.

Article 27 General Guarantees by the State

27.1 The State agrees to guarantee to UTAH, the SEP, and the Operator the stability of economic, fiscal and financial conditions as provided in this Agreement. Any modification made in the future to the laws and regulations of the State including to the Mining Code, shall not apply to UTAH, the SEP, or the Operator without their written agreement. Any more favorable provisions passed after the execution of this Agreement, pursuant to generally applicable legislation, shall be automatically extended to UTAH, the SEP and the Operator.

27.2 The State also guarantees that UTAH, the Operator, and their Affiliates and sub-contractors and persons regularly employed by them shall not be the object of any unfavorable legal or administrative discrimination *de jure* or *de facto*.

Article 28 Fiscal Provisions

The tax regime defined by the present Agreement shall vary according to the different phases of the operations.

28.1 During the Exploration phase and the period of development of any Mine (from the date of entry into force of the Agreement to the date of First Production), UTAH and its Affiliates and/or sub-contractors, as appropriate, will be exempted from all taxes, duties contributions, or any other levy of whatever nature, direct or indirect, which they would be required to pay personally or for which they are responsible, with the exception of the following:

(a) The fixed tax on issuance of the Exploration permit: 150,000 francs CFA; the fixed tax for renewal of the Exploration permit: 75,000 francs CFA; which shall be paid by UTAH;

(b) The fixed tax on issuance of the Mining permit: 500,000 francs CFA;

which shall be paid by the Operator on behalf of the SEP;

(c) The employers' payroll tax (CFE), at the rate of 7.5% on the total amount of gross remunerations, salaries, and emoluments of employees other than expatriate employees, which shall be paid by UTAH during Exploration and by the Operator after formation of the SEP;

(d) Social security contributions for employees other than expatriate employees as are provided for in existing or future legislation, which shall be paid by UTAH during Exploration and by the Operator after formation of the SEP;

(e) The IAS and taxes incorporated in the price of goods purchased or services rendered on the local market, at the rates in force at the date of signature of this Agreement.

The expatriate personnel of UTAH, its Affiliates and/or sub-contractors, assigned to Mali and whose activities are exclusively for the purposes of this Agreement shall be exempt from all taxes and social security contributions on the income paid to them.

28.2 During the Mining Period (which shall begin as of the First Production) the Parties, the SEP, the Operator, their Affiliates and sub-contractors, as appropriate, shall pay:

(a) Occupation fees of the Mining permit, which shall be paid by the Operator on behalf of the SEP:

- 10 francs CFA per sq. km. for the first year;
- 20 francs CFA per sq. km. for the second year;
- 50 francs CFA per sq. km. for the third year;
- 250 francs CFA per sq. km. for the subsequent years;

(b) A fixed *ad valorem* tax of five percent (5%) on the *ex-plant* ("depart-Champ") value of Products. Each Party shall be responsible for the payment of

the ad valorem tax for its share of the extracted Products.

The ex-mine value shall mean the value of the products sold to the refiner, less all costs of refining, or any other process or method of treatment required to convert the Mine Product to a final saleable Product, commissions for marketing of the Product, the costs of transportation of the Product to the purchaser, insurance costs, and sampling, weighing and assaying charges, if any, which have not already been deducted by such purchaser;

This tax shall be collected:

- either at the time of a domestic sale of the subject minerals, extracted,
- or upon repatriation of the foreign currency resulting from the export of subject minerals, in accordance with Article 48 of the Mining Code.

(c) The employers' payroll tax (CFE), at the rate of fifteen percent (7.5%) on the total amount of gross remunerations, emoluments and salaries of employees of Operator, whatever their nationality, which shall be paid by the Operator;

(d) Social Security contributions for employees of the Operator, as are provided for in existing or future legislation, which shall be paid by the Operator;

(e) The tax on industrial and commercial income of fifty percent (50%) as defined in Article 61 of the Mining Code. Each Party shall be responsible for payment of the income tax on its own income.

(f) The Minimum Tax, as of the sixth year following first production;

(g) IAS and taxes incorporated in the price of goods purchased or services rendered in the local market, at rates in force at the date of signature of this Agreement;

(h) Tax on motor vehicles other than those subject to the temporary admission regime;

(i) Registration duties;

(j) Stamp duties, with the exception of stamp duties on import Licenses or all other activities of importation or exportation;

(k) Taxes on insurance contracts carried with insurers resident in Mali.

No other tax, fee, contribution, charges of any kind whatsoever, direct or indirect, which may presently exist or which may in the future be imposed by the State at any level, shall be due by the Parties, UTAH, the SEP, the Operator, their subcontractors or Affiliates during the Mining Period.

28.3 Taxable net profit of UTAH subject to the direct tax of 50% defined in Article 61 of the Mining Code will be determined under Article 54 through Article 61 of the Mining Code, subject to the following definitions and modifications:

(a) Under Article 56 of the Mining Code, total liabilities will include debts to affiliates as well as third party debts.

(b) UTAH shall be authorized to record as liabilities in its operating accounts actual interest paid on debts to third parties as well as interest not exceeding LIBOR plus 2% paid on debt to Affiliates.

(c) The depreciation rates shall be those fixed by the legislation in force at the date of signature of this Agreement, specifically the Interministerial Arrete N° 236 MF-MDITP of January 23, 1975.

However, for investments up until the date of First Production relating to the construction of the first Mine under this Agreement, UTAH shall be authorized, at its choice, to apply depreciation either at the rates fixed by the aforesaid legislation, or accelerated depreciation at the rate of 33 1/3% per year. UTAH shall notify the State in writing thirty days prior to the closing of its balance sheet, corresponding to the fiscal year of the First Production of the first Mine, of its decision whether to apply depreci-

ation at the rates generally applicable or accelerated depreciation. Whatever method elected by UTAH, depreciation shall commence with the First Production for assets incurred prior to such date. Depreciation for assets acquired after First Production shall commence at the date upon which said assets are placed in service and shall be taken at the rate set forth in the aforesaid Interministerial Decree.

Depreciation and amortization recorded in the books of account during years which suffer an operating loss may be deferred for income tax purposes. Depreciation and amortization amounts deferred shall be deducted after deduction of losses carried forward, in the first subsequent year during which UTAH has a taxable net profit and each succeeding profitable year.

All costs of Exploration and development of any Mine which are not for depreciable assets shall be capitalized and amortized on a straight line basis over 10 years or the estimated life of the Mine, whichever is lesser.

(d) Overhead expenses, including head office expenses, as provided in Annex V shall be allowed in full as an annual tax deduction. UTAH, as Operator, agrees to provide an annual certified attestation of the accounts in accordance with said Article 58 (c).

(e) UTAH will be entitled to carry forward five years losses incurred after the First Production. For this purpose, losses means the excess of all deductions under Article 58 of the Mining Code over all income under Article 57 of the Mining Code.

28.4 In accordance with Article 49 of the Mining Code, UTAH, the Operator and each SEP will be guaranteed complete stability of the Tax Regime, subject to the provision of Article 27.1 of this Agreement. No modification may be made as to the rules of the tax base, the collection of taxes or statutory tariffs, except by obtaining the written

consent of UTAH. During the period of the Agreement, UTAH, the Operator and the SEP may not be subjected to any taxes, levies, or contributions due to the State, the creation of which would be subsequently decided.

28.5 Under the provisions of the Internal Revenue Code of the United States of America, each SEP will be considered a partnership. In this connection, certain federal and state tax returns will be required to be filed in the United States. Such filing will be the sole responsibility of UTAH, but the State shall sign such filings as requested by UTAH.

28.6 It is understood that the Mali Income Tax as applied to UTAH under this Article 28 should qualify as a creditable tax for the purposes of the Internal Revenue Code of the United States of America. If the Internal Revenue Service should determine that such tax is not a fully creditable income tax, this Article 28 will be modified by mutual agreement in order to provide for a fully creditable income tax; provided, however that such modifications shall not have the effect of altering the economic or other advantages of the state provided in this Agreement.

28.7 During the Mining Period as defined in Article 28.2, all of the personnel of UTAH, of the SEP, the Operator and/or their Affiliates and subcontractors, assigned to Mali on a permanent basis and whose activities are for the purposes of the present Agreement, will be subject to the General Tax on Revenue (IGR) in conformance with the legislation in effect at the date of the signature of this Agreement.

Article 29 Customs Provisions

29.1 UTAH, the Operator, the SEP, their Affiliates and their subcontractors shall benefit from the customs advantages hereinafter set forth during the va-

lidity of the Exploration permit, and through the first five years of the Mining Period.

(a) The temporary admission regime, without charge, for all fittings, materials, machines, spare parts, equipment, and vehicles used for Exploration and Mining operations, and other goods, which are intended to be reexported after Exploration or Mining operations.

(b) The temporary importation regime for tourism vehicles used in connection with UTAH's activities.

(c) Exoneration from any entry duties and taxes, including CPS, imposed on tools and equipment, spare parts, chemical products, oils and lubricants for machines necessary for their activities (excluding petroleum products), and materials, machines, and apparatus intended to be definitively incorporated in the Mine.

29.2 The expatriate personnel of UTAH shall benefit as to their personal effects from an exemption from all duties and taxes, including CPS for a period of six months starting with their respective first arrivals in Mali.

29.3 The Products exported are exonerated from all exit taxes and duties, including CPS, during the validity of this Agreement. The revenue from sales of such exports shall not be subject to any taxes, direct or indirect, and the Parties may dispose of such revenue from sales in foreign currency.

29.4 In the event of re-export, materials and equipment used in connection with Exploration and Mining shall be exonerated from any exit duties and taxes, including CPS, which is normally imposed.

29.5 In case of resale in Mali of articles imported duty free by virtue of the previous provisions, UTAH and/or the Operator, their Affiliates and/or subcontractors or their personnel must obtain authorization from the State and shall be responsible for payment of any du-

ties on such resold articles. Such articles shall be evaluated in accordance with the existing legislative and regulatory provisions.

29.6 Beginning five years after First Production, UTAH and/or the Operator, their Affiliates, and /or subcontractors shall be subject to generally imposed customs duties and taxes in force at the time of signature of this Agreement.

Article 30 Economic Provisions

30.1 Subject to the provisions of this Agreement, the State, during the term of this Agreement, shall not impose on UTAH, the SEP or the Operator any measure which restricts what the legislation in force on the date of signature of this Agreement allows regarding:

(a) freedom of choice of suppliers and subcontractors (subject to Article 24 above)

(b) the free importation of goods, material, machinery, equipment, spare parts and consumable supplies (subject to Article 29 above);

(c) the free movement within Mali of materials and products described in the preceding sub-paragraph, as well as all substances and products of Exploration and Mining.

30.2 The State agrees to provide all permits and authorizations necessary for the exercise of those rights guaranteed under Articles 29 and 30.

30.3 Subject to the provisions of Article 11.6, for its Exploration work, UTAH shall be permitted, with the approval of NGM, to send out of Mali any samples obtained in the course of Exploration, in order to analyze or treat such samples, including bulk samples for metallurgical testing. In the event of the sale of any gold contained in such samples, UTAH shall deduct the sales revenue from its Exploration costs.

30.4 Subject to the provisions of this Agreement, UTAH, and/or the Operator

shall be authorized to enter into contracts at reasonable prices, from the point of view of the world market, and to export Products as well as to trade freely in such Products, except to or with countries hostile to the Republic of Mali or its nationals. Any contracts between UTAH and/or the Operator and an Affiliate of UTAH or the Operator shall be on terms no more favorable to the Affiliate than if the contract had been negotiated with a third party.

30.5 If, during the course of their Mining operations in Mali, UTAH, the SEP, and/or the Operator as the case may be, decide to terminate their activities, they may not transfer to a third party their facilities, machinery or equipment without having first given the State a priority right to acquire such items at their estimated value as of the time of such termination decision.

30.6 UTAH, the Operator their subcontractors and Affiliates shall be authorized to import, under the License procedure, without payment of duties or taxes, any materials and products directly or indirectly necessary for the Project in accordance with Article 52 of the Mining Code.

For the purposes of determining the possibility of obtaining such materials or products as provided in Article 52, not only conditions of quality and delivery dates but also the possibility of procuring the materials and products at competitive prices on the domestic market shall be taken into account.

Article 31 Financial Conditions

31.1 Subject to the provisions of this Agreement, the State guarantees to UTAH, the SEP, the Operator, and their Affiliates and subcontractors, during the term of this Agreement:

(a) free conversion and transfer of funds intended for the payment of all debts (principal and interest) in foreign exchange to non-Malian creditors;

(b) free conversion and transfer of Net Cash Flow for distribution to non-Malian partners and all amounts allocated for the amortization of financing obtained from non-Malian institutions including loans obtained from Affiliates, after having paid all taxes and levies imposed under this Agreement

(c) free conversion, and transfer of profits and of funds resulting from the liquidation of shareholdings, after payment of taxes, customs duties and levies under the Agreement.

31.2 The Parties agree to request upon the effective Date of this Agreement from the proper authorities, the authorization for the Operator of each SEP to maintain overseas, in US dollars or any other convertible currency, an amount, realized from its export sales, sufficient to meet its requirements for the forthcoming six-month period with respect to payments to non-Malian vendors and creditors for such goods and services purchased, as well as loans incurred for its activities.

31.3 UTAH and the Operator of each SEP shall be authorized to open a bank account in Mali denominated in foreign exchange.

31.4 The State guarantees the free conversion and transfer overseas of the savings of expatriate personnel of UTAH, and each Operator as well as their Affiliates and subcontractors, resulting from their salaries or the liquidation of investments in Mali or the sale of personal effects in Mali.

Article 32 Administrative, Mining & Infrastructure

32.1 The State guarantees to UTAH, each SEP and/or each Operator the occupation and utilization of all areas and land necessary to carry out Exploration and Mining of the Deposit(s) covered by an Exploration and/or Mining permit under this Agreement, within or without

the Project Area under conditions provided for in the Mining Code. The use and occupancy of any such areas shall not be subject to the payment by UTAH, the SE and/or the Operator of any taxes levies, or duties other than those specified elsewhere in this Agreement. If the SE so requests, the State shall arrange for any necessary resettlement of local inhabitants whose presence in such areas would hinder Exploration or Mining. UTAH, the SE, and/or the Operator shall pay reasonable compensation to such inhabitants as well as for any hindrance of quiet enjoyment or damages that its activities could cause to the holders of such property, rights of occupation, customary right or to all beneficiaries of any other rights.

32.2 UTAH and/or each Operator shall at its own expense have the right to take and use from the Project Area such timber (for construction purposes) soil, stone, sand, gravel, lime, gypsum, water and other products and materials as are necessary for or to be used in the performance of this Agreement, in accordance with existing legislation.

32.3 The Mining Code in effect at the date of the signature of this Agreement shall govern all the Mining rights issued or leased to UTAH or the SEP for the duration of this Agreement.

Article 33 Expropriation

The State assures UTAH, each SEP, each Operator and/or their Affiliates and subcontractors that it has no intention of expropriating any future Deposit or Mine nor of attaching any of their assets. However, if the circumstances or a critical situation demand such measures, the State recognizes that, according to international law, it will be liable to pay the affected interests rapid, just, and equitable compensation.

Article 34

Protection of the Environment

3.1 UTAH, in matters relating to Exploration, and each SEP and/or each Operator, in matters concerning Mining, will preserve, to the maximum possible extent, the environment as well as any infrastructure used. Any deterioration, other than normal usage, of public infrastructure that is clearly attributable to UTAH, an SEP and/or an Operator shall be repaired by the responsible entity.

34.2 During the course of Mining of a Deposit, UTAH and each SEP and/or each Operator agree to fill in the excavated areas in a manner which will permit them to be utilized afterwards with appropriate plantings, to the extent that is economically, reasonably and practically feasible.

34.3 UTAH recognizes that the Project Area may contain archaeological finds which may constitute property forming part of the cultural heritage of the State, and agrees, in accordance with Decree N° 275 PG-RM of November 4, 1985, to provide for an archaeological section in any Feasibility Study.

The Ministry in charge of Culture or any other appropriate authority may, at any time, upon written request, dispatch to the Project Area any agent in order to undertake archaeological diggings, provided that these do not impede on the Exploration or Mining operations undertaken by UTAH and/or the SEP.

Any archaeological diggings performed by the State and/or its agents inside the Project Area which may be harmful to UTAH or the SEP shall give rise to just compensation in favour of UTAH and/or the SEP, to be determined by mutual agreement.

Article 35

Assignment, Substitution, New Parties

35.1 Either Party may, with the prior written agreement of the other Party, assign to other juridical persons who

are technically and financially qualified, all or part of the rights and obligations which it has acquired pursuant to this Agreement, including its participation in the SEP and the Exploration and Mining permits. In such case, the assignees shall assume all the rights and obligations of the assignor defined by this Agreement or resulting from its participation in the SEP as well as deriving from the Exploration and Mining permits. Concerning the participation of a Party in the SEP, or the assignment of permit, the other Party shall have a right of first refusal [preemption].

35.2 The restrictions of this Article 35 shall not apply to a transfer by a Party of all or any part of its interest in this Agreement, or shares or the assets of a SEP to an Affiliate.

35.3 UTAH shall be free to substitute any Affiliate in the performance of this Agreement after notifying the State.

35.4 In the event of substitution for UTAH by an Affiliate, UTAH shall nonetheless remain completely responsible for the performance of the obligations by such Affiliate.

Article 36

Hardship Clause

Any clause not included in this Agreement may be proposed by either of the Parties and will be considered with care. Each Party will endeavour to arrive at a mutually acceptable solution following which such clause shall be the subject of an amendment which will be annexed to this Agreement and will be ratified by the State.

The rights and obligations of the Parties resulting from this Convention seek to establish, at the time of signature of said Convention, the economic equilibrium between the Parties. If, in the course of performance of the Convention, very important variations in the economic conditions imposed on either Party significantly more onerous

charges than those provided for at the time of signature of said Convention, leading to inequitable consequences for either Party, it is agreed that the Parties shall re-examine the provisions of this Convention in an objective and good faith manner, in order to restore the initial equilibrium.

This clause creates upon the Parties a simple obligation to renegotiate in view of the possible readaptation of the Convention. Unless the Parties expressly agree, the Convention shall remain in force and continue to be operative.

Article 37

Non-Renunciation; Responsibility

37.1 Except in the case of express written waiver, the fact that one Party does not exercise all or any part of its rights which are conferred by this Agreement shall not constitute in any event the waiver or abandonment of the rights not exercised.

37.2 If any provision of this Agreement is declared null and void or inapplicable, in whole or in part, for whatever reason, such fact shall not cancel this Agreement, the remainder of which shall remain in force.

37.3 If one Party is seriously affected by such partial invalidation, that Party may request the revision of the relevant provisions of this Agreement. The Parties shall endeavor to agree on an equitable solution.

Article 38

Force Majeure

38.1 Any failure by either Party to carry out any of its obligations under this Agreement other than payment or notice obligations shall be excused to the extent such failure is caused by force majeure. If the performance of the obligation affected by force majeure is delayed, anything in this Agreement to the contrary notwithstanding, the time provided for carrying out such obliga-

tions and the term of this Agreement specified in Article 7 shall each be extended for a period equal to the delay caused as a result of force majeure. However, it is agreed that neither the State nor UTAH shall be able to invoke in their favor as force majeure any action (or failure to take action) for which they are responsible.

38.2 For purposes of this Agreement, force majeure shall mean any event beyond control of any Party including among other things, wars, insurrections, civil disturbances, blockades, embargoes, strikes and other labor conflicts, riots, epidemics, earthquakes, storms, floods, or other adverse weather conditions, explosions, fire, lightning, acts of terrorism, or government acts. It is the intention of the Parties that force majeure be interpreted as closely as possible in accordance with the principles and customs of international law.

38.3 The Party whose ability to perform its obligations is affected by force majeure shall notify the other Party thereof in writing, stating the cause, and the Parties shall endeavor to do all reasonably within their power to remove such cause; provided, however, that neither Party shall be obligated to resolve or terminate any disagreement with third parties, including labor disputes, except under conditions acceptable to it or pursuant to the final decision of any arbitral, judicial or statutory agencies having jurisdiction to finally resolve the disagreement. The State agrees to cooperate with UTAH, each SEP, and/or each Operator to alleviate any labor conflict which may arise.

Article 39

Reports, Accounts and Inspection

39.1 UTAH, each SEP, and each Operator, as appropriate, agree, for the term of this Agreement:

(a) to maintain in Mali accurate, verifiable and detailed books of account for operations, accompanied by sup-

porting documents permitting verification thereof. These accounts shall be open to inspection by the State or by its representatives specifically designated for such purposes;

(b) to open to the inspection of the State or its duly authorized representatives all accounts or documents which may be found abroad relating to its operations in Mali.

39.2 All information supplied by UTAH, an SEP, and/or an Operator to the State pursuant to this Agreement shall be considered as confidential, and the State agrees not to reveal such information to third parties without the prior written consent of UTAH, the SEP, or the Operator, as appropriate, which shall not be unreasonably withheld.

Article 40

Sanctions and Penalties

Notwithstanding the provisions of Article 27, the presently existing laws and regulations of the State shall apply to Utah, each SEP, and/or the Operator including any sanctions and penalties provided for in such laws and regulations.

Article 41

Notice

All communications or notices described in this Agreement shall be made by registered letter, return receipt requested, or by telex confirmed by registered letter, as follows:

(a) Until the opening of UTAH's office in Mali, all notices to UTAH shall be sent to the following address: Utah International Inc. 550 California Street San Francisco, California 94104 Attention: Secretary Tlx: 671 2202 UII UW.

After the opening of UTAH's office in Mali, all notices to UTAH may be sent to the address of that office which address shall be inserted below. After the establishment of an SEP, all notices may be sent to the address of the Operator of such SEP. If the Operator is

UTAH such notices may be sent to UTAH at the address above.

(b) All notices to the State may be sent to the address of DNGM: Direction Nationale de la Géologie et des Mines, B. P. 223 Bamako, Republic of Mali.

Any changes of address must be notified by one Party to the other without delay.

Article 42

Language of the Contract and System of Measurement

42.1 This agreement is drafted in French. All reports and other documents required or which may be required by this Agreement must be drafted in French. The translation of this Agreement into English is made with the sole aim of facilitating understanding. In case of difference between the French and English version, the French text will prevail.

42.2 The system of measurement applicable is the metric system.

Article 43

Title of Articles

The titles of Articles serve only to facilitate the reading of this Agreement, without having any legal effect.

Article 44

Involvement of the SEP

Upon the establishment of each SEP pursuant to this Agreement, the Parties to such SEP shall sign three original copies of this Agreement and shall accept, by such signature, the obligations which devolve upon it by virtue of this Agreement.

Done at Bamako, Mali, the 15th April 1987 in four original copies

THE REPUBLIC OF MALI

represented by Mr. Drissa Keita.

UTAH INTERNATIONAL INC.

represented by Mr. Robert O. Wheaton
Attorney-in-Fact

The SEP.....

Signed the.....

**ANNEX I
POWER OF ATTORNEY**

Know all men by these presents:

That, UTAH International Inc, a corporation duly organized and existing in good standing under the laws of the State of Delaware, United States of America, does hereby make, constitute, and appoint:

Robert O. Wheaton

its true and lawful Attorney-in-Fact, for the purpose of acting as Agent of the corporation in the Republic of Mali.

Hereby giving and granting unto said Attorney-in-Fact full power and authority to do and perform all acts and things requisite, necessary and proper to accomplish the foregoing and hereby ratifying and confirming all that said Attorney-in-Fact shall willfully do or cause to be done by virtue of these presents.

This Power of Attorney may be revoked but shall remain in full force and effect as to all persons dealing in reliance hereon until written notice be given of the revocation of his Power of Attorney.

In witness whereof, **Utah International Inc.** has caused this Power of Attorney to be executed in its corporate name and its corporate seal to be affixed hereto by its corporate officers thereunto duly authorized all on this day of 1987.

UTAH International Inc.

By

Executive Vice President

By

Assistant Secretary

**ANNEX II
PROJECT AREA**

Geographical Location

The area of the project is situated in the northwest of the Fourou Quarter, Kadiolo District, Sikasso region. The area is delimited in the north by the 11° north parallel, in the east by the 6° 0 meridian, in the south by the 10° 25 minutes north parallel and in the west by the Bagoé River. The four geographical points A, B, C, D defining this area and represented on the attached map are determined as follows:

Point A: The intersection of 11° north parallel and the Bagoé River.

Point B: Coordinate: 6° west longitude, 11° north latitude.

Point C: Coordinate: 6° west longitude, 10° 25 minutes north latitude.

Point D: The intersection of 10° 25 minutes north parallel and the Bagoé River.

The area of the project has a surface area of approximately 1,512 square kilometers.

**ANNEX III
BANK GUARANTEE**

This Bank Guarantee is made in favor of the Republic of Mali, represented by the Department of Geology and Mines ("State"), by the Banque Nationale de Paris ("Banque"), on behalf of **Utah International Inc.** ("Utah"), 550 California Street, San Francisco, California 94104, U.S.A.

Whereas on

1987, the State and Utah entered into an Establishment Convention ("Convention"), for the exploration and mining of certain minerals within a certain mining area in Mali ("Project Area").

Whereas the Convention provides in Article 12.4 that Utah must provide to the State a Bank Guarantee for certain exploration expenditures required by Article 12.2 of the Convention and

Whereas Utah and the Bank agreed that the Bank shall furnish such Guarantee,

Therefore, the Bank hereby provides this Guarantee in the amount of one million five hundred thousand U.S. Dollars

(U.S.\$ 1,500,000) subject to the following terms and conditions:

1. At the end of every calendar quarter after the issuance of the first exploration Permit described in Article 9.1 of the Convention ("Permit"), Utah will provide the Bank and the State each with written notice to be sent by registered mail with return receipt requested, of all amounts expended for exploration activities in the Project Area during the previous three months, or during any other previous period (provided that such expenditures were not reported in any previous notice). The State shall have 30 days from the receipt of such notice, this date being duly attested by a copy of the return receipt which shall be provided to the Bank, to send written notice to the Bank and Utah objecting to the amount or eligibility of the expenditures. If no such objection is received by the Bank within such 30 day period, the Bank shall deduct the amount for such expenditures from the balance of this Bank Guarantee. If the State objects to part of the expenditures, the Bank shall deduct from the balance of this Bank Guarantee only the uncontested amount. Any objection by the State shall be resolved in accordance with Article 8 "Arbitration" of the Convention and no amounts objected to by the State shall be deducted until receipt by the Bank of a copy of the decision of the expert or arbitrator resolving such dispute.

1.1 For the purposes of this Bank Guarantee, Utah's eligible exploration expenditures are those defined in Article 12.6 of the Convention.

1.2 All expenditures made by Utah in CFA Francs shall be converted to their U.S. dollar equivalents using an average of the CFA Franc's exchange rates with the dollar over the three months period prior to the date of the expenditure notice.

2. If Utah has not expended the whole U.S.\$ 1.5 Million within 24

months of the issuance of the first exploration permit as described in Article 11.1 of the Convention, the Bank shall pay to the State the balance remaining in the Bank Guarantee, upon receipt of the eighth quarterly written notice from Utah stating the amount Utah has expended during the last quarter and the balance to be paid by the Bank to the State.

3. In the event that Utah decides to give up its exploration work before the end of the 24 months following the issuance of the first exploration permit, the Bank shall pay to the State the balance remaining in the Bank Guarantee, upon receipt of the claim for payment of the State accompanied by a copy of the letter of renunciation from Utah to the State.

4. If Utah is unable to meet its minimum expenditure obligations due to reasons of force majeure as described in Article 38 of the Convention, then the term covered by this Bank Guarantee shall be extended for a period equal to the duration of the force majeure.

The Bank shall be informed by Utah of the case of force majeure by means of a copy of the written notice of force majeure addressed by Utah to the State.

The Bank shall be informed of the end of any case of force majeure by means of a copy of a written notification from the State accompanied by either a copy of a document attesting to the mutual agreement of Utah and the State on the matter or a definitive arbitration sentence or a decision of a competent judicial court, indicating the duration of the force majeure in order to permit the extension of this Bank Guarantee for the same time.

The Bank shall be informed that Utah and the State consider that they are not in force majeure by presentation of a document in this respect duly signed by the parties.

5. This Bank Guarantee shall be effective 30 days after the issuance of the

Permit described in Articles 6 and 9.1 of the Convention, upon presentation to the Bank of a copy of the decree ("arrête") granting such permit.

6. This Bank Guarantee shall terminate and have no force and effect after occurrence of any of the following events

a) the date upon which the balance of this Bank Guarantee is reduced to zero in accordance with the provisions of paragraph 1 hereof, or

b) the date upon which the Bank shall have paid to the State the balance of the Bank Guarantee in accordance with paragraph 2 hereof, or

c) the failure of the State to provide the Bank with a copy of its notification to Utah of the approval by ordinance of the Convention within ninety (90) days from the date of this Bank Guarantee, or

d) twenty-five (25) months from the effective date of the Guarantee, as defined above.

7. All claims must be addressed by coded telex through the intermediary of a bank, to our main office, to the attention of the International Guarantees Department ("Service des Garanties Internationales").

All accompanying documents provided for shall be sent by registered mail to our main office, to the attention of the International Guarantees Department ("Service des Garanties Internationales"), at the following address: 16 Bld des Italiens, 750 09 Paris, France.

8. The Bank Guarantee is strictly limited to the foregoing. The Bank shall incur no other obligation under the Convention, to which it is not a party.

9. After the date of expiration, no claim may be presented under this Guarantee and the Bank shall be released from all responsibilities or obligations arising from this Guarantee.

Banque Nationale de Paris
byDate

ANNEX IV INITIAL WORK PLAN

1. Geological Overview

The area of the Project is constituted essentially by volcano-sedimentary formations of the Preambrian. These formations are metamorphosed and straightened. Their direction is generally northeast with a general trending towards the west. The angle of slope is abrupt and varies between 60 and 90.

The best observed outcrops are constituted by a series of subparallel bars of jaspe, interspersed with lavas and tufts of different compositions. This is the principal structure that extends from Tabakoroni to the south of Bananso. This structure contains the most important anomalies and the deposit discovered by the government. To the west of this dorsal fin extends schist and tuft formations probably dating before the jaspe and in the east there are polygenic conglomerates dating certainly after the jaspe because these contain blocks of jaspe. Completely in the southeast of the Project area a granitic-gneiss zone is encountered.

2. Work Already Performed and Results

A regional geochemical prospecting at a grid of 1,000 by 200 meters has been done on the entire Project Area.

The prospecting lines are oriented east-west and samples were taken every 200 meters along the lines at 30 centimeters depth. All of the samples taken have been analyzed for gold, copper, zinc, lead, chrome, nickel, molybdenum, and lithium. This prospecting has brought into evidence a number of geochemical anomalies. These are, from north to south, the anomalies of Syama, Bananso, Tabakoroni, and Fougouele. The anomalies of Syama - Bananso (25 sq. kilometers) and Tabakoroni (16 sq. kilometers) have been the object of a detailed geochemical prospecting at a grid 100 meters by 20 meters with the

lines oriented east-west. Some new anomalies corresponding to the mineralized corps have been brought into evidence. The most interesting is the anomaly of Syama-south where grades the soil as high as 9 grams gold per ton have been found.

This anomaly is situated in the southern part of the larger Syama-Bananso anomaly and covers about one square kilometer. This anomaly has been studied in detail by 73 pits between 5 and 15 meters deep and the existence of a gold deposit has been proven with geological reserves around 5 tons, at an average grade of 2 grams per ton.

A geological map covering the area of the project has been done at a scale of 1 to 200,000.

3. Proposed Work Program to be performed during the next two years by Utah

It will be necessary first to verify by deep drilling the extension and quality of the mineralization of Syama south and to put into place rapidly a pilot treatment plant for the alluvial mineralization already proven.

The remainder of the Syama-Bananso anomaly and the Tabakoroni anomaly should be studied by pitting and trenching in order to evaluate the alluvial minerals and to find indications by deep drilling by the end of the second year. The other anomalies should be the object of a detailed geochemical prospection and a prospection by pitting and trenching.

These works may be summarized as follows:

- Syama alluvial: 1,000 meters of pits.
- Tabakoroni alluvial: 1,500 m of pits.
- Other anomalies: 4,000 m of pits.
- Diamond drilling Syama: 7,500 m.
- Metallurgical studies of the minerals discovered.

The budget necessary for the execution of these works may be estimated at about US1.5 million.

ANNEX V TO THE CONVENTION MODEL OPERATING CONTRACT

This Operating Contract, provided for in the Establishment Convention dated, 1987 is concluded:

between: hereinafter the "Operator",
on the one hand,
and

.....(S.E.P.)
composed of Utah International Inc. or any wholly owned subsidiary thereof, herein after ("Utah"),

and
The Republic of Mali, represented for the needs of this Contract by
.....
on the other hand.

RECITALS

1. Utah and the State entered into an Establishment Convention ("Convention") on to govern the conduct of mineral exploration and exploitation by the Parties in the Project Area described therein.

2. Pursuant to the terms of the Convention, Utah and the State have formed a *Société en Participation* ("SEP") for the exploitation of Subject minerals in said Project Area.

3. Under the terms of the Convention, Utah has been appointed Operator of the SEP for such Project Area.

Therefore, in consideration of the mutual covenants and agreement contained herein, the Parties agree as follows:

Article I Purpose

The purpose of this Operating Contract (the "Contract") is to define the conditions according to which the Parties agree to entrust to the Operator, who accepts the operations and the management of the SEP as well as to determine the respective rights, obligations, powers and interests of the Parties as they will result from this Contract.

Article II Definitions

The terms used in this Operating Contract shall have the meanings set forth in the Convention except as otherwise indicated in this Contract.

The terms hereinafter shall have the following meanings:

2.1 "Operations" means all activities carried out within the area encompassed by the Mining Permit annexed hereto or for the benefit of the Project pursuant to an approved Work Plan and Budget.

2.2 "Parties" shall mean the Operator, Utah, and the State, these last two acting on behalf of the SEP.

2.3 "Party" means the Operator, Utah or the SEP or any participant in the SEP.

2.4 "Project Expenses" shall mean all expenses relating to the activities of the SEP.

Article III Powers and duties of Operator

The Operator shall have the exclusive responsibility and shall be entrusted with the sale management of the Operations conducted hereunder.

3.1 In carrying out the services set forth in this Contract the Operator shall have the following obligations:

- Prepare any Feasibility Study prior to any Mining Activity conducted on the Project Area.
- The conception, engineering and construction of the production installations according to the specifications defined by the Feasibility Study approved by the Management Committee.
- The putting into place of the personnel required as well as all the technical materials and equipment necessary for the operations, the supervision of which will be under its responsibility.
- The Management of the SEP.
- Maintain and protect the property of the Parties obtained for Mining and the interests of the Parties acquired therein in connection with Operations hereunder.

- To the extent provided in a Work Plan, validate and obtain all governmental or private mining rights, approvals, permits, authorizations and licences required by law within the Project Area, including but not limited to, acquiring access rights, surface rights, water rights, mineral rights and other appurtenant rights and interests necessary for Operations.

- Submit to the Management Committee Work Plans and Budgets pursuant to Article VI hereof, and recommendations for such changes therein, including additions or deletions thereto, which Operator may deem desirable.

- Keep full and accurate records and accounts of all transactions entered into on behalf of the Parties and of all costs of Mining and of all funds disbursed by it or under its direction in accordance with Article VIII of this Contract.

- On or before of each year, prepare and distribute to each Party an annual report on Mining during the preceding year reporting the results thereof, including but not limited to, geologic maps, drill hole analysis data, assay reports, Mine production reports, and the Operators recommended long-term and short-term plans, in conjunction with preparation and submittal of the Work Plan for the next succeeding year(s).

- Prepare and provide to each Party monthly progress reports including statements of Mining expenditures for the month and year to date.

- Prepare and file with governmental authorities all tax and other reports required by law, this Contract or the Convention to be filed by either of the Parties and disburse funds for all taxes, other than ad valorem taxes or taxes on or measured by net income, imposed on the Parties.

- Associate in the conduct of the operations, and at all levels, Malian personnel under the conditions provided for in Article 2.5 of the Convention.

3.2 In carrying out the obligations above, the Operator shall have, without limitation, all powers to:

- Take all actions and make or incur such expenditures as are required to maintain the titles and interests of the Parties in and to the properties necessary for Mining in accordance with the Parties respective Participating Interests.

- Arrange for and carry out Mining within the Project Area in accordance with approved Work Plans and Budgets, including but not limited to obtaining by contract such competent consultants, technicians, agents, and independent contractors as may be required therefore and to purchase or acquire such materials, supplies, equipment, water, utilities, transportation and other services as may be required in connection with Operations.

- Hire all employees required for Mining, which employees shall be employees of the Operator or an Affiliate of the Operator, and not employees of the SEP. The Operator may assign, in case of need, any of its own personnel to the Operations.

- Take out, for the benefit of the Parties, all insurance necessary for the proper conduct of the Operations as well as any insurance which the Management Committee would deem desirable.

- Sell or dispose of any tools, equipment and supplies used in Mining that may be worn out, obsolete or no longer useful.

The foregoing obligations and powers may not be modified, except as mutually agreed by the Parties.

Article IV Performance of obligations

4.1 Operator shall conduct and manage the Operations diligently in accordance with the Work Programs and Budgets approved by the Management Committee and in accordance with the practices of the mining industry and the provis-

ions of the Convention, this Contract and the laws in force.

4.2 Except in the case of willful misconduct or gross negligence, the Operator shall not be held liable for any act or omission in the performance of its duties.

4.3 If the Operator engages Affiliates to provide services hereunder, it shall do so on terms no less favorable than would be the case with unrelated persons in arm's-length transactions. Any subcontracts awarded under this Contract shall be subject to the provisions of Article 24 of the Convention.

4.4 For the performance of the services under this Contract, the Operator shall receive compensation equal to 1% of the Project Expenses until First Production, then 0.75% of the Project Expenses of Mining.

Article V Resignation or removal of Operator

5.1 The Operator may resign upon six (6) months' prior written notice to the SEP.

5.2 The Operator may be removed if it fails to perform a material obligation imposed upon it under this Contract and such failure continues for a period of sixty (60) days after notice from any other Party demanding performance or, if the Operator contests such non-performance within such time, such failure continues for a period of sixty (60) days after entry of a ruling by a panel of arbitrators as provided for in the Convention that the Operator has so failed to perform.

5.3 In the event of resignation or removal of an Operator, such Operator shall be replaced by the Management Committee of the SEP within sixty (60) days after resignation or removal.

5.4 The Operator may be removed, at any moment, by the Management Com-

mittee, with a prior notice of six (6) months.

Article VI

Work plans and budgets

6.1 Mining shall be conducted, expenses shall be incurred, and property for Mining shall be acquired only pursuant to Work Plans and Budgets Approved by the Management Committee.

6.2 Each proposed Work Plan and Budget shall be prepared by the Operator for a period of one (1) year or any longer period and shall be submitted to the Parties at least four (4) months prior to the expiration of any existing Work Plan and Budget in view of adoption by the Management Committee. Each Work Plan and budget approved by the Management Committee, regardless of length, shall be reviewed at least once a year at the annual meeting of the Management Committee.

6.3 Each Work Plan shall describe in reasonable detail the full nature and extent of the proposed Operations, including, where appropriate, but not limited to: geologic research and reconnaissance to be undertaken; property and mineral interest acquisition proposals; proposed engineering studies and mining and construction plans; a long-range plan for the mining of all mineable reserves which logically would be mined under good mining practices; the kind and capacity of any plant or milling facilities to be acquired or constructed; a plan for delivery of mineral Product; the estimated period of time required to complete the proposed Mining; and plans for extraction during the period covered by a Work Plan.

6.4 The Budget shall be financed by cash calls, notified to the Parties by the Operator, in accordance with an estimated schedule determined on the basis of the Work Plan.

Each Budget shall include all anticipated costs and expenses including, but

not limited to, operation and maintenance expenditures, capital expenditures, a statement of expected cash calls and the rentals, filing fees, or other payments required to maintain the property of the Parties in good standing during the Budget period.

Each request for funds to acquire capital items shall include a description of such items in reasonable detail.

Article VII

Amended mine feasibility study and construction plan

The Operator wishes to make a substantial alteration or expansion of an existing Mine, it shall prepare a Feasibility Study of such alterations or expansion and submit the same together with a Work Plan and Budget for constructing and implementing the alterations or expansion described in such Study to the Management Committee for review and approval in accordance with Article 21 of the Convention.

Article VIII

Accounts and settlements

8.1 The Operator shall maintain in accordance with accounting principles recognized in Mali, detailed, comprehensive and service accounting in CFA Francs records. This accounting shall provide a record of revenues, where the Operator sells a Party's share of Product in accordance with Article IX herein, and a record of Project Expenses for each Party holding a Working Interest in the SEP. The Accounting will be kept by the Operator on the basis of revenues received and expenses disbursed in the name of the Parties. Revenues, where applicable, shall be recorded when actually received from the sale of Product and Project Expenses shall be recorded when actually paid. However, in all other respects, books and records will be maintained in accordance with generally accepted accounting principles and practices used in the mining industry consistently applied.

The Operator shall furnish, monthly and at the end of each year, to each of the Parties of the SEP, the records referred to above as well as any accounting document necessary for the maintenance of each Party's own accounting.

8.2 On the basis of an adapted Work Plan and Budget, the Operator shall submit to each Party holding a Working Interest prior to the 25th day of each month, a billing in reasonable detail for estimated cash requirements for the next month. Such billing may be transmitted by telex. By the 10th day of such next month, each such Party shall advance to the Operator its proportionate share of the estimated amount.

8.3 A Party that fails to meet a cash call in the amount and at the time specified in Section 8.2 shall be in default, and shall be subject to the sanctions provided in Article 23 of the Convention and Article IX, below.

8.4 As soon as practicable after the end of each calendar quarter, the Operator shall submit to the Management Committee a statement reflecting each Party's advances for that quarter, revenues (when the Operator has made sales of Product as agent for a Party) and in reasonable detail each Party's pro rata share of Project Expenses, as herein defined, incurred for the benefit of the Operations. Project Expenses shall be determined by reference to actual costs. The Operator shall cause its independent public accountants or another internationally recognized independent public accounting firm designated by the State and acceptable to the Operator to annually audit the records maintained by the Operator in Mali. Unless the Parties hereto shall otherwise agree, (i) all amounts in the statements shall be stated in CFA Francs, (ii) Project Expenses paid by the Operator in a currency other than CFA Francs shall be recorded in CFA francs at the official rate quoted by the Central Bank of the

West African States (BCEAO), the eve of the payment of the expense or failing such, the last previous quotation and (iii) cash calls shall be paid in United States currency.

8.5 Project Expenses shall include, but shall not be limited to, the following costs and expenses directly related to the Operations:

A. All salaries, wages and bonuses paid to employees of the Operator and/or its Affiliates, including expatriate employees, who work for the benefit of the Operations, the cost of all benefits relating to those employees, all payroll taxes, workmen's compensation insurance premiums and other insurance premiums, all costs associated with the provision of such employees including, but not limited to, foreign service allowance and travel expenses, where applicable, and all other payroll related costs. Such salaries, wages, bonuses, and benefits shall be in accordance with Operators actual compensation schedules and company policy but not in excess of prevailing salary rates and practices in the mining industry for employees of comparable education, experience, and expertise in the respective home countries of such employees.

B. The cost of technical services, equipment, utilities, annual audits, professional consultants, legal services and other services procured from outside sources, or performed by the Operator and/or its Affiliates, whether performed within or outside of Mali. The time of the Operator's and/or its Affiliate's personnel who perform work directly attributable to the Operations on a part-time or temporary full-time basis within or outside of Mali not otherwise covered above shall be prorated on a basis of time and charged at a rate which includes a base salary consistent with industry standards plus 100% to cover the Operator's and/or its Affiliate's cost of employee benefits and other payroll related costs and office overheads.

C. The cost of all capital assets which are normally depreciable, depletable or amortizable, whether incurred or acquired prior to or after commencement of First Production.

D. All taxes, rents, royalties of every kind and nature assessed or levied upon the Project exclusive of income taxes.

E. Any and all other costs, expenses and losses, including but not limited to materials and supplies purchased, relocation costs of employees, transportation costs of employees, equipment, materials and supplies, insurance premiums, or uninsured losses incurred by the Operator and/or its Affiliates, pursuant to approved Work Plans and Budgets or pursuant to the provisions of the Convention.

F. A charge for the compensation of the Operator under this Contract as defined in Article 4.4 above.

8.6 The accounting period shall be a calendar year.

Article IX Disposition of production

The Operator shall give the Parties notice at least 10 days in advance of the delivery date upon which their respective shares of Products will be available in Bamako. If a Party fails to take in kind, the Operator shall have the right, but not the obligation, to purchase that Party's share for its own account or to sell such share as agent for the Party at not less than the prevailing world market price; provided, however, that all contracts of sale executed by Operator for the Products of the party not taking in kind shall only be for a period of time consistent with the minimum needs of the industry, but not to exceed one year. Subject to the terms of any such contracts of sale then outstanding, during any period that the Operator is purchasing or selling a Party's share of production, the Party may elect by notice to the Operator to take in kind. The Operator shall be entitled to deduct

from proceeds of any sale by it the account of a Party all expenses incurred in such a sale.

Notwithstanding the provisions of preceding paragraph, in the event a Party has failed to meet a cash call as required by Section 8.2 of this Contract, the Operator shall be entitled to withhold and sell all or such portion of that Party's share of the Products as necessary to cover the amount of the cash call not met, including interest on such sum at the rate two percent over LIBOR from the due date until such sale and the proceeds of such sale shall be for and credited to the account of such Party in the records maintained under Section 8.1.

Article X Term of contract

This Contract shall come into force and effect on the date of signature and, unless otherwise agreed in writing by the Parties, shall remain in full force and effect for the duration of the Mining permit for the Project Area.

Article XI Force majeure

The obligations of the Operator hereunder shall be suspended during the time and to the extent that the Operator is prevented from complying therewith in whole or in part by war or war conditions, actual or potential, earthquake, fire, flood, strike, labor trouble, accident, riot, unavoidable casualty, act of restraint, present or future, of any lawful authority, act of public enemy, delays in transportation, or other cause beyond the reasonable control of the Operator. In no event shall the Operator be required against its will to settle any labor dispute or to question the validity or constitutionality of any governmental order, regulation or law. The Operator shall give notice to the Parties of the commencement and termination of each period of force majeure.

**Article XII
Miscellaneous**

12.1 Each Party shall give to the Operator from time to time such powers of attorney and other evidence of authority as shall be necessary to enable the Operator to perform its duties hereunder.

12.2 This Contract may not be amended except by a written instrument executed by all Parties hereto.

12.3 Any notice required to be given hereunder by any Party to any other Party, in any capacity, shall be deemed to have been well and sufficiently given if mailed by prepaid registered mail or transmitted by telegraph or telex to, or delivered by hand at, the address of such other Party hereinafter set forth:
To Operator:
Attention: The Secretary

To the SEP:
Attention:
or at such substitute address as such Party may from time to time direct in writing.

12.4 This Contract shall be governed by and interpreted in accordance with the laws of the Republic of Mali.

12.5 If any provision of this Contract is wholly or partially invalid, Contract shall be interpreted as if the invalid provision had not been rt hereof so that the invalidity shall not affect the validity of the inder which shall be construed as if this Contract had been executed out the invalid portion.

12.6 The Operator shall not pledge, sell, assign, or in any other er dispose or attempt to dispose of all or any portion of its rights or obligations under this

Contract without the written permission of the Parties.

In witness whereof, the Parties hereto have executed this Contract as of date first above written:

Operator ("Utah")
by

The Société en Participation represented by:

The Republic of Mali ("the State")
by:
and Utah ("Utah")
by:

Gold mining in Mali 1990

Currently, gold is the only mineral produced on a commercial scale in Mali. The Kalana gold mine some 200 km south of Bamako was developed with Soviet technical and financial assistance and brought into production at the end of 1984. The mine is operated by the *Société de Gestion et d'Exploitation des Mines d'or de Kalana* (Sogemork), a company owned by the state mining concern Sonarem.

Output totalling some 700 kg in 1987, was planned to rise to 1 000 kg/y by 1990, eventual full capacity being placed at 1 790 kg/y of gold and 473 kg/y of by-product silver. Proved rcserves were originally estimated at about 30 000 kg/y of gold in ore averaging 30-34 g/t to a depth of 750 m but this is believed to be a conservative figure because of additional resources found at depth and in other deposits identified in the area. The total cost of the mine and installations is stated to have exceeded 530 million

provided mainly by the Soviet Union. The additional cost of the necessary infrastructure, including a power line, was financed by a grant from the European Development Bank.

As part of a second successful development it was reported early in 1990 that the first shipment of ore had been made from the Syama mine to customers in Europe by *BHP-Utah Mali Inc.*, a subsidiary of BHP-Utah Minerals International (67%) and the Government of Mali (35%). When in full production, output should be 77 000 oz/y.

The Syama mine ha proven reserves of 2 Mt of oxide ore at grades exceeding 3 g/t and 5-7 Mt of indicated higher-grade sulphide ore. This development is the outcome of investigations carried out by BHP-Utah under a contract signed with the Mali Government in 1987 to explore for gold over an an area of 1 500 km². The concession includes the gold-

bearing (Birimian) formations discovered in the southern Bagoé region, both at Syama and Taboukorini, during a gold prospecting project financed by the UNDP.

In October 1988, a new company the *Société Minière de Loulo* (Somilo) was formed to develop a third gold mine at Loulo, situated 20 km from Keniéba, west of Bamako and close to the Senegal border. Somilo is owned jointly by the Mali Government (51%) and the French *Bureau de Recherches Géologiques et Minières* (BRGM). Reserves have been put at 7 000 kg of gold, sufficient to support an output of 400 kg/y rising to 800 kg/y for a nine-year life.

Commercial production was scheduled to begin in 1989 but start-up is now likely to take place 1991.

Source:
Mining Annual Review 1990