

# **Primer on Application For Mineral Agreements**

## **(For applications filed on August 26, 2005, or thereafter)**

*NOTE: This Primer is based on Republic Act No. 7942, i.e., "The Philippine Mining Act of 1995" and its implementing rules and regulations.*

### **What is a Mineral Agreement?**

A Mineral Agreement is an agreement between a Contractor and the Government wherein the Government grants to the Contractor the exclusive right to conduct mining operations within, but not title over, the contract area. Mining operations that are allowed under Mineral Agreements include development/construction and utilization of mineral resources including the continuance of exploration works during the conduct of development/construction/utilization activities. Mineral Agreements are classified into:

- (1) **Mineral Production Sharing Agreement (MPSA)** - a mineral agreement wherein Government shares in the production of the Contractor, whether in kind or in value, as owner of the minerals. In return, the Contractor shall provide the necessary financing, technology, management and personnel for the mining project.
- (2) **Co-Production Agreement (CA)** - a mineral agreement wherein the Government provides inputs to the mining operations other than the mineral resources; and
- (3) **Joint Venture Agreement (JVA)** - a mineral agreement wherein the Government and the Contractor organize a joint venture company with both parties having equity shares. For its share, the Government is entitled to a share in the gross output of the mining project aside from its earnings in the equity of the company.

### **Who is qualified to apply for a Mineral Agreement?**

The following Qualified Person may apply for a Mineral Agreement:

- (1) **Individual** - a Filipino citizen of legal age and with capacity to contract; or
- (2) **Corporation, Partnership, Association or Cooperative** - organized or authorized for the purpose of engaging in mining, duly registered in accordance with law, at least sixty percent (60%) of the capital of which is owned by Filipino citizens.

## How much area is granted for a Mineral Agreement?

Each Qualified Person is limited to the following maximum size of area to apply for or hold at any one time under a Mineral Agreement:

### I. Onshore

#### A) in any province

*Individual* - Eight hundred ten (810) hectares

*Corporation/Partnership/  
Association/Cooperative* - Eight thousand one hundred  
(8,100) hectares

#### B) in the entire Philippines

*Individual* - One thousand six hundred  
twenty (1,620) hectares

*Corporation/Partnership/  
Association/Cooperative* - Sixteen thousand two hundred  
(16,200) hectares

### II. Offshore

#### A) in the entire Philippines

*Individual* - Four thousand fifty (4,050) hectares

*Corporation/Partnership/  
Association/Cooperative* - Forty thousand five hundred  
(40,500) hectares

#### B) for Exclusive Economic Zone

large area as determined by the Department of Environment and Natural Resources (DENR)

## **What is the term of a Mineral Agreement?**

A Mineral Agreement shall have a term not exceeding twenty-five (25) years from the date of its execution, and renewable for another term not exceeding twenty-five (25) years under the same terms and conditions, without prejudice to changes mutually agreed upon by the Government and the Contractor.

After the 50 year term of the Mineral Agreement, the operation of the mine may be undertaken by the Government or through a Contractor. The contract for the operation of a mine will be awarded to the highest bidder in a public bidding after due publication of the notice thereof. However, the original Contractor shall have the right to equal the highest bid upon reimbursement of all reasonable expenses of the highest bidder.

## **What are the mandatory requirements in the acceptance of an MPSA application?**

An MPSA application shall be filed in the Mines and Geosciences Bureau (MGB) Regional Office (RO) concerned, for mineral and non-mineral reservation areas, using the prescribed form (MGB Form No. 06-1) through payment of the filing fee and submission of five (5) sets of the following mandatory requirements:

a. For an individual –

- Location map/sketch plan** of the proposed contract area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using a NAMRIA topographic map in a scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;
- Three-year Development/Utilization Work Program** (MGB Form No. 6-2) duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
- Proof of technical competence**, including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Development/Utilization Work Program;
- Proof of financial capability** to undertake the activities pursuant to the Development/Utilization Work Program, such as a copy of the **income tax return** for the preceding year and **proof of bank deposit or credit line** in the amount of at least **Two Million Five Hundred Thousand Pesos (PhP 2,500,000.00)**;
- Mining Project Feasibility Study** (MGB Form No. 5-3); and
- Complete and final exploration report** pertaining to the area.

- b. For a corporation, partnership, association or cooperative -
- Duly certified **Certificate of Registration, Articles of Incorporation/Partnership/Association and By-Laws** issued by the Securities and Exchange Commission or authorized Government agency concerned, or Certification from the Bureau/Regional Office concerned that the said documents are duly registered in that Office;
  - Location map/sketch plan** of the proposed contract area showing its geographic coordinates/meridional block(s) and boundaries in relation to major environmental features and other projects using a NAMRIA topographic map in a scale of 1:50,000 duly prepared, signed and sealed by a deputized Geodetic Engineer;
  - Three-year Development/Utilization Work Program** (MGB Form No. 6-2) duly prepared, signed and sealed by a licensed Mining Engineer or Geologist;
  - Proof of technical competence**, including, among others, curricula vitae and track records in mining operations and environmental management of the technical personnel who shall undertake the activities in accordance with the submitted Development/Utilization Work Program;
  - Proof of financial capability** to undertake the activities pursuant to the Development/Utilization Work Program, such as latest audited **financial statement** and, where applicable, **Annual Report** for the preceding year, **credit line(s), bank guarantee(s)** and/or similar **negotiable instruments**;
  - Affidavit of Undertaking for corporation, partnership, association or cooperatives** (Annex A of DENR Memorandum Order No. 99-10) declaring:
    1. The list of applications filed and the Mining Permit(s)/Contract(s) granted to the applicants, including the corresponding hectarage and location of the areas, disaggregated on a per province basis; and
    2. The list of other Applicant(s)/Contractor(s)/Permittee(s) in which more than seventy percent (70%) of the authorized capital stock is held by stockholders of the applicant, including the corresponding hectarage, disaggregated on a per province basis.
  - Mining Project Feasibility Study** (MGB Form No. 5-3); and
  - Complete and final exploration report** pertaining to the area.
- c. For holders of valid and existing mining lease contracts, operating agreements, Quarry Permits/licenses or unperfected mining/quarry claims, the following are additional requirements to the above requirements, whenever applicable:

- Certification** from the Regional Office concerned that the **mining/quarry claims are valid and subsisting**;
- Appropriate **environmental report** on the rehabilitation of mined-out and/or mine waste/tailings-covered areas and anti-pollution measures undertaken during the mining operations;
- Environmental Compliance Certificate (ECC)** for any new phase outside of the originally approved operation under the mining project;
- Mining Project Feasibility Study** (MGB Form No. 5-3): *Provided*, That a Mineral Agreement applicant with existing mining operation may submit, in lieu of the Mining Project Feasibility Study, a **Project Description** and a **detailed financial statement** of its operations incorporating therein the social and environmental expenditures, taxes and fees paid (MGB Form No. 5-3A); and
- Approved survey plan** of the mining area.

Please note that any application with incomplete mandatory requirements shall not be accepted.

### **What are the other additional requirements after an MPSA application is filed?**

The following additional requirements shall be submitted after the acceptance of the application but prior to the issuance of the Mineral Agreement:

- Environmental Compliance Certificate (ECC)**;
- Environmental Protection and Enhancement Program** (MGB Form No. 16-2);
- Certificate of Environmental Management and Community Relations Record (CEMCRR)/Certificate of Exemption** and
- Approved survey plan**;
- Certification Precondition** from the National Commission on Indigenous Peoples attesting that –
  - a. The proposed permit area does not overlap any ancestral land/domain claim in case of non-Indigenous People (IP) area; or
  - b. The Free and Prior Informed Consent (FPIC) has been issued by the Indigenous Cultural Community (ICC)/IP concerned.

***For OFFSHORE applications, the following additional requirements shall be submitted:***

- Name, port of registry, tonnage, type and class of survey vessel(s) or platform(s). If a foreign vessel is to be used, the expected date of first entry or appearance and final departure of the survey vessel shall be provided and the necessary clearances obtained
  
- A certification from the Coast and Geodetic Survey Department of NAMRIA that the proposed Exploration Work Program was duly registered to provide update in the publication of “Notice to Mariners” together with a list of safety measures to be regularly undertaken to ensure the safety of navigation at sea and prevent accident
  
- An agreement to:
  1. Properly identify all installations, vessels and other crafts involved in exploration recognizable to all vessels within reasonable distance;
  2. Notify the Bureau 30 calendar days prior to the intention to remove all scientific installations or equipment and apparatus; and
  3. Allow the Bureau’s authorized personnel, the Philippine Coast Guard and other authorized persons during reasonable hours to board the vessel(s) while within the Exclusive Economic Zone.
  
- Other supporting documents that may required by the Mines and Geosciences Bureau.

# MINERAL AGREEMENT PROCESS FLOWCHART

