

NORTHERN TERRITORY OF AUSTRALIA

GRANITES EXPLORATION AGREEMENT
RATIFICATION ACT 1994

No. 44 of 1994

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NORTHERN TERRITORY OF AUSTRALIA

No. 44 of 1994

AN ACT

to ratify an agreement between the Northern Territory
of Australia and North Flinders Mines Limited

[Assented to 12 September 1994]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Granites Exploration Agreement Ratification Act 1994*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. DEFINITIONS

In this Act -

"Agreement" means the agreement between the Territory and the Company which is set out in the Schedule and includes the Agreement as varied from time to time in accordance with its provisions;

"Company" has the same meaning as in the Agreement.

4. AGREEMENT RATIFIED

(1) For the purposes of clause 2(1) of the Agreement, the Agreement is ratified.

(2) The implementation of the Agreement is authorised.

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(3) The provisions of the Agreement shall operate and take effect according to their terms notwithstanding anything to the contrary in any Act or law in force in the Territory.

(4) Where a provision of the Agreement provides for the modification of an Act or law in force in the Territory, the Act or law shall, for the purposes of the Agreement, operate and take effect as provided for in the Agreement as if the Act or law had been so modified.

(5) An Act passed after the commencement of this Act shall not amend, modify or repeal a provision of the Agreement or affect the operation of a provision of the Agreement unless the Act expressly provides accordingly.

(6) The Territory, its Ministers, instrumentalities and authorities and any local government authority are authorised, empowered and required to do all things necessary or expedient for the carrying out of or giving full effect to the Agreement.

(7) Subject to this Act and the Agreement, the Company shall observe and comply with all Acts or laws in force in the Territory applicable in any way to the company's operations in the Tanami region.

5. ENFORCEMENT

Notwithstanding any Act or law in force in the Territory to the contrary, a decree of specific performance may be granted and enforced against the Territory in respect of its obligations under the Agreement in the same circumstances and on the same conditions as such a decree could be granted and enforced against a subject of the Crown.

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SCHEDULE

GRANITES EXPLORATION AGREEMENT

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GRANITES EXPLORATION AGREEMENT

THIS AGREEMENT is made the day of 1994

BETWEEN:

NORTHERN TERRITORY OF AUSTRALIA care of the Department of Mines and Energy having its offices at the Paspalis Centrepoint Building, Smith Street, Darwin in the Northern Territory of Australia ("the Territory")

AND:

NORTH FLINDERS MINES LIMITED (A.C.N. 007 688 093) the registered office of which is situate at 25 Greenhill Road, Wayville in the State of South Australia (with its successors and permitted assigns called "the Company")

WHEREAS:

- A. The Company in 1986 developed and has continuously operated a major gold mine known as The Granites Gold Mine in the Tanami region of the Northern Territory of Australia.
- B. The Company has expended significant funds on exploration in the region and specifically in the vicinity of The Granites Gold Mine with the intention of securing the long term viability of The Granites Gold Mine and its associated infrastructure.
- C. The Company has from time to time entered into agreements with the Central Land Council pursuant to Part IV of the Aboriginal Land Rights (Northern Territory) Act 1976 in respect of parts of the area the subject of this Agreement.
- D. The Company has been successful in its exploration efforts and has discovered and is now mining a number of additional ore bodies at Dead Bullock Soak in the vicinity of The Granites Gold Mine.
- E. The Territory and the Company wish to enter into this Agreement for the purpose of facilitating an extension of the period during which the Company has rights of exploration in respect of the area the subject of this Agreement subject to certain terms and conditions as set out in this Agreement.

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NOW IT IS AGREED as follows:

1. Definitions and Interpretations

- (1) In this Agreement unless the contrary intention appears -

"Agreement" means this Agreement as varied from time to time in accordance with this Agreement;

"block" has the same meaning as in Part IV of the Mining Act;

"Exploration Licences" means the exploration licences identified in Annexure "A" to this Agreement;

"Minister" means the Minister of the Territory who for the time being is the Minister administering the Mining Act, and includes any Minister for the time being acting for and on behalf of the Minister;

"Relevant Year" means the Relevant Year of each block ascertained in accordance with clause 6;

"Secretary" has the same meaning as in the Mining Act;

"The Granites Gold Mine" means the operation for mining and extraction of gold on ML S 8 and ML S 134 to ML S 144 inclusive; and

"Tenure Year" means a 12 month period between anniversaries of the date of commencement of this Agreement.

- (2) This Agreement shall be interpreted in accordance with the Interpretation Act as if it were an Act.

2. Ratification by Parliament

- (1) This Agreement, other than sub-clause (2), shall have no force or effect and shall not be binding on either party unless and until it is signed by both parties and is ratified by an Act of the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the Northern Territory (Self-Government) Act 1978 of the Commonwealth.
- (2) The Territory shall take all necessary action to have submitted to the Legislative Assembly at the earliest practicable date a Bill for an Act to ratify this Agreement.

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3. Term

This Agreement shall commence on the date the Act of ratification referred to in clause 2 comes into operation and shall continue for a period of ten (10) years, unless extended, renewed or earlier terminated in accordance with this Agreement, from the date of commencement of this Agreement.

4. Area

The area the subject of this Agreement shall be the area which is from time to time the subject of the Exploration Licences.

5. Exploration Licences

- (1) The Company may apply at any time to the Minister for the terms of the Exploration Licences or any one or more of them to be extended by ten (10) years in accordance with this clause.
- (2) Upon receipt of an application by the Company pursuant to sub-clause (1) the Minister may (subject to the terms of this Agreement) approve in writing the application and upon such approval the Exploration Licences the subject of the application shall (subject to the terms of this Agreement) continue and remain in force for a term expiring ten (10) years from the commencement of this Agreement, effective before or immediately upon the expiry of such Exploration Licences.
- (3) The extension of the Exploration Licences the subject of the application pursuant to this Agreement is subject to the provisions of the Aboriginal Land Rights (Northern Territory) Act 1976 and the Native Title Act 1993 of the Commonwealth as applicable.
- (4) Except to the extent that the contrary intention appears in this Agreement, the provisions of the Mining Act and all other laws in force in the Northern Territory shall apply to the Exploration Licences as if they were exploration licences granted pursuant to the Mining Act.

6. Relevant Years

For the purpose of this Agreement the Relevant Year of each block shall be ascertained in accordance with the formula:-

$$A = B + C + 1$$

Where:

A is the Relevant Year

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B is the number of whole years the block had been the subject of an Exploration Licence immediately prior to the commencement of this Agreement.

C is the number of whole years the block has been the subject of an Exploration Licence since the commencement of this Agreement.

7. Rent

- (1) The rent payable in respect of the Exploration Licences shall be calculated in accordance with Regulation 7 of the Mining Regulations as if the reference to the Act was a reference to this clause and as if the years referred to were Relevant Years.
- (2) Rent in respect of the first Tenure Year of the Exploration Licences shall be paid upon the making of an application pursuant to clause 5(1), and any adjustment required in respect of rent already paid shall be made by way of refund by the Territory to the Company.
- (3) Rent in respect of each ensuing Tenure Year of the Exploration Licences shall be paid at least thirty (30) days prior to the commencement of that Tenure Year.

8. Expenditure

- (1) For the purposes of this clause the area the subject of this Agreement shall be divided into three zones as set out in Annexure "B" to this Agreement.
- (2) In each Tenure Year the Company shall expend a minimum amount in respect of each zone as determined in accordance with this clause.
- (3) In each Tenure Year each block within the area the subject of this Agreement shall be given a nominal expenditure value as follows:

<u>Relevant Year of block</u>	<u>Nominal Expenditure Value per block</u>
1	\$ 300
2	\$ 600
3	\$ 900
4	\$1,200
5	\$1,500
6 and above -	\$1,800

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Where any block has been the subject of an Exploration Licence for a part only of a Tenure Year the nominal expenditure value of that block shall be calculated pro-rata by reference to the proportion of the Tenure Year it was the subject of an Exploration Licence.

- (4) The nominal expenditure values listed in sub-clause (3) shall be adjusted annually on the first day of each Tenure Year by multiplying those values by an escalator calculated in accordance with the formula:

$$E = \frac{CPI_i}{CPI_1}$$

Where

E is the escalator

CPI_i is the Consumer Price Index (All Groups) - Weighted Average for eight capital cities as published by the Australian Bureau of Statistics Catalogue No 6401.0 being the index number published in respect of the quarter ended 31 December in the year of calculation

CPI_1 is the Consumer Price Index (All Groups) - Weighted Average for eight capital cities as published by the Australian Bureau of Statistics Catalogue No. 6401.0 being the index number published in respect of the quarter during which this Agreement commenced.

- (5) The minimum amount required to be expended by the Company each year in respect of each zone shall be an amount equal to the sum of the nominal expenditure values of all of the blocks within the relevant zone.
- (6) Amounts expended by way of rental payments in respect of the Exploration Licences or expended pursuant to agreements entered into pursuant to the Aboriginal Land Rights (Northern Territory) Act 1976 shall not constitute expenditure for the purposes of this clause.
- (7) The Company shall make available to the Secretary or his nominee for audit all relevant documentation and such other material as may in the opinion of the Secretary be required to substantiate expenditure by the Company pursuant to this clause.
- (8) If in any year during the term of this Agreement the Company is prevented by any event beyond its reasonable control from expending the minimum amount required to be expended in respect of any zone the Company shall give notice to the Minister of such event and the Minister shall, provided he is satisfied

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that the notice is based on reasonable grounds, reduce the minimum amount required to be expended during that Tenure Year taking into account the nature and extent of the event specified in the Company's notice.

9. Reduction of Exploration Licences Area

- (1) Sections 26, 27, 28 and 29 of the Mining Act, shall not apply to the Exploration Licences.
- (2) The total area of the Exploration Licences shall be reduced so that the total number of blocks the subject of the Exploration Licences shall not exceed 1920 after two Tenure Years, 1440 after four Tenure Years, 960 after six Tenure Years, 480 after eight Tenure Years and less in each case any reductions pursuant to sub-clause (6), and nil after ten Tenure Years.
- (3) Not later than one month before the expiration of the relevant periods referred to in sub-clause (2), or such other time as the Secretary may approve, not being later than the expiry of the relevant periods, the Company shall, in writing, nominate to the Secretary the blocks the Company wishes to retain for the ensuing two Tenure Years, and subject to sub-clause (4), those blocks shall, accordingly, constitute the area of the Exploration Licences for that ensuing period.
- (4) The Company shall not nominate the blocks to be retained in the area of the Exploration Licences if the effect of that nomination would be that more than two separate areas in any one of the Exploration Licences are created.
- (5) For the purposes of sub-clause (4), a separate area shall consist of-
 - (a) a group of blocks each of which has a common side or point with another block in the separate area; or
 - (b) a single block.
- (6) If in any Tenure Year the Company fails to expend the minimum amount required to be expended in respect of any zone pursuant to clause 8 the area the subject of Exploration Licences within that zone shall be reduced, in addition to any reduction otherwise required pursuant to this clause, by such number of blocks as will mean that the proportion of the number of blocks relinquished to the number of blocks in the zone immediately prior to relinquishment is as near as possible equal to the proportion of the amount of the shortfall in expenditure to the minimum amount required to be expended.

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- (7) If a reduction pursuant to sub-clause (6) is required the Company shall not later than four (4) months after the expiry of the Tenure Year in which the minimum amount required to be expended was not expended, in writing, nominate to the Secretary the blocks the Company wishes to retain in the relevant zone, and subject to sub-clause (4), those blocks shall, accordingly, constitute the area of the Exploration Licences for the remainder of the current Tenure Year.

10. Reporting

Sections 32, 33 and 34 of the Mining Act shall apply to the Company in respect of the Exploration Licences except that the report required to be provided pursuant to sections 32(1)(b) and 34(1) shall be lodged prior to the end of March in each Tenure Year in respect of the previous calendar year, and the reference in section 32(1)(b) to section 26 shall be read as a reference to clause 9.

11. Termination

- (1) The Territory may give to the Company not less than ninety (90) days notice of its intention to terminate this Agreement (except for clause 12) in the event that the Company:
- (a) is in breach of any provision of this Agreement;
 - (b) is in breach of any material condition of any of the Exploration Licences;
 - (c) ceases treatment at The Granites Gold Mine gold treatment plant without having constructed and brought into operation within the Tanami region within one (1) year thereafter an equivalent gold treatment plant; or
 - (d) goes into liquidation (other than voluntary liquidation for the purposes of reconstruction) and does not within that notice period assign its interest in this Agreement to an assignee approved in writing by the Minister.

If upon the expiry of the notice such default has not been remedied the Territory may terminate this Agreement (except for clause 12) by giving not less than thirty (30) days notice to the Company such that this Agreement (except for clause 12) shall terminate upon the expiration of that notice unless such default has been sooner remedied.

- (2) The Company may terminate this Agreement (except for clause 12) by giving not less than ninety (90) days notice in writing to the Territory in the event that the Territory:

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- (a) is in breach of any of the conditions of this Agreement; or
- (b) enacts legislation which significantly increases the obligations of the Company pursuant to this Agreement.

such that this Agreement (except for clause 12) shall terminate upon the expiration of that notice period unless such default has been sooner remedied or unless such legislation has been sooner repealed.

- (3) Notice given pursuant to this clause shall specify the nature of the default or the ground entitling the party to exercise such right of termination and where applicable reasonable particulars of action required to remedy the default or ground for termination.
- (4) Subject to clause 13, this Agreement (except for clause 12) shall terminate forthwith if at any time the area the subject of this Agreement is reduced to nil.
- (5) This Agreement may be terminated at any time by agreement in writing between the Territory and the Company.
- (6) Clause 12 of this Agreement shall, unless otherwise agreed in writing by the parties, remain in force notwithstanding any termination pursuant to this clause.

12. Effects of Termination

- (1) On termination of this Agreement the Company shall immediately pay all amounts due under this Agreement but unpaid to the Territory.
- (2) In the event of notice of termination by the Territory, nothing in clause 11 shall prevent the Territory from administering and enforcing the law in force in the Northern Territory in its application to the Company and the Exploration Licences.
- (3) Upon termination of this Agreement the term of each of the Exploration Licences shall be reduced so that each Exploration Licence shall expire on the date it would have expired had it not been extended pursuant to this Agreement, provided that where that term would have previously expired but for this Agreement the Exploration Licence shall be deemed to have been extended in such manner as is allowed pursuant to the Mining Act. The provisions of the Mining Act and all other laws in force in the Northern Territory shall continue to apply to the Exploration Licences as if they were exploration licences granted (and extended as the case may be) pursuant to the Mining Act.

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- (4) Any obligations of confidentiality between the parties shall continue after termination of this Agreement unless otherwise agreed.
- (5) Termination of this Agreement shall not otherwise affect any accrued rights or remedies the parties may have against the other.

13. Parties May Negotiate Renewal or Extension

- (1) Where prior to the expiry or earlier termination of this Agreement the Company continues to hold exploration licences in the Tanami Region and has not permanently ceased treating minerals at a treatment plant in the Tanami Region it may give notice to the Minister of its desire to have this Agreement extended or renewed to apply to those exploration licences on substantially the same or such amended terms as the Company and the Territory may agree.
- (2) Upon receipt of such notice the Minister shall enter into negotiations with the Company in good faith to determine whether this Agreement should be extended or renewed.

14. Notices

- (1) A notice given under this Agreement shall be:
 - (a) in writing;
 - (b) addressed to the address of the recipient specified in this Agreement or as altered by notice given in accordance with this clause;
 - (c) hand delivered or sent by pre-paid post to that address or sent by facsimile transmission and immediately confirmed by hand delivery or pre-paid post.
- (2) A notice given in accordance with sub-clause (1) of this clause shall be deemed to have been received:
 - (a) if hand delivered, on the date of delivery;
 - (b) if sent by pre-paid post, ten (10) days after the date of posting;
 - (c) if sent by facsimile, on the business day immediately following the day of transmission (provided that the addressee has acknowledged receipt, which acknowledgement shall be promptly sent).

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- (3) Notice shall be sent to the parties at the following addresses:

The Territory: care of The Minister for Mines and Energy
NT House, Mitchell Street
Darwin NT 0800

Facsimile: (089) 819648

or where appropriate: The Secretary
Department of Mines and Energy
Paspalis Centrepoint
Building
Smith Street
Darwin NT 0800

Facsimile: (089) 411284

The Company : The Secretary
North Flinders Mines Limited
25 Greenhill Road
Wayville SA 5034

Facsimile: (08) 271 7249

15. Severability

- (1) Subject to sub-clause (2), if any provision of this Agreement is unenforceable, illegal or void then it is severed and the other provisions of this Agreement, provided they are self-sustaining, capable of independent enforcement and do not operate to the material prejudice of either party, shall remain in force.
- (2) Should such unenforceability, illegality or voidness arise from the application of a provision of this Agreement to some only of the Exploration Licences or some only of the blocks contained in the Exploration Licences such Exploration Licences or blocks are severed and the provisions of this Agreement provided they continue to be self-sustaining, capable of independent enforcement and do not operate to the material prejudice of either party in respect of the remaining Exploration Licences or blocks, shall remain in force.

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16. Applicable Law

This Agreement is governed by the laws of the Northern Territory and the parties shall comply with all applicable laws of the Commonwealth and subject to the Act of ratification referred to in clause 2 of this Agreement, all laws of the Northern Territory applicable to The Granites Gold Mine.

IN WITNESS WHEREOF the parties have executed this agreement.

SIGNED for and on behalf)
of the NORTHERN TERRITORY)
OF AUSTRALIA by)
SHANE LESLIE STONE,)
Minister for Mines and)
Energy in the presence of:)

.....
(Witness)

The COMMON SEAL of)
NORTH FLINDERS MINES)
LIMITED (A.C.N. 007 688 093))
was hereunto affixed in)
the presence of:)

.....
Director

.....
Director/Secretary

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ANNEXURE "A"

The Exploration Licences

EL 1060
EL 2290
EL 2366
EL 2367
EL 2369
EL 2370
EL 2371
EL 2372
EL 4529
EL 6759
EL 6859
EL 7121
EL 7122

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ANNEXURE "B"

For the purposes of clause 8 the zones shall be:

East Zone comprising the blocks contained in:

EL 1060
EL 2290
EL 6759
EL 7121

Central Zone comprising the blocks Contained in:

EL 2366
EL 2367
EL 2369
EL 2370
EL 2371
EL 2372
EL 4529

West Zone comprising the blocks contained in:

EL 6859
EL 7122
