

MEMORANDUM OF AGREEMENT RELATING TO

THE HIDDEN VALLEY GOLD PROJECT

BETWEEN

THE INDEPENDENT STATE OF PAPUA NEW GUINEA;

AND

THE MOROBE PROVINCIAL GOVERNMENT;

AND

MOROBE CONSOLIDATED GOLDFIELDS LIMITED;

AND

NAKUWI ASSOCIATION INC.;

AND

THE WAU RURAL LOCAL LEVEL GOVERNMENT;

AND

THE WATUT RURAL LOCAL LEVEL GOVERNMENT;

AND

WAU BULOLO URBAN LOCAL LEVEL GOVERNMENT.

GEORGE MINJIHAU
ACTING STATE SOLICITOR
OFFICE OF THE STATE SOLICITOR
DEPARTMENT OF ATTORNEY GENERAL
P.O. BOX 591, WAIGANI
NATIONAL CAPITAL DISTRICT
DATED: 05 May 2005

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THIS AGREEMENT is made on the ^{5th} day of ... AUGUST2005

BETWEEN: THE INDEPENDENT STATE OF PAPUA NEW GUINEA
(hereinafter called the "State") of the first part;

AND: THE MOROBE PROVINCIAL GOVERNMENT
(hereinafter called the "Provincial Government") of the second part;

AND: THE MOROBE CONSOLIDATED GOLDFIELDS LIMITED, A company
duly incorporated in Papua New Guinea, 3rd Floor, Pacific Place, corner of
Musgrave and Champion Parade, PORT MORESBY (hereinafter called
the "MCG") of the third part;

AND: THE NAKUWI ASSOCIATION INC. of the fourth part;

AND: THE WAU RURAL LOCAL LEVEL GOVERNMENT of the fifth part;

AND: THE WATUT RURAL LOCAL LEVEL GOVERNMENT of the sixth part;

AND: THE WAU BULOLO URBAN LOCAL LEVEL GOVERNMENT of the
seventh part.

WHEREAS

- A. The State has granted a Mining Lease 151 to MOROBE CONSOLIDATED GOLDFIELDS LIMITED, dated 4th day of April, 2005 pursuant to which a mining operation will be carried out in the Upper Wau/Bulolo area of the Morobe Province to produce gold and silver within ML 151.
- B. It is recognised that the Hidden Valley Project should proceed for the common benefit of the people of Papua New Guinea, and in particular, the people of Morobe Province, Bulolo District and the Hidden Valley Project Landowners.
- C. The parties to this agreement acknowledge and recognise the needs, aspirations and desires of all stakeholders to receive a fair and equitable share of benefits from this mining operation.
- D. The State, the Provincial Government, the Local Level Governments, the Landowners and MCG have therefore conducted discussions and negotiations and have agreed on a number of matters relating to the development of the Hidden Valley Project.
- E. The Parties hereto have therefore resolved to have the agreed decisions emanating from their discussions and negotiations made into an enduring Agreement.

IT IS HEREBY AGREED between the Parties as follows:-

PART A – GENERAL

1. DEFINITIONS

In this Agreement, unless the context otherwise require:

“Affected Communities” includes Highway communities, River communities and Subsidiary Landowner communities.

“Business Development Programme” means a plan under which MCG will support the Landowners and the local communities to be involved in business, which is annexed hereto as Annexure A and forms part of this Agreement.

“Department” means the Department of Mining or any other Government entity that has the functions of mining bestowed on it for the time being, unless otherwise specifically indicated herein.

“Employment and Training Plan” means the Employment and Training Plan submitted to the Department responsible for Labour and Employment matters as specified in Annexure C and forms part of this agreement.

“Future Generations” mean all children who are the children of the beneficiaries as defined under the Future Generation Trust as per Section 13.

“Hidden Valley Project Landowners” are the identified landowners within the Mining Lease ML 151; Lease for Mining Purpose LMP 80; and Mining Easement ME 82.

“Highway Communities” means established villages (at the time of the signing of this agreement) located along the highway from the Mine to Potsi.

“Infrastructure” shall include facilities including but not limited to roads, health, agriculture, electric power, water supplies, communications, and education.

“Immediate Impacted Area” refers to the tenements and to areas adjacent to the tenements covered by Wau Rural, Watut and Wau Bulolo Urban Local Level Governments.

“Impacted Area” includes the immediate impacted area, and areas covered by the Mumeng, Waria Local and Buang Local Level Governments and as determined by the Morobe Provincial Government.

“Landholders” are holders of title to a lease granted by the State within ML 151.

“Landowners” are the people from Nauti, Kuembu and Winima villages owning land within ML 151 and LMP 80 as per the PLC decision of 1987

“Lease for Mining Purposes” (LMP) means Lease for Mining Purposes No. 80 granted in accordance with the Mining Act 1992 to Morobe Consolidated Goldfields Limited for the Project

“Local Communities” means all communities in the areas covered by the Wau Rural, Watut and Wau/Bulolo Urban LLG’s other than Hidden Valley Project landowners as defined above.

“Local Level Government” (LLG) means the Wau Rural Local Level Government, the Wau/Bulolo Urban Local Level Government, the Watut Local Level Government,.

“Memorandum of Agreement” means this document.

“Mining Easement” (ME) means Mining Easement No. 82 granted in accordance with the Mining Act 1992 to Morobe Consolidated Goldfields Limited for the Project

“Mining Lease” (ML) means Mining Lease No. 151 granted in accordance with the Mining Act 1992 to Morobe Consolidated Goldfields Limited for the Project.

“Monitoring & Review Committee” means a committee established by the State to review components of the project every six months from the date of execution of this MOA.

“Morobe Consolidated Goldfields” (MCG) means a wholly owned subsidiary of Harmony Gold Mining Company Limited and includes any permitted assigns or successors of the rights and obligations of Morobe Consolidated Goldfields Limited.

“Morobe Project Management Unit” (MPMU) means the team of National Government, Morobe Provincial Government, Landowner and Developer representatives which manages the implementation of infrastructure projects for impacted communities.

“NAKUWI Association Inc” means the Association of the people of Nauti, Kuembu and Winima villages.

“NKW Holdings Ltd” means a company whose shares are owned for the benefit of the Landowners and formed for the purposes of Clause 35.

“Parties” or **“Party”** means the Parties to this Agreement.

“Project” means the Hidden Valley Project approved by the Minister for Mining over which the Mining Lease 151, Lease for Mining Purposes 80 and Mining Easement 82 has been granted pursuant to the Mining Act 1992.

“Provincial Government” means the Morobe Provincial Government or any government entity or body assuming the roles and functions of the Morobe Provincial Government for the time being.

“River Communities” means those established villages (at the time of the signing of this agreement) located along the Watut River from the mine site downstream to Golden Pine.

“Royalty” means the royalty paid pursuant to Section 173 (5) of the Mining Act 1992, or any amendments to, or provisions succeeding or substituted for that provision.

“Settlers” are individuals or groups of people that have been granted permissive occupancy by the landowners to occupy and use land within the tenements prior to the commencement of this Agreement.

“State” shall mean the Independent State of Papua New Guinea.

“Subsidiary Landowners” are the communities identified within ME 82.

“Tenements” refers to Mining Easement No. 82, Lease for Mining Purposes No. 80 and the Mining Lease No. 151 granted pursuant to the Mining Act 1992.

“Wafi LOA” refers to the Yanta Development Association and Hengambu Landowner Association.

2 INTERPRETATION

In this Agreement, unless the context otherwise requires:

- (a) The headings herein do not affect the interpretation or the construction of this Agreement;
- (b) A reference to any legislation includes the amendments to that legislation and also covers any Act passed in substitution thereof and any regulations, for the time being in force thereunder;
- (c) Words importing the singular include the plural and vice-versa;
- (d) Words importing any gender include the other gender; and
- (e) The recitals form part of the Agreement.
- (f) A word denoting person includes a natural person as well as a corporate entity;

- (g) A reference to any party to this Agreement includes that party's successors and permitted assigns.
- (h) A reference to any Department, of the State includes that Department or any successor Department under whatever name it is so called at the given time.
- (i) The commencement date for this Agreement will be the execution date of the MOA.

PART B – STATE UNDERTAKINGS

3 ROYALTIES

3.1 The State undertakes, pursuant to the Mining Act, 1992, and, in line with current sustainable development planning goals, to pay royalties from the Project to the Provincial Government, Mining Lease Landowners, and the LLG's as follows:

(a)	Provincial Government	42 %
(b)	Immediate Impact Area LLG's	14%
(c)	Affected Communities	2.5%
(d)	Others	2.5%
(e)	Landowners	39%

3.2 The State agrees that the distribution of the total royalties received by the recipients of royalties in Clause 3.1 above shall be as follows:

a) **PROVINCIAL GOVERNMENT**

	MPG - Five-Year Provincial Development Plan	42 %
(i)	Provincial Government	36 %
(ii)	Mumeng LLG	3 %
(iii)	Waria LLG	2 %
(iv)	Buang LLG	1%

(b) **IMMEDIATE IMPACT AREA LOCAL LEVEL GOVERNMENTS** 14%

(i)	Wau/ Rural LLG	5 %
(ii)	Watut LLG	5 %
(iii)	Wau/Bulolo Urban LLG	4 %

(c)	AFFECTED COMMUNITIES	2.5%
	(i) Highway Communities	0.5%
	(ii) River Communities	0.5%
	(iii) Subsidiary Landowner Communities	1.5%
(d)	OTHERS	2.5%
	(i) Settler Communities (Claims)	2.0%
	(ii) Wafi LOA	0.5%
(e)	LANDOWNERS	39%
	(i) NAKUWI Association	2%
	(ii) Future Generation Trust	2%

First two (2) years of Operation:

(i)	Nauti People	20%
(ii)	Kuembu People	7.5%
(iii)	Winima People	7.5%

After first two (2) years of Operation:

(i)	Nauti People	17.5%
(ii)	Kuembu People	8.75%
(iii)	Winima People	8.75%

3.3 The royalties shall be paid in the following manner: -

- (a) In the case of the "Provincial Government" into the Morobe Provincial Government Consolidated Revenue Account.
- (b) In the case of the Local Level Governments into their respective operating accounts.
- (c) In the case of the affected communities funds will be managed by Nakwi Association Inc. and distribution to be determined by subsidiary landowners in consultation with other project stakeholders.
- (d) In the case of Settler Communities, a trust shall be set up and maintained by MCG to cater for payments in a separate Trust Deed. In the case of Wafi Landowner Association representing YDA and HLA will be deposited into the Wafi Landowner Association operating account.
- (e) In the case of NAKUWI Association Inc. into the NAKUWI Association Inc. operating account.
- (f) In the case of the Future Generation Trust into the Future Generation Trust Account.

- 3.4 In the case of a dispute arising between parties the State pursuant to the Public Finance Management Act 1995 will establish and administer a Trust Account for the affected royalties.

4 SPECIAL SUPPORT GRANT (SSG)

- 4.1 The State shall use its best endeavours to appropriate to the Provincial Government and make available in each financial year a grant to be known as the "Special Support Grant", or such other alternative grant agreed and approved between the State and the Parties.
- 4.2 Each annual SSG appropriation will be allocated by the Provincial Government and managed by the MPMU (Morobe Project Management Unit) for use on mine affected wards or Districts or Provincial projects in the Wau Rural LLG, Wau Bulolo Urban LLG, Watut LLG and Urban Districts and mining affected areas resulting from MCG's Mining operations.
- 4.3 The State will provide to the Provincial Government a Special Support Grant or any other alternative grant equivalent to 0.50% of the value of fob revenue for the sale of mine products from the Project which will be utilised annually.
- 4.4 The SSG will be paid from the commencement of production and will be calculated as set out in Clause 4.5 herein.
- 4.5 For the purpose of this Clause, f.o.b. revenue shall have the same meaning as provided in Section 173 (5) of the Mining Act 1992.
- 4.6 The SSG will be calculated on the estimated annual f.o.b. revenue from the sale of mine products, such of which shall be adjusted annually against the actual revenue.
- 4.7 The SSG will only be released after the State has approved a list of projects and programmes submitted by the Provincial Government.
- 4.8 Progress and completion reports must also be provided six monthly.
- 4.9 An audit report must be carried out on annual basis.
- 4.10 The SSG will be expendable in the mining affected areas and other areas covered by the Local Level Government(s) and only in accordance with the approved guidelines.
- 4.11 Review of the SSG Program will take place three (3) years after the production commences or with the review of this agreement.

5 INFRASTRUCTURE PROJECTS FOR IMPACTED COMMUNITIES

- 5.1 That the State undertakes to provide funds through the Special Support Grant for infrastructure projects identified under the Provincial Government's 5 year plans.

6 TAX CREDIT SCHEME

- 6.1 The State through the Department of National Planning & Rural Development undertakes to extend the Tax Credit Scheme in accordance with the approved guidelines to the project as and when MCG is in a taxable position. The rate of 0.75% will apply to general Tax Credit Scheme Projects.
- 6.2 The State undertakes to extend the supplementary 1.25% taxable income component of TCS to the maintenance of the Lae-Wau Highway.

7 MINE CLOSURE / REHABILITATION PLAN (SUSTAINABLE DEVELOPMENT)

- 7.1 The State through the Department of Mining shall use best endeavours to ensure the Conceptual Mine Closure Plan submitted pursuant to Annexure C is fully complied with and implemented by all parties.
- 7.2 The State undertakes to establish through the Department of Mining and the Department of Environment and Conservation, a professionally led mine closure task force, in order to have ongoing consultation with MCG in reviewing and finalising the plan for mine closure.

8 ENVIRONMENT

- 8.1 The State, through the Department of Environment and Conservation, shall ensure that MCG develops the Project in a manner that minimises the environmental impact of the project and ensures MCG fully complies with the Environmental Permit conditions that have been approved by the State for the development of the Project in accordance with the Environment Act 2000.
- 8.2 Pursuant to Clause 8.1 and consistent with the Company's commitments under the Environmental Permit conditions, the State undertakes to have MCG provide regular briefs on all environmental aspects of the project in accordance with the mine's Environment Management Plan.
- 8.3 The State undertakes to have:
- (a) Officers of the Department of Environment and Conservation make regular inspections to review the environmental impact of the Project during and after the mine life.
 - (b) The reports submitted from such inspections shall be distributed to relevant Government Departments and Agencies, the Hidden Valley Project Landowners, the Bulolo District Administration, the Provincial Government and MCG.

- 8.4 The State undertakes in carrying out 8.3:
- (a) To assess impacts downstream of the mine beyond the mixing zone boundary.
 - (b) To provide an independent assessment of the Project's impacts whenever necessary.
- 8.5 The State through the National Forest Authority shall provide assistance and advice on the establishment of an Agro-Forestry integrated conservation program.
- 8.6 The State shall initiate and assess environmental impacts (existing and residual effects) from the mine workings at Edie Creek, Kaindi and Kuranga tenements and report on this by 01 April 2007. The costs for this study shall be shared equally between the State, Provincial Government, the Landowners and MCG.
- 8.7 The State through the Department of Environment and Conservation shall ensure that mine rehabilitation shall be complied with based on the Mine Closure Plan and stipulations of the Environment Act 2000.

9 BUSINESS DEVELOPMENT PLAN

- 9.1 The State through the Department of Trade and Industry shall use best endeavours to ensure the Business Development Plan submitted pursuant to Annexure A is fully complied with and implemented.
- 9.2 The State through the Department of Trade and Industry will establish a committee to monitor the implementation of the Business Development Plan and will meet on a six (6) monthly basis. The committee will be chaired by the Department of Trade & Industry, and membership of the committee will comprise one representative from each of the Departments of Mining, Planning and Treasury; representatives from the Provincial Government, LLG's, Landowners and MCG.
- 9.3 The State through the Department of Trade and Industry, undertakes to ensure that the Business Development Plan includes provisions whereby preference is given by the Company, on terms generally available and subject to proven expertise, firstly, to NKW Holdings Limited, secondly, to businesses owned and operated by the people of Bulolo District and, thirdly, to businesses owned and operated by people of Morobe Province, fourthly to businesses owned and operated in Papua New Guinea and fifthly to international companies.

10 SUPPLY AND PROCUREMENT

- 10.1 The State through the Department of Trade and Industry undertakes to use its best endeavours to have MCG identify and invite registration of businesses in Papua New Guinea, particularly in the Morobe Province, which are capable of supplying materials, equipment and services to the project in liaison with NKW Holdings Limited but pre-qualification and registration does not provide assurance to a business that they will be invited to tender or be awarded any contracts.
- 10.2 The State through the Department of Trade and Industry shall use its best endeavours to have MCG implement the agreed Procurement and Supply Plan in Annexure D.

11 EMPLOYMENT AND TRAINING

- 11.1 The State through the Department of Labour and Industrial Relations shall use its best endeavours to ensure that MCG and Company Contractors or sub-contractors:
- (a) Develop, organise and facilitate suitable employee training plans for approval by the Department of Labour & Industrial Relations.
 - (b) Comply with the requirements and implement the approved Training and Localisation Plan as per Annexure B.
 - (c) Give preference as far as is reasonably possible in training and employment opportunities during the construction and operation of the project, in the following order of priority to the -
 - (i) NAKUWI Landowners;
 - (ii) People of Bulolo District;
 - (iii) People of the Morobe Province;
 - (iv) People of Papua New Guinea;
 - (v) Non citizens of Papua New Guinea.
 - (d) Provide a six-monthly report for tabling at a review of -
 - (i) The progress in the compliance and implementation of the approved training and localisation plan; and
 - (ii) The implementation of a career succession plan.

12 FINANCIAL ASSISTANCE TO THE LANDOWNERS

- 12.1 The State shall extend financial assistance to the Landowners as follows:
- (a) to NKW Holdings Limited a once only grant of K500,000.00 during the first financial quarter of 2006 subject to provision of a

- (i) the company financial reports
- (ii) the company business plan
- (iii) provision of background information on joint venture partners and acceptable references.
- (iv) agreed arrangements for prudential management of the funds
- (v) NKW shareholding held fairly

to enable NKW Holdings Ltd to participate in commercial opportunities which may arise from the project.

12.2 The State shall, through the Department, provide an amount of K500,000.00 over a period of 5 years to NAKUWI Association Inc to be disbursed as follows:

- (a) K100,000.00 within one month following signing of this Memorandum of Agreement
- (b) K100,000.00 upon commencement of the mine facilities construction
- (c) K100,000.00 upon commencement of the mine production
- (d) The remaining K200,000.00 will be disbursed in instalments of K100,000.00 over each of the next two anniversaries of commencement of production.

The payments subject to the provision of a budget of expenditures for each payment of K100,000.00 which shows the funds provided being spent for purposes of facilitating the Nakuwi Associations approved objectives.

13 FUTURE GENERATIONS TRUST FUNDS

13.1 Upon execution and coming into effect of this Agreement the State shall establish a Trust Account pursuant to the Public Finance Management Act 1995 to be known as the NAKUWI Future Generations Trust the purposes of which are to provide for the education of the future generations of the respective landowners.

13.2 The trust deeds shall among other things make provision for:

- (a) The trustee or trustees as decided by the respective Landowner Associations and the Provincial Government; and
- (b) The persons to be the signatories to the trust account; and
- (c) The circumstances under or the purpose for which any monies in the trust fund may be utilised or expended; and
- (d) The procedure for the accountability of the monies of the trust fund; and

- (e) Any other matters which are relevant or convenient for the proper and efficient management of the trust fund.
- 13.3 The trustees to the Future Generation Trust Fund shall in accordance with Clause 13.2(a) be the persons or their nominees holding the following positions:
- (a) Morobe Provincial Administrator
 - (b) President of the Landowners Associations
 - (c) Provincial Treasurer of Morobe
- 13.4 The monies to be paid into the trust funds are the royalties intended for the benefit of the Future Generations and distributed by the State in accordance with this Agreement; and any other monies that are lawfully intended for the purpose of the fund.
- 13.5 The eligibility period for the utilization or expenditure of the Trust Funds shall commence after five (5) years from the date of the first payment of royalties to the State.

14 LAW AND ORDER

The State through the Department of Police undertakes to monitor, maintain and improve Police effectiveness within the Bulolo District to improve the law and order situation.

15 STATE TO CO-OPERATE AND ASSIST

The State shall work closely in consultation with the Landowners, Local Level Governments, Provincial Government and MCG in the implementation of the provisions of this Agreement.

PART C – MOROBE PROVINCIAL GOVERNMENT UNDERTAKINGS

16 AGRICULTURAL ACTIVITIES

- 16.1 The Provincial Government shall use its best endeavours to promote cultivation and create marketing of commercial agricultural produce in the mine affected areas.
- 16.2 The Provincial Government agrees to provide advice in the field of Agriculture, and Agro Business Development as maybe required for the project in a timely manner.

- 16.3 The Provincial Government agrees to provide a six-monthly report and return of:
- (a) Progress with advancement and of agricultural activities
 - (b) A plan to address advancement of agricultural development

17 ROADS

- 17.1 The Provincial Government agrees to provide annual funding for road and bridge maintenance within the Impacted Area.

18 INFRASTRUCTURE

- 18.1 The Provincial Government recognises and acknowledges the fact that under the organic law on Provincial and Local level Government it will be receiving various administration grants from the State therefore it agrees to provide and co-fund the maintenance of public infrastructure stipulated under this agreement.
- 18.2 There shall be a team of four key people to direct the management and accounting of funds spent on projects undertaken. The team shall be known as the Morobe Project Management Unit (MPMU).
- 18.3 The MPMU shall have representation as follows:
- (i) Morobe Provincial Administrator or nominee;
 - (ii) President of NAKUWI Association or nominee;
 - (iii) Chief Executive Officer of MCG or nominee; and
 - (iv) A National Government representative
- 18.4 The MPMU shall account for all funds and submit annual reports to National Government, Provincial Government, MCG and NAKUWI Association.
- 18.4 The MPMU is an arrangement for efficient project implementation while the mining project is ongoing. The Developer plays a key role in ensuring the success of implementing projects for impacted communities. At the end of mining operations, the MPMU will be wound down and phased out in line with the Mine Closure Plan.
- 18.5 The normal Provincial and District administrative and budgetary procedures for the development of projects in Morobe Province will be separate from the MPMU arrangement. The MPMU is specific for the Hidden Valley project and is aimed at improving the welfare of communities impacted by the Hidden Valley project.

19 FINANCIAL ASSISTANCE TO LANDOWNERS

- 19.1 The Provincial Government shall give a one off grant of K 150,000.00 to NAKUWI Association to assist in establishing support facilities.
- 19.2 The Provincial Government shall extend financial assistance to NKW Holdings Ltd as follows:
- (a) Subject to NKW Holdings Ltd satisfying the Provincial Government's requirements for prudential management, a once only grant of K500,000.00 to enable NKW Holdings Ltd to participate in commercial opportunities arising from the project.
 - (b) This grant is payable upon the signing of this agreement.

20 LAND

- 20.1 The Provincial Government will provide training and materials for Land Mediators and their allowances to attend to land disputes in the mine area.

21 VILLAGE COURTS

- 21.1 The Provincial Government will provide training and materials for Village Court Magistrates and their allowances to attend to disputes in the mine area.

22 ENVIRONMENT

- 22.1 Morobe Provincial Government through the Division of Mines, Natural Resources and Environment shall work with Department of Environment and Conservation to ensure that Morobe Consolidated Goldfields develops the project within the conditions of the Environment Permit that was granted to the company in accordance with the Environment Act 2000.

That Morobe Provincial Government undertakes to have:

- a) Officers of the Division of Mines, Natural Resources and Environment and/or its consultants shall work with the Department of Environment of Environment and Conservation to conduct regular inspections to review environmental impact of the project during and after the mine life on all aspects of the physical and/or natural environment including monitoring of the river system from hidden Valley project site to the Markham delta.

- b) The reports emanating from such inspections shall be distributed to relevant Government Department and Agencies, Hidden Valley Project Landowners, National Government and Morobe Consolidated Goldfields.

23 PROVINCIAL GOVERNMENT TO CO-OPERATE AND ASSIST

- 23.1 The Provincial Government will work closely in consultation with the Project Landowners, the Local Level Government, the State and MCG through the establishment of a Provincial Division of Mines in the implementation of the provisions of this Agreement.

PART D – THE WAU RURAL LLG; THE WATUT LLG; THE WAU/BULOLO URBAN LLG UNDERTAKING

24 ACCOUNTING OF ROYALTIES

- 24.1 The Wau Rural LLG, Wau Bulolo Urban LLG and Watut LLG undertake to allocate royalties derived from The Hidden Valley Project in the following manner: -
- (a) a minimum of 50% towards Village Ward Projects
 - (b) a minimum of 30% towards Family Development and Community Sustainable Development Programs
- 24.2 The Local Level Governments of Wau Rural, Wau Bulolo Urban, and Watut accept that their ongoing right to the royalty allocation set out under Clause 3 is conditional upon their compliance with Clause 23.1 and will be subject to annual audits.
- 24.3 Where auditors determine that a local level government has not allocated royalties to the agreed purpose prescribed in Clause 23.1, royalties will be diverted to the Trust Fund referred to in Clause 3.4.

25 FAMILY DEVELOPMENT PROGRAM

- 25.1 The Wau/Bulolo Urban, Wau Rural and Watut Local Level Governments undertake to provide assistance to establish a Family Development Program in the mine affected areas to further advance the aims and aspirations of family life, women and youth through life skills training programs, micro-credit programs, and agriculture, health and literacy programs.
- 25.2 The Family Development Program will commence with the commencement of the mine production.

26 COMMUNITY SUSTAINABLE DEVELOPMENT PROGRAM

- 26.1 The Local Level Government's agrees to assist with Sustainable Community Development Planning under the 5 year rolling District Development Plan.
- 26.2 The Local Level Government agrees to assist their Council ward areas with identified projects; especially in the more impacted areas.

27 LOCAL LEVEL GOVERNMENT'S TO CO-OPERATE AND ASSIST

- 27.1 The Local Level Government's will work closely in consultation with the Hidden Valley Project Landowners, the State, the Provincial Government, MCG, the respective Ward's and the Provincial Division of Mines in the implementation of the provisions of this Agreement.

PART E – THE UNDERTAKINGS BY MCG

28 CONTRIBUTION TO PHYSICAL AND SOCIAL INFRASTRUCTURE

- 28.1 MCG shall provide, during the mine construction period, and during mine life suitable funding as agreed upon during its annual budgeting cycle. The funding will be dependent on both impacts of mining and social responsibility as well as economic circumstances. Projects will include: education, training, health and agriculture extension programmes, alcohol and drug HIV/AIDS awareness and educational programmes, water tanks, and identified sustainable development programmes and projects.

29 FINANCIAL ASSISTANCE TO LANDOWNERS

- 29.1 MCG has provided sufficient funding for the establishment of NAKUWI Association.
- 29.2 MCG has provided sufficient funding for the entire MOA negotiation process.
- 29.3 MCG shall also provide annual grants of up to K100, 000.00 for the continued maintenance of NAKUWI Association throughout the life of the project providing that Nakuwi Association continues functioning as a coherent functioning body in its undertakings.

30 FAMILY DEVELOPMENT PROGRAM

- 30.1 MCG will work with the LLG's to provide technical assistance to establish the Family Development Program's referred to in Clause 24 above, for the mine affected areas to advance the aims and aspirations of families

through life skills training programs, micro credit programs, agriculture, health and literacy programs.

31 ENVIRONMENT

- 31.1 MCG will ensure the Project is developed in a manner that is in accordance with the approved Environmental Permit conditions as governed by the Environment Act 2000.
- 31.2 MCG agrees that in the event of any claims for environmental damages or any other losses associated with the environment suffered as a result of the Company's mining operations, then these will be referred to the Department of Environment and Conservation for further investigation.
- 3.3 MCG shall facilitate an independent assessment of the environmental impact of the mine in compliance with the approved environmental plan.

32 MINE CLOSURE PLAN

- 32.1 MCG shall use best endeavours to ensure that the conceptual Mine Closure Plan Annexure C is updated regularly and that this is finalised as mine closure plan.
- 32.2 MCG shall use best endeavours to comply with the mine closure plan.

33 EMPLOYMENT AND TRAINING

- 33.1 MCG through the Department of Labour and Industrial Relations shall use best endeavours to ensure the Employment and Training Plan submitted pursuant to Annexure B is fully complied with and implemented by all parties.
- 33.2 MCG shall develop, organize and facilitate suitable training plans for its employees.
- 33.3 MCG shall comply with training requirements and implement the Department of Labour and Industrial Relations approved Training and Localisation Plan.
- 33.4 MCG shall give preference as far as is reasonably possible in training and employment opportunities in the construction and operation of the project in the following order of priority –
 - (a) To the NAKUWI Landowners,
 - (b) To the people of Bulolo District,

- (c) To the people of the Morobe Province,
- (d) To the people of Papua New Guinea and
- (e) To non citizens of Papua New Guinea.

33.5 MCG shall provide an annual report for tabling at a review of:

- (a) The progress in the compliance and implementation of training and localisation plan; and
- (b) The implementation of a career succession plan.

33.6 MCG will consult with the Landowners to develop secondary and tertiary scholarship programs.

33.7 MCG shall during the construction period use its best endeavours to provide training for locally based workers.

34 BUSINESS DEVELOPMENT PLAN

34.1 MCG shall use its best endeavours to ensure the Business Development Plan submitted pursuant to Annexure A and approved by the Department of Trade and Industry is fully complied with and implemented.

34.2 MCG shall encourage the development of businesses with spin off opportunities from the Project and in doing so will give preference on terms generally available and subject to proven expertise to businesses owned and operated by firstly; the NAKUWI Landowners under NKW Holdings Limited; secondly, the people of Bulolo District; thirdly, the Morobe Province; and fourthly, to the people of Papua New Guinea.

34.3 MCG will establish and ensure prior to commencement of production that:

- (a) There is a Business Development Office (BDO) responsible for the implementation of the Business Development Plan in consultation with directors of the NKW Holding Ltd., the Wau/Bulolo District Business Development Office and the Provincial Division of Commerce.
- (b) The BDO will where it can be demonstrated supply goods and services in a cost effective manner:
 - (i) liaise with the project management for the provision of contracts for the NKW Holdings Ltd.; and
 - (ii) ensure that, where feasible, contracts for the provision of goods and / or services to the Project during the construction

period are structured so as to enable locally owned business ventures to be positioned to bid for and undertake those contracts; and

- (iii) the NKW Holdings Ltd. to establish joint ventures with successful external contractors or suppliers to the Project;

34.4 MCG has assisted with the establishment of the NKW Holdings Ltd.

34.5 MCG will keep the NAKUWI Landowners and their corporate identities informed in accordance with Harmony's policies and procedures:

- (a) The probable types of business opportunities and the approximate values of contracts through the contract consultative group to ensure the NAKUWI Landowners and their NKW Holdings Ltd. to be prepared in advance.
- (b) Contracts that will qualify for NKW Holdings Ltd. involvement through the provision of goods and services:
 - (i) during the construction period of the mine;
 - (ii) during the operational phase of the mine.
- (c) The estimated value each of the local business contracts
- (d) The proposed award date and estimated duration of each local business contract.

34.6 MCG will provide a six monthly report for a six monthly review on activities undertaken in the implementation of the BDP.

35 SUPPLY AND PROCUREMENT

35.1 MCG undertakes to use its best endeavours to identify and invite registered businesses in Papua New Guinea, particularly in the Morobe Province which are capable of supplying materials, equipment and services to the project in liaison with NKW Holdings Limited but pre-qualification and registration does not provide assurance to a business that they will be invited to tender or be awarded any contracts

35.2 MCG will ensure that where goods and services are procurable for the project through PNG sources MCG will provide those pre-qualified companies every opportunity to participate in the tendering process and if such tender:

- (a) Meets the specifications of the invitation to tender, and
- (b) Is competitive in cost with international services, taking full account of all landed costs; and

- (c) Meets delivery requirements of the Project, then the successful tenderer will be directed where appropriate to enter into a joint venture arrangement with NKW Holdings Limited to provide the contracted goods and services.
- 35.3 MCG will procure from PNG sources with preference given in the following order to those from:
- (a) the NAKUWI Landowners,
 - (b) the people of Bulolo District,
 - (c) the people of the Morobe Province,
 - (d) the people of Papua New Guinea and
 - (e) non citizens of Papua New Guinea
- 35.4 MCG shall use its best endeavours to ensure the Procurement and Supply Plan submitted pursuant to Annexure D is fully complied with and implemented.

36 MCG TO CO-OPERATE AND ASSIST

- 36.1 MCG will work closely in consultation with the Landowners, the Local Level Governments, the Provincial Government and the State in the implementation of the provisions of this Agreement.

PART F – LANDOWNERS UNDERTAKINGS

37 NAKUWI ASSOCIATION INC.

The NAKUWI Association Inc. hereby undertake to:

- 37.1 Work in full consultation with the State, the Local level Government, the Provincial Government, and MCG and associated entities to ensure the smooth and efficient operation of the mine.
- 37.2 Ensure timely compliance with the association's statutory obligations.
- 37.3 Provide a mechanism of alternative dispute resolution which will attempt in the first instance to solve disputes between themselves or disputes between themselves and other parties to the Agreement that may impact on the mine operations.

- 37.4 Provide a six monthly report for a six monthly review of the mine operations covering mine impacts and changes in their socio-economic conditions.
- 37.5 Ensure that all money received from other stakeholders is accounted for in the agreed manner: -
- (a) In the case of the State, in accordance with the Public Finance Management Act 1995
 - (b) In the case of the Morobe Provincial Government on a quarterly basis, in accordance with the Public Finance Management Act 1995.
 - (c) In the case of MCG, by the provision of compliant financial statements within 21 days of the end of each month; and in the case of any entity incorporated under the Companies Act, 1997, by the provision of audited accounts within 60 days of the end of each financial year.

38 NKW HOLDINGS LTD.

- 38.1 The NAKUWI Landowners have formed an umbrella company known as NKW Holdings Limited for the purposes of partaking in business spin-offs created as a result of the project and furthering their long-term business interests.
- 38.2 The NAKUWI Landowners agree that the shareholding arrangement under the NKW Holdings Ltd. shall be fairly distributed amongst Nauti, Kuembu and Winima Clans and shares will be non-transferable after issue except where such a transfer would not affect this arrangement.
- 38.3 The NAKUWI Landowners agree that the payment of grants from the State and the Provincial Government and any financial assistance from MCG to NKW Holdings Ltd will be contingent upon the constitution of NKW Holdings Ltd stipulating that the number of the directors of NKW Holdings Ltd will not exceed six (6) of which three will be independent directors, nominated by the State and/or the Provincial Government.
- 38.4 Ensure that all money received from other stakeholders is accounted for in the agreed manner: -
- (a) In the case of the State in accordance with the Public Finance Management Act 1995
 - (b) In the case of the Morobe Provincial Government on a quarterly basis in accordance with the Public Finance Management Act 1995.
 - (c) In the case of MCG, by the provision of compliant financial statements within 21 days of the end of each month; and in the case of any entity incorporated under the Companies Act, 1997, by

the provision of audited accounts within 60 days of the end of each financial year.

39 LANDOWNERS TO CO-OPERATE AND ASSIST

The Landowners hereby give the following undertakings:

- 39.1 To co-operate with and assist the State, the Provincial Government, the Local Level Government's and MCG to ensure the smooth and efficient operation of the Project.
- 39.2 Not to disrupt the operation of the Project at any time during the lifetime of the Project should any problems arise which are connected with the Project.
- 39.3 Not to interfere with or otherwise change any electrical, infrastructural, roads or water installation installed by the State, the Provincial Government or MCG.
- 39.4 Not to damage any buildings, facilities or projects installed by the State, the Provincial Government or MCG.

40 LAND FOR SUSTAINABLE DEVELOPMENT PROJECTS

- 40.1 The Landowners undertake to identify and provide land for agreed community infrastructure and services under the project implementation plan.

41 PROJECT EQUITY

- 41.1 The Provincial Government and the Landowners have requested a desire for a participating equity in the Hidden Valley Project.
- 41.2 MCG recognises such a desire and should circumstances arise to facilitate an equity interest then MCG will consider the stated desire.
- 41.3 A participating interest shall be negotiated subject to normal commercial and legal conditions.
- 41.4 The equity purchase by the Parties in Clause 40.1 would be limited to a maximum of 5%.

PART G – FORMAL CLAUSES

42 LAW APPLICABLE

- 42.1 This Agreement shall be governed by and construed in accordance with the laws of the Independent State of Papua New Guinea.

43 FORCE MAJEURE

- 43.1 For the purposes of this Agreement, Force Majeure shall include war, insurrection, civil disturbances, blockades, riot, embargoes, strikes, lock-outs and other labour conflicts and disputes, epidemics, volcanic eruptions, earthquakes, cyclones, floods, tidal waves, explosions, fires, lightning, governmental restrictions or unavailability of material or equipment and any other event which the party claiming force majeure could not reasonably be expected to prevent or control.
- 43.2 Any failure on the part of a Party to comply with any of the terms, conditions and provisions of this Agreement (except any obligations of a Party to make payment of money owed to the other Party) shall not constitute grounds for termination or shall not give the other Party any claim for damages if such failure arises from Force Majeure, and provided the first-mentioned Party:
- (a) Has taken all appropriate precautions, due care and reasonable alternative measures either with the objective of avoiding such failure and/or of carrying out its obligations under this Agreement; and
 - (b) Has given notice to the other Party of the occurrence of Force Majeure upon becoming aware of same.
- 43.3 The first-mentioned Party shall take all reasonable measures to overcome the Force Majeure and to fulfil the terms and conditions of this Agreement with the minimum of delay (except that no Party has an obligation to settle a labour dispute or to test the validity of any legislation) and shall give notice to the other Party upon the restoration of normal conditions.

44 TERMINATION / REVIEW

- 44.1 This Agreement shall terminate on the expiration of the Mining Lease or upon its earlier revocation or surrender.
- 44.2 The Parties shall hold a full review of this Agreement after 3 years from the date of commencement of production as verified in writing by the Department of Mining and every two years thereafter.

45 RESOLUTION OF DISPUTES

- 45.1 Where a dispute arises between the Parties as to the interpretation or implementation of this Agreement, they shall genuinely consult with each other with a view to resolving same. All such matters shall be treated as confidential and not for release to the press or to other persons except by written authorization from these parties.

- 45.2 Where a party fails to genuinely consult and complies with other parties causing disruption and financial loss then those parties may be deemed to be responsible and liable for costs.

46 ARBITRATION

- 46.1 Where a dispute referred to in Clause 44 is not resolved within sixty (60) days from the day on which the Parties first formally meet for the purpose, the Parties shall submit the dispute to a single arbitrator in Papua New Guinea as agreed to by the Parties for resolution of disputes in accordance with the provisions of the Arbitration Act (Chapter 46)

47 WAIVER

- 47.1 The failure of any Party to implement at any time, any of the provisions of this Agreement shall in no way be construed to be a waiver of the provisions or any part thereof of this Agreement or the right of any Party thereafter to enforce each and every part of the provision in respect of any subsequent default or breach.

48 SEVERABILITY

- 48.1 The provisions of this Agreement shall be separate and severable each from the other to the extent that if any portion or any one provision or portion is deemed to be inoperative then the remainder of the Agreement shall remain binding upon and enforceable by the Parties hereto.

49 FURTHER ACTS

- 49.1 The Parties shall execute such documents and do and perform such acts that lie within their power and are necessary to give full effect to this Agreement.

50 IMPLEMENTATION

- 50.1 Each Party shall use its best endeavours to comply with conditions and obligations under this Agreement.

51 REPRESENTATIONS AND WARRANTIES

- 51.1 Except as expressly stated in this Agreement, no representation, inducement or warranty given or made by one of the Parties hereto with the intention of inducing the other Party to enter into this Agreement, and any representation which maybe construed as inducements or warranties that may have been so given are hereby denied and negated.

52 NO DEVOLUTION

52.1 All undertakings given by any one party under the MOA shall not be devolved or transferred to another party except as reasonably agreed to by all parties to this MOA.

53 COMMUNICATIONS

53.1 Any formal communication by the Parties concerning this Agreement shall be deemed to have been made:

- a) In the case of the State, if signed by the Minister or the Secretary of the Department of Mining, as their responsibilities require; and
- b) In the case of the NAKUWI Landowners, if signed by the NAKUWI Association President and Executives; and
- c) In the case of the Provincial Government if signed by the Governor, or the Provincial Administrator; as their responsibilities require and
- d) In the case of MCG if signed by the Chief Executive Officer of MCG or his authorised deputy.

53.2 Any formal communication shall be in writing and may be delivered either personally, or transmitted by facsimile or electronic mail to the person, or persons referred to in Clause 52.1 herein.

53.3 Any formal communication shall be deemed to have reached the other Party:

- (a) in the case of personal delivery, when received by the relevant person referred to in Clause 52.1 herein; and
- (b) in the case of facsimile or electronic mail as soon as the transmission is confirmed.

54 CONSULTATION

54.1 The Parties agree to meet on a quarterly basis to review activities of the mine operations and obligations under this Agreement.

54.2 A project review will be held every six (6) months from the signing of this Agreement, or as determined by the Parties to this Agreement.

55 EXECUTION

55.1 This document is legally binding on all parties to the MOA upon its execution by the duly authorized representative or representatives for each stakeholder who is a party to this MOA.

55.2 The execution shall not be affected by any future land ownership title determination.

55.3 Any such new determination of landownership shall be deemed to have been fairly represented by the signatories to this MOA.

56 COMMENCEMENT DATE OF THIS AGREEMENT

56.1 The commencement date for this Agreement will be the date of execution of the MOA.

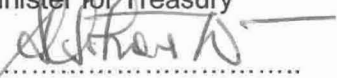
In **WITNESS WHEREOF** of this Agreement has been duly executed in Papua New Guinea on the 5th day of AUGUST 2005.

SIGNED for and on behalf of the
Independent State of Papua New Guinea
acting with and in accordance with the advice of
the National Executive Council



Hon. Bart Philemon, MP

by the Minister for Treasury



.....
Witness

SIGNED for and on behalf of the
Morobe Provincial Government
acting with and in accordance with the advice of
the Provincial Executive Council of
the Morobe Provincial Province



Hon. Luther Wenge, MP

by the Governor


.....
Witness

SIGNED for and on behalf of the
Wau/Bulolo Urban/Local Level Government



Mr. Abihe Tanize

by the President


.....
Witness

SIGNED for and on behalf of the
Wau Rural Local Level Government



Mr. Sopa Mon

by the President


.....
Witness

SIGNED for and on behalf of the
Watut Rural Local Level Government



Mr. Bani Isaac

by the President


.....
Witness

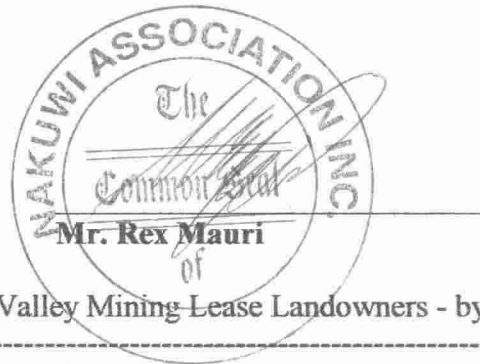
SIGNED for and on behalf of the
Morobe Consolidated Goldfields Ltd
By the Executive Officer

MOROBE CONSOLIDATED GOLDFIELDS LIMITED
P.O. BOX 80
WAU

Mr. Graham Paul Briggs
PHONE: 474 6208
FAX: 474 6344

Witness

Signed for and on behalf of the)
Mining Lease Landowners)
By the chairman of)
Nakuwi Landowners Association)



WITNESSED for and on behalf of the Hidden Valley Mining Lease Landowners - by:

NAME OF VILLAGE	VILLAGE REP.	SIGN
1. Nakuwi Deputy President (Nauti)	Peter Askai	<i>Peter Askai</i>
2. Nakuwi Treasurer (Kwembu)	Ilaui Wara	<i>Ilaui Wara</i>
3. Nakuwi Secretary (Nauti)	Ben Joseph	<i>Ben Joseph</i>
4. Nakuwi Committee (Kwembu)	Stevie Nandang	<i>Stevie Nandang</i>
5. Nakuwi Committee (Nauti)	Kepas Angitau	<i>Kepas Angitau</i>
6. Nakuwi Committee (Winima)	Kawen Waia	<i>Kawen Waia</i>
7. Nakuwi Committee (Nauti)	Naino Kwamio	<i>Naino Kwamio</i>
8. Nakuwi Committee (Winima)	Yapu Songoa	<i>Yapu Songoa</i>
9. Nakuwi Committee (Nauti)	Maori Mita	<i>Maori Mita</i>
10. Nakuwi Committee (Winima)	Joel Awi	<i>Joel Awi</i>
11. Nakuwi Committee (Nauti)	Henry Kondreas	<i>Henry Kondreas</i>
12. Nakuwi Committee (Kwembu)	Waekis Kawena	<i>Waekis Kawena</i>
13. Nakuwi Women's Rep (Nauti)	Ayemba Lape	<i>Ayemba Lape</i>
14. Nakuwi Women's Rep (Kwembu)	Kawi Kawa	<i>Kawi Kawa</i>
15. Nauti (Yatavo)	Max Kepas	<i>Max Kepas</i>
16. Nauti (Yatavo)	Koi Ngamalo	<i>Koi Ngamalo</i>
17. Nakuwi (Kavaingo)	Kondias Kipamano	<i>Kondias Kipamano</i>
18. Nakuwi (Yandiamango)	Andrew Mera	<i>Andrew Mera</i>
19. Kwembu	Levi Inani	<i>Levi Inani</i>
20. Kwembu	Wayang Kawa	<i>Wayang Kawa</i>
21. Winima	Samson Kawa	<i>Samson Kawa</i>
22. Winima	Henry Kiari	<i>Henry Kiari</i>