

No. 12154

**INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT
and
BOTSWANA**

Loan Agreement—*Shashe Project* (with schedules and General Conditions Applicable to Loan and Guarantee Agreements). Signed at Washington on 30 June 1971

Agreement amending the above-mentioned Loan Agreement. Signed at Washington on 1 March 1972

Authentic texts: English.

Registered by the International Bank for Reconstruction and Development on 29 November 1972.

**BANQUE INTERNATIONALE POUR
LA RECONSTRUCTION ET LE DÉVELOPPEMENT
et
BOTSWANA**

Contrat d'emprunt — *Projet de la Shashe* (avec annexes et Conditions générales applicables aux contrats d'emprunt et de garantie). Signé à Washington le 30 juin 1971

Contrat portant modification du Contrat d'emprunt susmentionné. Signé à Washington le 1^{er} mars 1972

Textes authentiques : anglais.

Enregistrés par la Banque internationale pour la reconstruction et le développement le 29 novembre 1972.

LOAN AGREEMENT¹

AGREEMENT dated June 30, 1971, between REPUBLIC OF BOTSWANA (hereinafter called the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS (A) By an agreement dated January 15, 1970 (hereinafter called the Development Credit Agreement) between the Borrower and the International Development Association (hereinafter called the Association), the Association agreed to make a credit (hereinafter called the Credit) in various currencies equivalent to two million five hundred thousand dollars (\$2,500,000) to assist the Borrower in the financing of an infrastructure engineering and preliminary works project for a mining development in northern Botswana on terms and conditions set forth in the said agreement;

(B) The Borrower has requested the Bank to assist in the financing of the Project described in Schedule 3 to this Agreement by making the Loan as hereinafter provided;

(C) By an agreement dated June 30, 1971 the United States of America acting through the Agency for International Development (hereinafter called AID) has agreed to make a loan to the Borrower in an amount of six million five hundred thousand dollars (\$6,500,000) to assist the Borrower in the financing of Section 2 of Part B of the Project on terms and conditions set forth in the said agreement;

(D) By an agreement dated November 16, 1970 Canada, acting through the Canadian International Development Agency (hereinafter called CIDA) has agreed to make a loan to the Borrower in an amount of twenty million Canadian dollars (Can\$20,000,000) to assist the Borrower in the financing of Section 1 of Part C of the Project on terms and conditions set forth in the said agreement;

(E) By an agreement to be entered into between the Borrower and Bamangwato Concessions Limited (hereinafter called BCL) the Borrower will agree *inter alia* to complete the Project and BCL will agree *inter alia* to complete the mining development (hereinafter called the Mining Project) described in Schedule 4 to this Agreement;

(F) By an agreement to be entered into between Kreditanstalt für Wiederaufbau (hereinafter called KFW) and BCL, KFW together with ten German commercial banks will make a loan in an amount of two hundred twenty-two million Deutsche Mark (DM222,000,000) to BCL to assist BCL in the financing of the Mining Project on terms and conditions set forth in the said agreement;

(G) By an agreement to be entered into between the Industrial Development Corporation of South Africa Limited (hereinafter called IDC), Tusitala (Pty.) Limited (a wholly owned subsidiary company of IDC) (hereinafter called Tusitala) and BCL, Tusitala will make a loan to BCL in an amount of thirteen million five hundred thousand Rand (R13,500,000) to assist BCL in the financing of the Mining Project on terms and conditions set forth in the said agreement;

(H) By resolution to be passed by BCL, the authorized share capital of BCL will be increased from R3,000,000 divided into 1,500,000 ordinary shares of R2 each to R35,500,000 by the creation of 16,250,000 new ordinary shares of R2 each for the

¹ Came into force on 7 March 1972, upon notification by the Bank to the Government of Botswana.

purposes of the proposed subscription by the shareholders of BCL of additional shares in the capital of BCL to provide financing for the Mining Project;

(I) The Association has requested that part of the Credit in an amount equivalent to nine hundred ten thousand dollars (\$910,000) be refunded out of the proceeds of the Loan and the Borrower and the Bank agree with such request;

(J) By an agreement¹ to be entered into between the Bank on the one side and BCL, American Metal Climax, Inc., Anglo American Corporation of South Africa Limited, Botswana RST Limited, Charter Consolidated Limited, RST International Inc., Zambian Anglo American Limited and Metallgesellschaft AG (hereinafter respectively called BCL, Amax, Anglo, BRST, Charter, RST, Zamanglo and MG) on the other side, BCL, Amax, Anglo, BRST, Charter, RST, Zamanglo and MG will agree *inter alia* to guarantee the payment obligations of the Borrower in respect of the Loan on terms and conditions set forth in said agreement and BCL will further agree to secure its obligations under the said agreement by the creation of a first mortgage on certain of its assets in favor of the Bank ranking *pari passu* with the first mortgages securing BCL's obligations under the KFW Loan Agreement and the IDC Loan Agreement; and

(K) The Bank has agreed on the basis *inter alia* of the foregoing to make the Loan to the Borrower upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties hereto hereby agree as follows:

Article I. GENERAL CONDITIONS; DEFINITIONS

Section 1.01. The parties to this Loan Agreement accept all the provisions of the General Conditions Applicable to Loan and Guarantee Agreements of the Bank, dated January 31, 1969,² with the same force and effect as if they were fully set forth herein, subject, however, to the modifications thereof set forth in Schedule 6 to this Agreement (the said General Conditions Applicable to Loan and Guarantee Agreements of the Bank, as so modified, being hereinafter called the General Conditions).

Section 1.02. Wherever used in this Loan Agreement, unless the context otherwise requires, the several terms defined in the General Conditions have the respective meanings therein set forth and the following additional terms have the following meanings, reference to an agreement being reference to such agreement as the same may be amended from time to time by agreement between the parties thereto and including all schedules (including agreements scheduled thereto as the same may likewise be amended), appendices, statements or annexes thereto:

(1) "AID Loan" means the loan provided for under the AID Loan Agreement.

(2) "AID Loan Agreement" means the agreement referred to in Recital (C) of this Agreement.

(3) "Agreements of Hypothecation" means the instrument or instruments by which BCL creates a first mortgage in favor of the Bank, KFW and Tusitala on its

¹ The said Agreement, dated 1 March 1972, entered into force on 7 March 1972. As it does not constitute an international agreement or a part of the present Agreement, it is not reproduced herein. However, it was published by the Bank as document LN776 BT, a certified true copy of which was transmitted to the Secretariat together with the documentation submitted for registration of the present Loan Agreement.

² See p. 35 of this volume.

rights, title and interest in the Mining Lease or on any other assets of BCL to secure BCL's obligations under the Guarantee Agreement, KFW Loan Agreement and the IDC Loan Agreement.

(4) "Canadian Loan" means the loan provided for under the Canadian Loan Agreement.

(5) "Canadian Loan Agreement" means the agreement referred to in Recital (D) of this Agreement.

(6) "Coal Agreement" means the agreement to be entered into between the Botswana Power Corporation and Morupule Colliery Limited, a subsidiary of the Anglo American Corporation of South Africa Limited.

(7) "Concession Agreement" means the exploration agreement dated June 2, 1959 and the deed of concession dated November 26, 1959, as amended by the agreement and deed of concession dated November 15, 1967.

(8) "Corporations" means the Water Corporation and the Power Corporation and includes either or both of them as the context may require.

(9) "Facility Agreement" means the agreement to be entered into between BCL, N.M. Rothschild & Sons Limited and other commercial banks for the provision to BCL of short-term financing against the security of the products of the Mining Project.

(10) "Guarantee Agreement" means the Guarantee Agreement referred to in Recital (J) of this Agreement.

(11) "Guarantors" means BCL, Amax, Anglo, BRST, Charter, RST, Zamanglo and MG and includes any or all of them as the context may require and the term "Principal Guarantors" means Amax, Anglo and MG and includes any or all of them as the context may require.

(12) "IDC Completion Agreement" means the agreement to be entered into between Tusitala, Amax, Anglo, BRST, Charter, RST and Zamanglo.

(13) "IDC Loan" means the loan provided for under the IDC Loan Agreement.

(14) "IDC Loan Agreement" means the loan agreement referred to in Recital (G) of this Agreement.

(15) "KFW Completion Agreement" means the agreement to be entered into between KFW, Amax, Anglo, BRST, Charter, RST and Zamanglo.

(16) "KFW Loan" means the loan provided for under the KFW Loan Agreement.

(17) "KFW Loan Agreement" means the loan agreement referred to in Recital (F) of this Agreement.

(18) "Lenders' Agreement"¹ means the agreement to be entered into between the Bank, IDC and KFW.

(19) "Master Agreement" means the agreement referred to in Recital (E) of this Agreement.

¹ The said Agreement, dated 1 March 1972, entered into force on 7 March 1972. As it does not constitute an international agreement or a part of the present Agreement, it is not reproduced herein. However, it was published by the Bank as document LN776 BT, a certified true copy of which was transmitted to the Secretariat together with the documentation submitted for registration of the present Loan Agreement.

(20) "Mining Lease" means the lease to be granted by the Borrower to BCL pursuant to Section 24 of the Mines and Minerals Act, 1967 and to the Bamangwato Concessions Limited Mining Lease Act, 1970, as amended to the date of this Agreement.

(21) "Mining Project" means the mining project as described in Schedule 4 to this Agreement and as the description thereof may be amended from time to time by agreement between the Borrower and the Bank.

(22) "Power Agreement" means the agreement so designated to be entered into between the Power Corporation and BCL.

(23) "Power Corporation" means the Botswana Power Corporation established under the Botswana Power Corporation Act, 1970.

(24) "Power Subsidiary Loan Agreement" means the agreement to be entered into between the Borrower and the Power Corporation providing *inter alia* for the relending by the Borrower to the Power Corporation of the proceeds of the Canadian Loan and part of the Loan.

(25) "Project Loans" means the AID Loan and Canadian Loan.

(26) "Project Loan Agreements" means the AID Loan Agreement and the Canadian Loan Agreement.

(27) "Railways Agreements" means the Morupule Railway Agreement and the Selebi-Pikwe Railway Agreement both to be entered into between the Borrower and the General Manager of Rhodesia Railways.

(28) "Rand" and the sign "R" mean rand in currency of the Borrower.

(29) "Refining Agreement" means the agreement to be entered into between BCL and Amax, providing for the refining of copper/nickel matte produced under the Mining Project.

(30) "Sales Agreement" means the agreement to be entered into between BCL and MG providing for the sales of nickel, copper and other metals by BCL to MG.

(31) "Shareholders' Agreement" means the agreement to be entered into between the Borrower and certain shareholders of BCL.

(32) "Shashe Division" means, in the case of the Water Corporation, the division maintained for accounting purposes within the Water Corporation to account separately for the financing, construction, operation, maintenance, and income of the water facilities included in the Project as such facilities may be affected by additions and retirements; and in the case of the Power Corporation, the division maintained for accounting purposes within the Power Corporation to account separately for the financing, construction, operation, maintenance and income of the power facilities included in the Project, as such facilities may be affected by additions and retirements.

(33) "Specified Documents" means the Master Agreement, Shareholders' Agreement, Tax Agreement, Concession Agreement, Power Agreement, Temporary Power Agreement, Water Agreement, Temporary Water Agreement, Township Contribution Agreement, Project Loan Agreements, Guarantee Agreement, Trust Deed, Facility Agreement, Power Subsidiary Loan Agreement, Water Subsidiary Loan Agreement, Lenders' Agreement, Agreements of Hypothecation, Railways Agreements, Coal Agreement, KFW Loan Agreement, KFW Comple-

tion Agreement, IDC Loan Agreement, IDC Completion Agreement, Mining Lease, Sales Agreement, Sulphur Sales Agreement, Refining Agreement and any other agreements scheduled to the Master Agreement other than the Loan Agreement.

(34) "Sulphur Sales Agreement" means the agreement to be entered into between BCL and Triomf Fertilizer and Chemicals Industries Limited.

(35) "Tax Agreement" means the agreement dated March 5, 1970 between the Borrower, BCL and Botswana RST Limited as amended to the date of this Agreement and ratified by the Selebi-Pikwe Tax Ratification Act, 1970 as amended to the date of this Agreement.

(36) "Temporary Power Agreement" means the agreement so designated dated June 23, 1971 between the Borrower and BCL.

(37) "Temporary Water Agreement" means the agreement so designated dated June 2, 1971 between the Borrower and BCL.

(38) "Township Contribution Agreement" means the agreement so designated to be entered into between the Borrower and BCL.

(39) "Trust Deed" means the agreement to be entered into between the Borrower, the Bank, KFW, IDC, Tusitala, MG, the Corporations, BCL and the Trustee.

(40) "Trustee" means the person for the time being so designated in the Trust Deed.

(41) "Water Agreement" means the agreement so designated to be entered into between the Water Corporation and BCL.

(42) "Water Corporation" means the Water Utilities Corporation established under the Water Utilities Corporation Act, 1970.

(43) "Water Subsidiary Loan Agreement" means the agreement to be entered into between the Borrower and the Water Corporation, providing *inter alia* for the relending by the Borrower to the Water Corporation of part of the proceeds of the Loan and of the proceeds of the AID Loan.

Article II. THE LOAN

Section 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions in the Loan Agreement set forth or referred to, an amount in various currencies equivalent to thirty-two million dollars (\$32,000,000).

Section 2.02. The amount of the Loan may be withdrawn from the Loan Account in accordance with the provisions of Schedule 1 to this Agreement, as such Schedule shall be amended from time to time, for expenditures made (or, if the Bank shall so agree, to be made) in respect of (i) the reasonable cost of goods and services required for Part A, Section 1 of Part B and Section 2 of Part C of the Project and to be financed under the Loan Agreement; (ii) the reasonable cost of administration and engineering services required for Section 2 of Part B and Section 1 of Part C; (iii) interest and other charges on the Loan; and (iv) the refunding of that part of the Credit which is referred to in Recital (I) hereof; provided, however, that, except as the Bank shall otherwise agree, no withdrawal shall be made on account of expenditures in the territories of any country which is

not a member of the Bank (other than Switzerland) or for goods produced in, or services supplied from, such territories.

Section 2.03. Except as the Bank shall otherwise agree, the goods and services (other than services of consultants) required for the Project and to be financed out of the proceeds of the Loan, shall be procured on the basis of international competition under procedures consistent with the *Guidelines for Procurement under World Bank Loans and IDA Credits*, published by the Bank in August 1969, and in accordance with, and subject to, the provisions set forth in Schedule 5 to this Agreement.

Section 2.04. The Closing Date shall be November 1, 1975 or such other date as shall be agreed between the Borrower and the Bank.

Section 2.05. The Borrower shall pay to the Bank a commitment charge at the rate of three-fourths of one per cent ($\frac{3}{4}$ of 1%) per annum on the principal amount of the Loan not withdrawn from time to time.

Section 2.06. The Borrower shall pay interest at the rate of seven and one-quarter per cent ($7\frac{1}{4}\%$) per annum on the principal amount of the Loan withdrawn and outstanding from time to time.

Section 2.07. Interest and other charges shall be payable semi-annually on May 15 and November 15 in each year.

Section 2.08. The Borrower shall repay the principal of the Loan in accordance with the amortization schedule set forth in Schedule 2 to this Agreement.

Section 2.09. Except as the Borrower and the Bank shall otherwise agree, if the Borrower shall prepay any part of its indebtedness under the Project Loan Agreements (or either of them), the Borrower shall simultaneously prepay a proportionate amount of the Loan then outstanding. All the provisions of the General Conditions relating to prepayment shall be applicable to any prepayment by the Borrower in accordance with this Section.

Section 2.10. If and when the Bank shall from time to time request, the Borrower shall execute and deliver Bonds representing the principal amount of the Loan as provided in Article VIII of the General Conditions.

Section 2.11. The Minister for the time being responsible for Finance and Development Planning of the Borrower and such other person or persons as he shall appoint in writing are designated as authorized representatives of the Borrower for the purposes of Section 8.10 of the General Conditions.

Section 2.12. Payments made by the Trustee under the Trust Deed to the Bank pursuant to the provisions thereof shall be deemed to be payments made by the Borrower directly to the Bank in accordance with the Loan Agreement.

Section 2.13. If the Exhaustion Date referred to in Section 4.04 of the Guarantee Agreement is stated by BCL or is determined by arbitration in accordance with Section 4.04 (b) of the Guarantee Agreement to be a date prior to May 15, 2000, unless the Borrower, the Bank and BCL shall otherwise agree, the amortization schedule set forth in Schedule 2 to this Agreement shall be revised to provide for the payment of the principal of the Loan then outstanding together with interest and other charges thereon, in equal semi-annual installments using the Exhaustion Date as the final maturity date.

Article III. EXECUTION OF THE PROJECT

Section 3.01. (a) The Borrower shall carry out, or cause to be carried out Part A of the Project and shall carry out or cause the Water Corporation to carry out Part B and the Power Corporation to carry out Part C of the Project with due diligence and efficiency and in conformity with sound administrative, financial, engineering and, in the case of the said Parts B and C, public utility practices, and shall provide or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for such purposes.

(b) The Borrower shall relend the proceeds of the Canadian Loan and part of the proceeds of the Loan to the Power Corporation under the Power Subsidiary Loan Agreement to be entered into between the Borrower and the Power Corporation, under terms and conditions which have been approved by the Bank.

(c) The Borrower shall relend the proceeds of the AID Loan and part of the proceeds of the Loan to the Water Corporation under the Water Subsidiary Loan Agreement to be entered into between the Borrower and the Water Corporation, under terms and conditions which have been approved by the Bank.

(d) The Borrower shall exercise its rights and perform its obligations under the Water Subsidiary Loan Agreement and the Power Subsidiary Loan Agreement in such manner as to protect the interests of the Borrower and the Bank, and to accomplish the purposes of the Loan, and except as the Bank shall otherwise agree, the Borrower shall not assign, nor amend, abrogate or waive either of such Agreements or any provision thereof.

(e) The Borrower shall take, or cause to be taken, all necessary action to enable the Corporations to perform all of their respective obligations under the Water Subsidiary Loan Agreement, the Power Subsidiary Loan Agreement, the Water Agreement, the Power Agreement and the Trust Deed and shall not take or permit to be taken any action which might interfere with such performance.

Section 3.02. Except as the Bank shall otherwise agree:

(a) In carrying out the construction of the Project, the Borrower shall on terms and conditions satisfactory to the Bank:

- (i) establish and maintain a Management Unit to administer, coordinate and supervise the construction of the Project, such Management Unit to be under the direction of a Chief Executive Engineer;
- (ii) make suitable arrangements, including the appointment of a Project Coordinator, for coordination between the Management Unit and the agencies and political subdivisions of the Borrower; and
- (iii) make suitable arrangements for the coordination and phasing of the carrying out of the Project and the Mining Project and shall for the purpose establish and maintain a Coordinating Committee with members to be appointed by the Borrower and BCL and under the chairmanship of the Chief Executive Engineer.

(b) The Borrower shall appoint as the Chief Executive Engineer, the Project Engineers in the Management Unit, and the Project Coordinator persons having the qualifications, experience and qualities appropriate to such positions. To that end, the Borrower shall consult the Bank about any proposed appointment to such positions sufficiently in advance of such appointment for the Bank to have adequate

opportunity to comment on it and shall make any such appointment only after the consideration of the views promptly expressed by the Bank.

Section 3.03. In order to assist the Borrower and the Corporations in the preparation of plans, specifications and bidding documents for the construction of the Project and in the supervision thereof, the Borrower shall employ or cause the Corporations to employ engineering consultants acceptable to the Bank to the extent and upon terms and conditions satisfactory to the Bank.

Section 3.04. In carrying out the construction of the Project, the Borrower shall employ or shall cause the Corporations to employ contractors acceptable to the Bank to the extent and upon terms and conditions satisfactory to the Bank.

Section 3.05. (a) The Borrower undertakes to insure, and cause the Corporations to insure, or make adequate provision for the insurance of, the goods to be financed out of the proceeds of the Loan and the Project Loans against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable by the Borrower or the Corporations to replace or repair such goods.

(b) Except as the Bank shall otherwise agree, the Borrower shall cause all goods and services financed out of the proceeds of the Loan and the Project Loans to be used exclusively for the Project and shall not sell, lease, transfer or otherwise dispose, or permit to be disposed, of such goods which shall be required for the efficient carrying out of the Project.

Section 3.06. (a) The Borrower shall furnish, or cause to be furnished, to the Bank, promptly upon their preparation, the reports, plans, specifications, construction schedules, work schedules and contract documents for, or in connection with, the Project, and any material modifications or amplifications thereof, in such detail as the Bank shall reasonably request.

(b) The Borrower: (i) shall maintain, or shall cause to be maintained, records adequate to record the progress of the Project (including the cost thereof) and to identify the goods and services financed out of the proceeds of the Loan and the Project Loans, and to disclose the use thereof in the Project; (ii) shall enable the Bank's representatives to inspect the Project, the goods financed out of the proceeds of the Loan and the Project Loans and any relevant records and documents; and (iii) shall furnish, or cause to be furnished, to the Bank all such information as the Bank shall reasonably request concerning the Project, the expenditure of the proceeds of the Loan and the Project Loans and the goods and services financed out of such proceeds.

Section 3.07. The Borrower shall take or cause to be taken all such action as shall be necessary to acquire as and when needed all such land and rights in respect of land as shall be required for the construction and operation of the facilities included in the Project and shall furnish to the Bank, promptly after such acquisition, evidence satisfactory to the Bank that such land and rights in respect of land are available for purposes related to the Project.

Article IV. OTHER COVENANTS

Section 4.01. (a) It is the mutual intention of the Borrower and the Bank that no other external debt shall enjoy any priority over the Loan or the Bonds by way of a lien on governmental assets.

(b) To that end the Borrower (i) represents that at the date of this Agreement no lien exists on any governmental assets as security for any external debt except as otherwise disclosed in writing by the Borrower to the Bank, and (ii) undertakes, except as the Bank shall otherwise agree, that if any such lien shall be created, it will *ipso facto* equally and ratably secure the payment of the principal of, and interest and other charges on, the Loan and the Bonds and in the creation of any such lien express provision will be made to that effect.

(c) The foregoing representation and undertaking shall not apply to: (i) any lien created on property, at the time of purchase thereof, solely as security for payment of the purchase price of such property; and (ii) any lien arising in the ordinary course of banking transactions and securing a debt maturing not more than one year after its date.

(d) As used in this Section, the term "governmental assets" means assets of the Borrower or of any of its political subdivisions or of any agency of the Borrower or of any such political subdivision, or of any institution which may be established to perform the functions of a central bank for the Borrower, and any participation, share, right or other financial interest which the Borrower may have in any institution (other than an agency of the Borrower) performing such functions for the Borrower.

Section 4.02. Except as the Bank shall otherwise agree:

(a) The Borrower shall maintain or cause to be maintained records adequate to reflect in accordance with consistently maintained sound accounting practices the operations and financial condition of the ministries, departments or agencies of the Borrower responsible for the carrying out of the Project or of any part thereof in respect of the roads, railways, township and other facilities referred to in Part A of Schedule 3 to this Agreement.

(b) The Borrower shall in addition to the requirements of subsection (d) hereof:

- (i) have, or cause to have, audited, in accordance with sound auditing principles consistently applied, by independent auditors satisfactory to the Bank:
 - (A) its accounts and financial statements in respect of the construction of the Project (statements of receipts and expenditures for the Project, and such other statements, including allocations of costs to individual components of the Project, as may be needed to make a fair financial presentation) for each financial year, and
 - (B) the accounts and financial statements (statements of receipts and expenditures and related statements) of the Selebi-Pikwe Township Authority for each financial year;
- (ii) furnish to the Bank as soon as available, but in any case not later than seven months after the end of each such year, (A) certified copies of such financial statements for such year as so audited and (B) the reports of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and
- (iii) furnish to the Bank such other information concerning the records, accounts and financial statements in respect of the Project and the audit thereof as the Bank shall from time to time reasonably request.

(c) The Borrower shall cause the Water Corporation and the Power Corporation to establish and maintain records adequate to reflect in accordance with consistently maintained sound accounting practices their respective operations and financial condition, including separate records and accounts relating exclusively to their Shashe Divisions, as referred to in Section 4.04 (b) of this Agreement.

(d) The Borrower shall cause the Corporations:

- (i) to have their respective accounts and financial statements (balance sheets, statements of income and expenses and related statements), including the separate accounts and financial statements of their Shashe Divisions, for each financial year audited, in accordance with sound auditing principles consistently applied, by independent auditors acceptable to the Bank;
- (ii) to furnish to the Bank as soon as available, but in any case not later than five months after the end of each such year, (A) certified copies of their financial statements including the financial statements of their Shashe Divisions for such year as so audited and (B) the reports of such audit by the said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and
- (iii) to furnish to the Bank such other information concerning the records, accounts and financial statements of the Corporations and the audit thereof as the Bank shall from time to time reasonably request.

Section 4.03. (a) The Borrower shall, in respect of item (iv) of Part A of the Project, take out and maintain with responsible insurers, or shall make other provision satisfactory to the Bank for, insurance against such risks and in such amounts as shall be consistent with sound practice.

(b) The Borrower shall cause the Corporations to take out and maintain with responsible insurers, or to make other provision satisfactory to the Bank for, insurance against such risks and in such amounts as shall be consistent with sound practice.

Section 4.04. Except as the Bank shall otherwise agree:

(a) The Borrower shall at all times maintain the corporate existence of the Corporations and their right to carry on their operations, and shall cause the Corporations to take all steps necessary to acquire, maintain and renew all rights, powers, privileges, concessions and franchises which are necessary in the conduct of their respective businesses.

(b) The Borrower shall cause each of the Corporations to establish and maintain a separate Shashe Division.

(c) The Borrower shall cause each of the Corporations to appoint as its Chief Executive Officer and Chief Accountant persons having the qualifications, experience and qualities appropriate to such positions. To that end, the Borrower shall consult and shall cause the Corporation in question to consult the Bank about any proposed appointment to such positions sufficiently in advance of such appointment for the Bank to have adequate opportunity to comment on it and shall cause the Corporations to make any such appointment only after consideration of the views promptly expressed by the Bank.

(d) The Borrower shall cause the Corporations at all times to carry on their operations, manage their affairs, maintain their financial position, and plan the future expansion of their electric power and water systems, all in accordance with sound business, engineering, financial and public utility principles and practices,

under the supervision of experienced and competent management, and with the assistance of adequate, qualified and experienced staff.

(e) In order to assist the Corporations in establishing their accounting and financial systems and administrative organizations, the Borrower shall cause each of the Corporations to employ management consultants, or to make other arrangements acceptable to the Bank, to the extent and upon terms and conditions satisfactory to the Bank.

(f) The Borrower shall cause the Corporations at all times to operate and maintain their plants, machinery, equipment and other property, and make all necessary renewals and repairs thereof, in accordance with sound engineering and public utility practices.

(g) The Borrower shall cause the Corporations to exchange views with the Bank from time to time during the construction of the Project on their programs for the recruitment and training of staff.

(h) The Borrower shall make arrangements, satisfactory to the Bank, with the Corporations for the administration, coordination and management of the construction of Part B and Part C of the Project on behalf of the Water Corporation and Power Corporation respectively.

Section 4.05. (a) The Borrower shall duly perform and shall cause each of the Corporations duly to perform the obligations imposed upon the Borrower or either of the Corporations by the Specified Documents to which any of them is party.

(b) Except as the Bank shall otherwise agree, the Borrower shall take, and shall cause each of the Corporations to take, to the extent that the Borrower or either Corporation is obligated or entitled to do so, all such action as may be necessary to maintain in full force and effect and to secure the prompt and diligent performance by the parties thereto of their respective obligations under the Specified Documents.

(c) The Borrower shall not make, and shall cause each of the Corporations not to make any material amendment to the Specified Documents to which the Borrower or either of the Corporations is party, without the consent of the Bank.

(d) The Borrower and the Bank shall exchange views as to any arbitration or any proceeding for the settlement of disputes contemplated or undertaken pursuant to any of the Specified Documents referred to in subsection (a) of this Section. The Borrower shall promptly advise the Bank, or cause each of the Corporations to advise the Bank, of any such arbitration or proceeding contemplated or undertaken and shall give, or cause each of the Corporations to give, the Bank such information as the Bank shall reasonably request to enable the Bank, if it so desires, to make its views thereon known to the Borrower or to each of the Corporations in connection with any such arbitration or proceeding.

Section 4.06. (a) Except as the Bank shall otherwise agree, and subject to compliance by BCL with its obligations under the Specified Documents to which BCL is party, the Borrower shall permit BCL: (i) to construct the Mining Project and bring it to completion in accordance with the Master Agreement, (ii) to export the products from the Mining Project, (iii) to maintain and operate the Mining Project in accordance with sound mining practices, (iv) to make payments required to be made under the Trust Deed, and (v) to maintain and renew all rights, privileges, franchises, licenses, consents or other rights as may be necessary to the construction and operation of the Mining Project.

(b) The Borrower covenants that it will not take, or cause or permit any of its political subdivisions or any of its agencies or any agency of such political subdivisions to take, any action which would prevent or interfere with the performance by BCL of its obligations under the Specified Documents to which BCL is a party, and will permit BCL to perform its said obligations.

Section 4.07. (a) The Borrower shall operate and maintain, or cause to be operated and maintained, the railways, township, roads and other facilities included in the Project, and from time to time make, or cause to be made, all necessary renewals and repairs thereof, all in accordance with sound administrative, engineering and financial practices.

(b) Without limiting the generality of subsection (a) hereof, the Borrower shall, under arrangements satisfactory to the Bank, cause the dams, waterways, earthworks and reservoir banks constructed under the Project to be periodically inspected in accordance with sound engineering practice in order to determine whether there are any deficiencies or potential deficiencies in the condition of such structures and earthworks, or in the quality and adequacy of maintenance or methods of operation of such structures and earthworks which may endanger the safety of such structures and earthworks.

Section 4.08. (a) The Borrower shall take all action, including enactment of pollution legislation and regulations, required to ensure that the operations and emissions of the Mining Project and of the Project shall be conducted with due regard to public health and the preservation of the environment.

(b) The Borrower shall cause BCL to comply with such pollution legislation and regulations as are from time to time in force in Botswana.

(c) The Borrower shall consult with the Bank from time to time with respect to the effectiveness of such pollution legislation and regulations and obtain the views of the Bank prior to any change in such legislation and regulations.

Section 4.09. Except as the Bank shall otherwise agree:

(a) The Borrower shall not award, or permit the Power Corporation to award, any contract for the construction of the Shashe-Francistown transmission line included in Part C of the Project until arrangements for a power supply, satisfactory to the Bank, between the Power Corporation and the Francistown Town Council shall have been concluded; and

(b) The Borrower shall, by December 31, 1971, determine the most suitable means of supplying water to the Morupule colliery and shall not award any contract for the construction of such water supply without the prior consent of the Bank.

Section 4.10. Except as the Bank shall otherwise agree:

(a) The Borrower shall ensure that the total debts incurred by the Water Corporation and by the Power Corporation in any financial year shall not exceed the equivalent amount of R55,000 and R250,000 in the currency of the Borrower respectively.

(b) For the purpose of this Section, the term "debt" means all debt except:

- (i) debt maturing by its terms on demand or less than one year after its incurrence;
- (ii) in the case of the Water Corporation, debt incurred under the Water Subsidiary Loan Agreement; and

- (iii) in the case of the Power Corporation, debt incurred under the Power Subsidiary Loan Agreement.

Section 4.11. Except as the Bank shall otherwise agree:

(a) The Borrower shall take, and cause the Water Corporation to take, all necessary steps within their respective powers (including, but not limited to, the establishment and adjustment of the Water Corporation's water tariffs and other charges for the water supply services provided by its Shashe Division) as shall be required (i) to satisfy in respect of the Shashe Division as a separate accounting entity all provisions of Section 19 of the Water Utilities Corporation Act, 1970, as amended to the date of this Agreement and (ii) to earn an annual rate of return on the value of the gross fixed assets in operation plus an appropriate allowance for working capital of the Shashe Division of not less than 7% for the financial year 1975, 7½% for the financial years 1976 through 1978 and 8% thereafter.

(b) For the purposes of this Section:

- (i) The annual rate of return shall be calculated by relating the operating income of the Shashe Division for the year in question to the average of the value of the gross fixed assets in operation plus an appropriate allowance for working capital of the Shashe Division at the beginning and at the end of each financial year.
- (ii) The term "value of the gross fixed assets in operation" means the gross value of such assets, as recorded in accordance with generally accepted accounting principles and consistent with the Water Agreement, and as revalued from time to time in accordance with the Water Agreement.
- (iii) The term "appropriate allowance for working capital" means an amount equal to ½% of the value of the gross fixed assets in operation.
- (iv) The term "operating income" means the difference between:
- (A) gross operating revenues accruing from the water supply services provided by the Shashe Division, and
- (B) the operating and administrative expenses of the Shashe Division, including the administrative and overhead costs of the Water Corporation which are properly allocable to the Shashe Division, taxes (if any), adequate maintenance, and depreciation based on the sinking fund method using an 8% interest factor and service lives as shown in the schedules to the Water Agreement, but excluding interest and other charges on debt.
- (v) Each financial year shall be identified by the calendar year in which the financial year ends.
- (c) The Borrower shall not change, or permit the Water Corporation to change, the basis of calculation of charges for water set out in the Water Agreement without the prior consent of the Bank.

Section 4.12. Except as the Bank shall otherwise agree:

(a) The Borrower shall take and cause the Power Corporation to take all necessary steps within their respective powers (including, but not limited to, the establishment and adjustment of the Power Corporation's power tariffs and other charges for the power supply services provided by its Shashe Division) as shall be required (i) to satisfy in respect of the Shashe Division as a separate accounting entity all provisions of Section 18 of the Botswana Power Corporation Act, 1970, as

amended to the date of this Agreement, and (ii) to earn an annual rate of return on the value of the gross fixed assets in operation plus an appropriate allowance for working capital of the Shashe Division of not less than 7¹/₂% for the financial years 1975 through 1978 and 8% thereafter.

(b) For the purposes of this Section:

- (i) The annual rate of return shall be calculated by relating the operating income of the Shashe Division for the year in question to the average of the value of the gross fixed assets in operation plus an appropriate allowance for working capital of the Shashe Division at the beginning and at the end of each financial year.
 - (ii) The term "value of the gross fixed assets in operation" means the gross value of such assets, as recorded in accordance with generally accepted accounting principles and consistent with the Power Agreement, and as revalued from time to time in accordance with the Power Agreement.
 - (iii) The term "appropriate allowance for working capital" means an amount equal to 1% of the value of the gross fixed assets in operation.
 - (iv) The term "operating income" means the difference between:
 - (A) gross operating revenues accruing from the power supply services provided by the Shashe Division, and
 - (B) the operating and administrative expenses of the Shashe Division, including the administrative and overhead costs of the Power Corporation which are properly allocable to the Shashe Division, taxes (if any), adequate maintenance, and depreciation based on the sinking fund method using an 8% interest factor and appropriate service lives not exceeding 25 years but excluding interest and other charges on debt.
 - (v) Each financial year shall be identified by the calendar year in which the financial year ends.
- (c) The Borrower shall not change, or permit the Power Corporation to change, the basis of calculation of charges for power set out in the Power Agreement without the prior consent of the Bank.

Section 4.13. (a) If in any month the entitlement of the Water Corporation to payment by BCL under the Water Agreement shall be limited by Section 9.01 thereof to the payment by BCL of the Basic Monthly Charge for such month, the revenues required to be earned by the Water Corporation in respect of the then current year under Section 4.11 hereof shall be reduced by the amount by which the said Basic Monthly Charge falls short of one-twelfth of the Annual Costs of the Water Facilities for such year less all revenues payable to the Water Corporation by consumers other than BCL in respect of the supply of water for such month from the Water Facilities.

(b) If in any month the entitlement of the Power Corporation to payment by BCL under the Power Agreement shall be limited by Section 10.01 thereof to the payment by BCL of the Monthly Minimum Charge for such month, the revenues required to be earned by the Power Corporation in respect of the then current year under Section 4.12 hereof shall be reduced by the amount by which the said Monthly Minimum Charge falls short of one-twelfth of the aggregate of:

- (i) the Fixed Capital Costs amortized at an annual capital cost factor of 9.3679 per cent;
- (ii) the Fixed Operating Costs; and
- (iii) the Variable Operating Costs

of the Power Facilities for such year less all revenues payable to the Power Corporation by consumers other than BCL in respect of the supply of power for such month from the Power Facilities.

(c) For the purposes of this Section the expressions "Basic Monthly Charge", "Annual Costs" and "Water Facilities" and the expressions "Monthly Minimum Charge", "Fixed Capital Costs", "Fixed Operating Costs", "Variable Operating Costs" and "Power Facilities" shall have the meanings respectively ascribed thereto by the Water Agreement and Power Agreement.

Section 4.14. The Borrower shall recover its investment in temporary water, railways, housing and township facilities in such manner and under such arrangements as have been approved by the Bank.

Section 4.15. Without prejudice to the provisions of Section 35 of the Mines and Minerals Act, 1967 as amended to the date of this Agreement, the Borrower shall take all necessary steps within its legal powers as existing from time to time to facilitate the registration of the Agreements of Hypothecation and the enforcement by the Bank of the security included thereunder.

Section 4.16. Except as the Bank shall otherwise agree:

(a) The Borrower shall cause each of the Corporations to apply the proceeds it receives pursuant to Section 9.02 of the Water Agreement and Section 10.02 of the Power Agreement to the prepayment of the principal of the loans then outstanding, and to the payment of interest and other charges thereon, under the Water Subsidiary Loan Agreement and the Power Subsidiary Loan Agreement respectively.

(b) The Borrower shall apply the proceeds it receives from:

- (i) the Water Corporation pursuant to Section 2.05, Section 2.07 or Section 10.03 of the Water Subsidiary Loan Agreement;
- (ii) the Power Corporation pursuant to Section 2.05, Section 2.07 or Section 10.03 of the Power Subsidiary Loan Agreement; and
- (iii) BCL pursuant to Clause 4 or Clause 5 of the Township Contribution Agreement and Clause 29 (f) of the Master Agreement;

to the prepayment of the principal of the Loan then outstanding and to the payment of interest and other charges thereon. All provisions of the General Conditions relating to prepayment shall be applicable to any prepayment by the Borrower in accordance with this Section.

Section 4.17. The Borrower covenants that it will not take, cause or permit to be taken any action which shall suspend or terminate the obligations of the Guarantors in accordance with Section 3.01 (a), (b), (c) or (d) of the Guarantee Agreement, except that the foregoing shall not apply in the case of any act of revolution, insurrection or war in Botswana whether declared or not as referred to in Section 3.01 (a) of the Guarantee Agreement.

Article V. CONSULTATION, INFORMATION AND INSPECTION

Section 5.01. The Borrower and the Bank shall cooperate fully to assure that the purposes of the Loan will be accomplished. To that end, the Borrower and the Bank shall from time to time, at the request of either party:

- (a) exchange views through their representatives with regard to the performance of their respective obligations under the Loan Agreement, the performance by the Corporations of their respective obligations under the Water Subsidiary Loan Agreement and the Power Subsidiary Loan Agreement, the administration, operations and financial condition of the Corporations and, in respect of the Project, of the ministries, departments or agencies of the Borrower responsible for the carrying out of the Project or any part thereof, and other matters relating to the purposes of the Loan and the maintenance of the service thereof; and
- (b) furnish to the other all such information as it shall reasonably request with regard to the general status of the Loan. On the part of the Borrower, such information shall include information with respect to financial and economic conditions in the territories of the Borrower, including its balance of payments, and the external debt of the Borrower, of any of its political subdivisions and of any agency of the Borrower or of any such political subdivision.

Section 5.02. (a) The Borrower shall furnish or cause to be furnished to the Bank all such information as the Bank shall reasonably request concerning (i) the administration, operations and financial condition of the Corporations and, in respect of the Project, of the ministries, departments or agencies of the Borrower responsible for the carrying out of any part of the Project (including, without limitation, its construction, operation and maintenance), and (ii) the relations among the Borrower, the Corporations and BCL and the exercise of their respective rights and the carrying out of their respective obligations under the Specified Documents and any other agreements related thereto.

(b) The Borrower shall promptly inform the Bank of any failure by the Borrower to comply with any of its obligations under the Specified Documents or of any other condition which interferes with, or threatens to interfere with, the accomplishment of the purpose of the Loan, the maintenance of the service thereof or the performance by the Borrower of its obligations under the Specified Documents.

(c) The Borrower shall inform the Bank of any failure of which the Borrower shall have actual notice by any other party to comply with any of the obligations of that party under the Specified Documents.

(d) The Borrower shall afford all reasonable opportunity for accredited representatives of the Bank to inspect all plants, sites, works, property and equipment of the Corporations and to visit any part of the territories of the Borrower for purposes related to the Loan, the Project and the Mining Project.

(e) The Borrower shall upon request from the Bank take all action permitted to be taken under Clause 31 (b) of the Master Agreement to furnish to the Bank or cause BCL to furnish to the Bank any of the documents therein referred to and to cause BCL to enable the Bank's representative to inspect its works and construction included in the Mining Project.

Article VI. TAXES AND RESTRICTIONS

Section 6.01. The principal of, and interest and other charges on, the Loan and the Bonds shall be paid without deduction for, and free from, any taxes imposed under the laws of the Borrower or laws in effect in its territories; provided, however, that the foregoing shall not apply to taxation of payments under any Bond to a holder thereof other than the Bank when such Bond is beneficially owned by an individual or corporate resident of the Borrower.

Section 6.02. The Loan Agreement, the Bonds, the Guarantee Agreement and the Lenders' Agreement shall be free from any taxes on or in connection with the execution, issue, delivery or registration thereof imposed under the laws of the Borrower or laws in effect in its territories and the Borrower shall pay all such taxes, if any, imposed under the laws of the country or countries in whose currency the Loan and the Bonds are payable or laws in effect in the territories of such country or countries.

Section 6.03. The payment of the principal of, and interest and other charges on, the Loan and the Bonds shall be free from all restrictions, regulations, controls and moratoria of any nature imposed under the laws of the Borrower or laws in effect in its territories.

Article VII. REMEDIES OF THE BANK

Section 7.01. If any event specified in Section 7.01 of the General Conditions or in Section 7.03 of this Agreement shall occur and shall continue for the period, if any, therein set forth, then at any subsequent time during the continuance thereof, the Bank, at its option, may by notice to the Borrower declare the principal of the Loan and of all the Bonds then outstanding to be due and payable immediately together with the interest and other charges thereon and upon any such declaration such principal, interest and charges shall become due and payable immediately, anything to the contrary in this Loan Agreement or in the Bonds notwithstanding.

Section 7.02. For the purposes of Section 6.02 of the General Conditions, the following additional events are specified:

(a) A default materially and adversely affecting the Bank, the Project or the Mining Project or the operation thereof shall have occurred in the performance by any party of any obligation, covenant or agreement under any of the Specified Documents.

(b) Any provision of the Specified Documents or any provision of the Botswana Power Corporation Act, 1970, as amended to the date of this Agreement, or the Water Utilities Corporation Act, 1970, as amended to the date of this Agreement, or the Mines and Minerals Act, 1967 as amended to the date of this Agreement, or the Bamangwato Concessions Limited Mining Lease Act, 1970, as amended to the date of this Agreement, or the Selebi-Pikwe Tax Agreement Ratification Act, 1970, as amended to the date of this Agreement, shall have been amended, suspended, abrogated, terminated, waived or assigned without the prior approval of the Bank and such event shall materially and adversely affect the Bank, the Project or the Mining Project or the operation thereof.

(c) Any of the outstanding principal of the loans provided for in the Project Loan Agreements, the IDC Loan Agreement or the KFW Loan Agreement shall have been declared, or become due and payable prior to the agreed maturity thereof in accordance with the terms of the respective loan agreements.

(d) The security constituted by any of the Agreements of Hypothecation shall have become enforceable.

(e) The right of the Borrower to withdraw amounts under any of the Project Loan Agreements shall have been suspended.

(f) The right of BCL to withdraw amounts under the IDC Loan Agreement or under the KFW Loan Agreement shall have been suspended.

(g) Any of the events specified in Section 3.01 (a) or (c) of the Guarantee Agreement shall have occurred which, if continued for the period specified therein, would cause the obligations of any of the Guarantors under the Guarantee Agreement to be suspended or terminated.

(h) Any action or proceeding shall have been taken by either Corporation or by others whereby any of its property shall or may be distributed among its creditors.

(i) The Borrower or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of either Corporation or for the suspension of its operations.

(j) Any event specified in Section 10.02 (c), (d) or (e) of the Power Agreement shall have occurred.

(k) A default materially and adversely affecting the Bank, the Project or the Mining Project or the operation thereof shall have occurred in the performance by BCL of any of its obligations under the Power Agreement, the Water Agreement, the Township Contribution Agreement, the Master Agreement or any other agreements scheduled thereto.

Section 7.03. For the purposes of Section 7.01 of the General Conditions, the following additional events are specified:

(a) Any event specified in Section 7.02 (c) or (g) of this Agreement shall have occurred.

(b) The security constituted by any of the Agreements of Hypothecation shall have been enforced.

(c) Any event specified in Section 7.02 (a), (b), (e), (f), (h), (i), (j) or (k) shall have occurred and shall have continued for a period of ninety days after notice thereof shall have been given by the Bank to the Borrower and to the Principal Guarantors.

Article VIII. EFFECTIVE DATE; TERMINATION

Section 8.01. The following events are specified as additional conditions to the effectiveness of the Loan Agreement within the meaning of Section 11.01 (c) of the General Conditions:

(a) That the Specified Documents, in form and substance satisfactory to the Bank, have been duly executed and authorized or ratified by all necessary governmental and corporate action and all conditions to the effectiveness of such agreements shall have been fulfilled, subject only to the effectiveness of the Loan Agreement.

(b) That all necessary acts, consents and approvals to be performed or given by the Borrower, its political subdivisions or agencies or by any agency of any political subdivision or otherwise to be performed or given in order to authorize the

completion of the construction of the Project and of the Mining Project and to enable the parties to any of the Specified Documents to perform all of the covenants, agreements and obligations therein contained and to give effect to the covenants, agreements, obligations and provisions of any of the Specified Documents, together with all necessary powers and rights in connection therewith, have been performed or duly authorized.

(c) (i) That BCL has an authorized share capital of not less than R35,500,000 divided into ordinary shares of R2 each of which not less than 17,647,059 shares (including 2,647,059 shares held by the Borrower) have been duly issued and rank *pari passu* in all respects;

(ii) That the identity of each shareholder of BCL (including the Borrower) and the number and date of issue of the shares held by such shareholder has been duly disclosed to the Bank; and

(iii) That save in respect of the ordinary shares held by the Borrower the whole of the issued ordinary share capital of BCL has been duly subscribed in cash at par.

(d) The Agreements of Hypothecation in form and substance satisfactory to the Bank have been executed, delivered and registered on behalf of BCL.

(e) Arrangements satisfactory to the Bank for the financing of Section 1 of Part C of the Project have been made.

Section 8.02. The following are specified as additional matters, within the meaning of Section 11.02 (c) of the General Conditions, to be included in the opinion or opinions to be furnished to the Bank:

(a) That the Specified Documents, in form and substance satisfactory to the Bank (i) have been duly authorized or ratified by, and executed and delivered on behalf of, the parties thereto, (ii) constitute valid and binding obligations of the parties thereto in accordance with their terms, (iii) are in full force and effect subject only to the effectiveness of the Loan Agreement, and (iv) the conditions of disbursement of the AID Loan, Canadian Loan and KFW Loan shall have been fulfilled subject only to the effectiveness of the Loan Agreement.

(b) That all acts, consents and approvals referred to in paragraph (b) of Section 8.01 of this Agreement together with all necessary powers and rights in connection therewith have been duly and validly performed, given or authorized.

(c) That the Agreements of Hypothecation, in form and substance satisfactory to the Bank, have been duly executed, delivered and registered on behalf of BCL, that they create a valid and effective first mortgage in favor of the Bank, KFW and Tusitala on BCL's rights, title and interest in the Mining Lease and on BCL's housing in Selebi-Pikwe township to secure BCL's obligations under the Guarantee Agreement, KFW Loan Agreement and IDC Loan Agreement and that no prior or equal security exists on any such assets of BCL.

Section 8.03. The date of January 3, 1972 is hereby specified for the purposes of Section 11.04 of the General Conditions.

Article IX. REPRESENTATIVE OF THE BORROWER; ADDRESSES

Section 9.01. The Minister for the time being responsible for Finance and Development Planning of the Borrower is designated as representative of the Borrower for the purposes of Section 10.03 of the General Conditions.

Section 9.02. The following addresses are specified for the purposes of Section 10.01 of the General Conditions:

For the Borrower:

Ministry of Finance and Development Planning
Private Bag 8
Gaborone, Botswana

Cable address:

Finance
Gaborone

For the Bank:

International Bank for Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:

Intbafrad
Washington, D.C.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Agreement to be signed in their respective names and to be delivered in the District of Columbia, United States of America, as of the day and year first above written.

Republic of Botswana:

By Q. K. J. MASIRE
Vice-President and Minister for Finance
and Development Planning

International Bank for Reconstruction and Development:

By J. BURKE KNAPP
Vice President

SCHEDULE 1

WITHDRAWAL OF THE PROCEEDS OF THE LOAN

1. The table below sets forth the categories of items to be financed out of the proceeds of the Loan, the allocation of the amounts of the Loan to each category and the percentage of eligible expenditures so to be financed in each category:

<i>Category</i>	<i>Amount of the Loan Allocated (Expressed in Dollar Equivalent)</i>	<i>% of Expenditures to be Financed</i>
I. Water Facilities*		
(a) Shashe Works	5,000,000	100% of total expenditures
(b) Selebi-Pikwe Trunk Main	1,600,000	100% of total expenditures
(c) Selebi-Pikwe Water Works	530,000	100% of total expenditures
(d) Selebi-Pikwe Water Distribution System	630,000	100% of total expenditures
(e) Morupule Water Supply	400,000	100% of total expenditures
II. Power Facilities – Selebi-Pikwe Electric Distribution System	380,000	100% of total expenditures
III. Roads	2,000,000	100% of total expenditures
IV. Railway Service Siding and Branch-line	1,700,000	100% of total expenditures
V. Township		
(a) Roads and services	1,500,000	100% of total expenditures
(b) Houses	2,600,000	100% of total expenditures
(c) Government buildings and health center	1,350,000	100% of total expenditures
VI. Consultants Services	2,500,000	100% of total expenditures
VII. Administrative and Training Costs of the Management Unit and the Corporations (excluding seconded staff)	500,000	100% of total expenditures
VIII. Interest and other charges on the Loan accrued on or before November 14, 1974	5,600,000	
IX. Refunding of the Credit	910,000	
X. Unallocated	<u>4,800,000</u>	
TOTAL	<u><u>32,000,000</u></u>	

* Excluding items included under Section 2 of Part B of the Project.

2. For the purposes of this Schedule:

(a) The term "foreign expenditures" means expenditures for goods produced in, or services supplied from, the territories, and in the currency, of any country other than the Borrower; provided, however, that if the currency of the Borrower is also that of another country in the territories of which goods are produced or from the territories of which services are supplied, expenditures in such currency for such goods or services shall be deemed to be "foreign expenditures";

(b) The term "local expenditures" means expenditures in the currency of the Borrower, or for goods produced in, or services supplied from, the territories of the Borrower; provided, however, that if the currency of the Borrower is also that of another member of the Bank in which goods are produced or from which services are supplied, expenditures in such currency for such goods or services shall be deemed to be "foreign expenditures"; and

(c) The term "total expenditures" means the aggregate of foreign and local expenditures.

3. Notwithstanding the provisions of paragraph 1 above but subject to the provisions of paragraph 5 below, no withdrawals shall be made in respect of:

- (a) expenditures prior to the date of this Agreement, except that withdrawals may be made (i) in respect of Category VI on account of expenditures incurred after April 1, 1971 and (ii) in respect of Category I (a) on account of expenditures incurred after May 1, 1971;
- (b) payments for taxes imposed under the laws of the Borrower or laws in effect in its territories on goods or services, or on the importation, manufacture procurement or supply thereof. To the extent that the amount represented by the percentage set forth in the third column of the table in paragraph 1 above would exceed the amount payable net of all such taxes, such percentage shall be reduced to ensure that no proceeds of the Loan will be withdrawn on account of payments for such taxes.

4. Notwithstanding the allocation of an amount of the Loan set forth in the second column of the table in paragraph 1 above:

- (a) if the estimate of the expenditures under any Category shall decrease, the amount of the Loan then allocated to such Category and no longer required therefor will be reallocated by the Bank by increasing correspondingly the unallocated amount of the Loan;
- (b) if the estimate of the expenditures under any Category shall increase, the percentage set forth in the third column of the table in paragraph 1 above in respect of such expenditures shall be applied to the amount of such increase, and a corresponding amount will be allocated by the Bank, at the request of the Borrower, to such Category from the unallocated amount of the Loan, subject, however, to the requirements for contingencies, as determined by the Bank, in respect of any other expenditures.

5. The Bank shall, on the Effective Date, withdraw from the Loan Account and pay to the Association, on behalf of the Borrower, an amount equivalent to nine hundred ten thousand dollars (\$910,000) to refund part of the principal amount of the Credit withdrawn pursuant to the Development Credit Agreement.

SCHEDULE 2

AMORTIZATION SCHEDULE

<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>	<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>
November 15, 1975	235,000	May 15, 1984	430,000
May 15, 1976	245,000	November 15, 1984	445,000
November 15, 1976	255,000	May 15, 1985	465,000
May 15, 1977	260,000	November 15, 1985	480,000
November 15, 1977	270,000	May 15, 1986	495,000
May 15, 1978	280,000	November 15, 1986	515,000
November 15, 1978	290,000	May 15, 1987	535,000
May 15, 1979	300,000	November 15, 1987	555,000
November 15, 1979	315,000	May 15, 1988	575,000
May 15, 1980	325,000	November 15, 1988	595,000
November 15, 1980	335,000	May 15, 1989	615,000
May 15, 1981	350,000	November 15, 1989	635,000
November 15, 1981	360,000	May 15, 1990	660,000
May 15, 1982	375,000	November 15, 1990	685,000
November 15, 1982	385,000	May 15, 1991	710,000
May 15, 1983	400,000	November 15, 1991	735,000
November 15, 1983	415,000	May 15, 1992	760,000

<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>	<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>
November 15, 1992	790,000	November 15, 1996	1,050,000
May 15, 1993	820,000	May 15, 1997	1,085,000
November 15, 1993	845,000	November 15, 1997	1,125,000
May 15, 1994	880,000	May 15, 1998	1,170,000
November 15, 1994	910,000	November 15, 1998	1,210,000
May 15, 1995	945,000	May 15, 1999	1,255,000
November 15, 1995	975,000	November 15, 1999	1,300,000
May 15, 1996	1,015,000	May 15, 2000	1,340,000

* To the extent that any portion of the Loan is repayable in a currency other than dollars (see General Conditions, Section 4.02), the figures in this column represent dollar equivalents determined as for purposes of withdrawal.

PREMIUMS ON PREPAYMENT AND REDEMPTION

The following percentages are specified as the premiums payable on repayment in advance of maturity of any portion of the principal amount of the Loan pursuant to Section 3.05 (b) of the General Conditions or on the redemption of any Bond prior to its maturity pursuant to Section 8.15 of the General Conditions:

<i>Time of Prepayment or Redemption</i>	<i>Premium</i>
Not more than three years before maturity	3/4%
More than three years but not more than six years before maturity	2 1/4%
More than six years but not more than thirteen years before maturity	3%
More than thirteen years but not more than nineteen years before maturity	4 1/2%
More than nineteen years but not more than twenty-five years before maturity	5 3/4%
More than twenty-five years but not more than twenty-seven years before maturity	6 3/4%
More than twenty-seven years before maturity	7 1/4%

SCHEDULE 3

DESCRIPTION OF THE PROJECT

The Project consists of the construction, installation and operation of infrastructure facilities to support the copper and nickel mining development to be undertaken by Bamangwato Concessions Limited at Selebi-Pikwe. The infrastructure facilities under the Project include a township at Selebi-Pikwe, a water and power supply system and road and rail transport facilities. These facilities are described below:

Part A. ROADS, RAILWAYS AND TOWNSHIP

(i) A gravel road between Serule and Selebi-Pikwe (about 60 km) constructed to all weather standards.

(ii) Improvements to the road between Serule and Francistown to bring this to all weather standards, comprising the raising and drainage of approximately 74 km of existing road.

(iii) A railway branch line between Serule and Selebi-Pikwe (about 60 km) and a railway service siding between Palapye and the colliery at Morupule (about 16 km).

(iv) Township facilities located at Selebi-Pikwe and elsewhere including staff housing (about 186 houses and apartments for central and local government staff and about

220 houses and apartments for Corporations' staff and about 60 houses and apartments for railway staff), schools, local government offices, a health center (about 50 beds), government facilities, road, telephone, sewage disposal and drainage systems.

Part B. THE WATER FACILITIES

Section 1. (i) The "Shashe Works" meaning (A) a dam on the Shashe River, providing an estimated yearly average yield of 36,000 kilolitres per day with a concrete spillway and protective concrete diversion walls and outlet works with intakes at several levels, connected to a concrete culvert under the dam; (B) a first pumping station and pipeline (exclusive of the items included in Section 2), connecting the outlet works to the primary treatment plant; and (C) a primary treatment plant (sedimentation, microstraining and chlorination) of 45,500 cubic meters per day design capacity.

(ii) The "Selebi-Pikwe Trunk Main" meaning (A) a second pumping station and an 80 km pipeline of 41,300 cubic meters per day design capacity connecting the primary treatment plant to the bulk service (service exclusive of the items included in Section 2); (B) a bulk service reservoir of 24,000 cubic meters capacity serving the mining complex. Selebi-Pikwe township and the power station; and (C) connecting pipes between the bulk supply reservoir and the delivery points.

(iii) The "Selebi-Pikwe Water Works" meaning a secondary treatment plant of 13,000 cubic meters per day design capacity, a third pumping station and two township service reservoirs each of 6,800 cubic meters capacity.

(iv) The "Selebi-Pikwe Water Distribution System" meaning the water distribution system supplying Selebi-Pikwe township from the Selebi-Pikwe Water Works.

(v) Morupule water supply comprising facilities and equipment to supply the colliery at Morupule from ground water or other sources.

Section 2. About 80 km of pipe 24 to 30 inches in diameter for the Selebi-Pikwe Trunk Main and for connecting the culvert under the dam to the primary treatment plant through the first pumping station, together with the associated fittings, equipment and supplies.

Part C. THE POWER FACILITIES

Section 1. A. A Power Station containing

- (i) Four 15-MW steam turbine generator sets utilizing the steam from the boilers referred to below and utilizing the waste heat steam produced by the smelter described in Schedule 4 all operating at a steam pressure of about 4,310 kN/m² (625 lb/in²) and at a normal temperature of about 463°C (865°F) measured at the super heater outlets;
- (ii) Three stoker-fired outdoor type boilers each with a maximum continuous output of not less than 75,000 kg of steam per hour and designed for operation on local coal of medium grade, non-coking bituminous quality with a calorific value of about 24,000 kJ/kg; and
- (iii) Ancillary equipment, including spares.

B. A transmission system connecting the power plant to load centers respectively at Francistown and Shashe by means of a 66 kV single circuit transmission line of approximately 112 km in length, 11 kV underground cables and associated equipment to provide power supply to the mines included in the Mining Project, two 11 kV single circuit distribution lines from the power plant to supply Selebi-Pikwe township each about 3 km in length, and one 11 kV single circuit spurline to Selebi-Pikwe water treatment plant about 1 km in length.

Section 2. An electric distribution system in Selebi-Pikwe township.

SCHEDULE 4

DESCRIPTION OF THE MINING PROJECT

The Mining Project consists of the construction and installation of mining facilities located at Selebi-Pikwe in northern Botswana approximately 90 km southeast of Francistown to mine and process copper/nickel ores from the Selebi and Pikwe deposits and to produce an average of 35,000 metric tons per year of copper/nickel matte and 103,000 metric tons per year of sulphur over an estimated 25 year life of the mine.

A. *Reserves*

Estimates of the mineralized material in these two deposits and average metal content thereof, without dilution by low grade material during mining, are as follows:

Deposit	Category	Metric Tons (million)	Average Grade (%)	
			Nickel	Copper
Pikwe	Proven	22.1	1.45	1.14
	Probable	9.0	1.13	1.09
Selebi	Proven	10.0	0.70	1.56
	Probable	2.6	0.88	1.28

B. *Mines*

The mines included in the Mining Project are two underground mines (one at Selebi operated from a single shaft and the other at Pikwe operated from 2 shafts) capable of producing an average of 2,000,000 metric tons per year of ore.

C. *Mining Rate*

The planned rate of extraction from the Pikwe deposit for the first ten years is estimated at 1,400,000 metric tons of ore per annum and thereafter 1,000,000 metric tons of ore per annum. The planned rate of extraction from the Selebi deposit is 600,000 metric tons of ore per annum throughout.

D. *Processing*

The processing facilities include:

(a) The processing plant, to be located at Pikwe, consists of a crusher concentrator, smelter and service facilities. The smelter will include facilities for transferring waste steam to the adjacent power plant. Ore produced at Selebi will be transported by surface railroad to the plant at Pikwe. There will also be a road, a power line and a water line between Pikwe and Selebi.

(b) The concentrator, with a capacity to treat 5,500 metric tons of ore per day, consists of primary, secondary and tertiary crushing plants, magnetic drum separators and flotation machines to produce a bulk copper/nickel concentrate.

(c) The smelter, with a capacity to treat 1,350 metric tons of copper/nickel concentrate per day, consists of an Outokumpu-type flash smelting furnace, two electric slag furnaces and two converters.

(d) Disposal facilities: Exhaust gases from the flash furnace, after passing through a waste-heat boiler, will be passed through a reduction process utilizing coal as a reducing agent for the production of elemental sulphur. The exhaust gases from all parts of the smelter plant will be disposed of via a combustion chamber to a stack at least 160 meters high. Facilities for the disposal of solid, liquid and gaseous effluents are also made to meet standards laid down by the Borrower.

E. Production Rate

The planned annual production rate of the processing plant after completion of build-up is as follows:

Description	Metric Tons Per Year		
	Till 1978	1979-1983 Inc.	1984 Onwards
Matte	40,700	42,200	32,800
Nickel*	14,800	14,000	11,600
Copper*	16,600	18,500	13,700
Sulphur	105,700	106,500	111,400

* produced by refinery from matte.

F. Other Facilities

Other facilities required for the mining operations include workshops, railroad loading and off-loading facilities, air compressor installations, administration office, prospecting and servicing facilities of BCL at Gaborone and Francistown, and facilities at Selebi-Pikwe township, including housing for all BCL employees, built on serviced lots in the township.

SCHEDULE 5

PROCUREMENT

1. With respect to any contract for (i) civil works estimated to cost the equivalent of \$100,000 or more and (ii) contracts for the supply of equipment estimated to cost \$50,000 or more:

(a) If bidders are required to prequalify, the Borrower shall, before qualification is invited, inform the Bank in detail of the procedure to be followed and shall introduce such modifications in the said procedure as the Bank shall reasonably request. The list of prequalified bidders, together with a statement of their qualifications and of the reasons for the exclusion of any applicant for prequalification, shall be furnished by the Borrower to the Bank for its comments before the applicants are notified and the Borrower shall make such additions or deletions from the said list as the Bank shall reasonably request.

(b) Before bids are invited, the Borrower shall furnish to the Bank, for its comments, the text of the invitations to bid and the specifications and other bidding documents, together with a description of the advertising procedures to be followed for the bidding, and shall make such modifications in the said documents or procedure as the Bank shall reasonably request. Any further modification to the bidding documents shall require the Bank's concurrence before it is issued to the prospective bidders.

(c) After bids have been received and evaluated, the Borrower shall, before a final decision on the award is made, inform the Bank of the name of the bidder to whom it intends to award the contract and shall furnish to the Bank, in sufficient time for its review, a detailed report, by the consultants referred to in Section 3.03 of this Agreement, on the evaluation and comparison of the bids received, together with the recommendations for award of the said consultants, and the reasons for the intended award. The Bank shall promptly inform the Borrower whether it has any objection to the intended award on the ground that it would be inconsistent with the *Guidelines for Procurement under World Bank Loans and IDA Credits* referred to in Section 2.03 of this Agreement or with the Loan Agreement, and shall state the reasons for any objections it may have.

(d) If the contract shall be awarded over the Bank's reasonable objection, or if its terms and conditions shall, without the Bank's concurrence, materially differ from those on

which bids were asked, no expenditure thereunder shall be financed out of the proceeds of the Loan.

(e) Two copies of the contract shall be furnished to the Bank promptly after its execution and prior to the submission to the Bank of the first application for withdrawal of funds from the Loan Account in respect of any such contract.

2. With respect to any other contract for civil works or equipment, the Borrower shall furnish to the Bank, promptly after its execution and prior to the submission to the Bank of the first application for withdrawal of funds from the Loan Account in respect of any such contract, the record of public opening of the bids, an analysis of the bids by, and the recommendations for award of, the said consultants and two conformed copies of such contract. The Bank shall promptly inform the Borrower if it finds that the award of the contract is not consistent with the *Guidelines for Procurement under World Bank Loans and IDA Credits* referred to in Section 2.03 of this Agreement or with the Loan Agreement and, in such event, no expenditure under such contract shall be financed out of the proceeds of the Loan.

SCHEDULE 6

MODIFICATIONS OF GENERAL CONDITIONS

For the purpose of this Agreement, the provisions of the General Conditions are modified as follows:

1. By the deletion of the words "with a member of the Bank" in line [4]¹ of Section 1.01 and of the proviso thereto.

2. By the insertion of the words "in accordance with the provisions of the Loan Agreement and the Guarantee Agreement" after the words "from time to time" in paragraph 3 of Section 2.01.

3. By the deletion of paragraphs 5, 7 and 13 of Section 2.01 and by the substitution for the said paragraphs 5, 7 and 13 of the following new paragraphs:

"5. The terms 'Guarantee Agreement', 'Guarantors' and 'Principal Guarantors' shall have the meanings respectively ascribed thereto by the Loan Agreement."

"7. The term 'Guarantor-Shareholders' shall have the meaning ascribed thereto by the Guarantee Agreement."

"13. The term 'external debt' for the purpose of this Loan Agreement means any debt payable by the Borrower or any resident thereof in any medium other than currency of the Borrower whether such debt is or may become payable absolutely or at the option of the creditor in such other medium; provided, however, that if the currency of the Borrower is also that of another country, debt payable in such currency by the Borrower or any resident thereof to a creditor who is not a resident of the Borrower shall be deemed to be external debt."

4. By the deletion in Section 4.01 and in paragraph (e) of Section 6.02 of the words "member of the Bank which is the Borrower or the Guarantor" and by the substitution therefor of the word "Borrower".

5. By the deletion of Section 2.03 and by the substitution therefor of the following new Section:

"SECTION 2.03. *Headings.* The headings of the Articles and Sections and the Table of Contents in the General Conditions and the headings of the Articles in the Loan

¹ References in brackets were modified to conform to the text of the General Conditions as it was published in United Nations, *Treaty Series*, vol. 691, p. 300.—Les références données entre crochets ont été modifiées de façon à se conformer au texte des Conditions générales tel qu'il a été publié dans le *Recueil des Traités*, vol. 691, p. 300.

Agreement and in the Guarantee Agreement are inserted for convenience of reference only and are not part of these General Conditions, the Loan Agreement or the Guarantee Agreement.”

6. By the deletion of the words “the Guarantor” in:

line [5] of paragraph (d) of Section 7.01.

Section 8.01.

Section 8.06.

Lines 3 and [7] of paragraph (a) and line [5] of paragraph (b) of Section 8.10.

Lines [1 and 2], and 7 of Section 8.13.

Section 8.18.

Lines [1,3] and [5] of Section 10.02.

Lines [4, 5, 9 and 10] of Section 10.03.

Paragraph (a) of Section 11.01.

Paragraph (b) and in lines [2 and 3] of subparagraph (i) and in line [3] of subparagraph (ii) of paragraph (b) of Section 11.02.

In Section 11.03 and in Section 11.04.

and by the substitution therefor of the words “each of the Guarantors”.

7. By the deletion of the words “the Guarantor” in:

Paragraph (d) of Section 4.02.

Lines [2 and 3] of Section 6.02.

Line [4] of Section 7.01.

Paragraph (b) of Section 8.05.

and by the substitution therefor of the words “each of the Principal Guarantors and Bamangwato Concessions Limited”.

8. By the deletion of Section 5.01.

9. By the deletion of the words “the Guarantor” in:

Paragraphs (a) and (b) and in lines [2 and 4] of paragraph (c) of Section 6.02.

Line 2 of paragraph (d) of Section 7.01.

Line [1] of paragraph (b) of Section 8.10.

Line [4] of Section 8.14.

Lines [14] and [20] of Section 10.03.

and by the substitution therefor of the words “any of the Guarantors”.

10. By the deletion of the words “the Guarantor” in:

Paragraphs (d) and (h) of Section 6.02.

Lines [2,5 and 6] of paragraph (c) of Section 7.01.

and by the substitution therefor of the words “any of the Principal Guarantors or Bamangwato Concessions Limited”.

11. By the insertion of the words “other than a Guarantor” after the words “a third Party” in paragraph (a) of Section 6.02.

12. By the deletion of paragraph (i) of Section 6.02 and the substitution of the following new paragraph:

“(i) Any event specified in paragraph (e) or (f) of Section 7.01 shall have occurred.”

13. By the deletion of the words “Except as otherwise agreed between the Bank and the Borrower” in Section 6.05.

14. By the deletion of paragraph (a) of Section 6.03 and by the substitution thereof of the following new paragraph:

“(a) The right of the Borrower to make withdrawals from the Loan Account shall have been suspended with respect to any amount of the Loan for a continuous period of ninety days except that if the right of the Borrower to make withdrawals is suspended by the Bank pursuant to Section 7.02 (g) of the Loan Agreement, such period shall be the period required for the termination of the Guarantors’ obligation provided for under Section 3.01 (b) or (d) of the Guarantee Agreement, or”

15. By the addition of the words “after notice thereof shall have been given by the Bank to the Borrower, the Principal Guarantors and Bamangwato Concessions Limited” at the end of Section 7.01 (a) and by the deletion of the words “thirty” in paragraph (c) and “sixty” in paragraph (d) of Section 7.01 and the substitution thereof of the word “ninety”.

16. By the deletion of paragraph (e) of Section 7.01 and the substitution thereof of the following new paragraph:

“(e) Any of the Principal Guarantors, Charter Consolidated Limited or Bamangwato Concessions Limited shall have (i) voluntarily or involuntarily become the subject of proceedings under any bankruptcy or insolvency law, or other law or procedure for the relief of financially distressed debtors, (ii) become unable, or admitted in writing its inability, to pay its debts as they mature, (iii) taken or suffered any action for its readjustment or reorganization for the benefit of creditors, liquidation or dissolution, or (iv) had a receiver or liquidator appointed of all or any part of its assets.”

17. By the deletion of paragraph (f) of Section 7.01 and the substitution thereof of the following new paragraph:

“(f) The Borrower or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment of any of the Principal Guarantors, Charter Consolidated Limited or Bamangwato Concessions Limited or for the suspension of their respective businesses.”

18. By the addition of a new Section 7.02 to read as follows:

“SECTION 7.02. *Annulment of Defaults.* If at any time after the principal of the Loan and of the Bonds shall have been declared and shall have become due and payable pursuant to Section 7.01, all arrears of interest on and all other sums payable under the Loan and the Bonds (except the principal of the Loan and the Bonds which by such declaration shall have become payable) shall have been duly paid, and every other default and event of default shall have been made good or cured, then and in every such case the Bank may, by notice to the Borrower and the Principal Guarantors, rescind and annul such declaration and its consequences; but no such rescission or annulment shall extend to or affect any subsequent default or event of default or impair any right consequent thereon.”

19. By the deletion in line [3] of Section 8.14 of the words “the Guarantor” and the substitution thereof of the words “each of the Guarantors (on the basis of liability specified in the form of guarantee endorsed upon such Bond)”.

20. By the deletion of Section 9.01 and the substitution thereof of the following new Section:

“SECTION 9.01. *Enforceability.* (a) The rights and obligations of the Bank and the Borrower under the Loan Agreement and the Bonds shall be valid and enforceable in accordance with their terms notwithstanding the law of any state, or political subdivision thereof, to the contrary, Neither the Bank nor the Borrower shall be entitled in

any proceeding under this Article to assert any claim that any provision of these General Conditions or of the Loan Agreement, the Guarantee Agreement or the Bonds is invalid or unenforceable because of any provision of the Articles of Agreement of the Bank or for any other reason.

(b) Neither the Bank nor any of the Guarantors shall be entitled in any proceeding under this Article to assert any claim that any provision of these General Conditions or of the Loan Agreement, the Guarantee Agreement or the Bonds is invalid or unenforceable because of any provision of the Articles of Agreement of the Bank or for any other reason."

21. By the deletion of Section 9.02 and the substitution therefor of the following new Section:

"SECTION 9.02. *Obligations of the Guarantors.* The obligations of each of the Guarantors under the Guarantee Agreement shall not be discharged except by performance and then only to the extent of such performance. Such obligations shall not be subject to any demand upon or action against the Borrower or to any prior notice to or demand upon any of the other Guarantors with regard to any default by the Borrower or any of the other Guarantors, and shall not be impaired by any of the following: any extension of time, forbearance or concession given to the Borrower or any of the Guarantors; any assertion of, or failure to assert, or delay in asserting, any right, power or remedy against the Borrower or any of the Guarantors or in respect of any security for the Loan; any modification or amplification of the provisions of the Loan Agreement contemplated by the terms thereof; any failure of any of the Guarantors to comply with any requirement of any law, regulation or order of the Borrower or of any political subdivision or agency of the Borrower; provided, however, if any waiver in writing or extension of time, is given by the Bank to the Borrower not in accordance with Section 5.07 (a) (ii) of the Guarantee Agreement in respect of any payments of the principal of, or interest or other charges on, the Loan and the Bonds, and if as a direct result of such waiver or extension of time the risk of a Guarantor being called on to make such payment shall have materially increased, such Guarantor shall not be required to make any such payment until the Bank shall have taken action to eliminate such increased risk including, but not limited to, the rescission of such waiver or extension of time, if such Guarantor shall have notified the Bank promptly after learning of such waiver or extension of time that it considers such waiver or extension of time to increase materially such risk."

22. By the deletion of the following words in Section 9.04:

"or the parties to the Guarantee Agreement," in paragraph (a).

", the Guarantee Agreement" in paragraphs (a) and (k).

"and the Guarantor" in paragraph (b) and in [lines 5 and 8] in paragraph (i).

"and the Guarantor or, if they shall not agree, by the Guarantor" in paragraph (c).

"and the Guarantee Agreement" in paragraphs (h) (j) and (l).

23. By the deletion in the sub-heading of Section 10.03, in [lines 6 and 7] of the second paragraph of Schedule 1 and in the Table of Contents of the word "Guarantor" and the substitution therefor of the word "Guarantors".

24. By the deletion in lines [3] and [8] of Section 10.03 of the words ", if the Borrower is a member of the Bank,".

25. By the deletion in paragraph (b) of Section 11.01 of the words "Borrower (not being a member of the Bank)" and the substitution thereof of the words "each of the Principal Guarantors, Charter Consolidated Limited and Bamangwato Concessions Limited".

26. By the deletion in lines [4, 5, 8 and 9] in the ante-penultimate paragraph of Schedule 1 (including its italicized provisions) of the words in the brackets and the substitution therefor in each case of the words "name of the Borrower".

27. By the deletion of Schedule 2 and the substitution thereof of the following Schedule 2:

"SCHEDULE 2

(a) Form of Guarantee of Bamangwato Concessions Limited

Bamangwato Concessions Limited (hereinafter called BCL), for value received, hereby absolutely, unconditionally and independently of any other guarantee on the within Bond guarantees, and pledges its full faith and credit for, the due and punctual payment of the principal and redemption price of the within Bond and the interest accruing thereon, free from all restrictions imposed under the laws of Republic of Botswana or laws in effect in its territories, prior notice to, demand upon or action against the obligor on said Bond or BCL or any other Guarantor on the within Bond being waived; provided that BCL may not be required to make a payment pursuant to (i) Section 5.07 (b) of the Guarantee Agreement with respect to any amendment or modification of the Loan Agreement which, pursuant to Section 5.07 (a) (i) of the Guarantee Agreement requires the consent or agreement of BCL, or (ii) the proviso to Section 9.02 of the General Conditions with respect to any waiver or the grant of extension of time to the obligor.

BCL hereby agrees that it will affix a similar guarantee on any Bond or Bonds which shall be duly issued in exchange or substitution for or in replacement of the within Bond.

Bamangwato Concessions Limited:

By
Authorized Representative

Dated

(b) Form of Guarantee of American Metal Climax, Inc., Anglo American Corporation of South Africa Limited, Botswana RST Limited, Charter Consolidated Limited, Metallgesellschaft AG, RST International Inc., and Zambian Anglo American Limited

(1) American Metal Climax, Inc., Anglo American Corporation of South Africa Limited, Botswana RST Limited, Charter Consolidated Limited, Metallgesellschaft AG, RST International Inc. and Zambian Anglo American Limited (hereinafter respectively called "AMAX", "Anglo", "BRST", "Charter", "MG", "RST" and "Zamanglo" and together called "the Guarantors") for value received, hereby absolutely, unconditionally and independently of any other guarantee on the within Bond guarantee, and pledge their full faith and credit for, the due and punctual payment of the principal and redemption price of the within Bond and the interest accruing thereon, free from all restrictions imposed under the laws of Republic of Botswana or laws in effect in its territories, prior notice to, demand upon or action against the obligor on said Bond or the Guarantors or any other guarantor on the within Bond being waived; provided, however, that the guarantee of each of the Guarantors is subject to suspension or termination as provided in Section 3.01 of the Guarantee Agreement and if a guarantor shall assert that its guarantee has been so suspended or terminated, such Guarantor shall have no liability under its guarantee to the holder of the within Bond, and such guarantee shall not be enforceable by any court or other tribunal, unless and until such Guarantor has withdrawn such assertion or the existence of such asserted suspension or termination has been finally resolved against the Guarantor by arbitration pursuant to Article VIII of the Guarantee Agreement, and further provided that a Guarantor may not be required to make a payment pursuant to (i) Section 5.07 (b) of the Guarantee Agreement with respect to any amendment or modification of the Loan Agreement which, pursuant to Section 5.07 (a) (i) of the Guarantee Agreement requires the consent or agreement of a Principal Guarantor, or (ii) the proviso to Section 9.02 of the General Conditions with

respect to any waiver or the grant of extension of time to the obligor, or (iii) Section 5.08 of the Guarantee Agreement in the circumstances therein specified.

(2) The liability of each of the Guarantors shall be limited in the case of Amax, Anglo, BRST, Charter, RST and Zamanglo in accordance with Section 2.01 (c) of the Guarantee Agreement and in the case of MG in accordance with Section 2.01 (d) of the Guarantee Agreement.

(3) The liabilities of Amax shall be subordinated to certain Senior Indebtedness of Amax in accordance with Section 2.07 (b) of the Guarantee Agreement.

(4) The Guarantors hereby agree that they will affix a similar guarantee on any Bond or Bonds which shall be duly issued in exchange or substitution for or in replacement of the within Bond.

American Metal Climax Inc.:

By

Authorized Representative

Anglo American Corporation of South Africa Limited:

By

Authorized Representative

Botswana RST Limited:

By

Authorized Representative

Charter Consolidated Limited:

By

Authorized Representative

Metallgesellschaft AG:

By

Authorized Representative

By

Authorized Representative

RST International Inc:

By

Authorized Representative

Zambian Anglo American Limited:

By

Authorized Representative

Dated "

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

GENERAL CONDITIONS, DATED 31 JANUARY 1969

GENERAL CONDITIONS APPLICABLE TO LOAN AND GUARANTEE AGREEMENTS

[Not published herein. See United Nations, Treaty Series, vol. 691, p. 300.]

AGREEMENT¹ AMENDING LOAN AGREEMENT² DATED JUNE 30, 1971

AGREEMENT, dated March 1, 1972, between REPUBLIC OF BOTSWANA (hereinafter called the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (hereinafter called the Bank).

WHEREAS (A) By a Loan Agreement dated June 30, 1971² between the Borrower and the Bank, the Bank agreed to make a Loan to the Borrower in various currencies equivalent to thirty-two million dollars (\$32,000,000) on terms and conditions set forth in the said Agreement;

(B) Bamangwato Concessions Limited (hereinafter called BCL) has proposed to revise the Mining Project described in Schedule 4 to the said Loan Agreement and the Borrower and the Bank have agreed to the proposed revisions; and

(C) The Borrower and the Bank have, in view of the foregoing, agreed to amend the provisions of the said Loan Agreement as hereinafter provided;

NOW THEREFORE the parties hereto hereby agree as follows:

Article I

Section 1.01. Wherever used in this Agreement, unless the context shall otherwise require and subject to the amendments made herein, the several terms used in the Loan Agreement dated June 30, 1971 and in the General Conditions (as so defined) shall have the respective meanings therein set forth.

Article II

Section 2.01. Recitals (D), (E), (F) and (H) to the Loan Agreement are respectively amended to read as follows:

“(D) By an agreement dated November 16, 1970, as amended, Canada acting through the Canadian International Development Agency (hereinafter called CIDA) has agreed to make a loan to the Borrower in an amount of thirty million Canadian Dollars (Can \$30,000,000) to assist the Borrower in the financing of Part C of the Project on terms and conditions set forth in the said agreement;”.

“(E) By an agreement to be entered into between the Borrower, Bamangwato Concessions Limited (hereinafter called BCL), Botswana RST Limited and BCL (Sales) Limited, a wholly owned subsidiary of BCL incorporated under the laws of Botswana (hereinafter called BCL Sales), the Borrower has agreed *inter alia* to complete the Project and BCL has agreed *inter alia* to complete the mining development (hereinafter called the Mining Project) described in Schedule 4 to this Agreement;”.

“(F) By an agreement dated February 11, 1972 between Kreditanstalt für Wiederaufbau (hereinafter called KFW) and BCL, KFW together with ten German commercial banks agreed to make a loan in an amount of two hundred twenty-two million Deutsche Mark (DM222,000,000) to BCL to assist BCL in

¹ Came into force on 7 March 1972, upon notification by the Bank to the Government of Botswana.

² See p. 4 of this volume.

the financing of the Mining Project on terms and conditions set forth in the said agreement;”.

“(H) By resolution passed by BCL, the authorized share capital of BCL was increased from R3,000,000 divided into 1,500,000 ordinary shares of R2 each to not less than R39,000,000 by the creation of not less than 18,000,000 new ordinary shares of R2 each in order to make shares available for issuance to the Borrower and for the purposes of the proposed subscription by the shareholders of BCL of additional shares in the capital of BCL to provide financing for the Mining Project;”.

Article III

Section 3.01. Paragraphs (6), (9), (15), (18), (20), (27), (29), (30), (31), (34), (35) and (37) of Section 1.02 of the Loan Agreement are deleted and the following new paragraphs respectively substituted therefor:

“(6) ‘Coal Agreement’ means the agreement dated August 12, 1971 between the Botswana Power Corporation and Morupule Colliery Limited, a subsidiary of the Anglo American Corporation of South Africa Limited.”

“(9) ‘Matte Sales Agreement’ means the agreement dated as of March 1, 1972 between BCL and BCL Sales for the sale of copper/nickel matte by BCL to BCL Sales and each other agreement, contract or arrangement, on terms and conditions satisfactory to the Bank, for the sale, transfer or other disposal by BCL to BCL Sales of any matte, minerals or metals produced from the Mining Project.”

“(15) ‘KFW Completion Agreement’ means the agreement dated February 11, 1972 between KFW, Amax, Anglo, BRST, Charter, RST and Zamanglo.”

“(18) ‘Lenders’ Agreement’ means the agreement dated as of March 1, 1972 between the Bank, IDC and KFW.”

“(20) ‘Mining Lease’ means the lease to be granted by the Borrower to BCL pursuant to Section 24 of the Mines and Minerals Act, 1967 and to the Bamangwato Concessions Limited Mining Lease Act, 1970, as amended to the Effective Date.”

“(27) ‘Railways Agreements’ means the Morupule Railway Agreement and the Selebi-Pikwe Railway Agreement both dated December 17, 1971 between the Borrower and the General Manager of Rhodesia Railways.”

“(29) ‘Refining Agreement’ means the agreement between BCL Sales and Amax and the guarantee letter between BCL and Amax, both dated as of March 1, 1972, providing for the refining by Amax of copper/nickel matte produced under the Mining Project.”

“(30) ‘Sales Agreement’ means the agreement between BCL Sales and MG and the guarantee letter between BCL and MG, dated November 22, 1971 and January 18, 1972, respectively, providing for the sale of nickel, copper and other metals by BCL Sales to MG.”

“(31) ‘subsidiary’ means any corporation, association or other business entity of which a majority of the outstanding voting stock or other proprietary interest shall be owned, or which shall be effectively controlled, by BCL or by

any one or more subsidiaries of BCL or by BCL and any one or more of its subsidiaries.”

“(34) ‘Sulphur Sales Agreement’ means the agreement dated February 10, 1972 between BCL and Triomf Fertilizer (Pty.) Limited.”

“(35) ‘Tax Agreement’ means the agreements dated March 5, 1970 and June 22, 1971, both between the Borrower, BCL and BRST, ratified by the Selebi-Pikwe Tax Ratification Act, 1970 as amended to the Effective Date and the agreement dated March 1, 1972 between the Borrower, BCL, BRST and BCL Sales to be ratified by an Act of the Borrower.”

“(37) ‘Temporary Water Agreement’ means the agreement so designated dated June 2, 1971 between the Borrower, BCL and The Water Authority For Selebi-Pikwe Waterworks Area.”

Section 3.02. Paragraph (33) of Section 1.02 of the Loan Agreement is amended by: (a) deleting the words “Facility Agreement” and substituting therefor the words “Matte Sales Agreement”, and (b) deleting the words “Shareholders’ Agreement”.

Section 3.03. Paragraph (39) of Section 1.02 of the Loan Agreement is amended by inserting the words “, BCL sales” after the word “BCL”.

Article IV

Section 4.01. Section 2.13 of the Loan Agreement is amended to read as follows:

“SECTION 2.13. If the Exhaustion Date referred to in Section 4.04 of the Guarantee Agreement is stated by BCL or is determined by arbitration in accordance with Section 4.04 (b) of the Guarantee Agreement to be a date prior to the then final maturity date for payment of the Loan, unless the Borrower, the Bank and BCL shall otherwise agree, the amortization schedule set forth in Schedule 2 to the Loan Agreement in its original form or as last revised pursuant to the provisions of the Loan Agreement, shall be revised to provide for the payment of the principal of the Loan then outstanding together with interest and other charges thereon, in equal semi-annual installments using the Exhaustion Date as the final maturity date and the Premiums on Prepayment and Redemption set forth in the said Schedule shall be adjusted accordingly.”

Section 4.02. Section 4.06 of the Loan Agreement is amended to read as follows:

“SECTION 4.06 (a) Except as the Bank shall otherwise agree, and subject to compliance by BCL and BCL Sales with their obligations under the Specified Documents to which either is party, the Borrower shall permit BCL and BCL Sales: (i) to construct the Mining Project and bring it to completion in accordance with the Master Agreement, (ii) to export the products from the Mining Project, (iii) to maintain and operate the Mining Project in accordance with sound mining practices, (iv) to make payments required to be made under the Trust Deed, and (v) to maintain and renew all rights, privileges, franchises, licenses, consents or other rights as may be necessary to the construction and operation of the Mining Project.

(b) The Borrower covenants that it will not take, or cause or permit any of its political subdivisions or any of its agencies or any agency of such political

subdivisions to take, any action which would prevent or interfere with the performance by BCL or BCL Sales of its obligations under the Specified Documents to which BCL or BCL Sales is a party, and will permit BCL and BCL Sales to perform their said obligations.”

Section 4.03. Section 4.09 of the Loan Agreement is amended by deleting subsection (b) thereof.

Section 4.04. Paragraph (B) of Section 4.11 (b) (iv) of the Loan Agreement is amended to read as follows:

“(B) the operating and administrative expenses of the Shashe Division, including the administrative and overhead costs of the Water Corporation which are properly allocable to the Shashe Division, taxes (if any), adequate maintenance, and depreciation based on the sinking fund method using an 8% interest factor and the service lives as referred to in the Schedule to the Water Agreement, but excluding interest and other charges on debt.”

Section 4.05. Paragraph (B) of Section 4.12 (b) (iv) of the Loan Agreement is amended by inserting after the words “25 years” the following words: “or such other period as shall be determined in accordance with the proviso to Section 1.01 (19) of the Power Agreement”.

Section 4.06. Paragraph (i) of Section 4.13 (b) of the Loan Agreement is amended to read as follows:

“(i) the Fixed Capital Costs amortized at an annual capital cost factor of 9.3679 per cent or such other annual capital cost factor as shall be determined in accordance with the proviso to Section 1.01 (19) of the Power Agreement;”.

Section 4.07. Paragraphs (i) and (ii) of Section 4.16 (b) of the Loan Agreement is amended by deleting the words “Section 2.05” in both paragraphs and substituting therefor the words “Section 2.05 (b)”.

Section 4.08. Paragraphs (a) and (e) of Section 5.02 of the Loan Agreement are respectively amended to read as follows:

“(a) The Borrower shall furnish or cause to be furnished to the Bank all such information as the Bank shall reasonably request concerning (i) the administration, operations and financial condition of the Corporations and, in respect of the Project, of the ministries, departments or agencies of the Borrower responsible for the carrying out of any part of the Project (including, without limitation, its construction, operation and maintenance), and (ii) the relations among the Borrower, the Corporations, BCL and BCL’s subsidiaries and the exercise of their respective rights and the carrying out of their respective obligations under the Specified Documents and any other agreements related thereto.”

“(e) The Borrower shall upon request from the Bank take all action permitted to be taken under Clause 32 of the Master Agreement to furnish to the Bank or cause BCL and its subsidiaries to furnish to the Bank any of the documents therein referred to and to cause BCL and its subsidiaries to enable the Bank’s representative to inspect its works and construction included in the Mining Project.”

Section 4.09. (a) Paragraph (b) of Section 7.02 of the Loan Agreement is amended to read as follows:

“(b) Any provision of the Specified Documents, the Botswana Power Corporation Act, 1970, the Water Utilities Corporation Act, 1970, the Mines and Minerals Act, 1967, the Bamangwato Concessions Limited Mining Lease Act, 1970 or the Selebi-Pikwe Tax Agreement Ratification Act, 1970, all as amended to the Effective Date, shall have been amended, suspended, abrogated, terminated, waived or assigned without the prior approval of the Bank and such event shall materially and adversely affect the Bank, the Project or the Mining Project or the operation thereof.”

(b) Paragraph (k) of Section 7.02 of the Loan Agreement is amended to read as follows:

“(k) A default materially and adversely affecting the Bank, the Project or the Mining Project or the operation thereof shall have occurred in the performance by BCL or any subsidiary of BCL of any of its obligations under the Specified Documents to which BCL or any of its subsidiaries is a party.”

Section 4.10. Paragraph (c) of Section 8.01 of the Loan Agreement is amended to read as follows:

“(c) (i) That BCL has an authorized share capital of not less than R39,000,000 divided into ordinary shares of R2 each of which not less than 19,347,526 shares (including 2,902,129 shares held by the Borrower) have been duly issued and rank *pari passu* in all respects;

(ii) That the identity of each shareholder of BCL (including the Borrower) and the number and date of issue of the shares held by such shareholder has been duly disclosed to the Bank;

(iii) That save in respect of the ordinary shares held by the Borrower the whole of the issued ordinary share capital of BCL has been duly subscribed in cash at par; and

(iv) That BCL has received from its shareholders other than the Borrower loans in an aggregate amount of not less than R2,200,000 on terms meeting the requirements set forth in Section 2.02 (b) of the Guarantee Agreement.”

Section 4.11. (a) Paragraph (a) of Section 8.02 of the Loan Agreement is amended to read as follows:

“(a) That the Specified Documents, in form and substance satisfactory to the Bank (i) have been duly authorized or ratified by, and executed and delivered on behalf of, the parties thereto, (ii) constitute valid and binding obligations of the parties thereto in accordance with their terms, and (iii) are in full force and effect subject only to the effectiveness of the Loan Agreement.”

(b) A new paragraph (b) is inserted in Section 8.02 of the Loan Agreement to read as follows:

“(b) That the conditions of disbursement of the AID Loan, Canadian Loan and KFW Loan have been fulfilled subject only to the effectiveness of the Loan Agreement.”

(c) Paragraphs (b) and (c) of Section 8.02 of the Loan Agreement are relettered as paragraphs (c) and (d) respectively.

Article V

Section 5.01. The table in paragraph 1 of Schedule 1 to the Loan Agreement is amended to read as follows:

<i>Category</i>	<i>Amount of the Loan Allocated (Expressed in Dollar Equivalent)</i>	<i>% of Expenditures to be Financed</i>
<i>I. Water Facilities</i>		
(a) Shashe Works	6,200,000	100% of total expenditures
(b) Civil Works and other works associated with Trunk Pipeline	1,300,000	100% of total expenditures
(c) Selebi-Pikwe Water Works	1,150,000	100% of total expenditures
(d) Selebi-Pikwe Water Distribution System	500,000	100% of total expenditures
<i>II. Power Facilities Selebi-Pikwe Electric Distribution System</i>	330,000	100% of total expenditures
<i>III. Roads</i>	2,000,000	100% of total expenditures
<i>IV. Railroad Service Siding and Branchline</i>	2,700,000	100% of total expenditures
<i>V. Township</i>		
(a) Road and services	2,200,000	100% of total expenditures
(b) Houses	3,600,000	100% of total expenditures
(c) Government buildings and health center	1,350,000	100% of total expenditures
<i>VI. Consultants Services</i>	3,200,000	100% of total expenditures
<i>VII. Administrative and Training Costs of the Management Unit and the Corporations (excluding seconded staff)</i>	1,200,000	100% of total expenditures
<i>VIII. Interest and other charges on the Loan accrued on or before November 14, 1974</i>	3,600,000	
<i>IX. Refunding of the Credit</i>	910,000	
<i>X. Unallocated</i>	<u>1,760,000</u>	
TOTAL	<u><u>32,000,000</u></u>	

Section 5.02. The Amortization Schedule set forth in Schedule 2 to the Loan Agreement is amended to read as follows:

"AMORTIZATION SCHEDULE

<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>	<i>Date Payment Due</i>	<i>Payment of Principal (expressed in dollars)*</i>
November 15, 1975	335,000	May 15, 1986	710,000
May 15, 1976	345,000	November 15, 1986	735,000
November 15, 1976	360,000	May 15, 1987	760,000
May 15, 1977	375,000	November 15, 1987	790,000
November 15, 1977	385,000	May 15, 1988	815,000
May 15, 1978	400,000	November 15, 1988	845,000
November 15, 1978	415,000	May 15, 1989	875,000
May 15, 1979	430,000	November 15, 1989	910,000
November 15, 1979	445,000	May 15, 1990	940,000
May 15, 1980	460,000	November 15, 1990	975,000
November 15, 1980	480,000	May 15, 1991	1,010,000
May 15, 1981	495,000	November 15, 1991	1,045,000
November 15, 1981	515,000	May 15, 1992	1,085,000
May 15, 1982	530,000	November 15, 1992	1,125,000
November 15, 1982	550,000	May 15, 1993	1,165,000
May 15, 1983	570,000	November 15, 1993	1,205,000
November 15, 1983	590,000	May 15, 1994	1,250,000
May 15, 1984	615,000	November 15, 1994	1,295,000
November 15, 1984	635,000	May 15, 1995	1,345,000
May 15, 1985	660,000	November 15, 1995	1,390,000
November 15, 1985	685,000	May 15, 1996	1,455,000

* To the extent that any portion of the Loan is repayable in a currency other than dollars (see General Conditions, Section 4.02), the figures in this column represent dollar equivalents determined as for purposes of withdrawal."

Schedule 5.03. The table of Premiums on Prepayment and Redemption set forth in Schedule 2 is amended to read as follows:

<i>Time of Prepayment or Redemption</i>	<i>Premium</i>
"Not more than three years before maturity	3/4%
More than three years but not more than six years before maturity	2 1/4%
More than six years but not more than eleven years before maturity	3%
More than eleven years but not more than sixteen years before maturity ..	4 1/2%
More than sixteen years but not more than twenty-one years before maturity .	5 3/4%
More than twenty-one years but not more than twenty-three years before maturity	6 3/4%
More than twenty-three years before maturity	7 1/4%"

Section 5.04. (a) Part A of Schedule 3 to the Loan Agreement is amended by deleting paragraph (ii) and renumbering paragraphs (iii) and (iv) as paragraphs (ii) and (iii) respectively.

(b) Part B of Schedule 3 to the Loan Agreement is amended by:

(i) deleting paragraph (ii) of Section 1 and substituting therefor the following new paragraph (ii):

“(ii) The ‘Selebi-Pikwe Trunk Main’ meaning (A) a second pumping station and ancillary works on the 80 km pipeline of 41,300 cubic meters per day design capacity connecting the primary treatment plant to the bulk service reservoir; (B) a bulk service reservoir of 24,000 cubic meters capacity serving the mining complex, Selebi-Pikwe Township and the power station; and (C) connecting pipes between the bulk supply reservoir and the delivery points”

(ii) deleting paragraph (v) of Section 1; and

(iii) deleting Section 2 and substituting therefor the following new Section 2:

“Section 2. A 24/30 inch pipeline about 80 km long for the Selebi-Pikwe Trunk Main and for connecting the culvert under the dam to the primary treatment plant through the first pumping station.”

Section 5.05. Schedule 4 to the Loan Agreement is amended to read as follows:

SCHEDULE 4. DESCRIPTION OF THE MINING PROJECT

1. The Mining Project consists of the construction and installation in two phases of mining, processing and other facilities located at Selebi-Pikwe in northern Botswana approximately 90 km southeast of Francistown to mine and process copper/nickel ores from the Pikwe and Selebi deposits over an estimated 23 year life of the mines and to produce over such period an average of approximately 42,000 metric tons per year of copper/nickel matte and 127,500 metric tons per year of sulfur.

2. FACILITIES. *Phase I*

The mining, processing and other facilities to be constructed and installed comprise the following:

(A) *Mines*

(i) An underground mine at Pikwe capable of producing 2,000,000 metric tons of ore per year, including two fully equipped shafts approximately 400 meters deep (one for hauling ore and the other for hauling men, materials and waste rock), underground transport and access ways, ventilation facilities, opening of stopes in both the disseminated and massive parts of the ore body.

(ii) A partially completed underground mine at Selebi with a fully equipped shaft approximately 400 meters deep with hoisting facilities capable of hoisting up to 770,000 tons per year of ore.

(B) *Processing Facilities*

(i) The processing plant, to be located at Pikwe, consists of a concentrator, smelter and service facilities. The smelter will include facilities for transferring waste steam to the adjacent power plant.

(ii) The concentrator with a capacity to treat 2,000,000 metric tons of ore per year, consists of primary, secondary and tertiary crushing plants, grinding plant, magnetic drum separators and flotation machines with a capacity to produce 547,500 metric tons per year of copper/nickel concentrate.

(iii) The smelter, with a capacity to treat 547,500 metric tons of copper/nickel concentrate per year, consists of a concentrate drying and handling plant, an Outokumpu-type flash smelting furnace, two electric slag furnaces, a flue dust pelletizing plant, two converters, a coal handling plant and arrangements for casting matte.

(iv) A sulfur plant which is fed by the flash-furnace gases and consisting of a reduction chamber in which coal is used as a reducing agent, a wasteheat boiler, catalyzers, intercalytic and sulfur boilers, and sulfur condensation and cleaning equipment.

(v) Waste-gas disposal facilities consisting of collection ducts for sulfur plant and converter gases, a combustion chamber fired with coal, and a stack 152 meters high. Facilities will also be included for the disposal of solid, liquid and other gaseous effluents according to the standards laid down by the Borrower.

(C) *Other Facilities*

(i) Workshops, railroad loading and off-loading facilities, air compressor installations and an administration office at Pikwe.

(ii) A road, power line and water line between Pikwe and Selebi.

(iii) Facilities at Selebi-Pikwe Township including housing built on serviced lots in the Township and social amenities for all BCL employees.

(iv) Prospecting and service facilities of BCL at Gaborone and Francistown.

3. FACILITIES. *Phase II*

The mining and other facilities to be constructed and installed comprise the following:

(A) *Mines*

At Selebi, development of underground transport and access ways, ventilation facilities, opening of stopes in the ore body, all with a capability of producing 770,000 metric tons of ore per year.

(B) *Other Facilities*

Surface railroad facilities for transporting ore produced at Selebi to the processing facilities at Pikwe.

4. RESERVES

Estimates of the mineralized material in these two deposits to be mined with the said mining facilities and the average metal content thereof, without dilution by low grade material during mining, are as follows:

<i>Deposit</i>	<i>Category</i>	<i>Metric Tons (million)</i>	<i>Average Grade (%)</i>	
			<i>Nickel</i>	<i>Copper</i>
Pikwe	Proven *	22.1	1.45	1.14
	Probable *	9.0	1.13	1.09
Selebi	Proven *	10.0	0.70	1.56
	Probable *	2.6	0.88	1.28

5. MINING RATE

The planned rate of extraction from the Pikwe deposit during the Phase I period is estimated at 2,000,000 metric tons of ore per annum and during the Phase II period 1,230,000 metric tons of ore per annum. During the Phase II period the planned rate of extraction from the Selebi deposit is 770,000 metric tons of ore per annum throughout.

6. PRODUCTION RATE

The planned annual production rate of the processing plant after completion of build-up is as follows:

Description	Metric Tons Per Year	
	Till 1978	1979 Onwards
Matte	42,000	42,000
Nickel**	16,950	15,300
Copper**	15,450	17,400
Sulphur	127,500	127,500
Cobalt**	126	126

* Using the standards set by the Bureau of Mines of the Government of the United States of America.

** Produced by refinery from matte.

Section 5.06. (a) Paragraph 25 in Schedule 6 to the Loan Agreement is amended by the addition of the following at the end of the paragraph:

“and by the deletion of the words ‘Loan Agreement’ and the substitution therefor of the words ‘Guarantee Agreement’.”

(b) The Form of Guarantee of Bamangwato Concessions Limited provided for under paragraph 27 in Schedule 6 to the Loan Agreement is amended by adding the words “or (iii) Section 5.08 of the Guarantee Agreement in the circumstances therein specified” at the end of the first paragraph.

(c) The Form of Guarantee of American Metal Climax Inc., Anglo American Corporation of South Africa Limited, Botswana RST Limited, Charter Consolidated Limited Metallgesellschaft AG, RST International, Inc. and Zambian Anglo American Limited provided for under paragraph 27 in Schedule 6 to the Loan Agreement is amended by adding a new paragraph (4) to read as follows and by renumbering the existing paragraph (4) as paragraph (5):

“(4) The liability of MG shall be subject to Section 7.02(b) of the Guarantee of the Guarantee Agreement.”

Article VI

Section 6.01. This Agreement shall come into force and effect on the date on which the Loan Agreement shall come into force and effect.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Agreement to be signed in their respective names and to be delivered in the District of Columbia, United States of America, as of the day and year first above written.

Republic of Botswana:

By Chief LINCHWE II
Authorized Representative

International Bank for Reconstruction and Development:

By MICHAEL L. LEJEUNE
Director, Eastern Africa Department