

AMENDED AND RESTATED
AFFINITY AGREEMENT

This Amended and Restated Agreement is entered into as of this 31 day of December 1995 (the "Effective Date") by and between MBNA AMERICA BANK, N.A., a national banking association having its principal place of business in Newark, Delaware ("MBNA America"), and SOCIETY FOR MINING, METALLURGY AND EXPLORATION, INC., a non-profit corporation having its principal place of business in Littleton, Colorado ("SME") for themselves, and their respective successors and assigns.

WHEREAS, SME and MBNA America, individually and in its capacity as assignee of any and all of Trans National's rights under the Agreement, are parties to an affinity agreement, as the same may have been amended (the "Original Agreement"), wherein MBNA America provides certain financial services to certain persons included in certain lists provided to MBNA America by or on behalf of SME; and

WHEREAS, SME and MBNA America mutually desire to amend and restate the Original Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, SME and MBNA America agree as follows:

1. DEFINITIONS

When used in this Agreement,

- (a) "Agreement" means this agreement and Schedules A and B.
- (b) "Credit Card Account" means a credit card account opened by a Member in response to marketing efforts made pursuant to the Program.
- (c) "Customer" means any Member who is a participant in the Program.
- (d) "Financial Service Products" means credit card programs, charge card programs, debit card programs, installment loan programs, revolving loan programs, deposit programs, and other related financial service programs. This definition shall not include SME's mortgage loan program administered by Mellon Bank, as the same is currently structured and delineated as of the date of this Agreement.
- (e) "Mailing Lists" means updated and current lists and/or magnetic tapes (in a format designated by MBNA America) containing names and postal addresses of Members segmented by zip codes or reasonably selected membership characteristics.
- (f) "Member" means a member of SME and/or other potential participants mutually agreed to by SME and MBNA America.

(g) "Program" means those programs and services of the Financial Service Products MBNA America agrees to offer pursuant to this Agreement to the Members from time to time.

(h) "Royalties" means the compensation set forth in Schedule B.

(i) "Trademarks" means any design, image, visual representation, logo, service mark, trade dress, trade name, or trademark used or acquired by SME during the term of this Agreement.

2. RIGHTS AND RESPONSIBILITIES OF SME

(a) SME agrees that during the term of this Agreement: (i) it will endorse the Program exclusively and will not sponsor, advertise, aid, develop or solicit any Financial Service Products of any organization other than MBNA America; (ii) it will not license or allow others to license the Trademarks in relation to or for promoting any Financial Service Products of any entity other than MBNA America; and it will not sell, rent or otherwise make available or allow others to sell, rent or otherwise make available any of its mailing lists or information about any current or potential Members in relation to or for promoting any Financial Service Products of any entity other than MBNA America, and (iii) no SME publication shall carry advertisements for any Financial Service Products of any entity other than MBNA America.

(b) SME agrees to provide MBNA America with such information and assistance as may be reasonably requested by MBNA America in connection with the Program.

(c) SME authorizes MBNA America to solicit its Members by mail, direct promotion, and/or advertisements for participation in the Program.

(d) SME shall have the right of prior approval of all Program advertising and solicitation materials to be used by MBNA America, which contain SME's Trademark; such approval shall not be unreasonably withheld or delayed.

(e) Upon the request of MBNA America, SME shall provide MBNA America with Mailing Lists free of any charge. In the event that MBNA America incurs a cost because of a charge assessed by SME or its agents for any initial Mailing List or an update to that list, MBNA America may deduct such cost from Royalties due SME. Such Mailing Lists shall contain at least ten thousand (10,000) total names with corresponding postal addresses.

(f) SME shall only provide information to or otherwise communicate with Members or potential Members about the Program with MBNA America's prior written approval, except for current advertising and solicitation materials provided by MBNA America to SME.

(g) SME hereby grants MBNA America and its affiliates a limited, exclusive license to use the Trademarks solely in conjunction with the Program, including the promotion thereof. This license shall be transferred upon permitted assignment of this Agreement. This license shall remain in effect for the duration of this Agreement and shall apply to the Trademarks, notwithstanding the transfer of such Trademarks by operation of law or otherwise to any permitted successor, corporation, organization or individual. Nothing stated in this Agreement

prohibits SME from granting to other persons a license to use the Trademarks in conjunction with the providing of any other service or product, except for any Financial Service Products.

3. RIGHTS AND RESPONSIBILITIES OF MBNA AMERICA

- (a) MBNA America shall design, develop and administer the Program for the Members.
- (b) MBNA America shall design all advertising, solicitation and promotional materials with regard to the Program. MBNA America reserves the right of prior written approval of all advertising and solicitation materials concerning or related to the Program, which may be developed by or on behalf of SME.
- (c) MBNA America shall bear all costs of producing and mailing materials for the Program.
- (d) MBNA America shall make all credit decisions and shall bear all credit risks with respect to each Customer's account(s) independently of SME.
- (e) MBNA America shall use the Mailing Lists provided pursuant to this Agreement consistent with this Agreement and shall not permit those entities handling these Mailing Lists to use them for any other purpose. MBNA America shall have the sole right to designate Members on these Mailing Lists to whom promotional material will not be sent. These Mailing Lists are and shall remain the sole property of SME. However, MBNA America may maintain separately all information which it obtains as a result of an account relationship or an application for an account relationship. This information becomes a part of MBNA America's own files and MBNA America shall be entitled to use this information for any purpose. MBNA America will not use this separate information in a manner that would imply an endorsement by SME.

4. REPRESENTATIONS AND WARRANTIES

- (a) SME and MBNA America each represents and warrants to the other that as of the Effective Date and throughout the term of this Agreement:
 - (i) It is duly organized, validly existing and in good standing.
 - (ii) It has all necessary power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.
 - (iii) This Agreement constitutes a legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, receivership, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.
 - (iv) No consent, approval or authorization from any third party is required in connection with the execution, delivery and performance of this Agreement, except such as have been obtained and are in full force and effect.

(v) The execution, delivery and performance of this Agreement by such party will not constitute a violation of any law, rule, regulation, court order or ruling applicable to such party.

(b) SME represents and warrants to MBNA America as of the date hereof and throughout the term of this Agreement that it has the right and power to license the Trademarks to MBNA America for use as contemplated by this Agreement.

5. ROYALTIES

During the term of this Agreement, MBNA America shall pay Royalties to SME. Except as otherwise provided in Schedule B, payment of Royalties then due shall be made approximately forty-five (45) days after the end of each calendar quarter.

6. CROSS INDEMNIFICATION

SME and MBNA America each will indemnify and hold harmless the other party, its directors, officers, agents, employees, affiliates, successors and assigns (the "Indemnitees") from and against any and all liability, causes of action, claims, and the reasonable and actual costs incurred in connection therewith ("Losses"), resulting from the material breach of this Agreement by SME or MBNA America, respectively as the case may be, or its directors, officers or employees. SME will indemnify and hold harmless MBNA America and its Indemnitees from and against any and all Losses arising from the Trademark license granted herein or from MBNA America's use of the Trademarks in reliance thereon. Each party shall promptly notify the other party in the manner provided herein upon learning of any claims or complaints that may reasonably result in the indemnification by the other party.

7. PROGRAM ADJUSTMENTS

A summary of the current features of the Program are set forth in Schedule A. MBNA America reserves the right to make periodic adjustments to the Program and its terms and features. Delaware and applicable federal law currently require each open-end credit account Customer be given the opportunity to reject a proposed change and pay the existing balance under the prior terms if the proposed adjustment increases the fees or finance charges on such account.

8. CONFIDENTIALITY OF AGREEMENT

The terms of this Agreement and any proposal, financial information or proprietary information provided by or on behalf of one party to the other party prior to, contemporaneously with, or subsequent to, the execution of this Agreement ("Information") are confidential as of the date of disclosure. Such Information will not be disclosed by such other party to any other person or entity, except as permitted under this Agreement or as mutually agreed in writing. MBNA America and SME shall be permitted to disclose such Information (i) to their accountants, legal, financial and marketing advisors, and employees as necessary for the performance of their respective duties, provided that said persons agree to treat the information as confidential in the above described manner and (ii) as required by law or by any governmental regulatory authority.

9. TERM OF AGREEMENT

Any previous agreements between the parties that may overlap the term of this Agreement will become invalid on the day this Agreement is signed. The initial term of this Agreement will begin on the Effective Date and end on December 31, 1999. This Agreement will automatically extend at the end of the initial term or any renewal term for successive two-year periods.

10. STATE LAW GOVERNING AGREEMENT

This Agreement shall be governed by and subject to the laws of the State of Delaware (without regard to its conflict of laws principles) and shall be deemed for all purposes to be made and fully performed in Delaware.

11. TERMINATION

(a) In the event of any material breach of this Agreement by MBNA America or SME, the other party may terminate this Agreement by giving notice, as provided herein, to the breaching party. This notice shall (i) describe the material breach; and (ii) state the party's intention to terminate this Agreement. If the breaching party does not cure or substantially cure such breach within sixty (60) days after receipt of notice, as provided herein (the "Cure Period"), then this Agreement shall terminate sixty (60) days after the Cure Period.

(b) If either MBNA America or SME becomes insolvent in that its liabilities exceed its assets, or is adjudicated insolvent, or takes advantage of or is subject to any insolvency proceeding, or makes an assignment for the benefit of creditors or is subject to receivership, conservatorship or liquidation then the other party may immediately terminate this Agreement.

(c) Upon termination of this Agreement, MBNA America shall, in a manner consistent with Section 11(d) of this Agreement, cease to use the Trademarks. MBNA America agrees that upon such termination it will not claim any right, title, or interest in or to the Trademarks or to the Mailing Lists provided pursuant to this Agreement. However, MBNA America may conclude all solicitation that is required by law.

(d) MBNA America shall have the right to prior review of any notice in connection with, relating or referring to the termination of this Agreement communicated by SME or on SME's behalf to the Members. Such approval shall not be unreasonably withheld. Upon termination of this Agreement, SME shall not attempt to cause the removal of SME's identification or Trademarks from any person's credit devices, checks or records of any Customer existing as of the effective date of termination of this Agreement.

12. MISCELLANEOUS

(a) This Agreement cannot be amended except by written agreement signed by the authorized agents of both parties hereto.

(b) The obligations in Sections 6, 8, 11(c), and 11(d) shall survive any termination of this Agreement.

(c) The failure of any party to exercise any rights under this Agreement shall not be deemed a waiver of such right or any other rights.

(d) The section captions are inserted only for convenience and are in no way to be construed as part of this Agreement.

(e) If any part of this Agreement shall for any reason be found or held invalid or unenforceable by any court or governmental agency of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder of this Agreement which shall survive and be construed as if such invalid or unenforceable part had not been contained herein.

(f) All notices relating to this Agreement shall be in writing and shall be deemed given (i) upon receipt by hand delivery, facsimile or overnight courier, or (ii) three (3) business days after mailing by registered or certified mail, postage prepaid, return receipt requested. All notices shall be addressed as follows:

(1) If to SME:

SOCIETY FOR MINING, METALLURGY AND EXPLORATION, INC.
8307 Shaffer Parkway
Littleton, CO 80127

ATTENTION: Mr. John Orologio,
Director, Administrative Services

(2) If to MBNA America:

MBNA AMERICA BANK, N. A.
400 Christiana Road
Newark, Delaware 19713

ATTENTION: Mr. Ric Struthers,
Vice Chairman

Any party may change the address to which communications are to be sent by giving notice, as provided herein, of such change of address. If SME is providing MBNA America with notice pursuant to Section 9 herein, SME must provide notice at least 90 days before the effective date contained in such notice.

(g) This Agreement contains the entire agreement of the parties with respect to the matters covered herein and supersedes all prior promises and agreements, written or oral, with respect to the matters covered herein. MBNA America may utilize the services of any third party in fulfilling its obligations under this Agreement.

(h) MBNA America and SME are not agents, representatives or employees of each other and neither party shall have the power to obligate or bind the other in any manner except as otherwise expressly provided by this Agreement.

(i) Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon or give any person other than SME and MBNA America, their successors and assigns, any rights or remedies under or by reason of this Agreement.

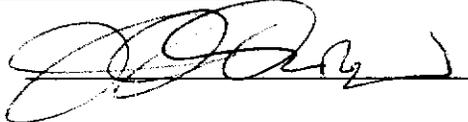
(j) Neither party shall be in breach hereunder by reason of its delay in the performance of or failure to perform any of its obligations herein if such delay or failure is caused by strikes, acts of God or the public enemy, riots, incendiaries, interference by civil or military authorities, compliance with governmental laws, rules, regulations, delays in transit or delivery, or any event beyond its reasonable control or without its fault or negligence.

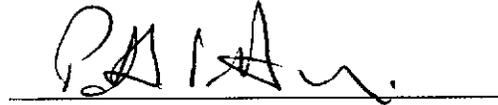
(k) This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, each of the parties, by its representative, has executed this Agreement as of the Effective Date.

SOCIETY FOR MINING, METALLURGY,
AND EXPLORATION, INC.

MBNA AMERICA BANK, N.A.

By: 

By: 

Name: John J. Orologio

Name: Peter

Title: Director, Administrative Svcs.

Title: SA Exec Vice President

SCHEDULE A

TERMS AND FEATURES

Subject to (i) MBNA America's right to vary the Program and its terms and features, and (ii) the applicable agreement entered into between MBNA America and each Customer:

A. CREDIT CARD ACCOUNTS

1. There is NO annual fee.
2. The current annual percentage rate will be a variable rate of prime plus 7.9%. For variable rate accounts, there may be an additional margin applied on account of the Customer's delinquency.
3. Customers may be offered opportunities to select credit insurance as a benefit under the Program.

B. GOLD RESERVE ACCOUNTS

"Gold Reserve Account" means a GoldReserve® (as such service mark may be changed by MBNA America, in its sole discretion, from time to time) revolving loan account opened by a Member in response to marketing efforts made pursuant to the Program.

1. There is NO annual fee for the first six months.
2. The annual fee for the second six (6) months, when applied, is \$10.00.
3. Thereafter the annual fee, when applied, is \$20.00.
4. The current annual percentage rate is 16.9%.

C. GOLD OPTION ACCOUNTS

"Gold Option Account" means a GoldOptionSM (as such service mark may be changed by MBNA America, in its sole discretion, from time to time) revolving loan account opened by a Member in response to marketing efforts made pursuant to the Program.

1. There is NO annual fee.
2. The current annual percentage rate is ~~14.99%~~ 14.9%.

SCHEDULE B

ROYALTY ARRANGEMENT

During the term of this Agreement, MBNA America will pay SME a Royalty calculated as follows, for those accounts with active charging privileges. All Royalty payments due hereunder are subject to adjustment by MBNA America for any prior overpayment of Royalties by MBNA America:

A. CREDIT CARD ACCOUNTS

1. \$1.00 (one dollar) for each new Credit Card Account opened, which remains open for at least ninety (90) consecutive days.
2. \$3.00 (three dollars) for each Credit Card Account for which the annual fee is paid by the Customer. If no annual fee is assessed by MBNA America (other than as a result of a courtesy waiver by MBNA America), then such royalty will be paid for each Credit Card Account which: 1) has a balance greater than zero as of the last business day of every twelfth month after the opening of that Credit Card Account; and 2) has had active charging privileges for each of the preceding twelve months.
3. \$0.15 (fifteen cents) for each retail purchase transaction made by a Customer using a Credit Card Account (excluding those transactions that relate to refunds, returns and unauthorized transactions).

B. GOLD RESERVE REVOLVING LOAN ACCOUNTS

1. \$0.50 (fifty cents) for each Gold Reserve Account opened, which remains open for at least ninety (90) consecutive days.
2. 0.25% (one quarter of one percent) of the average of all month-end outstanding balances (excluding transactions that relate to credits and unauthorized transactions) in the calendar year for each Gold Reserve Account. This Royalty will be paid within sixty (60) days of the calendar year end.
3. \$2.00 (two dollars) for each applicable twelve (12) month period that a Customer pays the annual fee on a Gold Reserve Account.

C. GOLD OPTION REVOLVING LOAN ACCOUNTS

1. \$0.50 (fifty cents) for each Gold Option Account opened, which remains open for at least ninety (90) consecutive days.
2. 0.25% (one quarter of one percent) of the average of all month-end outstanding balances (excluding transactions that relate to credits and unauthorized

transactions) in the calendar year for each Gold Option Account. This Royalty will be paid within sixty (60) days of the calendar year end.

3. \$2.00 (two dollars) for each applicable twelve (12) month period that each Gold Option Account remains open.

D. DEPOSIT ACCOUNTS

"CD Deposits" means those deposits in the certificate of deposit accounts opened by Members in response to marketing efforts made pursuant to the Program.

"MMDA Deposits" means those deposits in the money market deposit accounts opened by Members in response to marketing efforts made pursuant to the Program.

1. 0.10% (ten one-hundredths of one percent) on an annualized basis, computed monthly (periodic rate of 0.00833330%) of the average MMDA Deposits.
2. 0.05% (five one-hundredths of one percent) on an annualized basis, computed monthly (periodic rate of 0.004167%) of the average CD Deposits.

BUSINESS CARD ADDENDUM

THIS ADDENDUM and Attachment #1 (the "Addendum") is entered into as of the 1st day of March, 1995, by and between SOCIETY FOR MINING, METALLURGY AND EXPLORATION, INC. ("SME") and MBNA AMERICA BANK, N.A. ("MBNA America"), for themselves and their respective successors and assigns.

WHEREAS, SME and MBNA America, individually and in its capacity as assignee of any and all of Trans National's rights under the Agreement, are parties to an affinity agreement, as the same may have been amended (the "Agreement"), wherein MBNA America provides certain financial services to certain persons included in certain lists provided to MBNA America by or on behalf of SME; and

WHEREAS, SME and MBNA America mutually desire to amend the Agreement to include MBNA America's BusinessCard product ("BusinessCard"): (i) as a financial service provided by MBNA America; and (ii) as another part of SME's Program, MemberCard Program or Financial Service Program, as the case may be (the "Program"), under the Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, SME and MBNA America agree as follows:

1. The above recitals are incorporated herein and deemed a part of this Addendum.
2. The parties agree that BusinessCard (as such product is more fully described on Attachment #1) is now a part of the Program (as such product or Program may be adjusted or amended from time to time by MBNA America, in its sole discretion). MBNA America may, at its option, offer BusinessCard to some or all of the persons included on the lists provided to MBNA America under the Agreement, and to business entities related to such persons.
3. SME agrees to (i) exclusively endorse BusinessCard; and (ii) not sponsor, promote, aid, advertise, or develop a loan program similar to BusinessCard. Subject to the foregoing, all other promises made by SME in the Agreement arising from its exclusive arrangement with MBNA America shall also apply to BusinessCard.
4. During the term of the Agreement, SME will receive the compensation set forth on Attachment #1, Section II for BusinessCard credit card accounts opened pursuant to the Program. BusinessCard compensation shall not affect any other compensation contained in the Agreement, and the compensation referenced in the Agreement shall not apply to BusinessCard accounts.
5. Upon termination or expiration of the Agreement, or any aspect of the Program, SME shall not take action to cause the removal of SME's design, image, visual representation, identification, trademark, trade dress, service mark, logo or trade name (each, a "Mark") from the credit devices, checks or records of any customer of MBNA America prior to (i) the expiration of said customer's credit device, with respect to Marks appearing thereon; and (ii) the exhaustion

ATTACHMENT #1

I. TERMS AND FEATURES OF BUSINESSCARD ACCOUNTS

The terms referenced below will be subject in all respects to the terms set forth in the BusinessCard credit card agreement to be entered into between MBNA America and each Customer (as defined below) as the same may be amended from time to time. Further, this description may be adjusted or amended pursuant to MBNA America's rights under the Agreement, as amended. Terms of the benefits will be stated in the benefits brochure supplied each Customer.

- A) The current annual fee for each business card issued to an individual or business entity (other than SME) pursuant to the BusinessCard program ("Customer"):
- ** \$40.00 per card for the first five (5) cards.
 - ** \$30.00 per card for cards six (6) through twenty-four (24).
 - ** \$25.00 per card for all additional cards.
- B) If a Customer initially has five or fewer cards and then grows to have six or more, each of the first five cards will incur a \$40.00 annual fee. Upon receipt of a sixth card, that card and each additional card will be charged the \$30.00 annual fee, and the annual fees of the initial five cards will convert from \$40.00 to \$30.00 at their next anniversary date. If a Customer has less than twenty-five (25) cards but at least six (6) cards, each of said cards will incur a \$30.00 annual fee. Upon receipt of the twenty-fifth card, that card and each additional card will incur a \$25.00 annual fee and the initial twenty-four cards will convert from \$30.00 to \$25.00 at their next anniversary date. MBNA America reserves the right to make special pricing offers to select Customers and/or cardholders at its own discretion.
- C) The current Annual Percentage Rate will be a fixed rate of 17.9%.
- D) Subject to SME and MBNA America establishing a BusinessCard account relationship, any BusinessCard cards that may be issued directly to SME for its business use by SME's employees will be priced as follows:
- ** No Annual Fee for the first five cards.
 - ** \$25.00 per card for all additional cards.

II. COMPENSATION FOR BUSINESS CARD ACCOUNTS

- A) \$4.00 for each new BusinessCard credit card account opened pursuant to the Program which remains open for ninety (90) consecutive days (each a "BusinessCard Credit Card Account").

B) \$5.00 for each BusinessCard Credit Card Account each year that such account is renewed and the applicable annual fee is paid by the Customer; provided however, that if the annual fee on a BusinessCard Credit Card Account is less than \$25.00, no renewal compensation shall be paid with respect thereto.

Payment shall be made approximately 45 days after the end of each calendar quarter. All references to BusinessCard Credit Card Accounts are exclusive of SME employee accounts, and accounts which do not have active charging privileges.

and clearing of such customer's extant check supply, with respect to Marks appearing thereon. Subject to the other provisions of the Agreement, and to the extent not otherwise granted, SME hereby grants to MBNA America a limited, exclusive license to use the Marks in connection with the Program, including without limitation the promotion thereof. SME represents and warrants that SME has full right, power and authority to license the Marks to MBNA America as provided in the Agreement and this Addendum.

6. Except as amended by this Addendum, all of the terms, conditions and covenants of the Agreement are valid, shall remain in full force and effect, and are hereby ratified and confirmed. Any inconsistencies between this Addendum and the Agreement shall be governed by this Addendum. Notwithstanding anything to the contrary in the Agreement, the Agreement, as amended by this Addendum, shall be governed by and subject to the laws of the State of Delaware and shall be deemed for all purposes to be made and fully performed in Delaware.

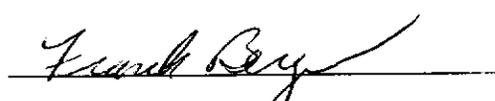
7. This Addendum may be executed in any number of counterparts, each of which shall be considered an original, and all of which shall be deemed one and the same instrument. The Agreement, as amended by this Addendum, contains the entire agreement of the parties with respect to the matters covered and no other or prior promises, negotiations or discussions, oral or written, made by any party or its employees, officers or agents shall be valid and binding.

IN WITNESS WHEREOF, each party hereto, by its representative, has executed this Addendum as of the date first above written, and such party and its representative warrant that such representative is duly authorized to execute and deliver this Addendum for and on behalf of such party.

SOCIETY FOR MINING, METALLURGY
AND EXPLORATION, INC.

MBNA AMERICA BANK, N.A.

By: 

By: 

Name: John J. Orologio

Name: Frank Berger

Title: Director, Administrative Services

Title: Vice President

MAY 4 1995

ADDENDUM

THIS ADDENDUM (the "Addendum") is entered into this 25th day of January, 1996, by and between the SOCIETY FOR MINING, METALLURGY AND EXPLORATION, INC., a Colorado corporation having its principal place of business in Littleton, Colorado ("SME") and MBNA America Bank, N.A., a national banking association located in Newark, Delaware ("MBNA America"), for themselves and their respective successors and assigns.

WHEREAS, SME and MBNA America are parties to an affinity agreement, last dated December 31, 1993, as the same may have been amended (the "Agreement"), wherein MBNA America provides certain financial services to certain persons included in certain lists provided to MBNA America by or on behalf of SME; and

WHEREAS, SME and MBNA America desire to amend the Agreement.

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants and agreements contained herein, SME and MBNA America agree as follows:

1. The above recitals are incorporated herein. Capitalized terms used but not otherwise herein defined are used as defined in the Original Agreement.
2. The parties agree that the initial term of the Agreement, as indicated in Section 9(a) of the Agreement, shall end on December 31, 1999.
3. Section 1(c) is hereby amended to read in its entirety as follows:

(c) "Customer" means any Member who is a participant in the Program.

(i) "Student Customer" means a Customer who is identified by SME as an undergraduate or graduate student.

(ii) "Non-Student Customer" means a Customer who is not a Student Customer.

4. Section 1 is hereby amended by adding a new Section 1(i), which shall read as follows:

(i) "Credit Card Account" means a credit card account opened by a Member in response to marketing efforts made by MBNA America pursuant to the Program. A "Non-Student Customer Credit Card Account" is a Credit Card Account where the primary applicant is an Non-Student Customer. A "Student Customer Credit Card Account" is a Credit Card Account where the primary applicant is a Student Customer.

5. Section I, Subsection A of Schedule A of the Agreement is hereby deleted in its entirety and replaced with the following:

I. TERMS AND FEATURES

Subject to (i) MBNA America's right to vary the Program and its terms and features, and (ii) the applicable agreement entered into between MBNA America and each Customer:

A. CREDIT CARD ACCOUNTS

1. There is no annual fee for Non-Student Customers and Student Customers.
 2. For Non-Student Customers, the current annual percentage rate will be a fixed rate of —%, or a variable rate of prime plus 7.9%. For variable rate accounts, there may be an additional margin applied on account of the Non-Student Customer's delinquency.
 3. For Student Customers, the current annual percentage rate will be a variable rate of prime plus 8.9%. For variable rate accounts, there may be an additional margin applied on account of the Student Customer's delinquency.
 4. Non-Student Customers and/or Student Customers may be offered opportunities to select credit insurance as a benefit under the Program.
6. Section II, Subsection A of the Agreement is hereby deleted in its entirety and replaced with the following:

II. ROYALTY ARRANGEMENT

During the term of this Agreement, MBNA America will pay SME a royalty calculated as follows, for those accounts with active charging privileges. All Royalty payments due hereunder are subject to adjustment by MBNA America for any prior overpayment of royalties by MBNA America:

A. CREDIT CARD ACCOUNTS

1. \$1.00 (one dollar) for each new Non-Student Customer Credit Card Account or Student Customer Credit Card Account opened, which remains open for at least ninety (90) consecutive days.
2. \$3.00 (three dollars) for each Non-Student Customer Credit Card Account or Student Customer Credit Card Account for which the annual fee is paid by the Non-Student Customer or Student Customer. If no annual fee is assessed by MBNA America (other than as a result of a courtesy waiver by MBNA America), then such royalty will be paid for each Non-Student Customer Credit Card Account or Student Customer Credit Card Account which: 1) has a balance greater than zero as of the last business day of every twelfth month after the opening of that Credit Card Account; and 2) has had charging privileges for each of the preceding twelve months.

3. \$0.15 (fifteen cents) for each retail purchase transaction made by a Non-Student Customer or Student Customer using a Credit Card Account (excluding those transactions that relate to refunds, returns and unauthorized transactions).

Except where otherwise provided, payment for the above sections shall be made approximately 45 days after the end of each calendar quarter.

7. Except as amended by this Addendum, all of the terms, conditions and covenants of the Agreement are valid, shall remain in full force and effect, and are hereby ratified and confirmed. Any inconsistencies between this Addendum and the Agreement shall be governed by this Addendum. Notwithstanding anything to the contrary in the Agreement, the Agreement, as amended by this Addendum, shall be governed by and subject to the laws of the State of Delaware and shall be deemed for all purposes to be made and fully performed in Delaware.

8. This Addendum may be executed in any number of counterparts, each of which shall be considered an original, and all of which shall be deemed one and the same instrument.

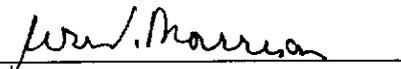
9. The Agreement contains the entire agreement of the parties with respect to the matters covered and no other or prior promises, negotiations or discussions, oral or written, made by any party or its employees, officers or agents shall be valid and binding.

IN WITNESS WHEREOF, each party hereto, by its representative, has executed and delivered this Addendum as of the date indicated above, and such party and its representative warrant that such representative has been duly authorized to execute and deliver this Addendum for and on behalf of such party.

SOCIETY FOR MINING, METALLURGY
AND EXPLORATION, INC

MBNA AMERICA BANK, N.A.

By: 

By: 

Name: John J. Orologio

Name: WILLIAM P. MORRISON

Title: Director, Administrative Services

Title: SEVP

INSURANCE PRODUCTS ADDENDUM

THIS ADDENDUM (the "Addendum") is entered into this 15th day of August, 1998¹⁹⁹² (the "Effective Date") by and between MBNA AMERICA BANK, N.A. ("MBNA America"), and SOCIETY FOR MINING, METALLURGY AND EXPLORATION, INC., ("SME"), for themselves, and their respective successors and assigns, agree as follows:

1. SME and MBNA America, individually and in its capacity as assignee of any and all of Trans National's rights under the Affinity Agreement, are parties to an affinity agreement, as the same may have been amended (the "Affinity Agreement"), wherein MBNA America provides certain financial services to certain persons included in certain lists provided to MBNA America by or on behalf of SME.
2. MBNA America may offer auto insurance products (the "Insurance Products") to the members of SME and/or other potential participants mutually agreed to by SME and MBNA America (the "Members"). MBNA America shall select those programs and services of the Insurance Products MBNA America agrees to make available pursuant to this Addendum from time to time (the "Insurance Program"). MBNA America reserves the right to make periodic adjustments to the Insurance Program and its terms and features.
3. SME authorizes MBNA America to solicit its Members by mail, direct promotion and/or advertisements for participation in the Insurance Program. MBNA America shall design all advertising, solicitation and promotional materials with regard to the Insurance Program. SME shall not design or produce any materials concerning or related to the Insurance Program. MBNA America shall bear all costs of producing and mailing materials for the Insurance Program.
4. Upon the request of MBNA America and in consideration of the compensation set forth in Section 8, SME shall provide MBNA America with an updated and current mailing list that contains the names and postal addresses of Members in a format designated by MBNA America and segmented by zip code or other reasonably selected membership characteristics (each, a "Mailing List") for the Insurance Program. The initial Mailing List shall contain at least eleven thousand (11,000) names with corresponding postal addresses. MBNA America shall use the Mailing Lists provided pursuant to this Addendum consistent with this Addendum and shall not permit those entities handling these Mailing Lists to use them for any other purpose. MBNA America shall have the sole right to designate Members on these Mailing Lists to whom Insurance Program material will not be sent. Each Mailing List is and shall remain the sole property of SME. However, MBNA America may maintain separately all information which it obtains as a result of a policy relationship or an application for a policy relationship. This information becomes a part of MBNA America's own files and shall not be subject to this Addendum and/or the Affinity Agreement; provided however that MBNA America will not use this separate information in a manner that would imply an endorsement by SME.
5. SME hereby grants MBNA America and its affiliates a limited, exclusive license to use (solely in conjunction with the Insurance Program, including the promotion thereof) any design, image, visual representation, logo, service mark, trade dress, trade name, or trademark used or acquired by SME during the term of this Addendum (each, a "Trademark"). This license shall be transferred upon assignment of this Addendum and/or the Affinity Agreement. This license shall remain in effect for the duration of this Addendum and shall apply to the Trademarks, notwithstanding the transfer of such Trademarks by operation of law or otherwise to any permitted successor, corporation, organization or individual. SME shall have the right of prior approval of all Insurance Program advertising and solicitation materials to be used by MBNA America, which contain SME's Trademark; such approval shall not be unreasonably withheld or delayed. Nothing stated in this Addendum prohibits SME from granting to other persons a license to use the Trademarks in conjunction with the providing of any other service or product, except for any Insurance Products.

6. SME agrees that during the term of this Addendum: (i) it will not license to any entity (other than MBNA America) or allow others to license or use its name and/or the Trademarks in relation to or for promoting any Insurance Products; and (ii) it will not sell, rent or otherwise make available to any entity (other than MBNA America) or allow others to sell, rent or otherwise make available any of its mailing lists or information about any current or potential Members in relation to or for promoting any Insurance Products.
7. SME shall only provide information to or otherwise communicate about the Insurance Program with MBNA America's prior written approval. Any correspondence received by SME that is intended for MBNA America (e.g., applications, payments, inquiries, etc.) shall be forwarded to the MBNA America account executive via overnight courier within 24 hours of receipt. All charges incurred for this service will be paid by MBNA America.
8. During the term of this Addendum, MBNA America shall pay quarterly compensation to SME as follows:
- (a) \$3.00 for each Automobile Insurance Policy Initial Information Package mailed by MBNA America to a Member. An "Initial Information Package" is the first complete package of informational materials provided by MBNA America in response to a request by a Member who is responding to a contact made under the Insurance Program.
 - (b) \$5.00 for each Automobile Insurance Policy Renewal Package mailed by MBNA America to an Automobile Insurance Policyholder. A "Renewal Package" is the renewal informational materials provided by MBNA America to an insurance customer under the Insurance Program and which is mailed on or about the anniversary of the initial issuance of the policy.
9. MBNA America's payments to SME (i) are not based upon MBNA America's success in offering any policy to any person or in having any person renew any policy; and (ii) shall not affect any other compensation contained in the Affinity Agreement, and the compensation referenced in the Affinity Agreement shall not apply to Insurance Products. All payments due under this Addendum are subject to adjustment by MBNA America for any prior overpayment by MBNA America. Payment of compensation then due shall be made approximately forty-five (45) days after the end of each calendar quarter.
10. The terms of this Addendum, any Insurance Program proposal, financial information and proprietary information related to the Insurance Program that is provided by or on behalf of one party to the other party prior to, contemporaneously with, or subsequent to, the execution of this Addendum ("Information") are confidential as of the date of disclosure. Such Information will not be disclosed by such other party to any other person or entity, except as permitted under this Addendum or as mutually agreed in writing. MBNA America and SME shall be permitted to disclose such Information (i) to their accountants, legal, financial and marketing advisors, and employees as necessary for the performance of their respective duties, provided that said persons agree to treat the Information as confidential in the above described manner and (ii) as required by law or by any governmental regulatory authority.
11. In the event of any material breach of this Addendum by MBNA America or SME, the other party may terminate this Addendum (but not the Affinity Agreement) by giving notice, as provided herein, to the breaching party. This notice shall (i) describe the material breach; and (ii) state the party's intention to terminate this Addendum. If the breaching party does not cure or substantially cure such breach within sixty (60) days after receipt of notice, as provided herein (the "Cure Period"), then this Addendum shall terminate sixty (60) days after the Cure Period. Neither party shall be in breach hereunder by reason of its delay in the performance of or failure to perform any of its obligations herein if such delay or failure is caused by strikes, acts of God or the public enemy, riots, incendiaries, interference by civil or military authorities, compliance with governmental laws, rules, regulations, delays in transit or delivery, or any event beyond its reasonable control or without its fault or negligence.

12. Upon termination of this Addendum, (i) MBNA America shall, in a manner consistent with this Section, cease to use the Trademarks; (ii) SME shall not attempt to cause the removal of SME's identification or Trademarks from the records of any insurance customer existing as of the effective date of termination of this Addendum; (iii) MBNA America shall not claim any right, title, or interest in or to the Trademarks or to the Mailing Lists provided pursuant to this Addendum; (iv) MBNA America may conclude all solicitations and/or transactions that are required by law; (v) the obligations in Sections 10, 12 and 14 of this Addendum shall survive. MBNA America shall have the right to prior review and approval of any notice in connection with, relating or referring to the termination of this Addendum to be communicated by SME to the Members. Such approval shall not be unreasonably withheld.

13. SME and MBNA America each represents and warrants to the other that as of the Effective Date and throughout the term of this Addendum:

- (a) It is duly organized, validly existing and in good standing.
- (b) It has all necessary power and authority to execute and deliver this Addendum and to perform its obligations under this Addendum.
- (c) This Addendum constitutes a legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, receivership, reorganization or other similar laws affecting the enforcement of creditors' rights generally and by general principles of equity.
- (d) No consent, approval or authorization from any third party is required in connection with the execution, delivery and performance of this Addendum, except such as have been obtained and are in full force and effect.
- (e) The execution, delivery and performance of this Addendum by such party will not constitute a violation of any law, rule, regulation, court order or ruling applicable to such party.

14. SME represents and warrants to MBNA America as of the date hereof and throughout the term of this Addendum that it has the right and power to license the Trademarks to MBNA America for use as contemplated by this Addendum. SME will hold MBNA America, its directors, officers, agents, employees, affiliates, successors and assigns harmless from and against all liability, causes of action, and claims, and will reimburse MBNA America's reasonable and actual costs in connection therewith, arising from the Trademark license granted herein or from MBNA America's use of the Trademarks in reliance thereon. Each party shall promptly notify the other party in the manner provided herein upon learning of any claims or complaints relating to such license or the use of any Trademarks.

15. This Addendum cannot be amended except by written agreement signed by the authorized agents of both parties hereto. The failure of any party to exercise any rights under this Addendum shall not be deemed a waiver of such right or any other rights. If any part of this Addendum shall for any reason be found or held invalid or unenforceable by any court or governmental agency of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder of this Addendum which shall survive and be construed as if such invalid or unenforceable part had not been contained herein. This Addendum shall be governed by and subject to the laws of the State of Delaware (without regard to its conflict of laws principles) and shall be deemed for all purposes to be made and fully performed in Delaware.

16. This Addendum may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Addendum contains the entire agreement of the parties with respect to the Insurance Program and supersedes all prior promises and agreements, written or oral, with respect to the Insurance Program. MBNA America may utilize the services of any third party in fulfilling its obligations under this Addendum.

17. MBNA America and SME are not agents, representatives or employees of each other and neither party shall have the power to obligate or bind the other in any manner except as otherwise expressly provided by this Addendum. Nothing expressed or implied in this Addendum is intended or shall be construed to confer upon or give any person other than SME and MBNA America, their successors and assigns, any rights or remedies under or by reason of this Addendum.

18. All notices relating to this Addendum shall be in writing and shall be deemed given (i) upon receipt by hand delivery, facsimile or overnight courier, or (ii) three (3) business days after mailing by registered or certified mail, postage prepaid, return receipt requested. All notices shall be addressed as follows:

(1) If to Society ^{for} of Mining, ^{to}
Metallurgy and Exploration, Inc.
SME
8307 Shaffer Parkway
Littleton, CO 80127

ATTENTION: Mr. John J. Orologio, C.F.P.,
Director, Administrative Services

(2) If to MBNA America:

MBNA AMERICA BANK, N. A.
1100 N. King Street
Wilmington, Delaware 19884

ATTENTION: Insurance Division Manager

Any party may change the address to which communications are to be sent by giving notice, as provided herein, of such change of address.

19. Notwithstanding any other provision of the Affinity Agreement, the initial term of this Addendum will begin on the Effective Date and end on August 15, 2002. This Addendum will automatically extend at the end of the initial term or any renewal term for successive two-year periods, unless either party gives written notice of its intention not to renew at least ninety (90) days, but not more than one hundred eighty (180) days, prior to the last date of such term or renewal term, as applicable. The expiration or termination of the Affinity Agreement shall not terminate this Addendum. If the Affinity Agreement expires or terminates, MBNA America may terminate this Addendum upon notice to SME. If either MBNA America or SME becomes insolvent in that its liabilities exceed its assets, or is adjudicated insolvent, or takes advantage of or is subject to any insolvency proceeding, or makes an assignment for the benefit of creditors or is subject to receivership, conservatorship or liquidation then the other party may immediately terminate this Addendum.

IN WITNESS WHEREOF, each of the parties, by its representative, has executed this Addendum as of the Effective Date.

SOCIETY FOR MINING, METALLURGY
AND EXPLORATION, INC.

By: x Gary D. Howell

Name: Gary D. Howell

Title: Executive Director

MBNA AMERICA BANK, N.A.

By: Howard C. Wallace

Name: HOWARD C. WALLACE

Title: SENIOR EXECUTIVE
VICE PRESIDENT

**ADDENDUM TO AMENDED AND RESTATED
AFFINITY AGREEMENT**

THIS ADDENDUM (the "Addendum") is entered into this 16th day of December, 1999, by and between the SOCIETY FOR MINING, METALLURGY AND EXPLORATION, INC. ("SME") and MBNA AMERICA BANK, N.A. ("MBNA"), for themselves and their respective successors and assigns.

WHEREAS, SME and MBNA America are parties to an amended and restated affinity agreement dated December 31, 1995, as the same may have be further amended (the "Agreement"), wherein MBNA America provides certain financial services to certain persons included in certain lists provided to MBNA America by or on behalf of SME; and

WHEREAS, SME and MBNA America mutually desire to i) extend the term of the Agreement and ii) revise the amount of royalties MBNA America currently pays to SME pursuant to the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, SME and MBNA America agree as follows:

1. The above recitals are incorporated herein and deemed a part of this Addendum. Capitalized terms used but not otherwise herein defined are used as defined in the Agreement.
2. The current term of the Agreement is hereby extended so as to end on December 31, 2001. Thereafter, the Agreement shall automatically extend at the end of the current term or any renewal term for successive two-year periods, unless either party gives written notice of its intention not to renew at least ninety (90) days, but not more than one hundred eighty (180) days prior to the last date of such term or renewal term, as applicable. This section shall replace all provisions concerning the term of the Agreement, the renewal of the Agreement and all notices required to not renew this Agreement.
3. Effective as of the first day of the calendar quarter beginning January 1, 2000, Paragraph A of Schedule B of the Agreement discussing Royalty arrangements is deleted and replaced by the following language:
 - A. CREDIT CARD ACCOUNTS
 1. \$1.00 (One Dollar) for every new Credit Card Account opened by a Customer of SME, which remains open for at least ninety (90) days.
 2. \$1.00 (One Dollar) for each Credit Card Account for which the Annual Fee is paid by the Customer. If no Annual Fee is assessed by MBNA America (other than as a result of a courtesy waiver by MBNA America), then such royalty will

be paid for each Credit Card Account which: 1) has a balance greater than zero as of the last business day of every twelfth month after the opening of that Credit Card Account; or 2) has had active charging privileges for each of the preceding twelve months.

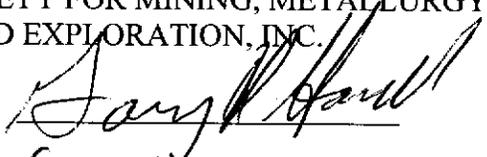
3. 0.50% (one-half of one percent) of each retail purchase transaction dollar volume generated by a Customer using a Credit Card Account (excluding those transactions that (1) relate to refunds, returns and/or unauthorized transactions; and/or (2) are cash equivalent transactions (e.g., the purchase of wire transfers, money orders, bets, lottery tickets, or casino gaming chips)).

4. Except as amended by this Addendum, all of the terms, conditions and covenants of the Agreement are valid, shall remain in full force and effect, and are hereby ratified and confirmed. Any inconsistencies between this Addendum and the Agreement shall be governed by this Addendum. Notwithstanding anything to the contrary in the Agreement, the Agreement, as amended by this Addendum, shall be governed by and subject to the laws of the State of Delaware and shall be deemed for all purposes to be made and fully performed in Delaware.

5. This Addendum may be executed in any number of counterparts, each of which shall be considered an original, and all of which shall be deemed one and the same instrument. The Agreement, as amended by this Addendum, contains the entire agreement of the parties with respect to the matters covered and no other or prior promises, negotiations or discussions, oral or written, made by any party or its employees, officers or agents shall be valid and binding.

IN WITNESS WHEREOF, each party hereto, by its representative, has executed this Addendum as of the date first above written, and such party and its representative warrant that such representative is duly authorized to execute and deliver this Addendum for and on behalf of such party.

SOCIETY FOR MINING, METALLURGY,
AND EXPLORATION, INC.

By: 

Name: Gary Howell

Title: Executive Director

Date: 12/16/99

MBNA AMERICA BANK, N.A.

By: 

Name: K.B. McEwen

Title: Senior Executive Vice President

Date: 1/24/00



www.MBNA.com

MBNA Insurance Agency

Wilmington, Delaware 19884

HADB
SAEP

June 24, 2003

Connie Solfermoser
Manager of Membership
Society for Mining, Metallurgy and Exploration
8307 Shaffer Parkway
Littleton, CO 80127

Dear Ms. Solfermoser:

MBNA America Bank, N.A. ("MBNA") desires to terminate the Insurance Products Addendum dated August 15, 1997, wherein MBNA provides auto insurance products to members of Society for Mining, Metallurgy and Exploration ("SMME"). In order to facilitate this termination we have prepared this letter to be executed by both parties.

The Insurance Products Addendum, in its entirety, shall be deemed terminated effective as of July 31, 2003 (the "Termination Date"). After the Termination Date, neither party shall have any rights or responsibilities arising under the Insurance Products Addendum unless such right or responsibility was intended to survive the termination of the Insurance Products Addendum by the terms of the Insurance Products Addendum. The termination of the Insurance Products Addendum shall not affect the remainder of the Affinity Agreement between SMME and MBNA, as such agreement has been amended, which shall remain in force as if the Insurance Products Addendum was not apart thereof.

MBNA America Bank, N.A. may market insurance products without using SMME name or trademarks to persons holding MBNA credit cards under the Affinity Agreement, as amended. Such insurance products will not generate any compensation for SMME.

Within forty-five days of the end of the 2nd calendar quarter of 2003, MBNA shall pay compensation due to SMME under the Insurance Products Addendum up to and through the Termination Date.

This letter shall bind and inure to the benefit of the successors and assigns of the parties. This letter contains the entire agreement between the parties regarding the termination and may be altered or amended only by written agreement signed by both parties. Any inconsistencies between this letter and the Insurance Products Addendum or the Affinity Agreement, as amended, shall be governed by this letter. The parties agree to keep the terms of this letter confidential. This letter shall be governed by, subject to and construed in accordance with the laws of the State of Delaware. If any portion of this letter is deemed to be invalid, the balance of the letter shall remain in force as if such invalid portion was not contained herein. To acknowledge your agreement with the above, please countersign both copies of this letter where indicated below and return one to me.

Sincerely,
MBNA America Bank, N.A.

By: Deborah A. Doughty
Name: Deborah A. Doughty
Title: Executive Vice President

Accepted and agreed to:
Society for Mining, Metallurgy and Exploration

By: Connie Solfermoser
Name: Connie Solfermoser
Title: Manager of Membership

FIA CARD SERVICES™

FIA Card Services, DE5-001-08-02
1100 N. King Street
Wilmington, DE 19884

Tel: 800.441.7048

VIA OVERNITE DELIVERY

September 19, 2011

Mr. John Orologio
Director, Administrative Services
Society for Mining, Metallurgy and Exploration, Inc.
8307 Shaffer Parkway
Littleton, Colorado 80127

Dear Mr. Orologio:

I am writing to inform you that following a comprehensive review of the Society for Mining, Metallurgy and Exploration, Inc. credit card program, FIA Card Services, N.A. (f/k/a MBNA America Bank, N.A.) ("FIA") has decided not to renew our Amended and Restated Affinity Agreement dated December 31, 1995, as the same may have been amended ("Agreement").

This letter serves as FIA's written notice of non-renewal of the Agreement, as required by Section 9 of the Agreement, as it has been amended by Section 2 of that certain Addendum to the Agreement dated December 16, 1999.

The Agreement's expiration date is **December 31, 2011**.

We have appreciated your endorsement.

Sincerely,



Lance L. Layton
Vice President
FIA Card Services, N.A.