

CHAPTER 202.**TONKOLILI AGREEMENT.**

7 of 1937.

An Ordinance to Ratify and Confirm an Agreement made Between the Crown Agents for the Colonies on behalf of the Government of Sierra Leone and the Sierra Leone Development Company Limited to Regulate the Mining of the Iron Ore Deposits and other Minerals and Metals in the Tonkolili Area of the Protectorate.

[1ST OCTOBER, 1933.]

WHEREAS an agreement was made on the sixteenth day of April, 1937, between the Crown Agents for the Colonies on behalf of the Government of the Colony and Protectorate of Sierra Leone of the one part and the Sierra Leone Development Company Limited of the other part which Agreement is set out in the Schedule:

AND WHEREAS it is desirable that the Agreement aforesaid should be ratified and confirmed:

NOW THEREFORE, BE IT ENACTED by the Governor of Sierra Leone, with the advice and consent of the Legislative Council thereof, as follows—

Short title.

1. This Ordinance may be cited as the Tonkolili Agreement Ordinance, and shall apply to the Colony and Protectorate.

Confirmation of Agreement and conferment of powers.

2. The aforesaid Agreement is hereby ratified and confirmed and all rights and obligations purported to be conferred or imposed thereby are hereby declared valid any law to the contrary notwithstanding and notwithstanding anything in any law contained the Governor or the Crown Agents shall have power to do on behalf of the Crown any act which the said Agreement may require or allow in the name of the Governor or of the Crown Agents or of the Government.

Application of Cap. 136.

3. The provisions of the Marampa Railway and Harbour Works Construction Ordinance, so far as the same may be applicable, are hereby expressly declared to apply to any extension of the Marampa Railway which may be constructed in accordance with the terms of the said Agreement.

SCHEDULE.

AN AGREEMENT made the sixteenth day of April, One thousand nine hundred and thirty-seven BETWEEN the Crown Agents for the Colonies whose office is at Number 4 Millbank in the City of Westminster for and on behalf of the Government of the Colony and Protectorate of Sierra Leone (hereinafter referred to as "the Government" which expression shall where the context so requires or permits include the Governor for the time being of the said Colony and Protectorate) of the one part and the Sierra Leone Development Company Limited whose registered office is at 24 Old Broad Street in the City of London (hereinafter referred to as "the Company" which expression shall where the context so requires or permits include its successors and assigns) of the other part.

WHEREAS—

(i) It is desirable to promote the development of enterprises in the Colony and Protectorate of Sierra Leone which will utilise its natural resources.

(ii) The Company was in the year One thousand nine hundred and thirty incorporated under the Laws of England as a company limited by shares for the purpose (*inter alia*) of taking over and working a concession of two leases in the Marampa Chiefdom in the said Protectorate with the deposits of iron ore and other minerals thereunder.

(iii) Iron ore deposits of considerable extent have been discovered in the Tonkolili Valley in the said Protectorate.

(iv) It is desirable that the said deposits should be explored prospected developed and worked by the Company having regard in particular (a) to the Company's ownership of the aforesaid concession in the Marampa Chiefdom (b) to the fact that the Company has constructed a modern ore shipping installation at Pepel and a railway from Pepel to the aforesaid concession which by an extension of approximately eighty miles from the vicinity of Mafira on the said railway would conveniently and adequately serve any mines opened up in or about the Tonkolili Valley and (c) to the advisability of avoiding redundant capital expenditure and overproduction of iron ore in the said Colony and Protectorate.

(v) The Government and the Company have determined to enter into this Agreement with a view to the deposits of iron ore and other minerals and metals in or about the Tonkolili Valley being explored prospected developed and worked and to the said railway extension being surveyed and constructed in manner and upon and subject to the terms conditions and events hereinafter appearing.

NOW IT IS HEREBY AGREED AND DECLARED as follows—

1. In this Agreement (including the Schedules hereto) the following expressions shall unless the context otherwise requires have the following meanings that is to say:—

Expression.	Meaning.
"Sierra Leone"	The Colony and Protectorate of Sierra Leone.
"The Governor"	The Governor for the time being of the Colony and Protectorate of Sierra Leone.
"The Crown Agents"	The Crown Agents for the Colonies for the time being.

Expression.	Meaning.
“ The Marampa Concession ”	The lands comprised in two Leases dated respectively the fourth day of November One thousand nine hundred and twenty-seven and the twenty-fourth day of December One thousand nine hundred and twenty-eight (made originally in favour of the African and Eastern Trade Corporation Limited but now vested in the Company) of territory in the Marampa Chiefdom in Sierra Leone with the deposits of iron ore and other minerals and metals thereunder for terms of ninety-nine years from the dates thereof respectively.
“ The Railway Extension ”	The proposed railway from the vicinity of Mafira (on the Marampa Railway) to Keimadugu and/or such other terminus or termini within the Delimited Areas and/or the Demised Areas hereinafter mentioned as the Company may from time to time select or construct.
“ The Tonkolili Areas ”	The lands specified in the First Schedule hereto (comprising an area of one hundred and sixty-four square miles or thereabouts).
“ The Delimited Areas ”	The lands comprised in the delimitation to be made by the Company and approved by the Government or settled by arbitration pursuant to Clause 5 hereof or such parts thereof as shall not for the time being have been relinquished by the Company under paragraph (c) of Clause 6 hereof.
“ The Demised Areas ”	The lands for the time being the subject of the Permanent Lease hereinafter mentioned.
* “ The Minerals Ordinance ”	The Ordinance of that name passed in the year 1927 by the Legislative Council and any amendments made thereto prior to the date of this Agreement.
“ The Minerals Rules ”	The General Minerals Rules 1928 and any amendments made thereto prior to the date of this Agreement.
“ All Minerals ”	All minerals included in paragraphs (a), (b), (c) and (d) of the definition of “ Minerals ” in Section 2 of the Minerals Ordinance.
“ Common Boundary ”	A boundary of any part of the Tonkolili areas or the delimited areas or the demised areas as the case may be which is also a boundary of any adjacent land in respect whereof any exclusive prospecting licence or mining right or lease shall have been or shall be issued or granted by the Government.

* Note.—The Minerals Ordinance 1927 is now Cap. 196.
The General Minerals Rules 1928 are now the General Minerals Rules.

Expression.	Meaning.
“ Adjacent Owner ”	The holder of any such exclusive prospecting licence or mining right or the lessee under any such mining lease as last above-mentioned.

Where the context so admits words importing the singular shall include the plural and *vice versa*.

2. (a) The Government hereby grant to the Company a Special Exclusive Prospecting Licence (hereinafter referred to as “ the First Licence ”) for all minerals within the Tonkolili Areas and for the period and upon the terms set out in the next following clause hereof.

(b) Exclusive Prospecting Licence Number 177 of the sixth day of June One thousand nine hundred and thirty-three granted by the Government to the Company for gold only and covering the Tonkolili areas as defined in this Agreement shall determine upon the coming into force of this Agreement or on the first day of October One thousand nine hundred and thirty-seven whichever is the later and the First Licence shall take effect in lieu thereof.

3. (a) The First Licence shall confer on the Company (*inter alia*) all the rights set out in Section 13 of the Minerals Ordinance 1927. The period of such Licence shall be five years from the first day of October One thousand nine hundred and thirty-three. *

(b) Subject as hereinafter mentioned the Company shall be under no obligation during the period of the First Licence to survey demarcate beacon or clear the boundaries of the Tonkolili areas.

(c) If the Company and/or the adjacent owner shall require that any common boundary be cleared surveyed beacons and demarcated the Company shall procure that this be done and the Company and the adjacent owner shall share the cost thereof in accordance with the Minerals Rules.

(d) The Company on the first day of October One thousand nine hundred and thirty-seven shall in respect of the last year of the period of the First Licence pay to the Government a rent of Six Pounds for each square mile of the Tonkolili areas.

(e) The Company shall during the period of the First Licence spend a total sum of not less than Four Thousand Pounds multiplied by the number of complete years of such period on exploration and/or railway survey.

(f) The Government from the first day of October One thousand nine hundred and thirty-seven shall during the period of the First Licence indemnify the Company against all claims of any owners or occupiers (including the Tribal Authorities) in respect of the Tonkolili areas other than claims for compensation made in accordance with the provisions of the Minerals Ordinance but subject to Clause 14 of this Agreement.

(g) At any time and from time to time during the period of the First Licence the Company shall have the right to call for and the Government shall grant mining leases for all or any minerals or metals except iron ore (including any water and/or other rights or easements required in connection therewith) in respect of any lands within the Tonkolili areas for periods of not more than ninety-nine years or less than one year but otherwise subject to the provisions of Section 28 of the Minerals Ordinance or to determination as mentioned in Clause 9 hereof and on terms not less favourable having †

* Now section 15.

† Now section 31.

regard (except in the case of gold platinum and precious stones) to the relative locations of the respective deposits than those on which similar mining leases are held by others in Sierra Leone or if there be no similar mining exploitation in Sierra Leone at a royalty (except in the case of gold platinum and precious stones) not exceeding five per centum of the value of the metal or mineral as mined at the mine mouth. Any dispute as to the terms upon which any such lease shall be granted shall be referred to arbitration in accordance with Clause 27 of this Agreement.

(h) At any time and from time to time during the period of the First Licence the Company shall have the right to call for and the Government shall grant mining rights for any minerals or metals except iron ore in respect of any streams with the Tonkolili areas and the provisions of Clause 3 (g) above in regard to royalties payable in respect of mining leases shall apply *mutatis mutandis* to any mining rights so granted.

(i) The areas covered by any such mining leases and/or mining rights granted under the last preceding paragraphs (g) and (h) shall during the period of the First Licence be deemed to remain part of the Tonkolili areas and the Company shall retain the exclusive rights to prospect thereon for all minerals other than those for which such mining leases and/or rights have been granted and if and when such mining leases and/or rights or any of them are determined the First Licence if still in force shall again be deemed to include the right to prospect for all minerals over all those parts of the Tonkolili areas in respect of which no other mining right or mining lease is for the time being in existence.

(j) If at any time or from time to time during the term of the First Licence there shall be in existence any separate mining rights or mining leases covering or partly covering the Tonkolili areas then the rent payable under Clause 3 (d) hereof in respect of the Tonkolili areas shall not be payable in respect of so much of the Tonkolili areas as shall be included in the areas of such separate mining rights or mining leases but the Company in respect of such separate mining rights or mining leases shall pay the mining rents and surface rents prescribed by the Minerals Ordinance and the Minerals Rules.

(k) No diamonds discovered in the Tonkolili areas shall be won or exported from Sierra Leone by the Company except upon such fair and equitable conditions regulating the winning and marketing thereof as may be from time to time approved by the Government provided that the Company shall not if and while it is prevented from winning such diamonds on a commercial basis be under any liability whatsoever in respect of the illicit working by any person of such diamonds and provided also that the Company shall be kept fully indemnified by the Government in respect of any damage suffered by the Company in consequence of any steps taken by the Government to prevent such illicit working.

(l) If and when diamonds are discovered in or under the Tonkolili areas the Company shall notify the Government of such discovery and thereupon may apply for authority to win and market such diamonds and the Government will give such authority provided that the Company agrees to the said fair and equitable conditions.

4. The Company may not later than the first day of May One thousand nine hundred and thirty-eight give notice in writing to the Government requesting the Government to grant to the Company a further Special Exclusive Prospecting Licence (hereinafter referred to as "the Second Licence") for all minerals within the areas for the period and upon the