

Elements, Inc.)
to)
H. B. Chessher)

OPERATING AGREEMENT

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THIS OPERATING AGREEMENT, made and entered into this the 16th day of April, 1959, by and between ELEMENTS, INC., a corporation organized under the laws of Nevada, the party of the first part, hereinafter known and referred to as First Party, and H. B. CHESSHER, a resident of Reno, Nevada, the party of the second part, hereinafter known and referred to as Second Party.

WITNESSETH: THAT

FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00), and for other good and valuable considerations, received by First Party from Second Party, receipt of all of which First Party hereby acknowledges, First Party does hereby covenant and agree, as follows:

1. That at any time on or before April 1, 1960, at the election, option and/or request of Second Party, First Party will exclusively lease to Second Party upon the terms and conditions stated herein, and First Party will assign and transfer to Second Party, under an operating agreement to contain and be subject to the terms and conditions herein contained, the right of possession, management and operation of, all of the mining property described on the list attached hereto, marked Exhibit "A", and hereby made a part hereof, and said list shall include all real estate, mining property and personal property, now owned or held and/or acquired under lease by First Party, which are located in the State of Nevada, irrespective of the fact that any thereof shall not be expressly described on said list attached hereto, marked Exhibit "A" and made a part hereof; the lease shall be for a term of fifty years from April 1, 1960, subject to the terms and conditions and to right of renewal as are hereinafter contained; AND

2. That First Party shall be liable for, and shall pay, when due, all accounts payable, notes, interest, taxes, debts, bills, claims, liens and encumbrances held by any State or Federal Agency, or by any person, firm, or corporation, against First Party or against any of the real and personal property owned and/or held

possessed and controlled by First Party, and Second Party shall not be liable or responsible for any thereof;
AND

3. That First Party will promptly place in the care of, and for use by, Second Party any and all data, maps, reports and information pertaining or relating to any of said mining property described on attached lists, marked Exhibit "A"; AND

4. That the net returns from the sale of all ores, products, minerals and metals produced by Second Party hereunder at any time hereafter, during the term of this agreement, shall be, in percentages hereinafter described, for the account and benefit of First Party and Second Party after payment of all costs and expenses created by Second Party in the development, mining, production and processing (milling) of said ores, products, minerals and metals; the net returns, after deduction of the costs and expenses created by Second Party, shall be shared and divided by and between First Party and Second Party as follows: 40% thereof shall be promptly paid to First Party and 60% thereof shall be promptly paid to Second Party; however, none of said ores, products, minerals and metals shall be sold or otherwise disposed of except to a U. S. Mint or to any standard and/or recognized ore buyer and/or smelter, unless such sale or disposal is agreed upon beforehand by First Party and Second Party and thereupon evidenced by mutual agreement reduced to a written contract to be duly executed by First Party and Second Party, subject to the procedure and provisions hereinafter contained in Paragraph X; AND

5. That in arriving at a division hereunder the said 40% of net returns to be paid to First Party from the gross returns received by Second Party hereunder, after Second Party deducts therefrom the costs and expenses created by Second Party in the developing, mining, producing and processing (milling) of said ores, products, minerals and metals from said mining property, the costs and expenses to be charged by Second Party against the developing, mining, producing and processing (milling) operations hereunder shall be actual and in accordance with the costs created by good management at other mining properties in Nevada of the same size and similarly situated, and the costs and expenses created by Second Party for over-head expense and high level management shall not exceed ten percentum of the total development, mining, production and processing (milling) costs, which costs shall include the cost of all supplies and repair and replacement costs and expenses; AND

6. That all buildings, personal property, machinery, and equipment purchased and paid for by Second Party and installed in, on or near the said mining property as is, operated by Second Party, which is subject to the terms hereof, shall at all times be, and always shall remain, whether attached or unattached to realty owned or claimed by First Party, the sole property of Second Party, and First Party shall have no right, title, equity or interest therein. In event this agreement expires, or is surrendered, or if it becomes terminated for any reason whatsoever, Second Party may remove all of his buildings, personal property, machinery and equipment from the premises of the said mining property operated hereunder, providing the removal is accomplished within at least six months after the expiration, surrender or termination of this agreement for any reason whatsoever. If not removed within said six months, then all thereof, when situated on property owned by First Party, shall become the property of First Party if Second Party fails to remove same within 90 days after First Party serves notice in writing upon Second Party that First Party elects to take possession and ownership of said buildings, personal property, machinery and equipment under the provision of this paragraph; it being expressly understood that First Party shall wait a full six months after termination of this agreement before serving the aforesaid notice; AND

7. That First Party will aid and assist Second Party in the operation of said mining property, as described in list attached hereto, marked Exhibit "A" and made a part hereof, whenever Second Party requests in writing the aid and assistance of First Party.

IN CONSIDERATION OF THE covenants and agreements upon the part of First Party to be by it promptly performed in manner and way hereinabove described, Second Party covenants and agrees as follows:

(a) To take possession and management, and to commence the operation, of some part of the said mining property as described in lists attached hereto, marked Exhibit "A" and made a part hereof, all to be done under the terms and conditions of this agreement, and the effective date of commencement of the aforesaid possession, management and operation shall be not later than April 1st, 1960, providing weather conditions and Acts of God no not prevent such actions; it being agreed and understood that Second Party shall be per-

mitted to take possession, management and to commence operations hereunder at any time on or before April 1, 1960, if it so elects, otherwise, Second Party shall release this agreement in manner and way provided in Paragraph III on page 6 of this agreement; AND

(b) To enter, with good mining equipment, upon the premises of some part of said mining property any time, at his election, between the date hereof and before expiration of April 1, 1960, as weather conditions and Acts of God will reasonably permit, and thereupon to diligently commence prospecting, development and/or mining operations upon some part of said mining property; AND

(c) To permit the Representative of First Party to have free access to all parts of the said mining property, surface and milling (processing) plants at any time, and the said Representative may inspect, watch and investigate all mining and milling operations providing he does not interfere therewith.

IT IS HEREBY MUTUALLY AGREED by and between First Party and Second Party as follows, to-wit:

I. THAT all ores, products, minerals and metals produced by Second Party from any part of said mining property, during the term of this agreement, shall not be sold or otherwise disposed of by Second Party except to the U. S. Mint and/or to a standard and/or recognized ore buyer or smelter, unless said sales or disposals are first agreed upon and evidenced by a mutual agreement in writing between First Party and Second Party subject, however, to the provisions of Paragraph X hereinafter contained on page 8 of this agreement; AND

II. That in the event the Second Party shall fail to perform any of the terms, conditions, covenants or agreements herein this agreement contained, and upon Second Party's part to be performed, First Party shall have the right to give Second Party written notice expressly specifying wherein Second Party is in default and in the event Second Party, Acts of God and weather conditions not preventing, should fail to fully correct the default within ninety (90) days after receipt of said notice, then First Party may, at its option, terminate and cancel this agreement without further notice to, or consent from, Second Party, and all previous payments of gross returns made to First Party by Second Party hereunder shall be forfeited to First Party and shall be retained by First Party as liquidated damages.

III. That notwithstanding anything in this agreement to the contrary, Second Party, when not in default hereunder, may, at any time, assign and surrender this agreement to First Party upon payment of the consideration of Ten Dollars (\$10.00), and upon tender to First Party of such assignment and surrender, and upon the payment to First Party of said Ten (\$10.00) Dollar consideration, this agreement shall become cancelled, and Second Party shall thereupon be released and relieved hereunder.

IV. That this agreement and each and every clause and covenant thereof shall be binding upon and enforceable by the respective successors, heirs, executors, administrators, and assigns of each party hereto, and the right of assignment by either party hereto is hereby permitted and authorized. This agreement has been executed in duplicate and First Party and Second Party have each received a signed copy hereof. All erasures and interlineations were made before signing. No agreement or understanding exists between First Party and Second Party which is not expressly contained herein and evidenced by written text.

V. That First Party and Second Party shall have and enjoy the right for each to take any depletion allowed, for income tax purposes, as follows: First Party shall be entitled to take as a depletion allowance 40%, and Second Party shall be entitled to take as a depletion allowance 60%, of the gross production of ores, products, minerals and metals produced and sold from the said mining property or any part thereof, and this agreement evidences each party now has hereunder, for income tax purposes, a vested right and an economic interest in said gross production equal to 60% thereof in favor of Second Party and 40% thereof in favor of First Party.

VI. That Second Party shall enjoy the right to take credit for all of the depreciation to be allowed by Internal Revenue Service and State of Nevada upon all of Second Party's machinery, equipment, buildings and all of the depreciable property owned by Second Party.

VII. That at the expiration of 50 years from April 1, 1960, Second Party, at his option and upon tender to First Party of the sum of Ten Dollars (\$10.00), may renew this agreement for an additional 49 years from April 1, 2010, providing Second Party is not in default hereunder of any money payment due hereunder as of the date of expiration (April 1, 2010) of this agreement. Second Party shall serve upon First Party, at

least 30 days prior to April 1, 2010, written notice of the election of Second Party to renew this agreement for an additional 49 years from April 1, 2010.

VIII. That when Second Party operates hereunder a milling plant, open pit, leaching plant and/or any other mining or milling plant or plants, First Party is hereby authorized, and hereby empowered, to name and designate a representative who shall at all times be entitled to be present and who shall inspect the operations of Second Party and to make reports thereon to First Party PROVIDING said representative of First Party does not in the least manner or way interfere with, or hamper to any extent, the orderly procedure of work and business as carried on and as conducted by Second Party. First Party shall pay the wages and all costs and expenses of its said representative.

IX. That Second Party will furnish to First Party, via U. S. mail, first class postage prepaid, a monthly report for each month the said mining property, or any part thereof, is operated by Second Party; each monthly report to expressly reveal the approximate total yards of rock, waste and/or ore moved, mined, treated and/or milled during each calendar month.

X. That in the event of a disagreement between First Party and Second Party as to any price, covenant, text, term or condition hereof, the agreement shall be adjusted and adjudicated, and a final decision shall be made and determined, by a Board of Arbitration composed of three members. First Party shall appoint one member of said Board of Arbitration and Second Party shall appoint one member of said Board of Arbitration and the aforesaid two members shall by mutual agreement appoint the third member of said Board of Arbitration. The decision of a majority of the three members of said Board of Arbitration upon any subject hereunder duly referred to said Board, shall forever be binding and final upon all parties to this agreement.

XI. That the said new Lease and Operating Agreement to be issued to Second Party by First Party, if Second Party makes said election, option and/or request as are authorized by, and are provided for in Paragraph No. 1 appearing at lines 12 to 28 inclusive on page one of this agreement, shall be prepared and typed containing substantially the same terms and conditions as are contained in this agreement when said terms and conditions are applicable to, and pertain and relate to, the said new Lease and Operating Agreement as referred to first above in this paragraph.

XII. That this Agreement is to become null and void, and will be considered as having been terminated and cancelled, unless Second Party notifies First Party on or before April 1, 1960, that Second Party requests, desires and elects to exercise the option hereinabove granted and extended to Second Party in Paragraph 1 on page one of this agreement.

IN WITNESS WHEREOF the First Party and Second Party each have hereunto executed this agreement as of the day and year first above written. Attached hereto, marked Exhibit "B", and made a part hereof, is the document, dated April 13, 1959, wherein the ELEMENTS, INC. has delegated, empowered and commissioned N. W. KELLER, its General Manager, with full power and authority to make and enter into this agreement for and on behalf of ELEMENTS, INC.

(Corporate Seal)

ELEMENTS, INC.

BY E. C. Longpre Pres.
E. C. Longpre

By N. W. Keller
N. W. Keller, General Manager

Attest: H. H. Cornelius
H. H. Cornelius, Secretary

First Party

H. B. Chessher
H. B. Chessher

Second Party

State of Nevada)
) ss.
County of Washoe)

On this 9th day of May A. D., one thousand nine hundred and Fifty-nine (1959) personally appeared before me, Anne L. Chadek, a Notary Public in and for said County of Washoe, State of Nevada, H. H. CORNELIUS, Known to me to be the Secretary of the corporation that executed the foregoing instrument, and upon oath, did depose that he is the officer of said corporation as above designated; that he is acquainted with the seal of said corporation and that the seal affixed to said instrument is the corporate seal of said corporation; that the signature of said H. H. Cornelius is the signature of said H. H. Cornelius, Secretary of said ELEMENTS, INC.

signatures to said instrument were made by officers of said corporation as indicated after said signatures; and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal at my office in the County of Washoe, the day and year in this certificate first above written.

(Notarial Seal)

Ann L. Chadek
Ann L. Chadek

Notary Public in and for the County of Washoe, State of Nevada, Residing at Reno, Nevada.
My commission expires December 8, 1962.

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

On this 16th day of April A.D. one thousand nine hundred and fifty-nine (1959), personally appeared before me, the undersigned, a Notary Public in and for said County of Washoe, State of Nevada, N. W. KELLER, known to me to be the General Manager of ELEMENTS, INC., a corporation organized under the laws of Nevada, which corporation executed the foregoing instrument, and upon oath, N. W. KELLER, General Manager of said corporation did depose that he is an officer of said corporation as above designated; that he is the duly authorized officer of said corporation; and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned pursuant to the authority vested in N. W. Keller, the General Manager, as described in said document attached to this agreement, marked Exhibit "B" and hereby made a part thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal at my office in the County of Washoe, the day and year in this certificate first above written.

(Notarial Seal)

Anne L. Chadek
Notary Public in and for the County of Washoe, State of Nevada. Residing at Reno, Nevada. My Commission expires December 8, 1962.

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

On this 8th day of May A.D. one thousand nine hundred and fifty-nine (1959), personally appeared before me, the undersigned, a Notary Public in and for said County of Washoe, State of Nevada, E. C. LONGPRE, known to me to be the President of ELEMENTS, INC., a corporation organized under the laws of Nevada, which corporation executed the foregoing instrument, and upon oath, the President of said corporation did depose that they are the officers of said corporation as above designated; that they are acquainted with the seal of said corporation and that the seal affixed to said instrument is the corporate seal of said corporation; that the signatures to said instrument were made by officers of said corporation as indicated after said signatures; and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal at my office in the County of Washoe, the day and year in this certificate first above written.

(Notarial Seal)

Anne L. Chadek
Notary Public in and for the County of Washoe, State of Nevada. Reside at Reno, Nevada. My commission Expires Dec. 8, 1962.

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

On this 16th day of April A.D. one thousand nine hundred and fifty nine (1959) personally appeared before me, the undersigned, a Notary Public in and for said County of Washoe, H. B. CHESSHER, known to me to be the person described in and who executed the annexed instrument, who acknowledged to me that he executed the same, freely and voluntarily, and for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal at my office in the County of Washoe, the day and year in this Certificate first above written.

(Notarial Seal)

Anne L. Chadek
ANNE L. CHADEK, Notary Public in and for the County of Washoe, State of Nevada. Residing at Reno, Nevada. My commission expires December 8, 1962.

EXHIBIT "A"

LIST OF MINING CLAIMS, MINING PROPERTY, REAL AND PERSONAL PROPERTY, OWNED, LEASED, CLAIMED AND/OR HELD BY ELEMENTS, INC., A CORPORATION ORGANIZED UNDER THE LAWS OF NEVADA.

1. A group of 68 unpatented lode mining claims, named and numbered as follows:

Elements Nos. 1 to 68 lode mining claims, all situated in T34N, R51E, M.D.M., Eureka County, Nevada.

2. A borium lease No. 3055 M, issued to Elements, Inc., under date of November 1, 1957, by Southern Pacific Company, covering 160 acres legally described as follows:

NE $\frac{1}{4}$ of Section 27, T34N, R51E, M.D.M., Eureka County, Nevada.

3. A group of seven unpatented mining claims, representing a manganese deposit located about one mile westerly of Carlin, Nevada, located in the name of ELEMENTS, INC.

4. A group of seven mining locations and certain patented land, known as, and named, the Wedekind Mine situated within two miles in North of the Northerly boundary of the town or city of Sparks, in Washoe County, Nevada, which are held under lease by Elements, Inc., evidenced by lease agreement, dated December 8, 1958, executed by Silver Hills Mining and Milling Company, as lessor and optioner, and by Elements, Inc., as lessee and

optionee.

5. All other mining leases, mining claims, mining properties and patented lands and real and personal properties of every kind and description which Elements, Inc. now owns, holds by lease, has claims against and/or acquires at any time prior to April 2, 1960, ~~or at any time thereafter said date.~~

ECL
HBC
NWK
HHC.

EXHIBIT "A"

EXHIBIT "B"

Mr. H. B. Chessher
c/o Siskon Corporation
422 Gazette Building, Box 889
Reno, Nevada

Dear Sir:

For value received, the undersigned corporation hereby agrees, guarantees, approves, authorizes and ratifies all acts and things done and performed, and to be done and performed, by N. W. Keller, the General Manager of the undersigned corporation, for and with you and in your favor, and all thereof shall be as valid, effective, operative and as authentic as if all thereof had been done and performed by order of the Board of Directors of Elements, Inc.

The undersigned corporation hereby authorized and instructs N. W. Keller, the General Manager of the undersigned corporation, to negotiate, make consummate and close any deal and/or agreement with you as regards, and in connection with, the Copper King lease and all claims owned by the undersigned corporation in the group of unpatented mining claims which are in a contiguous group surrounding the Copper King Mine situated in Eureka County, Nevada, and this authority and these instructions shall also include all negotiations and transactions involving mining claims, mining options and other mining agreements of every kind and description, now owned or claimed by the undersigned corporation, which are situated, or relate to any mining property, in the County of Eureka, State of Nevada, as in the judgement of N. W. Keller appears proper and advisable and for the best interests of Elements, Inc.

The undersigned corporation agrees that it shall be bound and obligated by, and that it will promptly perform and discharge, all agreements, covenants, obligations, commitments and promises, upon the part of Elements, Inc. to be performed and discharged, as made and entered into by N. W. Keller with you and in your favor, if made with you for and on behalf of the undersigned corporation.

The said N. W. Keller is hereby authorized, empowered, instructed and delegated as the duly authorized attorney in fact for Elements, Inc., the undersigned corporation, to negotiate, make and enter into any agreement of any kind with you, for and on behalf of Elements, Inc. concerning any of the mining claims, options and/or agreements owned by Elements, Inc. in any County in the State of Nevada.

This document is good and valid, and is operative, for one year from date hereof.

Executed this the 13 day of April, 1959.

ELEMENTS, INC.

By E. C. Longpre President

ATTEST: H. H. Cornelius Secretary

EXHIBIT "B"

Recorded at the request of H. B. Chessher May 12, A.D., 1959 at 16 minutes past 4 P. M.

Willis A. DePaoli - Recorder