

First Schedule

THIS AGREEMENT made the fifteenth day of October One thousand nine hundred and sixty-four BETWEEN THE HONOURABLE DAVID BRAND M.L.A., Premier and Treasurer of the State of Western Australia, acting for and on behalf of the said State and Instrumentalities thereof from time to time (hereinafter called "the State") of the one part and CONSOLIDATED GOLD FIELDS (AUSTRALIA) PTY. LIMITED a Company incorporated under the Companies Ordinances of the Australian Capital Territory and having its executive office at A.M.P. Building Circular Quay, Sydney in the State of New South Wales and its registered office in the State of Western Australia (hereinafter referred to as "the said State") at London House Saint George's Terrace Perth CYPRUS MINES CORPORATION a Corporation incorporated in the State of New York in the United States of America and having its executive offices situate at 1234 Pacific Mutual Building 523 West Sixth Street Los Angeles California in the said United States of America and UTAH CONSTRUCTION & MINING CO. a Corporation incorporated in the State of Delaware in the United States of America and having its executive offices situate at 550 California Street San Francisco in the said United States of America (hereinafter called "the Joint Venturers" in which term shall be included the Joint Venturers and each of them and their and each of their respective successors and assigns) of the other part.

WHEREAS: —

- (a) Pursuant to an agreement made between the parties and approved by the Iron Ore (Mount Goldsworthy) Agreement Act, 1962 the Joint Venturers at a total cost in excess of the sum mentioned in clause 3 (1) of that Agreement proceeded to the carrying out of the work in that subclause mentioned in relation to the export of iron ore both from Depuch Island and from elsewhere.
- (b) The Joint venturers firstly are satisfied that the mining area defined in Clause 1 of the said Agreement (being mining area A as defined in Clause 1 of this Agreement) contains iron ore of tonnages and grades sufficient to warrant economic recovery and marketing secondly have carried out certain investigations relating to the mining from that mining area of iron ore and the transport by rail and shipment of that ore thirdly desire to enter into a contract or contracts for the export sale of that ore based on export from a port or place other than Depuch Island and fourthly desire to have certain rights as hereinafter mentioned with respect to the mining areas defined as mining area B and mining area C in Clause 1 hereof.
- (c) The Joint Venturers agree to investigate in due course the feasibility of the beneficiation of ore from the mining areas hereinafter mentioned and of establishing within the State of Western Australia an industry for additional upgrading of such beneficiated ore and to review this matter from time to time with a view to their being in a

position to submit to the State proposals for such establishment as hereinafter provided.

NOW THIS AGREEMENT WITNESSETH: —

Interpretation

1. In this Agreement subject to the context —

“associated company” means —

- (a) any company having a paid-up capital of not less than one million pounds ([Pound]1,000,000) notified in writing by the Joint Venturers or any of them to the Minister which is incorporated in the United Kingdom the United States of America or the Commonwealth of Australia and which —
 - (i) is promoted by the Joint Venturers or any of them for all or any of the purposes of this Agreement and in which the Joint Venturers or any of them hold not less than twenty per cent. (20%) of the issued ordinary share capital; or
 - (ii) is related within the meaning of the term subsidiary in section 6 of the Companies Act 1961 to any company in which the Joint Venturers or any of them hold not less than twenty per cent. (20%) of the issued ordinary share capital, and
- (b) any company approved in writing by the Minister for the purposes of this Agreement which is associated directly or indirectly with the Joint Venturers or any of them in their business or operations hereunder;

“commencement date” means the date referred to as the commencement date in clause 7 (3) hereof;

“Commonwealth” means the Commonwealth of Australia and includes the Government for the time being thereof;

“deposits townsite” means the townsite to be established on or near the mining areas pursuant to this Agreement;

“direct shipping ore” means iron ore which has an average pure iron content or not less than sixty per cent. (60%) which will not pass through a one half (½) inch mesh screen and which is sold without concentration or other beneficiation other than crushing and screening;

“export date” means the earlier of the following dates namely —

- (a) the date or extended date if any referred to in clause 9 (1) of this Agreement;
- (b) the date when the Joint Venturers first export iron ore hereunder (other than iron ore shipped solely for testing purposes);

“financial year” means a year commencing on and including the 1st day of July;

“fine ore” means iron ore which has an average pure iron content of not less than sixty per cent. (60%) which will pass through a one half (½) inch mesh screen and which is sold without concentration or other beneficiation other than crushing and screening;

“fines” means iron ore (not being direct shipping ore or fine ore) which will pass through a one half (½) inch mesh screen;

“f.o.b. revenue” means the price for iron ore from the mineral lease the subject of any shipment or sale and payable by the purchaser thereof to the Joint Venturers or an associated company less all export duties and export taxes payable to the Commonwealth on the export of the iron ore and all costs and charges properly incurred and payable by the Joint Venturers from the time the ore shall be placed on ship at the Joint Venturers’ wharf to the time the same is delivered and accepted by the purchaser including —

- (1) ocean freight;
- (2) marine insurance;
- (3) port and handling charges at the port of discharge;
- (4) all costs properly incurred in delivering the ore from port of discharge to the smelter and evidenced by relevant invoices;

- (5) all weighing sampling assaying inspection and representation costs;
- (6) all shipping agency charges after loading on and departure of ship from the Joint Venturers' wharf; and
- (7) all import taxes by the country of the port of discharge;

“harbour” means the port or harbour at or near Port Hedland or such other port or place mutually agreed on and serving the Joint Venturers' wharf;

“industry for additional upgrading of beneficiated ore” means an industry for the additional refining of beneficiated ore by some form of semi reduction direct reduction or other mutually agreed process;

“iron ore contracts” means the contract or contracts referred to in clause 5 (2) (b) hereof;

“Joint Venturers' wharf” means the wharf to be constructed by the Joint Venturers pursuant to this Agreement for the shipment of iron ore from the mineral lease or (except for the purposes of the definition of “harbour”) other the temporary wharf for the time being approved by the Minister as the Joint Venturers' wharf for the purposes hereof during the period to which such approval relates;

“Land Act” means the Land Act 1933;

“mineral lease” means the mineral lease referred to in clause 8 (1) hereof or 8 (2) (a) hereof and includes any renewal thereof and where the context so permits shall extend to and be deemed to include a mineral lease granted under the provisions of clause 11 (6) hereof and any renewal thereof;

“Mining Act” means the Mining Act 1904;

“mining area “A” means the area delineated and coloured red on the plan marked “A” initialled by or on behalf of the parties hereto for the purposes of identification;

“mining area “B” means the area delineated and coloured blue on the plan marked “B” initialled by or on behalf of the parties hereto for the purposes of identification;

“mining area “C” means the area delineated and coloured green on the plan marked “C” initialled by or on behalf of the parties hereto for the purposes of identification;

“Minister” means the Minister in the Government of the said State for the time being responsible (under whatsoever title) for the administration of the Ratifying Act and pending the passing of that Act means the Minister for the time being designated in a notice from the State to the Joint Venturers and includes the successors in office of the Minister;

“month” means calendar month;

“notice” means notice in writing;

“person” or “persons” includes bodies corporate;

“port townsite” means the townsite to be established pursuant to this Agreement near the harbour;

“Ratifying Act” means the Act to ratify this Agreement and referred to in clause 3 hereof;

“said State” means the State of Western Australia;

“secondary processing” means concentration or other beneficiation of iron ore other than by crushing or screening and includes thermal electrostatic magnetic and gravity processing and agglomeration, pelletization or comparable changes in the physical character of iron ore;

“special lease” means a special lease or license to be granted in terms of this Agreement under the Ratifying Act the Land Act or the Jetties Act 1925 and include any renewal thereof;

“this Agreement” “hereof” and “hereunder” includes this Agreement as from time to time added to varied or amended;

“ton” means a ton of two thousand two hundred and forty (2,240) lbs. net dry weight;

“townsite” in relation to the townsite to be established near the harbour means a townsite (whether or not constituted and defined under section 10 of the Land Act) primarily to facilitate the Joint

Venturers' operations in and near the harbour and for employees of the Joint Venturers and in relation to mining area "A" mining area "B" and mining area "C" means such a townsite or townsites which is or are established by the Joint Venturers for the purposes of their operations and employees on or near mining area "A" mining area "B" and mining area "C" or any one or more of them in lieu of a townsite or townsites constituted and defined under section 10 of the Land Act;

"wharf" includes any jetty structure;

"year 1" means the year next following the export date and "year" followed immediately by any other numeral has a corresponding meaning;

reference in this Agreement to an Act shall include the amendments to such Act for the time being in force and also any Act passed in substitution thereof or in lieu thereof and the regulations for the time being in force thereunder;

power given under any clause of this Agreement other than clause 24 hereof to extend any period or date shall be without prejudice to the power of the Minister under the said clause 24;

marginal notes shall not affect the interpretation or construction hereof.

any covenant or agreement on the part of the Joint Venturers hereunder will be deemed to be a joint and several covenant or agreement as the case may be.

the phases in which it is contemplated that this Agreement will operate are as follows —

- (a) Phase 1 — the period from the execution hereof by the parties hereto until the commencement date;
- (b) Phase 2 — the period from the commencement date until a plant for secondary processing or an industry for additional upgrading of beneficiated ore is established by the joint venturers hereunder or by another company or party as referred to in clause 12 or clause 13 hereof whichever first occurs;
- (c) Phase 3 — (operative if the Joint Venturers commence secondary processing before establishing an industry for additional upgrading of beneficiated ore hereunder) — the

period from the commencement of secondary processing by the Joint Venturers hereunder until the Joint Venturers have established an industry for additional upgrading of beneficiated ore hereunder which period shall include a continuation of Phase 2 operations; and

- (d) Phase 4 — the period after the Joint Venturers have established an industry for additional upgrading of beneficiated ore hereunder which period shall include a continuation of Phase 2 operations.

Obligations of the State during Phase 1

2. The State shall —

- (a) upon application by the Joint Venturers at any time prior to the 31st day of March, 1965 (and surrender of the then existing rights of occupancy already granted in respect of any portions of mining area “A”) cause to be granted to the Joint Venturers and to the Joint Venturers alone rights of occupancy for the purposes of this Agreement (including the sole right to search and prospect for iron ore) over the whole of mining area “A” under section 276 of the Mining Act at a rental at the rate of four pounds (£4) per square mile per annum payable quarterly in advance for the period expiring on the 31st December, 1965 and shall then and thereafter subject to the continuance of this Agreement cause to be granted to the Joint Venturers as may be necessary successive renewals of such last-mentioned rights of occupancy (each renewal for a period of twelve (12) months at the same rental and on the same terms) the last of which renewals notwithstanding its currency shall expire —
 - (i) on the date of application for a mineral lease by the Joint Venturers under either clause 8 (1) or clause 8 (2) (a) hereof;
 - (ii) at the expiration of one month from the commencement date;
 - (iii) on the determination of this Agreement pursuant to its terms;
or
 - (iv) on the day of the receipt by the State of a notice from the Joint Venturers to the effect that the Joint Venturers abandon and cancel this Agreement,

whichever shall first happen;

- (b) introduce and sponsor a Bill in the Parliament of Western Australia to ratify this Agreement and endeavour to secure its passage prior to the 15th day of December, 1964;
- (c) to the extent reasonably necessary for the purposes of clauses 4, 5 and 11 hereof allow the Joint Venturers to enter upon Crown lands (including land the subject of a pastoral lease) and survey possible sites for a harbour wharf railway townsite (both in or near the harbour and on or near mining area "A" mining area "B" and mining area "C") stockpiling processing and other areas required for the purposes of this Agreement; and
- (d) at the request and cost of the Joint Venturers co-operate with the Joint Venturers in the discharge of their obligations under clause 4 (1) (a) hereof.

Ratification and operation

3. (1) Clauses 8, 9, 10 (other than paragraphs (d) and (1) thereof) 12-22 both inclusive and 24 of this agreement shall not operate unless and until the Bill to ratify this Agreement as referred to in clause 2 (b) hereof is passed as an Act before the 31st day of December, 1964, or such later date if any as the parties hereto may mutually agree upon. If the Bill is not so passed before that date or later date (as the case may be) this Agreement will then cease and determine and neither of the parties hereto will have any claim against the other of them with respect to any matter or thing arising out of done performed or omitted to be done or performed under this agreement except as hereinafter provided in clause 10 (d) hereof.

(2) If the Bill to ratify this Agreement is passed as an Act before the date or later date if any referred to in sub-clause (1) of this clause the following provisions of this clause shall notwithstanding the provisions of any Act or law thereupon operate and take effect namely —

- (a) the provisions of clause 8 the proviso to paragraph (a) of subclause (2) of clause 9 subclause (3) of clause 9 paragraphs (a) (f) (g) (h) (i) (k) and (m) of clause 10 and clauses 21, 23, 24, and 27 shall take effect as though the same had been brought into force and had been enacted by the Ratifying Act;
- (b) subject to paragraph (a) of this subclause the State and the Minister respectively shall have all the powers discretions and authorities necessary or requisite to enable them to carry out and perform the

powers discretions authorities and obligations conferred or imposed upon them respectively hereunder;

- (c) no future Act of the said State will operate to increase the Joint Venturers' liabilities or obligations hereunder with respect to rents or royalties; and
- (d) the State may as for a public work under the Public Works Act 1902, resume any land or any estate or interest in land required for the purposes of this Agreement and may lease or otherwise dispose of the same to the Joint Venturers;
- (e) on the coming into operation of the Ratifying Act the said recited agreement approved by the Iron Ore (Mount Goldsworthy) Agreement Act 1962, is cancelled except as to any antecedent liability accrued thereunder and undischarged.

Obligations of Joint Venturers during Phase 1

4. (1) The Joint Venturers (having at a total cost in excess of one million pounds (£1,000,000) as from the 27th day of February 1962 been continuously engaged in the matters hereinafter in this subclause mentioned) shall prior to the 31st day of December 1964 (or such extended date if any the Minister may approve or as may be determined by arbitration in manner hereinafter provided) complete the matters hereinafter in this subclause mentioned and everything necessary to enable them to finalise and to submit to the Minister the detailed proposals and other matters referred to in clause 5 (2) (a) hereof. The matters first referred to in this subclause are —

- (a) a thorough geological and (as necessary) geophysical investigation of the iron ore deposits in mining area "A" and the testing and sampling of such deposits;
- (b) a general reconnaissance of the various sites of proposed operations pursuant to the Agreement;
- (c) an engineering investigation of the route for a railway from the mining area "A" to the harbour and wharf installation for the export of the iron ore;
- (d) an engineering investigation of a harbour site at or near Port Hedland or such other port or place mutually agreed on and a wharf site therein for the purposes of the Joint Venturers but having regard to

the proper development use and capacity of the harbour as a whole by persons and corporations other than the Joint Venturers;

- (e) an investigation of suitable water supplies for the townsites and harbour or port services;
- (f) the planning of suitable townsites in consultation with the State but having due regard to the general development of the port townsite and (if and to the extent applicable) the deposits townsite for use by others as well as the Joint Venturers; and
- (g) metallurgical and market research.

(2) The Joint venturers shall keep the State fully informed at least quarterly commencing within one (1) quarter after the execution hereof as to the progress and results of the Joint Venturer's operations under subclause (1) of this clause.

(3) If the State concurrently carries out its own investigations and reconnaissances in regard to all or any of the matters mentioned in subclause (1) of this clause or any alternative harbour site the Joint Venturers shall co-operate with the State therein and so far as reasonably practicable will consult with the representatives or officers of the State and make full disclosures and expressions of opinion regarding matters referred to in this subclause.

(4) The Joint Venturers will employ and retain expert consultant engineers to investigate report upon and make recommendations in regard to the sites for and design of the Joint Venturers' wharf (including areas for installations stockpiling and other purposes in the harbour area) reasonably required by the Joint Venturers under this Agreement but in such regard the Joint Venturers will require the consultant engineers to have full regard for the general development of the harbour area and the dredging thereof and of approaches thereto with a view to the reasonable use by others of the harbour area and approaches and the Joint Venturers will furnish to the State copies of such report and recommendations. When submitting to the Minister detailed proposals as referred to in clause 5 (2) (a) hereof in regard to the matters mentioned in this subclause the Joint Venturers will so far as reasonably practicable ensure that the detailed proposals —

- (a) do not materially depart from the report and recommendations of the consultant engineers;
- (b) provide for the best overall development of the harbour area so far as the same relates to the Joint Venturers' activities; and
- (c) disclose any conditions of user and where alternative proposals are submitted the Joint Venturers' preferences in regard thereto.

Joint Venturers to submit proposals

5. (1) The Joint Venturers having submitted to the Minister their proposals for the location of a site for the harbour the Minister will within one month after execution of this Agreement notify the Joint Venturers of his approval or otherwise or may submit an alternative proposal.

(2) Subject to agreement (as to which the provisions of clause 25 do not apply) being reached as to the site for the harbour then by the 31st day of December 1964 or such extended date if any as the Minister may approve or as may be determined by arbitration as aforesaid the Joint Venturers will where not already done submit to the Minister —

(a) to the fullest extent reasonably practicable their detailed proposals (including plans where practicable and specifications where reasonably required by the Minister) with respect so far as relevant —

(A) to the mining area “A” (or so much thereof as shall be comprised within the mineral lease) by the Joint Venturers during the three (3) years next following the commencement of such mining with a view to the transport and shipment of the iron ore mined and their outline proposals with respect to such mining during the next following seven (7) years; and

(B) to the transport and shipment of iron ore to be mined by the Joint Venturers hereunder during the operation of Phase 2 of this Agreement —

and including the location area lay-out design number materials and time programme for the commencement and completion of construction or the provision (as the case may be) of each of the following matters namely —

(i) the harbour and harbour development including dredging the depositing of spoil the provision of navigational aids the Joint Venturers’ wharf (the plans and specifications for which wharf shall be submitted to and be subject to the approval of the State) the berth and swinging basin for the Joint Venturers’ use and harbour installations facilities and services all of which shall permit of adaptation so as to enable initially the use of the harbour and wharf by vessels having an ore carrying capacity of not less than thirty thousand (30,000) tons and thereafter to progressively develop the harbour

installation facilities and services so as to enable within the next three (3) years the use of the harbour and wharf by vessels having an ore-carrying capacity of not less than forty thousand (40,000) tons;

- (ii) the railway between mining area "A" and the Joint Venturers' wharf and works ancillary to or connected with the railway and its proposed operation including fencing (if any) and crossing places;
- (iii) townsites on mining area "A" and near the harbour and development services and facilities in relation thereto;
- (iv) housing;
- (v) water supply;
- (vi) roads (including details of roads in respect of which it is not intended that the provisions of clause 9 (2) (b) shall operate); and
- (vii) any other corks services or facilities proposed or desired by the Joint Venturers;

and

- (b) (subject to the provisions of subclause (4) of this clause) satisfactory evidence firstly of the making or likelihood of making a suitable contract or suitable contracts or the sale by the Joint Venturers hereunder and shipment from the Joint Venturers' wharf of not less than ten million (10,000,000) tons of iron ore (and/or processed iron ore) from the mineral lease including not less than two million (2,000,000) tons in the aggregate in the first two (2) years next following the export date and not less than one million (1,000,000) tons per year in each and every year of each succeeding year thereafter secondly of the availability of finance necessary for the fulfilment of the Joint Venturers' proposals hereunder relating to the iron ore export project the subject of Phase 2 of this Agreement and thirdly of any necessary license to the Joint Venturers from the Commonwealth to export hereunder iron ore the subject of the iron ore contracts in the quantities at the rate or rates and in the years stated in the contracts.

(3) The Joint Venturers shall have the right to submit to the Minister their detailed proposals aforesaid in regard to a matter or matters the subject of any of the subparagraphs numbered (i) to (vii) inclusive of paragraph (a) of

subclause (2) of this clause as and when the detailed proposals become finalised by the Joint Venturers PROVIDED THAT where any such matter is the subject of a subparagraph which refers to more than one subject matter the detailed proposals will relate to and cover each of the matters mentioned in the subparagraph PROVIDED FURTHER that the first detailed proposals submitted to the Minister relate to and cover the matters mentioned in subparagraph (i) of the said paragraph (a) of the said subclause (2) and that the last two detailed proposals submitted to the Minister relate to and cover the iron ore contracts and the finance necessary for the iron ore export project.

(4) If the Joint Venturers should in writing and within the time later in this subclause mentioned request the Minister to grant an extension or any further extension of time beyond the 31st day of December, 1964 (or such later date if any previously granted or approved by the Minister) within which to make the iron ore contracts and then demonstrates to the satisfaction of the Minister that the Joint Venturers have duly complied with their other obligations hereunder have genuinely and actively but unsuccessfully endeavoured to make the iron ore contracts on a competitive basis and reasonably require an additional period for the purpose of making iron ore contracts the Minister will grant such extension as is warranted in the circumstances as follows —

- (a) for up to six (6) months on request made within one month of the 31st day of December, 1964;
- (b) if an extension is granted under paragraph (a) of this subclause then further for up to three (3) years on request made within one month of the expiration of the period of extension granted under the said paragraph (a);
- (c) if an extension is granted under paragraph (b) of this subclause then further for up to two (2) years on request made within one month of the expiration of the period of extension granted under the said paragraph (b) unless the Minister shows to the Joint Venturers satisfactory evidence that some third party is able and willing if made the lessee of the mineral lease to obtain and duly fulfil that party's obligations under contracts or the sale of iron ore (or processed iron ore) from the leased land which contracts are comparable with iron ore contracts under this Agreement on terms from the State not more favourable on the whole (having regard *inter alia* to initial expenditure) to that party than those applicable to the Joint Venturers hereunder;

subject always and in every case to the condition that the Joint Venturers duly comply (or comply to the satisfaction of the Minister) with their other obligations hereunder.

Consideration of other proposals under clause 5 (2)

6. (1) Within two (2) months after receipt of the detailed proposals of the Joint Venturers in regard to any of the matters mentioned in clause 5 (2) (a) hereof the Minister shall give to the Joint Venturers notice either his approval of the proposals or of alterations desired thereto and in the latter case shall afford to the Joint Venturers opportunity to consult with and to submit new proposals to the Minister. The Minister may make such reasonable alterations to or impose such reasonable conditions on the proposals or new proposals (as the case may be) as he shall think fit having regard to the circumstances including the overall development and use (subject to the provisions of clause 8 (5) (a) and (b) hereof) by others as well as the Joint Venturers but the Minister shall in any notice to the Joint Venturers disclose his reasons for any such alteration or condition. Within two (2) months of the receipt of the notice the Joint Venturers may elect by notice to the State to refer to arbitration and within two (2) months thereafter shall refer to arbitration as hereinafter provided any dispute as to the reasonableness of any such alteration or condition. If by the award on arbitration the dispute is decided against the Joint Venturers then unless the Joint Venturers within three (3) months after delivery the award satisfy and obtain the approval of the Minister as to the matter or matters the subject of the arbitration this Agreement shall on the expiration of that period of three (3) months cease and determine (save as provided in clause 10 (d) hereof) but if the question is decided in favour of the Joint Venturers the decision will take effect as a notice by the Minister that he is so satisfied with and approves the matter or matters the subject of the arbitration.

(2) Within two (2) months after receipt of evidence from the Joint Venturers with regard to the matters mentioned in clause 5 (2) (b) hereof to the reasonable satisfaction of the Minister the State will give to the Joint Venturers notice either that it is satisfied with such evidence (in which case the proposals in relation to those matters will be deemed approved) or not in which case the State shall afford the Joint Venturers an opportunity to consult with and to submit further evidence to the Minister. If within thirty (30) days of receipt of such notice further evidence has not been submitted to the Minister's reasonable satisfaction and his approval obtained thereto the Joint Venturers may within a further period of thirty (30) days elect by notice to the State to refer to arbitration as hereinafter provided and will within two (2) months thereafter refer to arbitration any dispute as to the reasonableness of the Minister's decision. If by the award on arbitration the dispute is decided against the Joint Venturers then unless the Joint Venturers within three (3) months after delivery of the award satisfy and obtain the approval of the Minister as to the matter or matters the subject of the arbitration this Agreement shall on the expiration of that period cease and determine (save as provided in clause 10 (d) hereof) but if the question is decided in favour of the Joint Venturers the decision will take effect as a notice by the Minister that he is so satisfied with and has approved the matter or matters the subject of the arbitration.

Extension of time

7. (1) The arbitrator, arbitrators or umpire (as the case may be) of any submission to arbitration hereunder is hereby empowered upon application by either party hereto to grant any interim extension of time or date referred to herein which having regard to the circumstances may reasonably be required in order to preserve the rights of either or both parties hereunder and an award in favour of the Joint Venturers may in the name of the Minister grant any further extension of time for that purpose.

(2) Notwithstanding that under clause 6 hereof any detailed proposals of the Joint Venturers are approved by the State or the Minister or determined by arbitration award unless each and every such proposal and matter is so approved or determined by the 28th day of February, 1965 or by such extended date if any as the Joint Venturers shall be entitled to or shall be granted pursuant to the provisions hereof then at any time after the said 28th day of February, 1965 or if any extension or extensions should be granted under clause 5 (4) hereof or any other provision of this Agreement then on or after the expiration of the last of such extensions the Minister may give to the Joint Venturers twelve (12) months notice of intention to determine this Agreement and unless before the expiration of the said twelve (12) months period all the detailed proposals and matters are so approved or determined this Agreement shall cease and determine subject however to the provisions of clause 10 (d) hereof.

(3) Subject to the approval by the Minister or determination by arbitration as herein provided of each and every of the detailed proposals and matters referred to in clause 5 (2) hereof the date upon which the last of those proposals of the Joint Venturers shall have been so approved or determined shall be the commencement date for the purposes of this Agreement.

(4) If under any arbitration under clause 6 hereof the dispute is decided against the Joint Venturers and subsequently but before the commencement date this Agreement ceases and determines the State will not for a period of three (3) years after such determination enter into a contract with any other party for the mining transport and shipment of iron ore from mining area "A" on terms more favourable on the whole to the other party than those which would have applied to the Joint Venturers hereunder if the question had been determined in favour of the Joint Venturers.

Mineral lease before commencement date

8. (1) As soon as conveniently may be before the commencement date the State shall after application is made by the Joint Venturers for a mineral lease of any part or parts (not exceeding in total area 300 square miles and in the shape of a parallelogram or parallelograms) of mining area "A" cause any necessary survey to be made of the lands applied for (the cost of which survey shall be recouped or repaid to the State by the Joint Venturers on demand after completion

of the survey) and shall cause to be granted to the Joint Venturers as tenants in common in equal shares a mineral lease thereof for iron ore in the form of the Schedule hereto for a term which subject to the payment of rental hereinafter mentioned and to the performance and observance by the Joint Venturers of their obligations under the mineral lease and otherwise under this Agreement shall be for a period commencing from the date of issue of the mineral lease and expiring on the commencement date but subject to earlier determination upon the cessation or determination of this Agreement.

(2) As soon as conveniently may be after the commencement date the State shall —

- (a) after application is made by the Joint Venturers for a mineral lease of any part or parts (not exceeding in total area three hundred (300) square miles and in the shape of a parallelogram or parallelograms) of mining area “A” in conformity with the Joint Venturers’ detailed proposals under clause 5 (2) (a) (A) hereof as finally approved or determined cause any necessary survey to be made of the land so applied for (the cost of which survey to the State will be recouped or repaid to the State by the Joint Ventures on demand after completion of the survey) and shall cause to be granted to the Joint Venturers as tenants in common in equal shares a mineral lease thereof for iron ore in the form of the Schedule hereto for a term which subject to the payment of rents and royalties hereinafter mentioned and to the performance and observance by the Joint Venturers of their obligations under the mineral lease and otherwise under this Agreement shall be for a period of twenty-one (21) years commencing from the commencement date with rights to successive renewals of twenty-one (21) years upon the same terms and conditions but subject to earlier determination upon the cessation or determination of this Agreement PROVIDED HOWEVER that the Joint Venturers may from time to time (without abatement of any rent then paid or payable in advance) surrender to the State all or any portion or portions (of reasonable size and shape) of the mineral lease;
- (b) in accordance with the Joint Venturers’ proposals as finally approved or determined under clause 6 hereof and as require the State to accept obligations —
 - (i) grant to the Joint Venturers as tenants in common in equal shares in fee simple or for such terms or periods and on such terms and conditions (including renewal rights) as subject to the proposals (as finally approved or determined as aforesaid) shall be reasonable having regard to the requirements of the Joint Venturers hereunder and to the overall development of the harbour and access to and use by others of lands the

subject of any grant to the Joint Venturers and of services and facilities provided by the Joint Venturers —

for nominal consideration — townsite lots;

at peppercorn rental — special leases of Crown lands within the harbour area the townsites and the railways; and

at rentals as prescribed by law or are otherwise reasonable — leases rights mining tenements easements reserves and licenses in on or under Crown lands

under the Mining Act the Jetties Act 1926 or under the provisions of the Land Act modified as in subclause (2) of this clause provided (as the case may require) as the Joint Venturers reasonably require for their works and operations hereunder including the construction or provision of the railway wharf roads airstrip water supplies and stone and soil for construction purposes; and

- (ii) provide any services or facilities subject to the Joint Venturers bearing and paying the capital cost involved if reasonably attributable to or resulting from the Joint Venturers' project and operations hereunder and reasonable charges for maintenance and operation except operation charges in respect of education hospital and police services and except where and to the extent that the State otherwise agrees —

subject to such terms and conditions as may be finally approved or determined as aforesaid PROVIDED THAT from and after the fifteenth anniversary of the export date or the twentieth anniversary of the date hereof whichever shall first occur (provided that the said twentieth anniversary shall be extended one (1) year for each year this Agreement has been continued in force and effect under clause 5 (4) hereof) the Joint Venturers will in addition to the rentals already referred to in this paragraph pay to the State during the currency of this Agreement after such anniversary as aforesaid a rental (which subject to its being payable by the Joint Venturers to the State may from time to time at the option of the Joint Venturers be payable in respect of such one or more of the special leases or other leases granted to the Joint Venturers under this paragraph and remaining current) equal to two shillings and sixpence (2s. 6d.) per ton on all iron ore and iron ore concentrates in respect of which royalty is payable under clause 9 (2) (j) hereof in any financial year such additional rental to be paid within three (3) months after shipment sale use or production as the case may be of the iron ore or iron ore concentrates SO NEVERTHELESS that the additional

rental to be paid under this proviso shall not be less than seventy-five thousand pounds (£75,000) in respect of any such year and if a mineral lease of mining area “B” and mining area “C” or of any part or parts thereof respectively has been granted to the Joint Venturers under clause 11 (6) hereof the additional rental to be paid as aforesaid shall thereafter be not less than one hundred and fifty thousand pounds (£150,000) in respect of any such year and the Joint Venturers will within three (3) months after expiration of that year pay to the State as further rental the difference between seventy-five thousand pounds (£75,000) or one hundred and fifty thousand pounds (£150,000) (whichever is applicable as aforesaid) and the additional rental actually paid in respect of that year but any amount so paid in respect of any financial year in excess of the rental payable for that year at the rate of two shillings and six-pence (2s. 6d.) per ton as aforesaid shall be offset by the Joint Venturers against any amount payable by them to the State above the minimum amounts payable to the State under this paragraph in respect of the two (2) financial years immediately following the financial year in respect of which the said minimum sum was paid; and

- (c) on application by the Joint Venturers cause to be granted to them such machinery and tailings leases (including leases for the dumping of overburden) and such other leases licenses reserves and tenements under the Mining Act or under the provisions of the Land Act modified as in subclause (2) of this clause provided as the Joint Venturers may reasonably require and request for their purposes under this Agreement on or near the mineral lease;

(3) For the purposes of subparagraph (i) of paragraph (b) and paragraph (c) of subclause (1) of this clause the Land Act shall be deemed to be modified by —

- (a) the substitution for subsection (2) of section 45A of the following subsection:
 - (2) Upon the Governor signifying approval pursuant to subsection (1) of this section in respect of any such land the same may subject to this section be sold or leased;
- (b) the deletion of the proviso to section 116;
- (c) the deletion of section 135;
- (d) the deletion of section 143;

- (e) the inclusion of a power to offer for sale or leasing land within or in the vicinity of any townsite notwithstanding that the townsite has not been constituted a townsite under section 10; and
- (f) the inclusion of a power to offer for sale or grant leases or licenses for terms or periods and on such terms and conditions (including renewal rights) and in forms consistent with the provisions of this Agreement in lieu of for the terms or periods and upon the terms and conditions and in the forms referred to in the Act and upon application by the Joint Venturers in forms consistent as aforesaid in lieu of in the forms referred to in the Act.

(4) The provisions of subclause (2) of this clause shall not operate so as to prejudice the rights of the State to determine any lease license or other right or title in accordance with the other provisions of this Agreement.

(5) The State further covenants with the Joint Venturers' that the State —

- (a) shall not during the currency of this Agreement register any claim or grant any lease or other mining tenement under the Mining Act or otherwise by which any person other than the Joint Venturers or an associated company will obtain under the laws relating to mining or otherwise any rights to mine or take the natural substances (other than petroleum as defined in the Petroleum Act 1936) within the mineral lease unless the Minister reasonably determines that it is not likely to unduly prejudice or to interfere with the operations of the Joint Venturers hereunder assuming the taking by the Joint Venturers of all reasonable steps to avoid the interference;
- (b) subject to the performance by the Joint Venturers of their obligations under this Agreement shall not during the currency hereof without the consent of the Joint Venturers resume nor suffer nor permit to be resumed by any State instrumentality or by any local or other authority of the said State any of the works installations plant equipment or other property for the time being belonging to the Joint Venturers and the subject of or used for the purposes of this Agreement nor any of the lands the subject of any lease or license granted to the Joint Venturers in terms of this Agreement AND without such consent (which shall not be unreasonably withheld) the State will not create or grant or permit or suffer to be created or granted by any instrumentality or authority of the State as aforesaid any road right-of-way or easement of any nature or kind whatsoever over or in respect of any such lands, which may unduly prejudice or interfere with the Joint Venturers' operations hereunder;

- (c) shall if so requested by the Joint Venturers and so far as its powers and administrative arrangements permit use reasonable endeavours to assist the Joint Venturers to obtain adequate and suitable labour for the construction and the carrying out of the work and operations referred to in this Agreement including suitable immigrants for that purpose;
- (d) except as provided in this Agreement shall not impose nor permit nor authorize any of its agencies or instrumentalities or any local or other authority of the State to impose discriminatory taxes rates or charges of any nature whatsoever on or in respect of the titles property or other assets products materials or services used or produced by or through the operation of the Joint Venturers in the conduct of the Joint Venturers' business hereunder nor will the State take or permit to be taken any such State authority any other discriminatory action which would deprive the Joint Venturers of full enjoyment of the rights granted and intended to be granted under this Agreement.
- (e) shall where and to the extent reasonably practicable on application by the Joint Venturers from time to time grant or assist in obtaining the grant to the Joint Venturers of prospecting rights and mining leases with respect to limestone dolomite and other minerals reasonably required by the Joint Venturers for their purposes under this Agreement; and
- (f) shall as and when required by the Joint Venturers (but without prejudice to the foregoing provisions of this Agreement relating to the detailed proposals and matters referred to in clause 5 (2) hereof) consent in writing where and to the extent that the Minister considers to be reasonably justified to the Joint Venturers making improvements for the purposes of this Agreement on the land comprised in any lease granted by the State to the Joint Venturers pursuant to this Agreement PROVIDED THAT the Joint Venturers shall also obtain any other consents legally required in relation to such improvements.

(6) The Joint Venturers shall not have any tenant rights in improvements made by the Joint Venturers on the land comprised in any lease granted by the State to the Joint Venturers pursuant to this Agreement in any case where pursuant to clause 10 (e) hereof such improvements will remain or become the absolute property of the State.

Phase 2 obligations of the Joint Venturers to construct

9. (1) The Joint Venturers shall within three (3) years next following the commencement date (or within such extended period not exceeding a further two years as the Joint Venturers may satisfy the Minister that the Joint Venturers reasonably require and the Minister approves), and at a cost of not less than twenty million pounds (£20,000,000) (inclusive of the said recited costs of one million pounds (£1,000,000)) construct install provide and do all things necessary to enable them to mine from the mineral lease to transport by rail to the Joint Venturers' wharf and to commence shipment therefrom in commercial quantities at an annual rate of not less than one million (1,000,000) tons of iron ore and without lessening the generality of this provision the Joint Venturers shall within the aforesaid period or extended period as the case may be —

- (a) construct install and provide upon the mineral lease or in the vicinity thereof mining plant and equipment crushing screening stockpiling and car loading plant and facilities power house workshop and other things of a design and capacity adequate to enable the Joint Venturers to meet and discharge their obligations hereunder and under the iron ore contracts and to mine handle load and deal with not less than three thousand (3,000) tons of iron ore per diem such capacity to be built up progressively to not less than six thousand (6,000) tons of iron ore per diem within three (3) years next following the export date;
- (b) actually commence to mine transport by rail and ship from the Joint Venturers' wharf iron ore from the mineral lease so that the average annual rate during the first two years shall not be less than one million (1,000,000) tons;
- (c) subject to the State having assured to the Joint Venturers all necessary rights in or over Crown lands available for the purpose construct in a proper and workmanlike manner and in accordance with recognised standards of railways of a similar nature operating under similar conditions and along a route approved or determined under clause 6 hereof (but subject to the provisions of the Public Works Act 1902 to the extent that they are applicable) a four feet eight and one-half inches (4' 8½") gauge railway (with all necessary signalling switch and other gear and all proper or usual works) from mining area "A" to the Joint Venturers' wharf and will provide for crossing places and the running of such railway with sufficient and adequate locomotives freight cars and other railway stock and equipment to haul at least one million (£1,000,000) tons of iron ore per annum to the Joint Venturers' wharf or as required for the purposes of this Agreement;
- (d) subject to the State having assured to the Joint Venturers all necessary rights in or over Crown lands or reserves available for the purpose construct by the said date such new roads as the Joint Venturers reasonably require for their purposes here-under of such

widths with such materials gates crossings and passovers for cattle and for sheep and along such routes as the parties hereto shall mutually agree after discussion with the respective shire councils through whose districts any such roads may pass and subject to prior agreement with the appropriate controlling authority (being a shire council or the Commissioner of Main Roads) as to terms and conditions the Joint Venturers may at their own expense and risk except as otherwise so agreed upgrade or realign any existing road;

- (e) construct the Joint Venturers' wharf in accordance with plans and specifications for the construction thereof previously approved or determined under clause 6 hereof on the site previously approved or determined for the purpose; and
- (f) in accordance with the Joint Venturers' proposals as finally approved or determined under clause 6 hereof and as require the Joint Venturers to accept obligations —
 - (i) dredge the berth at the Joint Venturers' wharf and the channel and approaches thereto and any necessary swinging basin;
 - (ii) lay out and develop the townsites and provide adequate and suitable housing recreational and other facilities and services;
 - (iii) construct and provide roads housing school water and power supplies and other amenities and services; and
 - (iv) construct and provide other works (if any) including an airstrip.

(2) Throughout the continuance of this Agreement the Joint Venturers shall —

- (a) operate their railway in a safe and proper manner and where and to the extent that they can do so without unduly prejudicing or interfering with their operations hereunder allow crossing places for roads stock and other railways and also transport the passengers and carry the freight of the State and of third parties on the railway subject to and in accordance with by-laws (which shall include provision for reasonable charges) from time to time to be made altered and repealed as provided in sub-clause (3) of this clause and subject thereto or if no such by-laws are made or in force then upon reasonable terms and at reasonable charges (having regard to the cost of the railway to the Joint Venturers) PROVIDED THAT in relation to their use of the said railway the Joint Venturers shall not be deemed to be a common carrier at common law or otherwise;

- (b) except to the extent that the Joint Venturers' proposals as finally approved or determined under clause 6 hereof otherwise provide allow the public to use free of charge any roads (to the extent that it is reasonable and practicable so to do) constructed or upgraded under this clause PROVIDED THAT such use shall not unduly prejudice or interfere with the Joint Venturers' operations hereunder;
- (c) in the construction operation maintenance and of any work installation plant machinery equipment service or facility provided or controlled by the Joint Venturers comply with and observe the provisions hereof and subject thereto the laws for the time being in force in the said State;
- (d) at all times keep and maintain in good repair and working order and condition and where necessary replace all such works installations plant machinery and equipment and the railway wharf roads (other than the public roads referred to in clause 10 (b) hereof) dredging and water and power supplies for the time being the subject of this Agreement;
- (e) ship from the Joint Venturers' wharf all iron ore mined from the mineral lease and sold and use their best endeavours to obtain therefor the best price possible having regard to market conditions from time to time prevailing PROVIDED THAT this paragraph shall not apply to iron ore used for secondary processing or for the industry for additional upgrading of beneficiated ore in any part of the said State lying north of the twenty-sixth parallel of latitude;
- (f) subject to and in accordance with by-laws (which shall include provision for reasonable charges) from time to time to be made and altered as provided in subclause (3) of this clause and subject thereto or if no such by-laws are made or in force then upon reasonable terms and at reasonable charges (having regard to the cost thereof to the Joint Venturers) allow the State and third parties to use the Joint Venturers' wharf and harbour installations wharf machinery and equipment and wharf and harbour services and (subject to subclause (4) of this clause) harbour facilities PROVIDED THAT such use shall not unduly prejudice or interfere with the Joint Venturers' operations hereunder and that the entire control and all personnel for or in respect of such use shall be provided by or with the approval of the Joint Venturers;
- (g) allow the State and third parties to have access (with or without stock vehicles and rolling stock) over the mineral lease (by separate route road or railway) PROVIDED THAT such access over shall not

unduly prejudice or interfere with the Joint Venturers' operations hereunder;

- (h) subject to and in accordance with by-laws (which shall include provision for reasonable charges) from time to time to be made and altered as provided in subclause (3) of this clause and subject thereto or if no such by-laws are made or in force then upon reasonable terms and at reasonable charges (having regard to the cost thereof to the Joint Venturers) allow the inhabitants for the time being of the port townsite being employees licensees or agents of the Joint Venturers or persons engaged in providing a legitimate and normal service to or for the Joint Venturers or those employees licensees or agents to make use of the water power recreational health and other services or facilities provided or controlled by the Joint Venturers;
- (i) so far as reasonably and economically practicable use labour materials plant equipment and supplies available within the said State where it is not prejudicial to the interest of the Joint Venturers so to do;
- (j) pay to the State royalty on all iron ore from the mineral lease shipped or sold (other than ore shipped solely for testing purposes) or (in the circumstances mentioned in subparagraph (iv) of this paragraph) on iron ore concentrates produced from iron ore from the mineral lease or on other ore from the mineral lease used as mentioned in sub-paragraph (iv) of this paragraph as follows —
 - (i) on direct shipping ore (not being locally used ore) at the rate of seven and one half per centum (7½%) of the f.o.b. revenue (computed at the rate of exchange prevailing on date of receipt by the Joint Venturers of the purchase price in respect of ore shipped or sold hereunder) PROVIDED NEVERTHELESS that such royalty shall not be less than six shillings (6/-) per ton (subject to subparagraph (vi) of this paragraph) in respect of ore the subject of any shipment or sale;
 - (ii) on fine ore (not being locally used ore) at the rate of three and three quarter per centum (3 ¾%) of the f.o.b. revenue (computed as aforesaid) PROVIDED NEVERTHELESS that such royalty shall not be less than three shillings (3/-) per ton (subject to subparagraph (vii) of this paragraph) in respect of ore the subject of any shipment or sale;
 - (iii) on fines (not being locally used ore) at the rate of one shilling and sixpence (1s. 6d.) per ton;

- (iv) on iron ore concentrates produced from locally used ore by secondary processing and on locally used ore (not being iron ore used for producing iron ore concentrates subject to royalty hereunder) at the rate of one shilling and sixpence (1s. 6d.) per ton;
- (v) on all other iron ore (not being locally used ore) at the rate of seven and one half per centum (7½%) of the f.o.b. revenue (computed as aforesaid) without any minimum royalty;
- (vi) (for averaging purposes) if the amount ascertained by multiplying the total tonnage of direct shipping ore shipped or sold (and liable to royalty under subparagraph (i) of this paragraph) in any financial year by six shillings (6/-d.) is less than the total royalty which would be payable in respect of that ore but for the operation of the proviso to that subparagraph then that proviso shall not apply in respect of direct shipping ore shipped or sold in that year and at the expiration of that year any necessary adjustments shall be made accordingly;
- (vii) (for averaging purposes) if the amount ascertained by multiplying the total tonnage of fine ore shipped or sold (and liable to royalty under subparagraph (ii) of this paragraph) in any financial year by three shillings (3/-d.) is less than the total royalty which would be payable in respect of that ore but for the operation of the proviso to that subparagraph then that proviso shall not apply in respect of fine ore shipped or sold in that year and at the expiration of that year any necessary adjustments shall be made accordingly; and
- (viii) the royalty at the rate of one shilling and sixpence (1/6d.) per ton referred to in subparagraphs (iii) and (iv) of this paragraph shall be adjusted up or down (as the case may be) as at the first day of January, 1969 and as at the beginning of every fifth year thereafter proportionately to the variation of the average of the prices payable for foundry pig iron f.o.b. Adelaide during the last full calendar year preceding the date at which the adjustment is to be made as compared with the average of those prices during the calendar year 1963.

For the purposes of this paragraph "locally used ore" means iron ore used by the Joint Venturers or an associated company both within the Commonwealth and within the limits referred to in paragraph (o) of this clause for secondary processing or in an industry for additional upgrading of beneficiated ore and includes iron ore used by any other person or company north of the twenty-sixth parallel of

latitude in the said State for secondary processing or in an industry for additional upgrading of beneficiated ore;

- (k) within fourteen days after the quarter days the last days of March June September and December in each year commencing with the quarter day next following the first commercial shipment of iron ore from the Joint Venturers' wharf furnish to the Minister a return showing the quantity of all iron ore or iron ore concentrates the subject of royalty hereunder and shipped sold used or produced (as the case may be) during the quarter immediately preceding the due date of the return and shall not later than two (2) months after such due date pay to the Minister the royalty payable in respect of iron ore concentrates produced or iron ore used and in respect of all iron ore shipped or sold pay to the Minister on account of the royalty payable hereunder a sum calculated on the basis of invoices or provisional invoices (as the case may be) rendered by the Joint Venturers to the purchaser (which invoices the Joint Venturers shall render without delay simultaneously furnishing copies thereof to the Minister) of such iron ore and shall from time to time in the next following appropriate return and payment make (by the return and by cash) all such necessary adjustments (and give to the Minister full details thereof) when the f.o.b. revenue realised in respect of the shipments shall have been ascertained;

- (l) by of rent for the mineral lease pay to the State annually in advance a sum equal to three shillings and sixpence (3s. 6d.) per acre of the area for the time being the subject of the mineral lease commencing on and accruing from the commencement date PROVIDED THAT after the Joint Venturers commence production in commercial quantities within the said State from a plant for secondary processing or for an industry for additional upgrading of beneficiated ore (whichever is first constructed) if and during the period that the total area for the time being comprised within the mineral lease
 - (i) is not more than one hundred (100) square miles the annual rent shall be two shillings (2s.) per acre;

 - (ii) is over one hundred (100) square miles but not more than one hundred and fifty (150) square miles the annual rent shall be two shillings and sixpence (2s. 6d.) per acre; and

 - (iii) is over one hundred and fifty (150) square miles but not more than two hundred (200) square miles the annual rent shall be three shillings (3s.) per acre;

- (m) pay to the State the rental referred to in the proviso to clause 8 (2) (b) hereof if and when such rental shall become payable;

- (n) permit the Minister or his nominee to inspect at all reasonable times the books of account and records of the Joint Venturers relative to any shipment or sale of iron ore hereunder and to take copies or extracts therefrom and for the purpose of determining the f.o.b. revenue payable in respect of any shipment of iron ore hereunder the Joint Venturers will take reasonable steps to satisfy the State either by certificate of a competent independent party acceptable to the State or otherwise to the Minister's reasonable satisfaction as to all relevant weights and analyses and will give due regard to any objection or representation made by the Minister or his nominee as to any particular weight or assay as iron ore which may affect the amount of royalty payable hereunder; and

- (o) ensure that without the prior written approval of the Minister all iron ore shipped pursuant to this Agreement will be off-loaded at a place outside the Commonwealth and if they fail so to ensure the Joint Venturers will subject to the provisions of this paragraph be in default hereunder. Where any such shipment is off-loaded within the Commonwealth without such prior written approval the Joint Venturers shall forthwith on becoming aware thereof give to the State notice of the fact and pay to the State in respect of the iron ore the subject of the shipment such further and additional rental calculated at a rate not exceeding ten shillings (10s.) per ton of the iron ore as the Minister shall demand without prejudice however to any other rights and remedies of the State hereunder arising from the breach by the Joint Venturers of the provisions hereof. If ore is shipped in a vessel not owned by the Joint Venturers or an associated company or any other company in which the Joint Venturers have a controlling interest and such ore is off-loaded in the Commonwealth the Joint Venturers will not be or be deemed to be in default hereunder if they take appropriate action to prevent a recurrence of such an off-loading PROVIDED FURTHER that the foregoing provisions of this paragraph shall not apply in any case (including any unforeseeable diversion of the vessel for necessary repairs or arising from *force majeure* or otherwise) where the Joint Venturers could not reasonably have been expected to take steps to prevent that particular off-loading PROVIDED ALSO that the provisions of this paragraph shall not apply —
 - (i) to ore the subject of secondary processing or of an industry for the additional upgrading of beneficiated ore by the Joint Venturers or an associated company within the said State

 - (ii) to ore processed by the Joint Venturers or an associated company within the Commonwealth but outside the said State to the extent that the tonnage of ore so processed does not in any year exceed fifty per centum (50%) of the total quantity of

iron ore the subject of secondary processing and/or of an industry for the additional upgrading of beneficiated ore by the Joint Venturers or an associated Company; or

- (iii) to ore processed by the Joint Venturers or an associated company within the Commonwealth but outside the said State in excess of fifty per centum (50%) of the total quantity of ore the subject of secondary processing and/or of an industry for the additional upgrading of beneficiated ore by the Joint Venturers or an associated company within the said State with the prior approval of the Minister as aforesaid.

(3) The Governor in Executive Council may upon recommendation by the Joint Venturers make alter and repeal by-laws for the purpose of enabling the Joint Venturers to fulfil their obligations under paragraphs (a) (b) and (f) of subclause (2) of this clause and (unless and until the part townsite is declared a townsite pursuant to section 10 of the Land Act) under paragraph (h) of subclause (2) of this clause and under clause 10 (a) hereof upon terms and subject to conditions (including terms and conditions as to user charging and limitation of the liability of the Joint Venturers) as set out in such by-laws consistent with the provisions hereof. Should the State at any time consider that any by-law made hereunder has as a result of altered circumstances become unreasonable or inapplicable then the Joint Venturers shall recommend such alteration or repeal thereof as the State may reasonably require or (in the event of there being any dispute as to the reasonableness of such requirement) then as may be decided by arbitration hereunder.

(4) (a) The parties hereto acknowledge that some party other than the Joint Venturers (which party is hereinafter in this subclause referred to as "the other party") may have already agreed or will agree with the State for the mining transport and export of iron ore from within an area or areas of the said State other than Mining Area "A", Mining Area "B", or Mining Area "C" and that it may be further agreed or determined that such export will be from the harbour. In this event and notwithstanding the approval or determination of all or any of the detailed proposals hereunder the parties hereto acknowledge that the State may require that only one channel approach to the harbour shall be dredged to serve the interests of the Joint Venturers and of the other party as well as of other users of the harbour but that it will depend upon circumstances (including the depth and width of the channel approach and the respective time programmes for the dredging as desired by the Joint Venturers and the other party under and for the purposes of their respective agreements with the State) whether that channel approach shall be dredged by the Joint Venturers or by the other party or partly by each or under some other arrangements with a view to the joint user of the whole or part of the channel approach.

(b) The parties hereto acknowledge the principle that whichever of the Joint Venturers and the other party should incur the whole or the greater capital outlay (as the case may be) for the dredging or should be responsible for the

operation and maintenance of the channel approach (insofar as it is or is intended to be used by the other of them) should be reimbursed by the other of them such a fair and reasonable proportion of the capital outlay and operation and maintenance costs respectively for the use of the channel approach or otherwise a fair and reasonable charge for such use as may be determined by mutual agreement between the parties concerned or failing agreement by arbitration under the provisions of the Arbitration Act 1895 if those parties agree within a time to be fixed by the Minister to submit to arbitration and failing such agreement then as determined by the Minister.

(c) If in the circumstances referred to in the last preceding paragraph the other party is the party to be reimbursed then the Joint Venturers hereby agree on demand made by the State to pay the amount of such reimbursement (determined as aforesaid) to the State for and on behalf of the other party.

(d) If in the circumstances referred to in paragraph (b) of this subclause the Joint Ventures are the party to be reimbursed then the State agrees not to permit vessels of the other party of which notice is given to the State by the Joint Venturers to enter the harbour through the channel approach and then to load iron ore in bulk unless and until the other party has made arrangements reasonably satisfactory to the Joint Venturers (to be determined by agreement arbitration or the Minister as aforesaid) for a fair and reasonable contribution to capital outlay and operation and maintenance costs incurred and/or to be incurred by the Joint Venturers as aforesaid or for the payment of a fair and reasonable charge.

(e) The State acknowledges and agrees with the Joint Venturers that in the event of the Joint Venturers incurring the whole or the greater capital outlay or operation and maintenance costs as aforesaid then vessels (other than vessels employed for the Joint Venturers' or other party's purposes) using the channel approach for the export from the harbour of more than half a million tons a year of bulk commodities should be required to pay to the Joint Venturers (or the State should be required to pay to the Joint Venturers from the moneys received from such vessels) fair and reasonable charges to be agreed by the parties hereto having regard to the circumstances including the aggregate tonnage of the commodities exported or to be exported from the harbour the rate of export and the capital outlay and operation and maintenance costs incurred and/or to be incurred by the Joint Venturers.

(f) The Joint Venturers acknowledge and hereby agree with the State that the Joint Venturers will not be entitled to the payment of any moneys in respect of the use of the channel approach by vessels other than those referred to in the foregoing provisions of this subclause but that in respect of such other vessels the State shall be entitled to retain all charges and other revenue received in respect of such use.

(g) The Joint Venturers also agree with the State that notwithstanding any lease granted to them by the State of the whole or part of the channel

approach the State or the other party may at any time after notice to the Joint Venturers deepen or widen the channel approach for which purpose the Joint Venturers will on request by the State surrender without compensation so much of the lease of the channel approach as may be required for the purpose PROVIDED HOWEVER that the Joint Venturers will be entitled to reasonable time within which to complete any firm contract for the dredging of the channel approach actually made by them (pursuant to the consent of the State or the determination by arbitration) but unfulfilled at the time of the giving of such notice in respect of the widening or deepening of the dredging of the channel approach.

(h) A lease of the channel approach by the State to the Joint Venturers will be substantially (unless otherwise mutually agreed) in accordance with the form marked "B" and initialled by or on behalf of the parties hereto for the purposes of identification.

Mutual covenants

10. The parties hereto covenant and agree with each other as follows —

- (a) that subject to and in accordance with proposals approved or determined under clause 6 hereof the Joint Venturers for their purposes hereunder and for domestic and other purposes in relation to a townsite may to the extent determined by the Minister but notwithstanding any Act bore for water construct catchment areas store (by dams or otherwise) take and charge far water from any Crown lands available for the purpose and generate transmit supply and charge for electrical energy and the Joint Venturers shall have all such powers and authorities with respect to water and electrical energy as are determined by the Minister for the purposes hereof which may include the powers of a water board under the Water Boards Act 1904 and of a supply authority under the Electricity Act 1945;
- (b) that the Joint Venturers may use any public roads which may from time to time exist in the area of their operations hereunder for the purpose of transportation of goods and materials in connection with such operations PROVIDED NEVERTHELESS that the Joint Venturers shall on demand pay to the State or the Shire council concerned the cost of making good any damage to such roads occasioned by —
 - (i) such user by the Joint Venturers prior to the export date; and
 - (ii) user by the Joint Venturers far the transportation of iron ore won from the mineral lease;

- (c) that the State will at the request and cast of the Joint Venturers (except where and to the extent that the Commissioner of Main Roads agrees to bear the whole or part of the cost involved) widen upgrade or realign any public road over which the State has control subject to the prior approval of the said Commissioner to the proposed work;
- (d) that on the cessation or determination of this Agreement —
 - (i) except as otherwise agreed by the Minister the rights of the Joint Venturers to in or under this Agreement and the rights of the Joint Venturers or of any assignee of the Joint Venturers or any mortgagee to in or under the mineral lease and any other lease license easement or right granted hereunder or pursuant hereto shall thereupon cease and determine but without prejudice to the liability of either of the parties hereto in respect of any antecedent breach or default under this Agreement or in respect of any indemnity given hereunder AND the Joint Venturers will without further consideration but otherwise at the request and cost of the State transfer or surrender to the State or the Crown all land the subject of any Crown Grant issued under the Land Act pursuant to this Agreement;
 - (ii) the Joint Venturers shall forthwith pay to the State all moneys which may then have become payable or accrued due;
 - (iii) the Joint Venturers shall forthwith furnish to the State complete factual statements of the work research surveys and reconnaissances carried out pursuant to clause 4 (1) hereof if and insofar as the statements may not have been so furnished; and
 - (iv) save as aforesaid and as provided in clause 7 (4) hereof and in the next following paragraph neither of the parties hereto shall have any claim against another of them with respect to any matter or thing in or arising out of this Agreement;
- (e) that on the cessation or determination of any lease license or easement granted hereunder by the State to the Joint Venturers or (except as otherwise agreed by the Minister) to an associated company or other assignee of the Joint Venturers under clause 20 hereof of land for the Joint Venturers' wharf for any installation within the harbour for the Joint Venturers' railway or for housing at the port or port townsite the improvements and things other than plant equipment and removable buildings erected on the relevant

land and provided for in connection therewith shall remain or become the absolute property of the State without compensation and freed and discharged from all mortgages and encumbrances and the Joint Ventures will do and execute such documents and things (including surrenders) as the State may reasonably require to give effect to this provision. In the event of the Joint Venturers immediately prior to such expiration or determination or subsequent thereto deciding to remove their locomotives rolling stock plant equipment and removable buildings or any of them from any land they shall not do so without first notifying the State in writing of their decision and thereby granting to the State the right or option exercisable within three months thereafter to purchase at valuation in situ the said plant equipment and removable buildings or any of them. Such valuation shall be mutually agreed or in default of agreement shall be made by such competent valuer as the parties may appoint or failing agreement as to such appointment then by two competent valuers one to be appointed by each party or by an umpire appointed by such valuers should they fail to agree;

- (f) that subject to the Joint Venturers at their own expense providing all works buildings dredging and things of a capital nature reasonably required for their operations hereunder at or in the vicinity of the harbour no charge or levy shall be made by the State or by any State authority in relation to the loading of outward or the unloading of inward cargoes from the Joint Venturers' wharf whether such cargoes shall be the property of the Joint Venturers or of any other person or corporation but the State accepts no obligation to undertake such loading or unloading and may make the usual charges from time to time prevailing in respect of services rendered by the State or by any State agency or instrumentality or other local or other authority of the State and may charge vessels using the Joint Venturers' wharf ordinary light conservancy and tonnage dues;
- (g) that the mineral lease and the lands the subject of any Crown Grant lease license or easement granted to the Joint Venturers under this Agreement shall be and remain zoned for use or otherwise protected during the currency of this Agreement so that the operations of the Joint Venturers hereunder may be undertaken and carried out thereon without any interference or interruption by the State by any State agency or instrumentality or by any local or other authority of the State on the ground that such operations are contrary to any zoning by-law or regulation;
- (h) that any State legislation for the time being in force in the said State relating to the fixation of rentals shall not apply to any houses belonging to the Joint Venturers in any townsite and that in relation to each such house the Joint Venturers shall have the right to include as a condition of their letting thereof that the Joint Venturers may

take proceedings for eviction of the occupant if the latter shall fail to abide by and observe the terms and conditions of occupancy or if the occupant shall cease to be employed by the Joint Venturers;

- (i) that during the currency of this Agreement and subject to compliance with their obligations hereunder the Joint Venturers shall not be required to comply with the labour conditions imposed by or under the Mining Act in regard to the mineral lease.
- (j) that without affecting the liabilities of the parties under this Agreement either party shall have the right from time to time to entrust to third parties the carrying out of any portions of the operations which it is authorized or obliged to carry out hereunder;
- (k) that notwithstanding the provisions of any Act or anything done or purported to be done under any Act the valuation of all lands (whether of a freehold or leasehold nature) the subject of this Agreement (except as to any part upon which a permanent residence shall be erected or which is occupied in connection therewith) shall for rating purposes be deemed to be on the unimproved value thereof and no such lands shall be subject to any discriminatory rate;
- (l) that in any of the following events namely if the Joint Venturers shall make default in the due performance or observance of any of the covenants or obligations to the State herein or in any lease sub-lease license or other title or document granted or assigned under this Agreement on their part to be performed or observed and shall fail to remedy that default within reasonable time after notice specifying the default is given to them by the State (or if the alleged default is contested by the Joint Venturers and promptly submitted to arbitration within a reasonable time fixed by the arbitration award where the question is decided against the Joint Venturers the arbitrator finding that there was a *bona fide* dispute and that the Joint Venturers had not been dilatory in pursuing the arbitration) or if the Joint Venturers shall abandon or repudiate their operations under this Agreement or if any of the Joint Venturers shall go into liquidation (other than a voluntary liquidation for the purpose of reconstruction) and unless within three months from the date of such liquidation the others of the Joint Venturers acquire absolutely the share estate and interest of the Joint Venturer (in liquidation) in or under this agreement and in or under the mineral lease and any other lease license easement or right granted hereunder or pursuant hereto then and in any of such events the State may by notice to the Joint Venturers determine this Agreement and the rights of the Joint Venturers hereunder and under any lease license easement or right granted hereunder or pursuant hereto or if the Joint Venturers shall surrender the entire mineral lease as permitted under clause 8 (2) (a) this Agreement and the rights of the Joint Venturers hereunder and

under any lease license easement or right granted hereunder or pursuant hereto shall thereupon determine; PROVIDED HOWEVER that if the Joint Venturers shall fail to remedy any default after such notice or within the time fixed by the arbitration award as aforesaid the State instead of determining this Agreement as aforesaid because of such default may itself remedy such default or cause the same to be remedied (for which purpose the State by agents workmen or otherwise shall have full power to enter upon lands occupied by the Joint Venturers and to make use of all plant machinery equipment and installations thereon) and the costs and expenses incurred by the State in remedying or causing to be remedied such default shall be a debt payable by the Joint Venturers to the State on demand; and

(m) that —

(i) for the purposes of determining whether and the extent to which —

(A) the Joint Venturers are liable to any person or body corporate (other than the State); or

(B) an action is maintainable by any such person or body corporate

in respect of the death or injury of any person or damage to any property arising out of the use of any of the roads for the maintenance of which the Joint Venturers are responsible hereunder and for no other purpose the Joint Venturers shall be deemed to be a municipality and the said roads shall be deemed to be streets under the care control and management of the Joint Venturers;

(ii) for the purposes of this paragraph the terms “municipality” “street” and “care control and management” shall have the meanings which they respectively have in the Local Government Act 1960.

Company may submit proposals in respect of Mining Area “B” and Mining Area “C”

11. (1) From the commencement date the Joint Venturers shall with all reasonable diligence continue their preliminary exploration and investigation preparatory to making a complete and thorough geological and (as necessary) geophysical investigation of firstly mining area “B” and secondly of mining area

“C” and within two years next following the commencement date shall intensify their exploration and investigation and within four years next following the commencement date the Joint Venturers shall complete their geological and (as necessary) geophysical exploration and investigation with a view to proving iron ore deposits in those mining areas and testing and sampling such deposits. Such investigations shall include a general reconnaissance of those mining areas with a view to the establishment of various sites for the operations pursuant to this Agreement. The Joint Venturers shall keep the State fully informed at least quarterly commencing within one quarter after the commencement date as to the progress and results of the Joint Venturers’ operations under this sub-clause.

(2) If within six (6) years from the commencement date the Joint Venturers having complied with all their obligations pursuant to subclause (1) hereof shall apply for a mineral lease in respect of mining area “B” or any part or parts thereof and of mining area “C” or any part or parts thereof the Joint Venturers shall within six months of any such application submit to the Minister —

- (a) to the fullest extent reasonably practicable their detailed proposals (including plans where practicable and specifications where reasonably required by the Minister) and including the location area layout design number materials and time programme for the commencement and completion of construction or provision as the case may be of each of the following matters namely —
 - (i) such additional harbour development including dredging depositing of spoil the provision of navigational aids additions to the Joint Venturers’ wharf (any plans and specifications for additions to the Joint Venturers’ wharf shall be submitted to and be subject to the approval of the State) the berth and swinging basin for the Joint Venturers’ use and harbour installations facilities and services to enable the use of the harbour and wharf by vessels having an ore carrying capacity of not less than 60,000 tons;
 - (ii) the railway or railways between those mining areas and the Joint Venturers’ then existing railway from mineral lease granted under clause 8 (2) (a) hereof to the Joint Venturers’ wharf and all works ancillary to or connected with the railway or railways and its or their proposed operation including fencing (if any) and crossing places;
 - (iii) the town site on mining area “C” and development services and facilities in relation thereto;

- (iv) the townsite on mining area "B" and development services and facilities in relation thereto or provision for the extension of the existing townsite established on mine area "A";
 - (v) housing on mining area "C";
 - (vi) housing on mining area "B" or provision for the extension of existing housing accommodation established on mining area "A";
 - (vii) roads from those mining areas to the then existing road developed by the Joint Venturers from mining area "A" to the Joint Venturers' wharf (including details of roads in respect of which it is not intended that the provisions of clause (9) (2) (b) shall operate) and;
 - (viii) any other works services or facilities proposed or desired by the Joint Venturers; and
- (b) satisfactory evidence of firstly availability of finance necessary for the fulfilment of the Joint Venturers' obligations if they undertake secondary processing under the provisions in that behalf contained in clause 12 hereof and secondly if the Minister so requires production of any necessary license to the Joint Venturers from the Commonwealth to export iron ore from mining area "B" and or mining area "C"

(3) The estimated cost of the works to be proposed under subclause 2 of this clause shall be not less than ten million pounds (£10,000,000) and the works shall be of such design and capacity as shall enable the Joint Venturers to mine and handle load and deal with six thousand (6,000) tons of iron ore per diem in addition to the requirements of clause 9 (1) (a) hereof.

(4) Within two months after receipt of the detailed proposals of the Joint Venturers in regard to any of the matters mentioned in subclause 2 (a) of this clause the Minister shall give to the Joint Venturers notice either of his approval of the proposals or of alterations desired thereto and in the latter case shall afford to the Joint Venturers opportunity to consult with and to submit new proposals to the Minister. The Minister may make such reasonable alterations to or impose such reasonable conditions on the proposals or new proposals (as the case may be) as he shall think fit having regard to the circumstances including the overall development and use by others as well as the Joint Venturers of the Joint Venturers' wharf facilities and services but the Minister shall in any notice to the Joint Venturers disclose his reasons for any such alteration or condition. Within two (2) months of the receipt of the notice the Joint Venturers may elect by notice to the State to refer to arbitration and within two (2) months thereafter shall refer

to arbitration as hereinafter provided any dispute as to the reasonableness of any such alteration or condition. If by the award on arbitration the dispute is decided against the Joint Venturers then unless the Joint Venturers within three (3) months after delivery of the award satisfy and obtain the approval of the Minister as to the matter or matters the subject of the arbitration the application for a lease of those mining areas or any part or parts thereof respectively shall on the expiration of that period of three (3) months cease and determine (save as provided in clause 10 (d) hereof) but if the question is decided in favour of the Joint Venturers the decision will take effect as a notice by the Minister that he is so satisfied with and approves the matter or matters the subject of the arbitration.

(5) Within two (2) months after receipt of evidence from the Joint Venturers with regard to the matters mentioned in subclause (2) (b) of this clause to the reasonable satisfaction of the Minister the State will give to the Joint Venturers notice either that it is satisfied with such evidence (in which case the proposals in relation to those matters will be deemed approved) or not in which case the State shall afford the Joint Venturers an opportunity to consult with and to submit further evidence to the Minister. If within thirty (30) days of receipt of such notice further evidence has not been submitted to the Minister's reasonable satisfaction and his approval obtained thereto the Joint Venturers may within a further period of thirty (30) days elect by notice to the State to refer to arbitration as hereinafter provided and will within two (2) months thereafter refer to arbitration any dispute as to the reasonableness of the Minister's decision. If by the award on arbitration the dispute is decided against the Joint Venturers then unless the Joint Venturers within three (3) months after delivery of the award satisfy and obtain the approval of the Minister as to the matter or matters the subject of the arbitration the application for a lease of those mining areas or any part or parts thereof respectively shall on the expiration of that period cease and determine (save as provided in clause 10 (d) hereof) but if the question is decided in favour of the Joint Venturers the decision will take effect as a notice by the Minister that he is so satisfied with and has approved the matter or matters the subject of the arbitration.

(6) If the Joint Venturers shall have applied for a mineral lease of mining area "B" and mining area "C" or any part or parts thereof respectively within six (6) years of the commencement date and shall have complied with their obligations in respect of such application and if the Minister shall have approved the Joint Venturers' proposals or be deemed to have approved the Joint Venturer's proposals by decision of arbitration then the Minister shall cause any necessary survey to be made of the land so applied for (the cost of the survey to the State will be recouped or repaid to the State by the Joint Venturers on demand after completion of the survey) and shall cause to be granted to the Joint Venturers as tenants in common in equal shares a mineral lease thereof (hereinafter referred to as "the second mineral lease") for iron ore in the form of the lease in the Schedule hereto for a term which subject to the payments of rental and royalties hereinbefore mentioned and to the performance and observance by the Joint Venturers of their obligations under the mineral lease shall be for a period commencing from the date of issue of the second mineral lease for a period co-extensive with the residue of the term then unexpired of the original mineral

lease granted under clause 8 (2) (a) hereof with rights to successive renewal for 21 years upon the same terms and subject to earlier determination upon the cessation or determination of this agreement.

(7) If the Joint Venturers do not apply within six (6) years from the commencement date or cease to be entitled to apply for a mineral lease in respect of those mining areas being mining area "B" or mining area "C" or any part or parts thereof respectively the Joint Venturers will cease to have any rights or interests to or in respect of those mining areas or any of them or any part or parts thereof respectively and this agreement with the exception of Clauses 12-17 (inclusive) will continue in force for 21 years from the export date or until the Joint Venturers have mined all the available iron ore on mining area "A" (whichever later happens) or until this agreement is determined provided that if in any financial year after six years from the commencement date the tonnage of iron ore mined from the mineral lease and shipped for export is less than one million (1,000,000) tons then the State may within the period of six months next following the expiration of that financial year give to the Joint Venturers notice that it intends to invoke this clause and thereupon if in that financial year and the next two succeeding financial years the tonnage of iron ore so shipped is less than three million (3,000,000) tons then subject to Clause 23 hereof the State may by notice to the Joint Venturers given at any time during the period of twelve (12) months next following the expiration of the third of the three financial years above referred to in this proviso determine this agreement whereupon the rights of the Joint Venturers in this agreement and under any lease license or mining tenement granted hereunder or pursuant hereto shall cease and determine subject however to the provisions of Clause 10 (d) hereof but without prejudice to any liability on the part of the Joint Venturers for any antecedent breach of or liability under any of the provisions in this agreement PROVIDED FURTHER the Minister upon the application of the Joint Venturers may include in the existing mineral lease granted under clause 8 (2) (a) hereof the whole or any part or parts of mining area "B" after survey by the State (the cost of which survey to the State will be recouped or repaid to the State by the Joint Venturers upon demand after completion of the survey). Where the whole of mining area "B" or any part or parts thereof is included in the existing mineral lease the area or areas shall be deemed to be included in the definition of mineral lease given in clause 1 hereof (so far as the same relates to Mining Area "A") and for all purposes of this agreement with the exception of clauses 12 to 17 (inclusive) where the context so permits.

Secondary processing

12. (1) The Joint Venturers having commenced already to investigate the feasibility of establishing a plant for the secondary processing by the Joint Venturers within the said State of iron ore from the mineral lease will from time to time review this matter with a view to their being in a position before the end of year eight to submit to the Minister detailed proposals for such plant (capable

ultimately of treating not less than two million (2,000,000) tons of iron ore per annum) containing provision that —

- (a) the plant will by the end of year 10 have the capacity to process at an annual rate of and will during the year 11 process not less than five hundred thousand (500,000) tons of iron ore;
- (b) production will progressively increase so that the plant will by the end of year 12 have the capacity to process at an annual rate of and will during the year 13 process not less than one million (1,000,000) tons of iron ore and by the end of year 16 will have the capacity to process at an annual rate of not less than and will during the year 17 process not less than two million (2,000,000) tons of iron ore;
- (c) the capital cost involved (exclusive of the cost referred to in clause 9 (1) hereof) will be not less than eight million pounds (£8,000,000) unless the Joint Venturers utilise a less expensive but at least equally satisfactory method of secondary processing than any at present known to either party.

PROVIDED THAT if the Joint Venturers satisfy the Minister that the Joint Venturers' mining operations are not producing quantities of iron ore suitable for treatment at a rate of two million (2,000,000) tons of iron ore per annum on an economic basis then the Minister may approve modified or altered proposals and reduce the figure of two million (2,000,000) tons to a figure the Minister considers appropriate having regard to the prevailing circumstances but to not less than one million (1,000,000) tons per annum with provision for progressive increase to two million (2,000,000) tons per annum of a revised programme and on approving such modified or altered proposals the Minister may approve corresponding variations of the provisions of paragraphs (a) (b) and/or (c) of this subclause.

(2) If before the end of the year eight such proposals are submitted by the Joint Venturers to the Minister the State shall within two months of the receipt thereof give to the Joint Venturers notice either of its approval of the proposals (which approval shall not be unreasonably withheld) or of any objections raised or alterations desired thereto and in either of the latter cases shall afford the Joint Venturers an opportunity to consult with and to submit new proposals to the Minister. If within thirty days of receipt of such notice agreement is not reached as to the proposals the Joint Venturers may within a further period of thirty days elect by notice to the State to refer to arbitration as hereinafter provided any dispute as to the reasonableness of the Minister's decision. If by the award on arbitration the question is decided in favour of the Joint Venturers the Minister shall be deemed to have then approved the proposals of the Joint Venturers.

(3) If such proposals are not submitted by the Joint Venturers to the Minister before the end of year 8 or if the proposals are so submitted but are not

approved by the Minister within two months of receipt thereof or if the Joint Venturers shall have had such proposals approved and shall not have complied with their obligations thereunder then (subject to any extension of time granted hereunder).

- (a) the Joint Venturers shall not after the end of the year 10 export iron ore hereunder at an annual rate in excess of three million (3,000,000) tons of direct shipping ore per annum unless prior to year 8 the Minister shall have approved the Joint Venturers entering into a contract or contracts for export of ore after year 10 at an annual rate in excess of three million (3,000,000) tons of direct shipping ore; and
- (b) if by the end of the year 11 (or extended date if any) the State gives to the Joint Venturers notice that some other Company or party (hereinafter referred to as "the third party") has agreed to establish a plant for secondary processing within the said State of iron ore from the mineral lease on terms not more favourable on the whole to the third party than those proposed by or available to the Joint Venturers hereunder this agreement will (subject to the provisions of subclauses (d) and (e) of clause 10 and of clause 15 hereof) cease and determine at the end of year 21 or at the date by which the third party has substantially established the plant referred to in this subclause in accordance with the terms agreed upon by the State and the third party whichever is the later

PROVIDED THAT if by the end of the year 11 (or extended date if any) the State has not given to the Joint Venturers the notice referred to in this subclause paragraph (a) of this subclause shall cease to have any effect and PROVIDED FURTHER that the Joint Venturers may at any time after the end of year 8 submit proposals as aforesaid if at that time they had not received the notice aforesaid and the provisions of subclause (2) of this clause shall apply to such proposals but (subject to any extension of time as aforesaid) the Joint Venturers may not submit proposals as aforesaid after the end of year 8 and before the end of year 11 if the Joint Venturers have received a notice from the Minister that he is negotiating with the third party and such notice has not been withdrawn.

(4) Subject to the provisions of clause 13 hereof and except as provided in paragraph (b) of subclause (3) of this clause this Agreement will continue in operation subject to compliance by the Joint Venturers with their obligations hereunder and with such proposals by the Joint Venturers as are approved by the Minister.

(5) Notwithstanding anything contained herein no failure by the Joint Venturers to submit to the Minister proposals as aforesaid nor any non-approval by the Minister of such proposals shall constitute a breach of this Agreement by the Joint Venturers and subject to the provisions of clause 13 hereof the only

consequence arising from such failure or non-approval (as the case may be) will be those set out in subclause (3) of this clause.

Industry for additional upgrading of beneficiated ore

13. (1) The Joint Venturers will in due course investigate the feasibility of establishing within the said State an industry for additional upgrading of beneficiated ore from the mineral lease by some form of semi-reduction direct reduction or other mutually agreed process (the product of such industry being hereinafter referred to as “upgraded ore”) and will from time to time review this matter with a view to their being in a position before the end of year 17 to submit to the Minister detailed proposals for such industry (capable ultimately of producing one million (1,000,000) tons of upgraded ore per annum) containing provision that —

- (a) by the end of the year 18 productive capacity of the industry will be at an annual rate of not less than and during the year 19 will be not less than two hundred and fifty thousand (250,000) tons of upgraded ore;
- (b) production will progressively increase so that by the end of year 21 productive capacity will be at an annual rate of not less than and during the year 22 production will be not less than five hundred thousand (500,000) tons of upgraded ore and by the end of year 25 productive capacity will be at an annual rate of not less than and during year 26 production will be not less than one million (1,000,000) tons of upgraded ore; and
- (c) the capital cost involved (exclusive of the cost referred to in Clause 9 (1) hereof) will not be less than twenty million pounds (£20,000,000) if the Company has previously proceeded with the establishment of a plant for secondary processing within the terms of Clause 12 hereof or if the Company has not previously proceeded with the establishment of a plant for secondary processing within the terms of Clause 12 hereof the capital cost involved will not be less than thirty million pounds (£30,000,000) unless the Company utilizes a less expensive but at least equally satisfactory method of manufacture than any at present known to either party

PROVIDED however that if and whenever the Joint Venturers satisfy the Minister that the Joint Venturers’ mining operations are not producing quantities of iron ore suitable for treatment in the industry at a rate of not less than one million (1,000,000) tons of iron ore per annum on an economic basis or that annual production of upgraded ore at the rate of one million (1,000,000) tons per annum cannot be sold in the available markets at that time or that an alternative processing of iron ore is proposed by the Joint Venturers and is practicable then

and in any such case the Minister may approve modified or altered proposals and reduce the figure of one million (1,000,000) tons to a figure the Minister considers appropriate having regard to prevailing circumstances but to not less than five hundred thousand (500,000) tons per annum with provision for progressive increase to one million (1,000,000) tons per annum on a revised programme and in approving such modified proposals the Minister may approve corresponding variations of the provisions of paragraphs (a) (b) and/or (c) of this subclause.

(2) If before the end of year 17 such proposals are submitted by the Joint Venturers to the Minister the State shall within two months of the receipt thereof give to the Joint Venturers notice either of its approval of the proposals (which approval shall not be unreasonably withheld) or of any objections raised or alterations desired thereto and in the latter case shall afford the Joint Venturers an opportunity to consult with and to submit new proposals to the Minister. If within thirty days of receipt of such notice agreement is not reached as to the proposals the Joint Venturers may within a further period of thirty days elect by notice to the State to refer to arbitration as hereinafter provided any dispute as to the reasonableness of the Minister's decision. If by the award on arbitration the question is decided in favour of the Joint Venturers the Minister shall be deemed to have then approved the proposals of the Joint Venturers.

(3) If such proposals are not submitted by the Joint Venturers to the Minister before the end of year 17 or if such proposals are so submitted but are not approved by the Minister within two months after receipt thereof or if the Joint Venturers shall have had such proposals approved and shall not have complied with their obligations thereunder then (subject to any extension of time granted hereunder) and subject to the next following subclause —

- (a) the Joint Venturers shall not after the end of the year 18 export iron ore hereunder at an annual rate in excess of five million (5,000,000) tons of direct shipping ore per annum unless prior to year 17 the Minister shall have approved the Joint Venturers entering into a contract or contracts for export of iron ore after year 18 at an annual rate in excess of five million (5,000,000) tons of direct shipping ore; and
- (b) the Joint Venturers shall not after the end of the year 21 export iron ore hereunder at an annual rate in excess of three million (3,000,000) tons of direct shipping ore per annum unless prior to year 18 the Minister shall have approved the Joint Venturers entering into a contract or contracts for export of direct shipping ore after year 21 at an annual rate in excess of three million (3,000,000) tons.

(4) If such proposals are not submitted by the Joint Venturers to the Minister before the end of year 17 or if such proposals are so submitted but are not approved by the Minister within two months after receipt thereof then (subject to any extension of time granted hereunder) if by the end of year 20 (or extended

date if any) the State gives to the Joint Venturers notice that some other Company or party (hereinafter referred to as “the Fourth Party”) has agreed to establish either —

- (a) a plant for secondary processing within the said State of iron ore from the mineral lease (if proposals by the Joint Venturers for the establishment of such a plant have not previously been submitted to and approved by the Minister) on terms not more favourable on the whole to the Fourth Party than those proposed by or available to the Joint Venturers hereunder; or
- (b) an industry for additional upgrading of beneficiated ore aforesaid within the said State (using iron ore from the mineral lease) on terms not more favourable on the whole to the Fourth Party than those proposed by or available to the Joint Venturers hereunder —

then and in either case this Agreement will (subject to the provisions of subclauses (d) and (e) of clause 10 hereof and clause 16 hereof) cease and determine —

- (i) in the case of the Fourth Party proceeding with secondary processing then when the Fourth Party has substantially established the plant referred to in paragraph (a) of this subclause;
- (ii) in the case of the Fourth Party proceeding with an industry for additional upgrading of beneficiated iron ore aforesaid then (if proposals by the Joint Venturers for a plant for secondary processing have previously been submitted to and approved by the Minister) at the end of year 24 or at the date by which the Fourth Party has substantially established that industry whichever is the later; and
- (iii) in the case of the Fourth Party proceeding with an industry for additional upgrading of beneficiated iron ore aforesaid (if proposals by the Joint Venturers for a plant for secondary processing have not previously been submitted to and approved by the Minister) at the date by which the Fourth Party has substantially established that industry.

(5) If by the end of year 20 (or extended date if any) the State has not given to the Joint Venturers any such notice as is referred to in subclause (4) of this clause that subclause shall thereupon cease to have effect except that (to the extent they can from time to time operate) the provisions of subclause (4) of this clause shall revive (for period of three years) at the end of year 24 and at the end of each successive period of thirteen years thereafter in such a way that each year referred to in that subclause shall be read as the year thirteen years or (as the case

may require) a multiple of thirteen years thereafter (subject to extensions of dates if any as aforesaid).

(6) The Joint Venturers may at any time after the end of year 17 submit proposals for an industry for additional upgrading of beneficiated iron ore aforesaid if at that time they have not received any notice under subclause (4) of this clause and the provisions of subclauses (1) and (2) of this clause shall apply to such proposals.

(7) Except as provided in subclause (4) of this clause this Agreement will continue in operation subject to compliance by the Joint Venturers with their obligations hereunder and with such proposals by the Joint Venturers as are approved by the Minister.

(8) Notwithstanding anything contained herein no failure by the Joint Venturers to submit to the Minister proposals as aforesaid nor any non-approval by the Minister of such proposals shall constitute a breach of this Agreement by the Joint Venturers and the only consequences arising from such failure or non-approval (as the case may be) will be those set out in subclause (4) of this clause.

Substantial establishment

14. The Third Party or the Fourth Party shall have substantially established a plant for secondary processing or an industry for additional upgrading of beneficiated ore when and not before the party's secondary processing plant has a capacity to treat not less than two million (2,000,000) tons of iron ore per annum or (as the case may be) that party's industry for upgrading of beneficiated ore has the capacity to produce one million (1,000,000) tons of upgraded ore per annum and in either case the Minister has notified the Joint Venturers that he is satisfied that that party will proceed *bona fide* to operate its plant or industry.

Terms not more favourable

15. In deciding whether for the purposes of clause 12 or clause 13 hereof the terms granted by the State to some company or party are not more favourable on the whole than those proposed by or available to the Joint Venturers regard shall be had *inter alia* to all the obligations which would have continued to devolve on the Joint Venturers had they proceeded with secondary processing or (as the case may be) an industry for the additional upgrading of beneficiated ore including their obligations to mine transport by rail and ship iron ore and restrictions relating thereto to pay rent additional rental and royalty and (in case of secondary processing by a third party pursuant to clause 12 hereof) to termination of rights as provided in clause 13 hereof if proposals for the upgrading of beneficiated ore

are not brought to fruition and also to the need for the other company or party to pay on a fair and reasonable basis for or for the use of property accruing to the State under paragraph (e) of clause 10 hereof and made available by the State to that company or party but also to any additional or equivalent obligations to the State assumed by that company or party PROVIDED HOWEVER that if after the end of year 24 the Minister gives notice to the Joint Venturers under clause 13 hereof that another company or party has agreed to establish either secondary processing or an industry for additional upgrading of beneficiated ore but not both then the latter company or party need not have any obligation to establish both.

Supply of iron ore by others

16. If at the date upon which this Agreement ceases and determines pursuant to clauses 12 or 13 hereof the Joint Venturers remain under any obligation for the supply of iron ore arising out of a contract or contracts entered into by the Joint Venturers with the consent of the Minister the Joint Venturers may give notice to the Minister that they desire the State to ensure that the Third Party (or the Fourth Party as the case may be) is obligated to discharge such remaining obligations to supply iron ore or to supply iron ore to the Joint Venturers into ships to enable them to discharge such obligations. Forthwith upon receipt of such notice the State will ensure that the Third Party (or the Fourth Party as the case may be) is obligated to discharge such obligations in accordance with such contract or contracts on a basis which is fair and reasonable as between the Joint Venturers and the Third Party (or the Fourth Party as the case may be) or if desired to supply iron ore to the Joint Venturers into ships on such fair and reasonable basis.

Supply of iron ore to others

17. The Joint Venturers covenant and agree with the State that should the Joint Venturers remain in possession of the mineral lease for any period during which the Third Party or the Fourth Party is operating or is ready to operate a plant for secondary processing of iron ore or an industry for additional upgrading of beneficiated ore then during such period (whenever commencing) the Joint Venturers will supply the Third Party or the Fourth Party or both (as the case may be) with iron ore from the mineral lease (not exceeding in all five million (5,000,000) tons per annum unless otherwise agreed) —

- (i) at such rates and grades (as may reasonably be available and be required);
- (ii) at such points on the Joint Venturers' railway;
- (iii) at such price; and

- (iv) on such other terms and conditions

as may mutually be agreed between the Joint Venturers and the State or failing agreement decided by arbitration between them PROVIDED ALWAYS that the price shall unless otherwise agreed between them be equivalent to the total cost of production and transport incurred by the Joint Venturers (including reasonable allowance for depreciation and all overhead expenses) plus ten per centum of such total cost.

Alteration of works

18. If at any time the State finds it necessary to request the Joint Venturers to alter the situation of any of the of installations or other works (other than the Joint Venturers' wharf) erected constructed or provided hereunder and gives to the Joint Venturers notice of the request the Joint Venturers shall within a reasonable time after their receipt of the notice but at the expense in all things (including increased running costs) of the State (unless the alteration is rendered necessary by reason of a breach by the Joint Venturers of any of their obligations hereunder) alter the situation thereof accordingly.

Indemnity

19. The Joint Venturers will indemnify and keep indemnified the State and its servants agents and contractors in respect of all actions suits claims demands or costs of third parties arising out of or in connection with the construction maintenance or use by the Joint Venturers or their servants agents contractors or assignees of the Joint Venturers' wharf railway or other works or services the subject of this Agreement or the plant apparatus or equipment installed in connection therewith.

Assignment

20. (1) Subject to the provisions of this clause the Joint Venturers or any of them may at any time —
- (a) assign mortgage charge sublet or dispose of to an associated company as of right and to any other company or person with the consent in writing of the Minister the whole or any part of the rights of the Joint Venturers hereunder (including their rights to or as the holder of any lease license easement grant or other title) and of the obligations of the Joint Venturers hereunder; and

- (b) appoint as of right an associated company or with the consent in writing of the Minister any other company or person to exercise all or any of the powers functions and authorities which are or may be conferred on the Joint Venturers hereunder;

subject however to the assignee or (as the case may be) the appointee executing in favour of the State a deed of covenant in a form to be approved by the Minister to comply with observe and perform the provisions hereof on the part of the Joint Venturers to be complied with observed or performed in regard to the matter or matters so assigned or (as the case may be) the subject of the appointment.

(2) Notwithstanding anything contained in or anything done under or pursuant to subclause (1) of this clause the Joint Venturers shall at all times during the currency of this Agreement be and remain liable for the due and punctual performance and observance of all the covenants and agreements on their part contained herein and in any lease license easement grant or other title the subject of an assignment under the said subclause (1).

Variation

21. (1) The parties hereto may from time to time by mutual agreement in writing add to cancel or vary all or any of the provisions of this Agreement or of any lease license easement or right granted hereunder or pursuant hereto for the purpose of implementing or facilitating the carrying out of such provisions or for the purpose of facilitating the carrying out of some separate part or parts of the Joint Venturers' operations hereunder by an associated company as a separate and distinct operation or for the establishment or development of any industry making use of the minerals within the mineral lease or such of the Joint Venturers' works installations services or facilities the subject of this Agreement as shall have been provided by the Joint Venturers in the course of work done hereunder.

(2) Notwithstanding the provisions of subclause (1) of this clause the Minister may with the consent of the Joint Venturers from time to time add to cancel or vary any right or obligation relating to works for the transport and/or export of iron ore to the extent that the addition cancellation or variation implements or facilitates the method of achieving any of the purposes of iron ore export secondary processing or for an industry for additional upgrading of beneficiated ore based on ore from the mineral lease.

(3) Notwithstanding the foregoing provisions of this clause the Minister may from time to time approve variations or require reasonable variations in the detailed proposals relating to any railway or harbour site and/or port facilities or dredging programme or townsite or town planning or any other facilities or services or other plans specifications or proposals which may have been approved pursuant to this Agreement and in considering such variations shall have regard to

any changes consequent upon joint user proposals of any such works facilities or services and other relevant factors arising after the date hereof.

Export license

22. (1) On request by the Joint Venturers the State shall make representations to the Commonwealth for the grant to the Joint Venturers of a license or licenses under Commonwealth law for the export of iron ore in such quantities and at such rate or rates as shall be reasonable having regard to the terms of this Agreement the capabilities of the Joint Venturers and to maximum tonnages of iron ore for the time being permitted by the Commonwealth for export from the said State and in a manner or terms not less favourable to the Joint Venturers (except as to rate or quantity) than the State has given or intends to give in relation to such a license or licenses to any other exporter of iron ore from the said State.

(2) If at any time the Commonwealth limits by export license the total permissible tonnage of iron ore for export from the said State then the Joint Venturers will at the request of the State and within three (3) months of such request inform the State whether or not they intend to export to the limit of the tonnage permitted to them under Commonwealth licenses in respect of the financial year next following and if they do not so intend will co-operate with the State in making representation to the Commonwealth with a view to some other producer in the said State being licensed by the Commonwealth to export such of the tonnage permitted by the Commonwealth in respect of that year as the Joint Venturers do not require and such other producer may require. Such procedure shall continue to be followed year by year during such time as the Commonwealth limits by export license the total permissible tonnage of iron ore for export from the said State.

(3) The Joint Venturers shall be in default hereunder if at any time they fail to obtain any license or licenses under Commonwealth law for the export of iron ore as may be necessary for the purpose of enabling the Joint Venturers to fulfil their obligations hereunder or if any such license is withdrawn or suspended by the Commonwealth and such failure to obtain or such withdrawal or suspension (as the case may be) is due to some act or default by the Joint Venturers or to the Joint Venturers not being *bona fide* in application to the Commonwealth or otherwise having failed to use their best endeavours to have the license granted or restored (as the case may be) but save as aforesaid if at any time any necessary license is not granted or any licence granted to the Joint Venturers shall be withdrawn or suspended by the Commonwealth and so that as a result thereof the Joint Venturers are not for the time being permitted to export at least the tonnage they have undertaken with the State they will export then the Joint Venturers shall not be obliged to export the tonnage not so permitted until such time as they are so permitted and thereafter they will export the tonnage they have undertaken with the State they will export. The State shall at all times be entitled to apply on behalf of the Joint Venturers (and is hereby authorized by the

Joint Venturers so to do) for any license or licenses under Commonwealth law for the export of iron ore as may from time to time be necessary for the purposes of this Agreement.

Delays

23. This Agreement shall be deemed to be made subject to any delays in the performance of obligations under this Agreement and to the temporary suspension of continuing obligations hereunder which may be occasioned by or arise from circumstances beyond the power and control of the party responsible for the performance of such obligations including delays or any such temporary suspension as aforesaid caused by or arising from Act of God *force majeure* floods storms tempests washaways fire (unless caused by the actual fault or privity of the Joint Venturers) act of war act of public enemies riots civil commotions strikes lockouts stoppages restraint of labour or other similar acts (whether partial or general) shortages of labour or essential materials reasonable failure to secure contractors delays of contractors and inability (common in the iron ore export industry) to profitably sell ore or factors due to overall world economic conditions or factors which could not reasonably have been foreseen PROVIDED ALWAYS that the party whose performance of obligations is affected by any of the said causes shall minimise the effect of the said causes as soon as possible after their occurrence.

Power to extend periods

24. Notwithstanding any provision hereof the Minister may at the request of the Joint Venturers from time to time extend any period or date referred to in this Agreement for such period or to such later date as the Minister thinks fit and the extended period or later date when advised to the Joint Venturers by notice from the Minister shall be deemed for all purposes hereof substituted for the period or date so extended.

Arbitration

25. Any dispute or difference between the parties arising out of or in connection with this Agreement or any agreed amendment or variation thereof or agreed addition thereto or as to the construction of this Agreement or any such amendment variation or addition or as to the rights duties or liabilities of either party thereunder or as to any matter to be agreed upon between the parties under this Agreement shall in default of agreement between the parties and in the absence of any provision in this Agreement to the contrary be referred to and settled by arbitration under the provisions of the Arbitration Act 1895.

Notices

26. Any notice consent or other writing authorized or required by this Agreement to be given or sent shall be deemed to have been duly given or sent by the State if signed by the Minister or by any senior officer of the Civil Service of the said State acting by the direction of the Minister and forwarded by prepaid post to the Joint Venturers at their registered office for the time being in the said State and by the Joint Venturers if signed on their behalf by a director manager or secretary of the Joint Venturers or by any person or persons authorized by the Joint Venturers in that behalf or by their solicitors as notified to the State from time to time and forwarded by prepaid post to the Minister and any such notice consent or writing shall be deemed to have been duly given or sent on the day on which it would be delivered in the ordinary course of post.

Exemption from Stamp Duty

27. (1) The State shall exempt from any stamp duty which but for the operation of this clause would or might be chargeable on —

- (a) this Agreement;
- (b) any instrument executed by the State pursuant to this Agreement granting to or in favour of the Joint Venturers or any permitted assignee of the Joint Venturers any tenement lease easement license or other right or interest;
- (c) any assignment sublease or disposition (other than by way of mortgage or charge) or any appointment made in conformity with the provisions of subclause (1) of clause 20 hereof; and
- (d) any assignment sublease or disposition (other than by way of mortgage or charge) or any appointment to or in favour of the Joint Venturers or an associated company of any interest right obligation power function or authority which has already been the subject of an assignment sublease disposition or appointment executed pursuant to subclause (1) or clause 20 hereof;

PROVIDED THAT this clause shall not apply to any instrument or other document executed or made more than seven years from the date hereof.

(2) If prior to the date on which the Bill referred to in clause 2 (b) hereof to ratify this Agreement is passed as an Act stamp duty has been assessed and paid on any instrument or other document referred to in subclause (1) of this

clause the state when such Bill is passed as an Act shall on demand refund any stamp duty paid on any such instrument or other document to the person who paid the same.

Interpretation

27. This Agreement shall be interpreted according to the law for the time being in force in the said State.

SCHEDULE

Western Australia

IRON ORE (MOUNT GOLDSWORTHY) IRON ORE
DEPOSIT AGREEMENT ACT 1964 MINERAL LEASE

Lease No. Mineral Field

ELIZABETH THE SECOND by the Grace of God of the United Kingdom Australia and Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith:

TO ALL WHOM THESE PRESENTS shall come GREETINGS:

KNOW YE that WHEREAS by an Agreement made the

day of 1964 between the State of Western Australia of the one part and CONSOLIDATED GOLD FIELDS (AUSTRALIA) PTY. LIMITED CYPRUS MINES CORPORATION and UTAH CONSTRUCTION MINING CO. hereinafter called "the Joint Venturers" in which term shall be included the Joint Venturers and each of them and their and each of their respective successors and assigns and including where the context so admits the assignees of the Joint Venturers under clause 20 of the said agreement) of the other part the said State agreed to grant to the Joint Venturers a mineral lease of portion or portions of the lands referred to in the said Agreement as Mining Area "A" Mining Area "B" and Mining Area "C" AND WHEREAS the said Agreement was ratified by the Iron Ore (Mount Goldsworthy) Iron Ore Deposit Agreement Act 1964 which said Act (*inter alia*) authorized the grant of a mineral lease or leases to the Joint Venturers NOW WE in consideration of the rents and royalties reserved by and of the provisions of the said Agreement and in pursuance of the said Act DO BY THESE PRESENTS GRANT AND DEMISE unto the Joint Venturers as tenants in common in equal shares subject to the said provisions ALL THOSE pieces and parcels of land situated in the Goldfield(s) containing by admeasurement be the same more or less and particularly

described and delineated on the plan in the Schedule hereto and all those mines, veins, seams, lodes and deposits of iron ore in on or under the said land (hereinafter called "the said mine") together with all rights, liberties, easements, advantages and appurtenances thereto belonging or appertaining to a lessee of a mineral lease under the Mining Act 1904 including all amendments thereof for the time being in force and all regulations made thereunder for the time being in force (which Act and regulations are hereinafter referred to as "the Mining Act") or to which the Joint Venturers are entitled under the said Agreement TO HOLD the said land and mine and all and singular the premises hereby demised for the full term of twenty-one years from the day of 19 with the right to renew the same from time to time for further periods each of twenty-one years as provided in but subject to the said Agreement for the purposes but upon and subject to the terms covenants and conditions set out in the said Agreement and to the Mining Act (as modified by the said Agreement) YIELDING and paying therefor the rent and royalties as set out in the said Agreement. AND WE do hereby declare that this lease is subject to the observance and performance by the Joint Venturers of the following covenants and conditions, that is to say: —

1. The Joint Venturers shall and will use the land bona fide exclusively for the purposes of the said Agreement.
2. Subject to the provisions of the said Agreement the Joint Venturers shall and will observe, perform, and carry out the provisions of the Mines Regulation Act 1846, and all amendments thereof for the time being in force and the regulations for the time being in force made thereunder and subject to and also as modified by the said Agreement the Mining Act so far as the same affect or have reference to this lease.

PROVIDED THAT this lease and any renewal thereof shall not be determined or forfeited otherwise than under and in accordance with the provisions of the said Agreement.

PROVIDED FURTHER that all mineral oil on or below the surface of the demised land is reserved to Her Majesty with the right to Her Majesty or any person claiming under her or lawfully authorized in that behalf to have access to the demised land for the purpose of searching for and for the operations of obtaining mineral oil in any part of the land under the provisions of the Petroleum Act 1936.

IN WITNESS whereof we have caused our Minister for Mines to affix his seal and set his hand hereto at Perth in our said State of Western Australia and the common seal of the Company has been affixed hereto this day of 19 .

THE SCHEDULE ABOVE REFERRED TO:

IN WITNESS whereof this Agreement has been executed by or on behalf of the parties hereto the day and year first hereinbefore mentioned.

SIGNED SEALED AND DELIVERED
by the said The HONOURABLE
DAVID BRAND, M.L.A. in the
presence of — } DAVID BRAND
[L.S.]

C.W. Court
Minister for Industrial Development

Arthur Griffith
Minister for Mines

SIGNED SEALED AND DELIVERED
for and on behalf of
CONSOLIDATED GOLDFIELDS
(AUSTRALIA) PTY. LIMITED
by its duly authorized
agent Gerald James Mortimer
in the presence of — } G. J. MORTIMER
[L.S.]

Q.R. Stow
Solicitor
Perth

SIGNED SEALED AND DELIVERED
for and on behalf of CYPRUS
MINES CORPORATION by its
duly authorized agent
Gerald James Mortimer in
the presence of — } G. J. MORTIMER
[L.S.]

Q. R. Stow

SIGNED SEALED AND DELIVERED
for and on behalf of UTAH
CONSTRUCTION & MINING
CO. by its duly authorized agent
Gerald James Mortimer in
the presence of — } G. J. MORTIMER
[L.S.]

Second Schedule

[Section 3]

IRON ORE (MOUNT GOLDSWORTHY) AGREEMENT

THIS FIRST VARIATION AGREEMENT made this 26th day of August 1971 BETWEEN THE HONOURABLE JOHN TREZISE TONKIN, M.L.A., Premier of the State of Western Australia, acting for and on behalf of the said State and Instrumentalities thereof from time to time (hereinafter called "the State") of the one part and CONSOLIDATED GOLD FIELDS AUSTRALIA LIMITED a Company incorporated under the Companies Ordinances of the Australian Capital Territory and having its executive office at Gold Fields House, Sydney Cove in the State of New South Wales and its registered office in the State of Western Australia (hereinafter referred to as "the said State") at 156 Saint George's Terrace, Perth, CYPRUS MINES CORPORATION a Corporation incorporated in the State of New York in the United States of America and having its executive offices situate at 1234 Pacific Mutual Building, 523 West Sixth Street, Los Angeles California in the United States of America and UTAH DEVELOPMENT COMPANY a Corporation incorporated under the laws of the State of Nevada in the United States of America with its executive offices situate at 550 California Street, San Francisco in the said United States of America and having its registered office in the State of Queensland at Pearl Assurance House at the corner of Queen and Eagle Streets, Brisbane (hereinafter called "the Joint Venturers" in which term shall be included the Joint Venturers and each of them and their and each of their respective successors and assigns) of the other part.

WHEREAS: —

- (a) by an Agreement dated the 15th day of October, 1964 (hereinafter called "the Goldsworthy Agreement") made between THE HONOURABLE DAVID BRAND, M.L.A., Premier and Treasurer of the State of Western Australia, acting for and on behalf of the said State and Instrumentalities thereof of the one part and CONSOLIDATED GOLD FIELDS (AUSTRALIA) PTY. LIMITED, CYPRUS MINES CORPORATION and UTAH CONSTRUCTION & MINING CO. of the other part CONSOLIDATED GOLD FIELDS (AUSTRALIA) PTY. LIMITED, CYPRUS MINES CORPORATION and UTAH CONSTRUCTION & MINING CO. acquired upon the terms and conditions contained in the Goldsworthy Agreement certain rights interests and benefits and assumed certain obligations with respect to: —
 - (i) the exploration for and development of iron ore deposits in the mining areas as therein defined and the mining transportation and shipment of iron ore therefrom; and

- (ii) the investigation of the feasibility of establishing secondary processing operations and an industry for the additional upgrading of beneficiated ore.
- (b) the Goldsworthy Agreement was approved by the Iron Ore (Mount Goldsworthy) Agreement Act 1964.
- (c) by clause 21 of the Goldsworthy Agreement the parties thereto may from time to time by mutual agreement in writing (*inter alia*) add to cancel or vary all or any of the provisions of that Agreement or of any lease license easement or right granted thereunder or pursuant thereto for the purpose of implementing or facilitating the carrying out of such provisions.
- (d) by assignment dated the 28th day of February, 1970 pursuant to the provisions of the Goldsworthy Agreement, Utah Construction & Mining Co. assigned to Utah Development Company all of its right title and interest in and to the Goldsworthy Agreement;
- (e) Consolidated Gold Fields (Australia) Pty. Limited changed its name to Consolidated Gold Fields Australia Limited on the 28th day of September, 1966;
- (f) pursuant to clause 21 of the Goldsworthy Agreement the parties hereto have agreed to vary the Goldsworthy Agreement in the manner hereinafter appearing.

NOW THIS AGREEMENT WITNESSETH: —

1. In this Agreement subject to the context words and phrases to which meanings are given under clause 1 of the Goldsworthy Agreement (other than words and phrases to which meanings are given in this Agreement) shall have the same respective meanings in this Agreement as are given to them under clause 1 of the Goldsworthy Agreement.

2. (1) The provisions of this Agreement other than subclause (2) of this clause shall not come into operation until the Bill referred to in that subclause has been passed by the Parliament of Western Australia and comes into operation as an Act;

(2) The State shall introduce and sponsor a Bill in the Parliament of Western Australia to ratify this Agreement and endeavour to secure its passage as an Act prior to the Thirtyfirst day of December, 1971;

(3) If the said Bill is not passed prior to the 31st day of December, 1971 this Agreement shall then cease and determine and neither of the parties hereto will have any claim against the other of them with respect to any matter or thing arising out of done performed or permitted to be done or performed under this Agreement;

(4) On the said Bill commencing to operate as an Act all the provisions of this Agreement shall operate and take effect notwithstanding the provisions of any Act or law.

3. The Goldsworthy Agreement is hereby varied as follows: —

(1) by deleting from clause 1 the definition of “f.o.b. revenue” and substituting a new definition as follows: —

“f.o.b. revenue” means the price for iron ore from the mineral lease the subject of any shipment or sale which is payable by the ultimate purchaser or the person smelting the ore to the Joint Venturers or an associated company, less all export duties and export taxes and all costs and charges properly incurred and paid by the Joint Venturers to a third party after the departure of the ship on which the ore is loaded from the Joint Venturers’ wharf to the time the same is delivered and accepted by the ultimate purchaser or the person smelting the ore, including —

- (1) ocean freight;
- (2) marine insurance;
- (3) port and handling charges at the port of discharge;
- (4) costs incurred in delivering the ore from the port of discharge to the ultimate purchaser or the person smelting the ore;
- (5) all weighing, sampling, assaying, inspection and representation costs at the port of discharge;
- (6) shipping agency charges;
- (7) all import taxes by the country of the port of discharge; and

- (8) such other costs and charges as the Minister may in his discretion consider reasonable in respect of any shipment or sale.

For the purposes of this definition —

- (a) the expression “export duties and export taxes” shall refer to taxes payable by the Joint Venturers to the Commonwealth directly relating to the export of iron ore but excluding any State taxes, duties or charges and any taxes, duties or charges levied by the Commonwealth for or on behalf of the State.
 - (b) a cost or charge shall be deemed to be properly incurred if the Minister in his discretion so determines and in making his determination the Minister may have regard to such matters as the parties to and the *bona fide* nature of the transaction, resulting in the cost or charge.
- (2) by inserting in the definition of “mineral lease” after the word “hereof” in the penultimate line thereof the words “and any mineral lease granted under the provisions of clause 12 (4) hereof” and after the word “thereof” at the end of such definition the word “respectively”;
 - (3) by deleting from the definition of “mining area “B” ” the words “blue on the plan marked “B” ” in the second line thereof and substituting the words “blue and yellow on the plan marked “B1” ”;
 - (4) by deleting from clause 11 —
 - (a) in the marginal note the words “and Mining Area “C” ”;
 - (b) in subclause (1) —
 - (i) in the fifth line the word “firstly” and the word “and”;
 - (ii) in the sixth line the words “secondly of mining area “C” ”, and
 - (iii) in the twelfth and fourteenth lines the words “those mining areas” and substituting the words “that mining area”;

- (c) in subclause (2) in the fifth and sixth lines the words “and of mining area ‘C’ or any part or parts thereof”;
 - (d) in subclause (2) (a) —
 - (i) in the first and second lines of sub-paragraph (ii) the words “those mining areas” and substituting the words “mining area “B” ”;
 - (ii) sub-paragraphs (iii) and (v);
 - (iii) in the first line of sub-paragraph (vii) the words “those mining areas” and substituting the words “mining area “B” ”;
 - (iv) in paragraph (b) all words down to and including the word “secondly” in the fifth line and all words after the words “mining area “B” ” in the penultimate line;
 - (e) in subclause (4) in the twentysixth line the words “those mining areas or any part or parts thereof respectively” and substituting the words “mining area “B” or any part or parts thereof”;
 - (f) in subclause (5) in the twentysecond and twentythird lines the words “those mining areas or any part or parts thereof respectively” and substituting the words “mining area “B” or any part or parts thereof”;
 - (g) in subclause (6) in the second and third lines the words “and mining area “C” or any part or parts thereof respectively” and substituting the words “or any part or parts thereof (not exceeding in the aggregate area 300 square miles inclusive of the area of the original mineral lease granted under clause 8 (2) (a) hereof and the area of any mineral lease to be granted under clause 12 (4) hereof and in the shape of a parallelogram or parallelograms)”;
- (5) by inserting in subclause (6) of clause 11 in the fifteenth line after the passage “mineral lease”)” the passage “of the land so applied for (notwithstanding that the survey in respect thereof has not been completed but subject to such corrections as may be necessary to accord with the survey when completed)”;
- (6) by deleting from subclause (7) of clause 11 —

- (a) in the third, fourth and fifth lines the passage “those mining areas being mining area “B” or mining area “C” or any part or parts thereof respectively” and substituting the passage “mining area “B” or any part or parts thereof”;
 - (b) in the sixth, seventh and eighth lines the passage “those mining areas or any of them or any part or parts thereof respectively” and substituting the passage “mining area “B” or any part or parts thereof”;
- (7) by deleting clause 12 and inserting a new clause 12 as follows: —

Mining Area “C” and Secondary Processing

“12. (1) The Joint Venturers shall in respect of mining area “C” —

- (a) continue with an exploration and study programme satisfactory to the State and keep the State fully informed at three monthly intervals thereafter of progress in respect thereof and complete such programme by 31st December, 1972;
- (b) by 31st December, 1974 submit to the Minister detailed proposals for a plant for secondary processing of iron ore from Mining Area “C” together with detailed proposals for any works or services or further works or services as are necessary in connection therewith;
- (c) the detailed proposals for such plant shall be for a plant capable ultimately of treating not less than two million (2,000,000) tons of iron, ore per annum and shall contain provision that —
 - (i) the plant will by the end of the year 1976 have the capacity to process at an annual rate of and will during the year 1977 process not less than five hundred thousand (500,000) tons of iron ore;
 - (ii) production will progressively increase so that the plant will by the end of the year 1978 have the capacity to process at an annual rate of and will during the year 1979 process not less than one million (1,000,000) tons of iron ore and by the

end of the year 1982 will have the capacity to process at an annual rate of not less than and will during the year 1983 process not less than two million (2,000,000) tons of iron ore;

- (iii) the capital cost involved (exclusive of the cost referred to in clause 9 (1) hereof) will be not less than sixteen million dollars (\$16,000,000) unless the Joint Venturers utilise a less expensive but at least equally satisfactory method of secondary processing than any at present known to either party.

PROVIDED THAT if the Joint Venturers satisfy the Minister that the Joint Venturers' mining operations are not producing quantities of iron ore suitable for treatment at a rate of two million (2,000,000) tons of iron ore per annum on an economic basis then the Minister may approve modified or altered proposals and reduce the figure of two million (2,000,000) tons to a figure the Minister considers appropriate having regard to the prevailing circumstances but to not less than one million (1,000,000) tons per annum with provision for progressive increase to two million (2,000,000) tons per annum on a revised programme and on approving such modified or altered proposals the Minister may approve corresponding variations of the provisions of sub-paragraphs (i) (ii) and/or (iii) of this paragraph.

(2) If by the 31st December, 1974 such proposals are submitted by the Joint Venturers to the Minister the State shall within two months of the receipt thereof give to the Joint Venturers notice either of its approval of the proposals (which approval shall not be unreasonably withheld) or of any objections raised or alterations desired thereto and in either of the latter cases shall afford the Joint Venturers an opportunity to consult with and to submit new proposals to the Minister. If within thirty days of receipt of such notice agreement is not reached as to the proposals the Joint Venturers may within a further period of thirty days elect by notice to the State to refer to arbitration as hereinafter provided any dispute as to the reasonableness of the Minister's decision. If by the award on arbitration the question is decided in favour of the Joint Venturers the Minister shall be deemed to have then approved the proposals of the Joint Venturers.

(3) If such proposals are not approved by the Minister or if by the award on arbitration the question is decided in favour of the Minister the State will not grant mining area "C" to any party other than the Joint Venturers until after 31st December, 1975. Thereafter the State will not grant mining area "C" to any other party on terms more

favourable on the whole than those available to the Joint Venturers until after the 31st December, 1979.

(4) If and when the Minister has approved or is deemed to have approved the Joint Venturers' proposals pursuant to this clause the Joint Venturers may apply for a mineral lease of mining area "C" or any part or parts thereof (not exceeding in aggregate area 300 square miles inclusive of the areas of the original mineral lease granted under clause 8 (2) (a) hereof and the second mineral lease if granted under clause 11 (6) hereof and in the shape of a parallelogram or parallelograms) and the Minister shall cause any necessary survey to be made of the land so applied for (the cost of the survey to the State to be recouped to the State by the Joint Venturers on demand after completion of the survey) and shall cause to be granted to the Joint Venturers as tenants in common in equal shares a mineral lease (hereafter referred to as "the third mineral lease") of the land so applied for (notwithstanding the survey in respect thereof has not been completed but subject to such corrections as may be necessary to accord with the survey when completed) for iron ore in the form of the lease in the Schedule hereto for a term which subject to the payment of rents and royalties hereinbefore mentioned and the performance and observance by the Joint Venturers of their obligations under the mineral lease shall be for a period commencing from the date of issue of the third mineral lease for a period co-extensive with the residue of the term then unexpired of the original mineral lease granted under clause 8 (2) (a) hereof with rights to successive renewals of twenty-one (21) years upon the same terms and subject to earlier determination upon the cessation or determination of this Agreement.

(5) If and when such proposals are approved or deemed to have been approved by the Minister the Joint Venturers will as soon as reasonably practicable thereafter commence the construction of the plant and of the other works and services and proceed progressively therewith and complete the same in accordance with the proposals and within the respective times specified herein.

(6) If the Joint Venturers' proposals as finally approved or as deemed to have been approved by the Minister require the State to provide any services or facilities (including any expanded services or facilities which from time to time are considered necessary by the Minister) the State will provide the same subject to the Joint Venturers bearing and paying the capital cost involved if reasonably attributable to or resulting from the Joint Venturers' project and operations hereunder and reasonable charges for maintenance and operation except operation charges in respect of education, hospital and police services, except where and to the extent the State otherwise agrees.

(7) If the Joint Venturers fail to comply with paragraph (a) of subclause (1) of this clause or if the proposals are not submitted by the Joint Venturers to the Minister by the 31st December, 1974 or if the proposals are so submitted but are not approved or deemed to have been approved by the Minister before 31st December, 1975 then subject to the provisions of subclause (3) of this clause the Joint Venturers shall cease to have any rights to mining area "C" and —

- (a) the Joint Venturers shall not after the 31st day of December, 1976 export iron ore won from the mineral lease and/or the second mineral lease at an annual rate in excess of three million (3,000,000) tons of direct shipping ore and two million (2,000,000) tons of fine ore, fines or other iron ore per annum unless prior to the 31st day of December, 1978 the Minister shall have approved in writing of the Joint Venturers entering into a contract or contracts for export of ore after the 31st day of December, 1980 at an annual rate in excess of three million (3,000,000) tons of direct shipping ore and two million (2,000,000) tons of fine ore, fines or other iron ore per annum provided that if the Joint Venturers have complied with paragraph (a) of subclause (1) of this clause and can demonstrate to the reasonable satisfaction of the Minister that it is impracticable to submit proposals acceptable to the Minister which could be economically viable then the Minister may at his discretion permit the export of greater tonnages than those abovementioned in this paragraph;

- (b) if it is proved at any time hereafter that the iron ore deposits in the area of the second mineral lease (excluding for the purposes of this paragraph mineral lease 235 SA) are greater by twenty per cent in the aggregate for each of the forty-eight million (48,000,000) tons of high grade ore (sixty per cent (60%) and higher in FE content) and the seventy-nine million (79,000,000) tons of low grade ore (minus sixty per cent (60%) in FE content) now estimated to be available the conditions of this Agreement in relation to the future mining of iron ore from the mineral lease (including the second mineral lease) shall be renegotiated by the parties hereto with a view to increasing the obligations and commitments of the Joint Venturers to the State as determined by mutual agreement and failing agreement as shall be determined by arbitration. In determining the new conditions regard shall be had to the overall economies of mining, transporting, processing and marketing of the additional iron ore available. Additional obligations or commitments to be undertaken by the Joint Venturers as part of such new conditions may take the form of higher royalties, rents, wharfage and other charges (or a combination of such charges) or contributions for the

purpose of providing additional works or services or of some form of processing iron ore or a combination of any of these. On the determination by agreement or by arbitration of such new conditions this Agreement shall be deemed to have been varied by mutual consent of the parties hereto and as so varied shall operate accordingly;"

- (8) by inserting in clause 13 (1) —
 - (a) in the fourth line after the word "the" the word "third";
 - (b) in the third line of the proviso after the word "operations" the words "on the third mineral lease";
- (9) by inserting in clause 13 (3) —
 - (a) in the second line of paragraph (a) in substitution for the word "hereunder" the words "won from the third mineral lease";
 - (b) in the second line of paragraph (b) in substitution for the word "hereunder" the words "won from the third mineral lease";
 - (c) in the seventh line of paragraph (b) after the word "ore" the words "won from the third mineral lease";
- (10) by inserting in clause 13 (4) —
 - (a) in the second line of paragraph (a) after the word "the" the word "third";
 - (b) in the third line of paragraph (b) after the word "the" the word "third";
 - (c) in the twenty-fourth line of the sub-clause after the word "Agreement" the words "but only as regards the third mineral lease and that lease itself";
- (11) by inserting in clause 13 (7) in the second line after the word "Agreement" the words "as regards the third mineral lease";
- (12) by inserting in clause 15 in the sixth line after the word "Venturers" the passage "as regards the third mineral lease";

(13) by inserting in clause 16 —

- (a) in the first line after the word “Agreement” the passage “as regards the third mineral lease”;
- (b) in the fourth, ninth, tenth and eighteenth lines after the word “ore” the passage “won from the third mineral lease”;

(14) by inserting in clause 17 —

- (a) in the third line after the word “the” the word “third”;
- (b) in the fifth line after the word “ore” the passage “won from the third mineral lease”;
- (c) in the sixth line after the word “ore” the passage “(using iron ore won from the third mineral lease)”;
- (d) in the ninth line after the word “the” secondly occurring the word “third”;

(15) by substituting for the passage “on direct shipping ore (not being locally used ore)” in clause 9 (2) (j) (i) thereof the passage “on direct shipping ore and on fine ore and fines where such fine ore or fines are not sold or shipped separately as such (not being locally used ore)”;

(16) by substituting for the passage “on fine ore (not being locally used ore)” in clause 9 (2) (j) (ii) thereof the passage “on fine ore sold or shipped separately as such (not being locally used ore)”;

(17) by substituting for the passage “on fines (not being locally used ore)” in clause 9 (2) (j) (iii) thereof the passage “on fines sold or shipped separately as such (not being locally used ore)”;

(18) by substituting for subparagraph (iv) of clause 9 (2) (j) thereof the following subparagraph —

- “ (iv) on locally used ore (not being iron ore used for producing iron ore concentrates) and on iron ore concentrates produced from locally used ore and shipped or sold or used in an integrated iron and steel

industry or in plant for the production of metallised agglomerates (other than iron ore concentrates shipped solely for testing purposes) at the rate of fifteen cents (15c) per ton;”

(19) by deleting the words “(for averaging purposes)” in the first line of subparagraph (vi) and in the first line of subparagraph (vii) of clause 9 (2) (j) thereof;

(20) by adding the words “separately as such” after the words “shipped or sold” where twice appearing in clause 9 (2) (j) (vii) thereof;

(21) by substituting for the last seven lines of subparagraph (viii) of clause 9 (2) (j) thereof the passage “thereafter in accordance with any variation in the average of the basic prices of foundry pig iron c.i.f. Australian capital city ports as announced by The Broken Hill Proprietary Company Limited or any subsidiary thereof from time to time during the calendar year immediately preceding the date at which the adjustment is required to be made as compared with such average for the calendar year, 1963.”

(22) by adding the following paragraph after clause 9 (2) (k) thereof —

“(kk) pay to the State in addition to the royalty payable under paragraph (j) of this subclause a royalty (hereinafter referred to as “the additional royalty”) on all iron ore from the mineral lease shipped or sold (other than iron ore shipped solely for testing purposes) at the rate of eight cents (8c) per ton as follows: —

- (i) the additional royalty shall be payable only in respect of the financial years commencing in 1970, 1971, 1972 and 1973 inclusive and shall aggregate not less than 1.9 million dollars; and
- (ii) the obligation of the Joint Venturers in respect of the additional royalty shall not exceed \$475,000 in any financial year and if the State so requires, this amount shall be paid at the commencement of each financial year in full satisfaction of the Joint Venturers’ liability to pay the additional royalty for that financial year.”

(23) by adding after clause 12 thereof a new clause 12A namely —

Grant of Leases Licences Reserves and Tenements

“12A. (1) As soon as conveniently may be after the proposals of the Joint Venturers under either clause 11 or clause 12 hereof have been approved or deemed to have been approved the State shall grant to the Joint Venturers or to a company nominated by the Joint Venturers and approved by the Minister (referred to in this clause as “the nominated company”) such leases licenses reserves and tenements under the provisions of the Mining Act or the Land Act as the Joint Venturers may reasonably require and request for their purposes under such proposals respectively and the provisions of clause 8 (2) (b) hereof shall apply thereto *mutatis mutandis*.

(2) The Joint Venturers hereby covenant with the State that the Joint Venturers will duly and punctually observe perform and comply with all the covenants agreements and obligations to be performed or observed by the nominated company contained in any lease license reserve and tenement and any renewal thereof granted pursuant to the provisions of subclause (1) of this clause to the intent that the same shall be binding upon the Joint Venturers in the same manner and to the same extent as if the Joint Venturers were expressly named therein severally with the nominated company and the Joint Venturers acknowledge that a default by the nominated company in the due performance or observance of any such covenant agreement or obligation shall be or be deemed to be a default under paragraph (1) of clause 10 hereof by the Joint Venturers in the due performance or observance of that covenant agreement or obligation and that default entitles the State to exercise against the Joint Venturers its rights powers and remedies under and in conformity with that paragraph.”

(24) by deleting clause 21 and inserting a new clause 21 as follows —

Variation

“21. (1) The parties hereto may from time to time by agreement in writing add to substitute for cancel or vary all or any of the provisions of this Agreement or of any lease license easement or right granted hereunder or pursuant hereto for the purpose of more efficiently or satisfactorily implementing or facilitating any of the objects of this Agreement.

(2) Where in the opinion of the Minister an agreement made pursuant to subclause (1) of this clause would constitute a material or substantial alteration of the rights or obligations of either party hereto, the agreement shall contain a provision to that effect and the Minister shall cause that agreement to be laid on the table of each House of Parliament within twelve sitting days of the date of its execution.

(3) If either House does not pass a resolution disallowing the agreement, within twelve sitting days of that House after the agreement has been laid before it, the agreement shall have effect, from and after the last day on which the agreement might have been disallowed.

(4) Subject to the provisions of subclauses (1) (2) and (3) of this clause the Minister may with the consent of the Joint Venturers from time to time add to cancel or vary any right or obligation relating to works for the transport and/or export of iron ore to the extent that the addition cancellation or variation implements or facilitates the method of achieving any of the purposes of iron ore export, secondary processing, or for an industry for additional upgrading of beneficiated ore based on ore from the mineral lease.

(5) Subject to the provisions of subclauses (1) (2) and (3) of this clause the Minister may from time to time approve variations or require reasonable variations in the detailed proposals relating to any railway or harbour site and/or port facilities or dredging programme or townsite or town planning or any other facilities or services or other plans specifications or proposals which may have been approved pursuant to this Agreement and in considering such variations shall have regard to any changes consequent upon joint user proposals of any such works facilities or services and other relevant factors arising after the date hereof.”

(25) by deleting clause 25 and inserting a new clause 25 as follows —

Arbitration

“25. Except where otherwise specifically provided in this Agreement any dispute or difference between the parties arising out of or in connection with this Agreement or any agreed amendment or variation thereof or agreed addition thereto or as to the construction of this Agreement or any such amendment variation or addition or as to the rights duties or liabilities of either party thereunder or as to any matter to be agreed upon between the parties under this Agreement shall in default of agreement between the parties and in the absence

of any provision in this Agreement to the contrary be referred to the arbitration of two arbitrators one to be appointed by each party the arbitrators to appoint their umpire before proceeding in the reference and every such arbitration shall be conducted in accordance with the provisions of the Arbitration Act 1895, but this clause does not apply to any case where the State the Minister or any Minister is by this Agreement given either expressly or impliedly a discretionary power.”

(26) by adding after clause 27 thereof a new clause 28 namely —

“28. Nothing in this Agreement shall be construed to exempt the Joint Venturers from compliance with any requirement in connection with the protection of the environment arising out of or incidental to the Joint Venturers’ operations hereunder that may be made by the State or by any State agency or instrumentality or any local or other authority or statutory body of the State pursuant to any Act from time to time in force.”

IN WITNESS WHEREOF these presents have been executed the day and year first hereinbefore written

SIGNED by the said THE)
HONOURABLE JOHN TREZISE
TONKIN, M.L.A., in the
presence of —

}

JOHN T. TONKIN

H.E. GRAHAM
Minister for Industrial Development

D.G. MAY
Minister for Mines

SIGNED SEALED AND DELIVERED
for and on behalf of
CONSOLIDATED GOLD FIELDS
AUSTRALIA LIMITED by its
duly appointed attorney
BARTHOLOMEW CARRACK RYAN
in the presence of —

}

B. C. RYAN
[L.S.]

D.E. MOORE

SIGNED SEALED AND DELIVERED
for and on behalf of CYPRUS
MINES CORPORATION by its duly
appointed attorney
BARTHOLOMEW CARRACK RYAN
in the presence of —

}

B. C. RYAN
[L.S.]

D.E. MOORE

SIGNED SEALED AND DELIVERED
for and on behalf of UTAH
DEVELOPMENT COMPANY by its
duly appointed attorney
BARTHOLOMEW CARRACK RYAN
In the presence of —

}

B. C. RYAN
[L.S.]

D.E. MOORE

[Second Schedule inserted by No. 58 of 1971 s.5.]

Third Schedule

[section 3]

THIS AGREEMENT is made the 31st day of March 1994

B E T W E E N

THE HONOURABLE RICHARD FAIRFAX COURT B.Com., M.L.A., Premier of the State of Western Australia, acting for and on behalf of the said State and its instrumentalities from time to time (hereinafter called "the State") of the one part AND **BHP IRON PTY. LTD.** ACN 008 852 784 (formerly called CGF Iron Holdings Pty. Ltd.) a company incorporated in the State of Western Australia and having its registered office at Mt Newman House, 200 St George's Terrace, Perth, **BHP AUSTRALIA COAL PTY. LTD.** ACN 010 595 721 (formerly called BHP-UTAH Coal Limited) a company incorporated in the State of the State of Queensland and having its registered office situate at 20th Floor, 167 Eagle Street, Brisbane, **CI MINERALS AUSTRALIA PTY. LTD.** ACN 009 256 259 a company incorporated in the State of Western Australia and having its registered office at 22nd Floor, Forrest Centre, 221 St George's Terrace, Perth and **MITSUI IRON ORE CORPORATION PTY. LTD.** ACN 050 157 456 a company incorporated in the State of Western Australia and having its registered office at 24th Floor, Forrest Centre, 221 St George's Terrace, Perth (hereinafter called "the Joint Venturers") of the other part.

WHEREAS:

- (a) the State and the Joint Venturers (pursuant to certain assignments) are now the parties to the agreement (as amended from time to time) approved by the Iron Ore (Mount Goldsworthy) Agreement Act 1964 (hereinafter called "the Principal Agreement");
- (b) the State and the Joint Venturers wish to vary the Principal Agreement.

NOW THIS AGREEMENT WITNESSES —

- 1. Unless the context otherwise requires the words and expressions used in this Agreement have the same meanings respectively as they have in and for the purpose of the Principal Agreement.
- 2. The State shall introduce and sponsor a Bill in the State Parliament of Western Australia to ratify this Agreement and endeavour to secure its passage as an Act prior to 31 December 1994 or such later date as may be agreed between the parties hereto.
- 3. (1) The provisions of this Agreement other than this Clause and Clauses 1 and 2 shall not come into operation unless and until -

- (a) the Bill to ratify this Agreement as referred to in Clause 2; and
- (b) Bills to ratify the following agreements of even date herewith, namely:-
 - (i) an agreement between the State of the one part and BHP Minerals Pty. Ltd. of the other part called the Iron Ore Processing (BHP Minerals) Agreement;
 - (ii) an agreement between the State of the one part and BHP Minerals Pty. Ltd., Mitsui Iron Ore Corporation Pty. Ltd. and CI Minerals Australia Pty. Ltd. of the other part to vary the Iron Ore (Marillana Creek) Agreement; and
 - (iii) an agreement between the State of the one part and BHP Iron Ore (Jimblebar) Pty. Ltd. of the other part to vary the Iron Ore (McCamey's Monster) Agreement

are passed as Acts before 31 December 1994 or such later date if any as the parties hereto may agree upon.

- (2) If before 31 December 1994 or such later agreed date the said Bills have not commenced to operate as Acts then unless the parties hereto otherwise agree this Agreement shall then cease and determine and no party hereto shall have any claim against any other party hereto with respect to any matter or thing arising out of, done, performed, or omitted to be done or performed under this Agreement.
- (3) On the said Bills commencing to operate as Acts all the provisions of this Agreement shall operate and take effect notwithstanding the provisions of any Act or law.

4. The Principal Agreement is hereby varied as follows —

- (1) Clause 10 (a) —

by inserting after “generate” the following —

“or purchase their electricity requirements from generating facilities established under the agreement (as amended from time to time) ratified by the Pilbara Energy Project Agreement Act 1994”.

(2) Clause 12 —

- (a) in the marginal note, by deleting “and Secondary Processing”;
- (b) by deleting subclauses (1), (2) and (3) and substituting the following subclauses —

“(1) In this clause —

“aggregate project cost under the Processing Agreement” means the sum of \$400,000,000 (June 1993 dollars) which is agreed or determined for the purposes of Clause 27 of the Processing Agreement to have been expended on the establishment of facilities for further processing or alternative investments pursuant to that Agreement;

“approved production limit under this clause” means the production level (if any) of tonnes of iron ore per annum for transportation from the third mineral lease consented to by the Minister pursuant to subclauses (3a) or (3b) of this clause or such higher number of tonnes per annum as may be consented to from time to time by the Minister pursuant to subclause (8) of this clause and become the subject of proposals approved or deemed to be approved pursuant to subclause (9) of this clause;

“BHP” means BHP Minerals Pty. Ltd. and its successors and assigns who are parties with the State to the Processing Agreement;

“combined limit” means the aggregate of —

- (i) any approved production limit under this clause;
- (ii) the approved production limit under clause 11 of the Marillana Creek Agreement; and
- (iii) any approved production limit under clause 11A of the McCamey’s Monster Agreement

PROVIDED THAT if any of the approved production limits referred to in paragraphs (i), (ii) or (iii) exceeds 15,000,000 tonnes per annum then in calculating the combined limit such

approved production limit shall be treated as being 15,000,000 tonnes per annum;

“EP Act” means the Environmental Protection Act 1986;

“laws relating to traditional usage” means laws applicable from time to time in Western Australia in respect of rights or entitlements to or interests in land or waters which rights, entitlements or interests are acknowledged, observed or exercisable by Aboriginal persons (whether communally or individually) in accordance with Aboriginal traditions, observances, customs or beliefs;

“Marillana Creek Agreement” means the agreement (as amended from time to time) ratified by the Iron Ore (Marillana Creek) Agreement Act 1991;

“McCamey’s Monster Agreement” means the agreement (as amended from time to time) the execution of which was authorized by the Iron Ore (McCamey’s Monster) Agreement Authorization Act 1972;

“Processing Agreement” means the agreement (as amended from time to time) ratified by the Iron Ore Processing (BHP Minerals) Agreement Act 1994;

“the third mineral lease” means the mineral lease granted pursuant to subclause (4) of this clause.

- (2) The Joint Venturers shall in respect of mining area ‘C’ -
 - (a) continue their field and office engineering, environmental, market and finance studies and other matters necessary to enable them to finalise and to submit to the Minister the detailed proposals referred to in subclause (3c) of this clause; and
 - (b) keep the State fully informed in writing not more frequently than once in every two years as to the progress and results of their operations under paragraph (a) of this subclause.
- (3) Prior to submitting any proposal pursuant to subclause (3c) of this clause the Joint Venturers shall obtain the consent in principle of the Minister to an approved production limit

under this clause. When requesting a consent under this subclause the Joint Venturers shall furnish to the Minister an outline of their proposals in respect to production of iron ore from the third mineral lease (including the matters mentioned in paragraph (a) — (k) of subclause (3c) of this clause).

(3a) The Minister shall advise the Joint Venturers within two months of receipt by the Minister of a request under subclause (3) of this clause whether or not he consents in principle to the proposed production limit PROVIDED THAT the Minister shall consent in principle to the proposed production limit —

(a) if the aggregate project cost under the Processing Agreement has been expended; or

(b) if the aggregate project cost under the Processing Agreement has not been expended and:

(i) the obligations of BHP under the Processing Agreement have been and are being properly performed and complied with; and

(ii) the proposed production limit would not result in the approved production limit under this clause exceeding 15,000,000 tonnes per annum or the combined limit exceeding 30,000,000 tonnes per annum.

(3b) If the aggregate project cost under the Processing Agreement has not been expended and:

(i) the obligations of BHP under the Processing Agreement have been and are being properly performed and complied with; and

(ii) the proposed production limit would result in the approved production limit under this clause exceeding 15,000,000 tonnes per annum or the combined limit exceeding 30,000,000 tonnes per annum,

the Minister may consent in principle to the whole or part of a proposed production limit or withhold his approval, of the proposed production limit. The Minister shall give reasons for his decision if he withholds his approval, but his decision shall

not be referable to arbitration under this Agreement or otherwise be the subject of challenge by the Joint Venturers.

- (3c) Subject to and in accordance with the EP Act, the laws relating to traditional usage and the provisions of this Agreement, the Joint Venturers shall on or before the 31st day of December 1999 submit to the Minister to the fullest extent reasonably practicable their detailed proposals (which proposals shall include plans where practicable and specifications where reasonably required by the Minister) with respect to the mining of iron ore for transportation from the land to be the subject of the third mineral lease up to the approved production limit under this clause which proposals shall make provision for the necessary workforce and associated population required to enable the Joint Venturers to mine and recover iron ore from the third mineral lease and shall include the location, area, layout, design, quantities, materials and time programme for the commencement and completion of construction or the provision (as the case may be) of each of the following matters, namely —
- (a) the mining and recovery of iron ore from the third mineral lease including mining crushing screening handling transport and storage of iron ore and plant facilities;
 - (b) roads;
 - (c) housing and accommodation for the persons engaged in the development and/or mining of the third mineral lease and associated activities including the provision of utilities, services and associated facilities;
 - (d) water supply;
 - (e) power supply;
 - (f) iron ore transportation;
 - (g) airstrip and other airport facilities and services;
 - (h) any other works, services or facilities desired by the Joint Venturers;

- (i) use of local labour professional services manufacturers suppliers contractors and materials;
 - (j) any leases licences or other tenures of land required from the State; and
 - (k) an environmental management programme as to measures to be taken, in respect of the Joint Venturers' activities at the mining area for rehabilitation and the protection and management of the environment.
- (3d) The proposals pursuant to subclause (3c) of this clause may with the approval of the Minister or if so required by him be submitted separately and in any order as to the matter or matters mentioned in one or more of paragraphs (a) to (k) of that subclause.
- (3e) The proposals relating to any of the matters mentioned in subclause (3c) of this clause may with the agreement of the Minister and that of any third parties concerned instead of providing for the construction of new facilities of the kind therein mentioned provide for the use by the Joint Venturers upon reasonable terms and conditions of any existing facilities of such kind.
- (3f) Subject to the EP Act and laws relating to traditional usage in respect of each proposal pursuant to subclause (3c) the Minister shall —
- (a) approve of the said proposals either wholly or in part without qualification or reservation; or
 - (b) defer consideration of or decision upon the same until such time as the Joint Venturers submit a further proposal or proposals in respect of some other of the matters mentioned in subclause (3c) of this clause not covered by the said proposals; or
 - (c) require as a condition precedent to the giving of his approval to the said proposals that the Joint Venturers make such alteration thereto or comply with such conditions in respect thereto as he thinks reasonable and in such a case the Minister shall disclose his reasons for such alterations or conditions

PROVIDED ALWAYS that where implementation of any proposals hereunder has been approved pursuant to the EP Act subject to conditions or procedures, any approval or decision of the Minister under this clause shall if the case so requires incorporate a requirement that the Joint Venturers make such alterations to the proposals as may be necessary to make them accord with those conditions or procedures.

- (3g) The Minister shall within two months after receipt of proposals pursuant to subclause (3c) of this clause or, if applicable, within two months of service on him of an authority under section 45 (7) of the EP Act or satisfaction of the requirements under laws relating to traditional usage (as the case may be) give notice to the Joint Venturers of his decision in respect of the proposals.
- (3h) If the decision of the Minister is as mentioned in either of paragraphs (b) or (c) of subclause (3f) of this clause the Minister shall afford the Joint Venturers full opportunity to consult with him and should they so desire to submit new or revised proposals either generally or in respect to some particular matter.
- (3i) If the decision of the Minister is as mentioned in either of paragraphs (b) or (c) of subclause (3f) of this clause and the Joint Venturers consider that the decision is unreasonable the Joint Venturers within two months after receipt of the notice mentioned in subclause (3f) of this clause may elect to refer to arbitration in the manner hereinafter provided the question of the reasonableness of the decision **PROVIDED THAT** any requirement of the Minister pursuant to the proviso to subclause (3f) of this clause shall not be referable to arbitration hereunder.
- (3j) An award made on an arbitration pursuant to subclause (3i) of this clause shall have force and effect as follows -
 - (a) if by the award the dispute is decided against the Joint Venturers then, unless the Joint Venturers within 3 months after delivery of the award give notice to the Minister of their acceptance of the award, then the proposals submitted pursuant to subclause (3c) shall be deemed to be withdrawn by the Joint Venturers, **PROVIDED THAT** if the date of expiration of that period of 3 months occurs after 31st December 1999 then this clause and the Joint Venturers' rights under this clause shall cease and determine and neither the

State nor the Joint Venturers shall have any claim against the other of them with respect to any matter or thing arising out of, done, performed or omitted to be done or performed under this clause; or

- (b) if by the award the dispute is decided in favour of the Joint Venturers the decision shall take effect as (and be deemed to be) a notice by the Minister that he is so satisfied with and approves the matter or matters the subject of the arbitration.

- (3k) Notwithstanding that under subclause (3f) of this clause any proposals of the Joint Venturers are approved by the Minister or are deemed to be approved as a consequence of an arbitration award, unless each and every such proposal and matter is so approved or deemed approved within 12 months of the date of the submission of the last of the proposals pursuant to subclause (3c) or by such extended date or period if any as the Joint Venturers shall be granted or entitled to pursuant to the provisions of this Agreement, then the Minister may give to the Joint Venturers notice that unless before the expiration of a further period of 12 months all the said proposals and matters are so approved or deemed to be approved then the said proposals shall be deemed to be withdrawn by the Joint Venturers and the proviso to paragraph (a) of subclause (3j) of this clause shall apply mutatis mutandis.

- (3l) Subject to and in accordance with the EP Act and any approvals and licences required under that Act and laws relating to traditional usage the Joint Venturers shall, subject to paragraph (a) of subclause (3j) of this clause, implement the proposals as approved by the Minister or an award made on arbitration as the case may be in accordance with the terms thereof.

- (3m) The periods set forth in subclause (3k) of this clause will be extended (in addition to any extension granted pursuant to clauses 23 or 24) upon request of either the Joint Venturers or the State for such reasonable period or periods as may be necessary from time to time to enable either of the parties hereto to comply with laws relating to traditional usage.

- (c) subclause (4) —

by deleting “(hereinafter referred to as “the third mineral lease””).

(d) by deleting subclauses (5), (6), and (7) and substituting the following subclauses —

“(5) (a) Subject to subclauses (6) to (9) of this clause if the Joint Venturers at any time during the continuance of this Agreement desire to produce more than the approved production limit under this clause or to significantly modify expand or otherwise vary their activities within the third mineral lease beyond those specified in any proposals approved or deemed to be approved under this clause they shall give notice of such desire to the Minister and within two months of the giving of such notice shall submit to the Minister detailed proposals in respect of all matters covered by such notice and such of the other matters mentioned in paragraphs (a) to (k) of subclause (3c) of this clause as the Minister may require.

(b) The provisions of subclauses (3d) to (3i) and subclause (3m) of this clause shall *mutatis mutandis* apply to detailed proposals submitted pursuant to this subclause with the proviso that the Joint Venturers may withdraw such proposals at any time before approval thereof or, where any decision of the Minister in respect thereof is referred to arbitration, within 3 months after the award by notice to the Minister that they shall not be proceeding with the same.

(c) If the Joint Venturers do not withdraw their proposals or give notice pursuant to paragraph (b) of this clause, then subject to and in accordance with the EP Act and any approvals and licences required under that Act and laws relating to traditional usage the Joint Venturers shall implement the proposals as approved by the Minister or an award made on arbitration as the case may be in accordance with the terms thereof.

(6) The Joint Venturers shall not produce iron ore from the third mineral lease for transportation in any calendar year in excess of the approved production limit without the prior consent in principle of the Minister and, subject to that consent, approval of detailed proposals in regard thereto in accordance with this clause.

(7) If the Joint Venturers desire to increase the approved production limit under this clause they shall give notice thereof to the Minister and furnish to the Minister with that

notice an outline of their proposals in respect thereto (including the matters mentioned in paragraphs (a) to (k) of subclause (3c) of this clause).

(8) The provisions of subclauses (3a) and (3b) of this clause shall apply to a notice under subclause (7) of this clause but with the substitution in subclause (3a) of —

- (i) “notice under subclause (7)” for “request under subclause (3)”; and
- (ii) “proposed increase” for “proposed production limit”, wherever it occurs; and

with the substitution in subclause (3b) of “proposed increase” for “proposed production limit” wherever it occurs.

- (9) (a) If the Minister consents in principle to a proposed increase the Joint Venturers must within three months of that consent submit to the Minister detailed proposals in respect thereof otherwise that consent shall lapse.
- (b) The provisions of subclause (5) of this clause shall mutatis mutandis apply to detailed proposals submitted pursuant to this subclause.”.

(3) By deleting clauses 13, 14, 15, 16 and 17.

IN WITNESS WHEREOF this Agreement has been executed by or on behalf of the parties hereto the day and year first hereinbefore mentioned.

SIGNED by **THE HONOURABLE
RICHARD FAIRFAX COURT** in
the presence of —

}
}

RICHARD COURT

Colin Barnett
MINISTER FOR RESOURCES DEVELOPMENT

THE COMMON SEAL of
BHP IRON PTY. LTD. was
hereunto affixed by
authority of the
Directors —

}

C.S.

Director R J Carter

Secretary Ada Lian Davies

Signed by **BHP AUSTRALIA COAL
PTY. LTD.** by Richard John
Carter its duly authorised
Attorney who declares that
he has no notice of the
revocation of the Power of
Attorney dated 16 July 1993
under the authority of which
he signed this Deed at Perth
this 30th March 1994 in the
presence of:

}

**BHP AUSTRALIA
COAL PTY. LTD.**
By its Attorney

R J Carter

Claire Medhurst

THE COMMON SEAL of
**CI MINERALS AUSTRALIA
PTY. LTD.** was hereunto
affixed by authority of the
Directors in the presence of:

}

C.S.

Director Y Kowata

Secretary M Appelbee

THE COMMON SEAL of
**MITSUI IRON ORE
CORPORATION PTY. LTD.**
was hereunto affixed by
authority of the Directors
in the presence of:



C.S.

Director N Hinohara

Secretary J MacKenzie

[Third Schedule added by No. 29 of 1994 s.6.]

Fourth Schedule

[s. 4C]

THIS AGREEMENT is made the 11th day of April 2000.

B E T W E E N

THE HONOURABLE RICHARD FAIRFAX COURT B.Com., M.L.A.,
Premier of the State of Western Australia, acting for and on behalf of the said
State and its instrumentalities from time to time (hereinafter called "the State")
of the one part

AND

BHP MINERALS PTY. LTD. ACN 008 694 782 a company incorporated in
the State of Western Australia and having its registered office at Level 18,
200 St George's Terrace, Perth, **CI MINERALS AUSTRALIA PTY. LTD.**
ACN 009 256 259 a company incorporated in the State of Western Australia
and having its registered office at 22nd Floor, Forrest Centre, 221 St George's
Terrace, Perth and **MITSUI IRON ORE CORPORATION PTY. LTD.**
ACN 050 157 456 a company incorporated in the State of Western Australia
and having its registered office at 24th Floor, Forrest Centre, 221 St George's
Terrace, Perth (hereinafter called "the Joint Venturers") of the other part.

W H E R E A S :

- (a) the State and the Joint Venturers (pursuant to certain assignments) are now the parties to the agreement approved by the Iron Ore (Mount Goldsworthy) Agreement Act 1964, which agreement as amended from time to time is hereinafter called "the Principal Agreement";
- (b) the State and the Joint Venturers wish to vary the Principal Agreement.

NOW THIS AGREEMENT WITNESSES -

1. Subject to the context the words and expressions used in this Agreement have the same meanings respectively as they have in and for the purpose of the Principal Agreement.
2. The State shall introduce and sponsor a Bill in the State Parliament of Western Australia to ratify this Agreement and endeavour to secure its passage as an Act prior to 31 December 2000 or such later date as may be agreed between the parties hereto.
3. (1) The provisions of this Agreement other than this Clause and Clauses 1 and 2 shall not come into operation unless and until -
 - (a) the Bill to ratify this Agreement as referred to in Clause 2;
and
 - (b) Bills to ratify the following agreements of even date herewith, namely:-
 - (i) an agreement between the State and BHP Direct Reduced Iron Pty. Ltd. to vary the Iron Ore Beneficiation (BHP) Agreement;
 - (ii) an agreement between the State and BHP Direct Reduced Iron Pty. Ltd. to vary the Iron Ore - Direct Reduced Iron (BHP) Agreement;

- (iii) an agreement between the State and BHP Minerals Pty. Ltd., CI Minerals Australia Pty. Ltd. and Mitsui Iron Ore Corporation Pty. Ltd. to vary the Iron Ore (Marillana Creek) Agreement;
- (iv) an agreement between the State and BHP Iron Ore (Jimblebar) Pty. Ltd. to vary the Iron Ore (McCamey's Monster) Agreement;
- (v) an agreement between the State and BHP Minerals Pty. Ltd., Mitsui-Itochu Iron Pty. Ltd. and CI Minerals Australia Pty. Ltd. to vary the Iron Ore (Mount Newman) Agreement; and
- (vi) an agreement between the State and BHP Minerals Pty. Ltd., CI Minerals Australia Pty. Ltd. and Mitsui Iron Ore Corporation Pty. Ltd. to vary the Iron Ore (Goldsworthy-Nimingarra) Agreement

are passed as Acts before 31 December 2000 or such later date if any as the parties hereto may agree upon.

- (2) If before 31 December 2000 or such later agreed date the said Bills have not commenced to operate as Acts then unless the parties hereto otherwise agree this Agreement shall then cease and determine and no party hereto shall have any claim against any other party hereto with respect to any matter or thing arising out of, done, performed, or omitted to be done or performed under this Agreement.
 - (3) On the said Bills commencing to operate as Acts all the provisions of this Agreement shall operate and take effect notwithstanding the provisions of any Act or law.
4. The Principal Agreement is hereby varied with effect on and from the coming into operation of this agreement as follows -
- (1) Clause 1 -
in the definition of "beneficiated ore" by inserting after "upgraded" the following -
"by the Joint Venturers pursuant to proposals approved under this Agreement".
 - (2) Clause 2(c) -
by deleting "and 11" and substituting the following ",11 and 12".
 - (3) By inserting after Clause 8 the following clauses -
"8A. Notwithstanding any provision in this Agreement for the grant of titles hereunder to the Joint Venturers as tenants in common in equal shares, if the Joint Venturers hold their interests in this Agreement in other than equal shares, the grant of titles and the renewal of any leases hereunder shall be made to the Joint Venturers, if they so request the State, in accordance with their percentage interests in this Agreement.

- 8B. Notwithstanding the Mining Act the Joint Venturers may with the prior approval of the Minister for Mines apply from time to time for general purpose leases for the purposes of its operations under this Agreement in respect of areas of land greater than the maximum area provided for under that Act."
- (4) Clause 9(2)(j) -
by inserting after subparagraph (ii) the following subparagraph -
"(iia) on iron ore used in the beneficiation plant the subject of the Agreement ratified by the Iron Ore Beneficiation (BHP) Agreement Act 1996 at the following rates -
(A) in respect of lump ore, 7.5% of the f.o.b. value; and
(B) in respect of fine ore, 3.75% of the f.o.b. value;"
- (5) Clause 12 -
by inserting after subclause (2) the following subclause -
"(2a) Notwithstanding the Mining Act 1978, the Minister for Mines may for the purposes of this clause grant to the Joint Venturers rights of occupancy in respect of the whole or parts of Temporary Reserve 3156H for such period or periods and on such terms and conditions as the Minister for Mines after consultation with the Minister considers reasonable."
- (6) Clause 12A -
by inserting after "the State shall" the following -
"subject in respect of proposals under clause 12 to the surrender by the Joint Venturers of any rights of occupancy granted under clause 12(2a)".
5. The Principal Agreement is hereby further varied with effect on and from the later of the coming into operation of the Water Agreement (as hereinafter defined) or the coming into operation of this agreement as follows -
- (1) By inserting after Clause 8B the following clause -
"Water - Port Hedland
8C.(1) In this clause -
"Water Agreement" means an agreement entered into between the Water Corporation (established pursuant to section 4 of the Water Corporation Act 1995) and BHP Iron Ore Pty. Ltd. ACN 008 700 981 as agent for BHP Direct Reduced Iron Pty. Ltd. and the Mount Newman and Mount Goldsworthy Mining Associates Joint Venturers in a form approved by the Minister in relation to the supply of water for, inter alia, the Joint Venturers' water requirements for the purposes of this Agreement at Port Hedland;
"Commencement Date", "Renewal Period", "Buyer" and "Default" have the same meanings respectively as they have in the Water Agreement.

- (2) Notwithstanding any provision of the Water Agreement, the State shall ensure during the period from the Commencement Date until the later of the sixtieth (60th) anniversary of the Commencement Date or the end of the Renewal Period that (except where the Water Agreement is lawfully terminated because of the Buyer's Default) -
- (a) the Waters and Rivers Commission (established by section 4 of the Waters and Rivers Commission Act 1995) will allocate water reserves sufficient to meet the quantities set out in the Water Agreement; and
 - (b) in the event of expiration of the Water Agreement the Coordinator of Water Services under the Water Services Coordination Act 1995 will impose a condition on any relevant licence to supply water in Port Hedland that the supplier is to supply BHP Iron Ore Pty. Ltd. (as agent as aforesaid) with water on the same terms as those contained in the Water Agreement."

(2) Clause 10(a) -

- (a) by inserting after "purposes hereunder" the following -
"at mining area "A", mining area "B" and mining area "C";"
- (b) by inserting after "townsite" the following -
"established by the Joint Venturers for the purposes of their operations and employees on or near mining area "A", mining area "B" or mining area "C"."

6. If the Water Agreement referred to in Clause 5 of this agreement shall not have come into operation by 1 January 2001, Clause 5 of this agreement shall on that date cease and thenceforth have no effect.

IN WITNESS WHEREOF this Agreement has been executed by or on behalf of the parties hereto the day and year first hereinbefore mentioned.

SIGNED by THE HONOURABLE
RICHARD FAIRFAX COURT in
the presence of -

} RICHARD COURT
■

COLIN BARNETT
MINISTER FOR RESOURCES DEVELOPMENT

THE COMMON SEAL of
BHP MINERALS PTY. LTD. Was
hereunto affixed by authority
of the Directors -

} [C.S.]

STEFANO GIORGINI
Director
MICHAEL KNOWLES
Secretary

THE COMMON SEAL of **CI
MINERALS AUSTRALIA PTY. LTD.** } [C.S.]
was hereunto affixed by authority
of the Directors in the presence of:

MASAYUKI YAMAMOTO
Director
MICHAEL APPLEBEE
Secretary

THE COMMON SEAL of **MITSUI
IRON ORE CORPORATION PTY.
LTD.** } [C.S.]
was hereunto affixed
by authority of the Directors in the
presence of:

YOICHI HASHIMOTO
Director
JOHN SMITH
Secretary

[Fourth Schedule inserted by No. 57 of 2000 s.18.]