

Schedule

[S. 2]

AN AGREEMENT MADE and executed this day of

One thousand nine hundred and seventy-two

BETWEEN THE HONOURABLE JOHN TREZISE TONKIN, MLA, THE 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 first part RHODES RIDGE MINING CO. LTD. a company incorporated in the State of Delaware in the United States of America and having its executive offices situate at the 55th Floor, 200 Park Avenue New York in the United States of America and registered in the State of Western Australia and having its registered office there situate at the 2nd Floor, 7 Havelock Street West Perth, HANCOCK PROSPECTING PTY. LTD. a company incorporated in the State of Western Australia and having its registered office situate at the 14th Floor Lombard House, 251 Adelaide Terrace Perth in that State and WRIGHT PROSPECTING PTY. LTD. a company incorporated in the State of Western Australia and having its registered office situate at the 14th Floor Lombard House, 251 Adelaide Terrace Perth aforesaid (hereinafter called "the Joint Venturers" which expression shall where the context so admits or requires extend to and include the Joint Venturers jointly and each of them severally their and each of their successors and permitted assigns and appointees) of the second part and TEXAS GULF INC. a company incorporated in the State of Texas in the United States of America and having its executive offices situated at the 55th Floor, 200 Park Avenue, New York aforesaid and having an address for the service of notices in the State of Western Australia at the 2nd Floor, 7 Havelock Street, West Perth aforesaid (hereinafter called "the Guarantor" which expression shall where the context so admits or requires extend to and include the Guarantor and also its successors and assigns) of the third part being the Agreement referred to in Section 2 of the enabling Act.

WHEREAS:

- (a) For some time prior to the execution hereof exploration and investigations have been carried out as to the possibility of the mining areas hereinafter defined containing large deposits of iron ore and as a result of such exploration and investigation the parties hereto believe that in the mining areas there are substantial deposits of iron ore having an average grade of 60% Fe or better and certain lesser deposits of limited size of higher grade that may after further study be found to be useable as blending ore in conjunction with lower grade iron ores which may exist within the mining areas or elsewhere.
- (b) Research has been and is still being conducted by the Joint venturers in both Australia and the United States of America with the object of establishing satisfactory ore crushing screening upgrading and

pelletising procedures that could be used in the treatment of iron ore from the said deposits.

- (c) The Joint venturers have also prior to the execution hereof caused preliminary engineering studies to be made as to the construction of a railway between the mining areas and a port site in or in the vicinity of the area between Dampier and Cape Lambert and the development of such a port site.
- (d) The said Rhodes Ridge Mining Co. Ltd. is a wholly owned subsidiary of the Guarantor which as the parent company has agreed to guarantee to the State performance by the said Rhodes Ridge Mining Co. Ltd. of its obligations hereunder upon and subject to the terms and conditions of the guarantee hereinafter contained.

THEREFORE IT IS MUTUALLY AGREED between the State and the Joint Venturers as follows: —

PART I

Preliminary

CLAUSE I

SECTION 1.01 DEFINITIONS In this Agreement unless the context otherwise admits or requires each of the following words has the meaning hereby respectively assigned to that word namely —

“apply”, “approve”, “approval”, “consent”, “certify”, “direct”, “notify”, “require” or means apply, approve, approval, consent, certify, direct, notify, require or request in writing, as the case may be;

“assignee” means an associated company or a third party in whose favour the Joint Venturers jointly have or any of them has executed an assignment subletting or other disposition pursuant to paragraph (a) of Section 25.04 and includes an associated company or third party in whose favour an appointment has been made pursuant to paragraph (b) of Section 25.04.

“associated company” means —

- (a) any company notified in writing by the Joint venturers or any of them to the Minister which has a paid up capital of not less than two million dollars (\$2,000,000) and 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 centum (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 centum (20%) of the issued ordinary share capital and —
- (b) any other company which is nominated by the Joint Venturers or any of them and of which the Minister approves as an associated company for the purposes of this Agreement.

“commencement date” means the date on which this Agreement is executed by all parties hereto;

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

“direct shipping ore” means iron ore which has an average pure iron content of not less than sixty per centum (60%) which will not pass through a one half (1/2) inch mesh screen and which is sold without concentration or other beneficiation other than crushing and screening;

“enabling Act” means the Act of Parliament of the said State entitled “Iron Ore (Rhodes Ridge) Agreement Authorization Act 1972”;

“export date” means the date on which the ship carrying the first shipment of iron ore products shipped by the Joint Venturers under this Agreement (other than iron ore shipped solely for testing purposes) sails from the port at which it has been loaded;

“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

(1/2) 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 (1/2) inch mesh screen;

“f.o.b. revenue” means the sum of money remaining after deducting from the amount of the gross purchase price (net of any amounts which the purchaser is entitled to deduct from the gross purchase price by way of penalty or otherwise for any defect in quality quantity or delay in delivery) payable to the Joint Venturers or an associated company by a purchaser thereof in respect of a specified quantity of iron ore products sold by the Joint — Venturers or the associated company to the purchaser for shipment beyond the Commonwealth the following items of cost namely all export duties and export taxes payable on the iron ore products sold and shipped and all other costs and charges properly incurred and payable in respect of the iron ore products by the Joint venturers or the associated company to the State or a third party between the point in time when the iron ore products are placed on ship at the Joint Venturers’ wharf and the point in time when the iron ore products are delivered to and accepted by the purchaser there being included in such other costs and charges —

- (1) ocean freight;
- (2) marine insurance;
- (3) port and handling charges at port of discharge;
- (4) costs of delivery from port of discharge to a smelter nominated by the purchaser;
- (5) weighing, sampling, assaying, inspection and representation costs incurred on discharge or delivery;
- (6) shipping agency charges;
- (7) import taxes payable to the country of the port of discharge;
- (8) demurrage incurred after loading and at port of discharge;
- (9) such other costs and charges as the parties (having regard *inter alia* to such matters as the parties to and the *bona fide* nature of the transaction as the result of which the cost or charge was

incurred) shall mutually agree to include or failing agreement as fixed by arbitration as hereinafter provided.

For the purpose of this definition —

- (a) the Minister may from time to time in respect of any of the costs or charges mentioned in Items (1) to (8) (inclusive) above incurred in relation to any particular shipment or sale notify the Joint venturers in writing that he does not regard the cost or charge as being properly incurred and in that event should the Joint Venturers disagree with the Minister's decision they may refer the matter in question to arbitration as hereinafter provided but unless and until it is otherwise determined such cost or charge shall be treated as being not properly incurred and if otherwise determined the State will refund to the Joint venturers any royalty paid by the Joint venturers on the basis that the charge was not properly incurred;
- (b) unless and until the Minister determines that the same is a cost or charge coming within the category of those mentioned in Item (9) above a cost or charge mentioned in any of the said Items (1) to (8) (inclusive) which is directly or indirectly imposed upon or incurred by the Joint Venturers or an associated company pursuant to an arrangement entered into between the Joint Venturers and the State shall be treated as being not properly incurred;
- (c) in the event of the parties failing to agree to the inclusion of a cost or charge which might be included pursuant to Item (9) and referring the same to arbitration then unless and until it is otherwise determined such cost or charge shall be excluded but if it is determined that the same should be included the State will refund to the Joint Venturers any royalty paid by reason of the same having been excluded.

“iron ore” means iron ore from the mineral lease;

“iron ore concentrates” means products (whether in pellet or other form) resulting from secondary processing but does not include metallised agglomerates;

“iron ore pellets” means iron ore in pellet or other form produced by pelletisation or a more advanced reduction or other treatment or process from iron ore mined on the mineral lease;

“iron ore products” is an inclusive term covering iron ore of all grades obtained from the mineral lease and also all products produced by secondary processing any part of such iron ore;

“Joint venturers wharf” means any wharf utilised by the Joint Venturers for the purpose of shipping iron ore products produced as the result of the operation of this Agreement and whether the same be a wharf constructed by or on behalf of the Joint Venturers a wharf used by the Joint venturers in conjunction with another or others (including the State) or any temporary structure approved by the Minister as the Joint Venturers’ wharf for the time being for the purposes of this Agreement;

“Land Act” means the Land Act, 1933;

“locally used ore” means iron ore used by the Joint venturers or an associated company within the Commonwealth for secondary processing or in an integrated iron and steel industry or any plant for the production of steel;

“metallised agglomerates” means products resulting from the reduction of iron ore or iron ore concentrates by any method whatsoever and having an iron content of not less than eighty-five percent (85%);

“mineral lease” means the mineral lease referred to in Section 9.01 and includes any renewal thereof and according to the requirements of the context shall describe the area of land demised as well as the instrument by which it is demised;

“mine townsite” means a townsite or townsites established by the Joint venturers on or near the mining areas pursuant to this Agreement and may include any existing townsite approved by the Minister;

“Mining Act” means the Mining Act 1904;

“mining areas” means the land described in the “particulars of mining areas” appended to Section 3.02;

“Minister” means the Minister of the Government of the said State for the time being responsible for the administration of this Agreement;

“Minister for Mines” means the Minister in the Government of the said State for the time being responsible for the administration of the Mining Act and includes any other Minister in the said Government for the time being temporarily undertaking such responsibility;

“Minister for Works” means the Minister for Works in the Government of the said State or such other member of the Executive Council as the Governor may appoint to administer the Rights in Water and Irrigation Act 1914;

“month” means calendar month;

“mortgagee” means an associated company or a third party in whose favour the Joint Venturers jointly have or any of them severally has executed a mortgage or charge pursuant to paragraph (a) of Section 25.04;

“notice” means notice in writing;

“ore” means iron ore;

“parties” means the parties to this Agreement of the first and second parts;

“person” or “persons” includes bodies corporate;

“the port” means and is primarily used to designate the new port to be established in implementation of proposals made by the Joint Venturers pursuant to Clause V whether the same be established by the Joint venturers exclusively or by them in conjunction with another or others (including the State) and should no such new port be established the term means any existing port developed or used by the Joint venturers for the purposes of this Agreement by arrangement with another or others (including the State) and in either case the term extends to and includes as well as the land upon which the Joint venturers’ wharf is erected also the adjacent land serving the Joint venturers’ wharf and the adjacent land on which it is proposed to locate or on which could be located or in fact is located secondary and tertiary processing plants crushing grinding and screening facilities stockpiling yards electric power generating plant petroleum storage and other ancillary facilities;

“port townsite” means the townsite to be expanded or developed near the port;

“said State” means the State of Western Australia;

“secondary processing” means the concentration or other beneficiation of iron ore otherwise than by crushing or screening and includes thermal electrostatic magnetic and gravity processing and the

production of pellets iron ore concentrates metallised agglomerates and sponge iron;

“tertiary processing” means the production of pig iron by blast furnace smelting and the production of steel by any means whatsoever;

“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;

“Transfer of Land Act” means the Transfer of Land Act 1893; “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.

SECTION 1.02 CAPTIONS

- (a) The captions of the Parts into which this Agreement is divided and the Schedule to this Agreement and each plan or other document referred to in this Agreement which is marked by the parties for identification are part of this Agreement.
- (b) The Table of Clauses included in this Agreement and the captions of the Clauses and any headings to sections are for convenience only and do not constitute part of this Agreement and the same are not to be deemed to define or limit any of the terms of this Agreement nor to be construed as giving any indication as to how such terms are to be construed or interpreted.

SECTION 1.03 CONSTRUCTION

- (a) References to money are to be construed as referring to Australian currency.
- (b) References to an Act are to be construed as referring to the amendments to such Act for the time being in force and also to any Act passed in substitution therefor or in lieu thereof and also to the regulations for the time being in force thereunder.

- (c) Where any provision of this Agreement constitutes an agreement or undertaking by one of the parties to make a payment or to perform some act or to carry out some obligation or to assume some responsibility or liability or to grant some right concession or advantage that party by its execution hereof will be deemed to have covenanted and agreed with the other party accordingly.
- (d) By virtue of Section 3 of the enabling Act this Agreement operates and takes effect as from the commencement date according to the tenor of the provisions thereof notwithstanding the provisions of any other relevant existing Act of the said Parliament and of any rule or law to the contrary.
- (e) The State and the Minister will be deemed to have power and authority to exercise all such powers and discretions and to do all such other acts matters and things as may be required or be necessary to be exercised or done in order to carry out and give effect to the provisions of this Agreement and in particular the State and the Minister will be deemed to have power —
 - (i) to close or vary the alignments or boundaries of any public road and —
 - (ii) to resume as and for a public work any land or other estate right or interest in land.

SECTION 1.04 EXISTING ACTS For the purposes of this Agreement (and for those purposes only) the provisions of any relevant existing Act will be deemed to be modified or amended to the extent necessary to enable this Agreement to be given full force and effect and in particular without limiting the generality of the foregoing the Acts mentioned in Sections 1.05 to 1.08 inclusive shall be deemed to be amended to the extent indicated therein.

SECTION 1.05 MINING ACT The Mining Act will be deemed amended as if Sections 277 and 282 thereof were both deleted therefrom.

SECTION 1.06 LAND ACT The Land Act will be deemed amended as if —

- (a) subsections (1) and (2) of Section 45A thereof were deleted therefrom and the following substituted there for —

45A (1) Notwithstanding anything contained in the last preceding Sections of this Part (Part IV) of this Act the Governor

may dispense with the requirements thereof as to the sale of town or country lands and may approve of any lot being offered for sale or for leasing in the manner prescribed in subsection (2) of this Section.

(2) Upon the Governor signifying approval pursuant to subsection (1) of this Section in respect of any such lands the Minister may offer the said lands or any part thereof for sale or may grant leases or licences thereof for such price or prices and for such period or periods (including rights of renewal) and upon and subject to such other terms and conditions and in such form as the Minister may think fit provided that the price period or other terms and conditions shall not be inconsistent with the provisions of any agreement executed by the Premier of the State of Western Australia acting for and on behalf of the said State pursuant to the authority in that behalf given by an Act of the Parliament of the said State.

(b) the proviso to Section 116 thereof was deleted therefrom;

(c) Sections 135 and 143 thereof were deleted therefrom.

SECTION 1.07 PUBLIC WORKS ACT The Public Works Act will be deemed amended as if subsections (2) to (7) inclusive of Section 17 thereof and also the whole of Section 17A thereof were all deleted therefrom.

SECTION 1.08 FLOATING CHARGES Section 82 of the Mining Act and Section 81D of the Transfer of Land Act will be deemed not to apply to a mortgage or charge in the form commonly known as a floating charge given by the Joint Venturers or an associated company pursuant to Section 25.04 or to a transfer or assignment in exercise of a power of sale contained in any such mortgage or charge.

SECTION 1.09 PARTITION No lease sub-lease licence or other title or right granted or assigned under or in pursuance of this Agreement shall be subject to or capable of partition and accordingly the provisions of Part XIV of the Property Law Act, 1969, will be deemed not to apply thereto.

PART II

Feasibility Studies and Preparation of Proposals

CLAUSE II

SECTION 2.01 INVESTIGATIONS AND STUDIES Beginning as soon as practicable after the commencement date the Joint Venturers will

diligently and expeditiously explore and investigate the mining areas hereinafter mentioned (which operations are herein referred to as “the Investigations”) with the view to preparing and submitting to the State as soon as practicable feasibility studies (herein referred to as “the studies”) as to the various aspects of the development of the mining areas for the mining of iron ore and the treatment and processing thereof and also with a view to making to the State detailed proposals as to such development as hereinafter provided.

SECTION 2.02 STATE ASSISTANCE The State will afford the Joint Venturers all such reasonable assistance as they may require during the course of the investigations and the studies to enable them to complete the same and to that end will furnish such advice and commentaries as the Joint Venturers may require and as may be reasonably practicable for the State so to do.

CLAUSE III

SECTION 3.01 ENTRY ON CROWN LANDS To the extent reasonably necessary for the purpose of the investigations and studies and subject to the adequate protection of the environment (including flora and fauna) the State will permit the Joint Venturers to enter into and upon Crown land other than the mining areas (including the lands the subject of a pastoral lease) and to survey possible sites for their proposed operations under this Agreement.

SECTION 3.02 RIGHT OF OCCUPANCY As soon as practicable after the commencement date the State will cause the Minister for Mines in exercise of the power in that behalf conferred by Section 276 of the Mining Act to temporarily reserve from occupation the land more particularly described in the “particulars of mining areas” appended to this Section and with the approval of the Governor to authorize the Joint Venturers to temporarily occupy such land (the right of the Joint Venturers so to do pursuant to such authority being hereinafter referred to as “the right of occupancy”) for the period and upon and subject to the terms and conditions hereinafter mentioned.

PARTICULARS OF MINING AREAS

ALL those pieces of land (containing in the aggregate an area of 322 square miles or thereabouts) being those portions of the land the subject of Temporary Reserves 4192H, 4193H, 4266H, 426H, 4737H, 4881H, 4882H, 4883H, and 4884H, as are delineated and coloured green in the plan marked `A` signed by or on behalf of the parties hereto for the purpose of identification.

SECTION 3.03 SURRENDER OF EXISTING RIGHTS The right of occupancy will be granted subject to the condition precedent that the Joint

Venturers acquire by transfer all existing rights of occupancy in to or in respect of the mining areas and surrender the same to the Crown.

SECTION 3.04 SURVEY

- (a) The Location boundaries and other dimensions of the mining areas other than Temporary Reserves 4193H, 4881H and 4884H have been ascertained and fixed by and the area thereof calculated following upon a survey of such land made on behalf of the Joint Venturers at their cost and expense prior to the commencement date which said survey has been approved by the State for the purposes of this Agreement and used in the preparation of the plan marked 'A' mentioned in Section 3.02.
- (b) The location boundaries and other dimensions of the land comprised in Temporary Reserves 4193H, 4881H and 4884H will be ascertained and fixed by and the area thereof calculated following upon a survey of such land made by or on behalf of the State at the cost and expense of the Joint Venturers as soon as practicable after the commencement date.

SECTION 3.05 OCCUPANCY PERIOD Subject as provided in Section 3.06 the period of the right of occupancy will be a fixed period expiring twelve months after the commencement date or on the date of the granting of the mineral lease pursuant to Section 9.01 (notwithstanding that the instrument of such lease may not be issued) whichever is the earlier date.

SECTION 3.06 OCCUPANCY RENEWAL If at any time within one (1) month prior to the expiration of the period of the right of occupancy (whether the period be that mentioned in Section 3.05 or any renewed period granted pursuant to this Section) the Joint Venturers make a written request to the State that the said period be renewed the State will cause the Minister for Mines to renew the same for such period (not exceeding twelve months on any one occasion) and upon and subject to the same terms and conditions but (unless the State shall otherwise agree) the period of the right of occupancy will not be renewed beyond the fifth anniversary of the commencement date and will expire at noon on that date.

SECTION 3.07 CONSIDERATION FOR OCCUPANCY The Joint Venturers will on the commencement date and thereafter on the first and every subsequent anniversary of the commencement date during the continuance of the period of the right of occupancy pay to the State as consideration for the right of occupancy in advance an annual fee of \$1,000 for each Temporary Reserve comprised in the mining areas and also \$26.00 for each square mile or part of a square mile of the mining areas for the time being subject to the right of occupancy.

SECTION 3.08 OTHER CONDITIONS OF OCCUPANCY Subject as otherwise provided in this Clause (Clause III) the right of occupancy may be granted or renewed upon and subject to such terms and conditions not inconsistent with the provisions for the time being of the Mining Act as the parties mutually agree and of which the Governor may approve.

SECTION 3.09 DETERMINATION OF OCCUPANCY The right of occupancy will forthwith cease and determine on the happening of any of the following events namely —

- (a) upon the Joint Venturers by notice to the Minister relinquishing the same; or
- (b) upon the initial or any renewed period thereof expiring by effluxion of time or
- (c) upon the State granting to the Joint Venturers a mineral lease pursuant to section 9.01 (notwithstanding that the instrument of such lease may not be issued); or
- (d) upon the Joint venturers making default in the due and punctual payment of any annual fee payable pursuant to Section 3.07 and failing to comply with a notice from the State specifying such default and calling upon the Joint Venturers to remedy the same within a period of fourteen (14) days of the service of such notice, or
- (e) upon the Joint Venturers making default in the due performance or observance of any of the other of the terms and conditions upon and subject to which the right of occupancy was granted and falling to comply with a notice from the State specifying such default and calling upon the Joint Venturers to remedy the same within a period of fourteen (14) days of the service of such notice.

CLAUSE IV

SECTION 4.01 JOINT VENTURERS INVESTIGATIONS In the course of the investigations and the studies the Joint Venturers will insofar as they have not already done so to the reasonable satisfaction of the Minister commence forthwith and carry out at their expense (with the assistance of experienced consultants where appropriate) the following —

- (a) a thorough geological and (as necessary) geophysical investigation and proving of the iron ore deposits in the mining areas and the testing and sampling of such deposits;

- (b) a reconnaissance of sites of the operations proposed pursuant to this Agreement together with the preparation of suitable maps and drawings;
- (c) an engineering investigation of the route for a railway from the mining areas to the port or (in consultation with the owner) to connect with any existing or proposed railway operated or to be operated by any other party under an agreement with the State;
- (d) a general survey and preliminary engineering investigation of possible port sites in the general Cape Lambert Dampier area including Legendre Island;
- (e) a study of the technical and economic feasibility of the mining transporting handling and shipping of iron ore from the mining areas;
- (f) the planning and development of a suitable mine townsite and a suitable port townsite in consultation with the State having due regard as to the possible or probable use of the same by others as well as the Joint Venturers;
- (g) the investigation, in areas indicated by the Minister of suitable water supplies for mining industrial and mine townsite purposes;
- (h) metallurgical and market research;
- (i) a thorough assessment of the environmental impact likely to result from operations pursuant to this Agreement together with details of the measures proposed for the treatment of such effects;

SECTION 4.02 PORT INVESTIGATIONS After consultation with the Minister concerning the result of the investigations and surveys mentioned in Section 4.01 (d) the Joint Venturers will employ or retain experienced consultant engineers acceptable to the State to investigate report upon and make recommendations as to the best overall development of a port at such location as appears to be the location most suitable as the subject of the investigations report and recommendations contemplated by this Section 4.02. The Joint Venturers will require such engineers when making such report and recommendations to have full regard for the general development of the port with a view to its reasonable use by others and the Joint Venturers will furnish to the State copies of such reports and recommendations. When submitting to the Minister pursuant to Section 5.02 detailed proposals in regard to the matters mentioned in this Section 4.02 the Joint Venturers will so far as reasonably practicable ensure that the detailed proposals —

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

SECTION 4.03 REPORTS TO STATE The Joint Venturers will collaborate with and keep the State fully informed as to the progress and results of the investigations and studies and in particular as to the carrying out of the operations as to the matters mentioned in Sections 4.01 and 4.02. For that purpose the Joint Venturers will at least once in every quarter submit to the State a comprehensive report of such progress and results and if and when the Minister may reasonably require furnish the Minister with copies of all relevant reports made by consultants and of all findings and conclusions made by the Joint Venturers as the result of the consultants reports and consequent upon the progress made in the investigations and studies and in the said operations but the Joint Venturers will not be required to disclose to the State any information findings conclusions or reports concerning or touching the economic feasibility of any of the matters mentioned in paragraph (e) of Section 4.01 which are of a financial nature and which the Joint Venturers consider are private and confidential to themselves and if revealed could prejudice them or otherwise react to their detriment in their dealings with third parties.

SECTION 4.04 STATE INVESTIGATIONS If the State concurrently carries out its own investigations and reconnaissances in regard to all or any of the matters mentioned in Sections 4.01 and 4.02 the Joint Venturers will co-operate with the State therein and so far as it is reasonably practicable so to do will consult with the representatives or officers of the State and make full disclosures and give expressions of opinion regarding the matters mentioned in Sections 4.01 and 4.02.

CLAUSE V

SECTION 5.01 INITIAL PORT PROPOSAL As soon as practicable after the completion of the investigations mentioned in Section 4.02 the Joint Venturers will submit to the Minister proposals as to the location and an outline in sufficient detail to enable the Minister to satisfy himself as to the suitability technical feasibility and practicability of the proposed development of the port (having regard to the matters mentioned in paragraph (a) of Section 5.02) and the

Minister will within two (2) months after such submission notify the Joint Venturers whether he approves or otherwise of such proposals or the Minister may within that time himself suggest an alternative proposal. If the Minister does not approve of the Joint Venturers proposals or if he himself submits an alternative proposal the Minister will disclose his reasons for so doing by specifying the same in the said notice and afford the Joint Venturers ample opportunity to consult with him and themselves to submit further or alternative proposals and to consider any alternative proposal suggested by the Minister. When considering any of the Joint Venturers proposals and in making his own proposal the Minister will have regard to the possible future requirements of others (including the State) and no preference or other priority will be given to the Joint Venturers or their proposals by reason only that the proposals were submitted for consideration first before proposals from any other party.

SECTION 5.02 DETAILED PROPOSALS Subject to the proposals or any alternative proposals as to the location and development of the port being approved the Joint Venturers will on or before the fifth anniversary of the commencement date or on or before such later date as the Minister may approve submit to the Minister detailed proposals. (herein referred to as “the said proposals”) which shall include (where practicable) appropriate plans and (where reasonably required by the Minister) appropriate specifications in respect of the mining of iron ore on and the future development of the mining areas (or so much thereof as is comprised in the mineral lease mentioned in Section 9.01) and detailed particulars as to the measures proposed to be taken for the protection of the environment should the same be approved or be deemed to be approved and also (to the fullest extent reasonably practicable) detailed particulars as to the location area layout design number materials to be used in and time programme for the commencement and completion of the construction or the provision (as the case may be) of each of the following matters —

- (a) (to the extent not already covered by the proposals mentioned in Section 5.01) the port and port development including the dredging thereof and the disposal and depositing of the spoil the provision of navigational aids the Joint Venturers wharf the berth and swinging basin proposed in connection with the Joint Venturers use thereof and the port installations facilities and services to be available all of which are to be of such nature and extent as to be capable of and suitable for adaption to permit use of the Joint Venturers wharf by ships having a capacity to carry 60,000 tons of iron ore.
- (b) the railway from the mining areas to the port or to connect with an existing railway and its proposed operation including joint user conditions (if any) fencing (if any) crossing places and grade separation or other forms of acceptable protection at intersections with public roads;
- (c) the development of the mine townsite and the port townsite including services and facilities in relation thereto;

- (d) housing;
- (e) water supply;
- (f) roads;
- (g) generation transmission and distribution of electricity;
- (h) airfields;
- (i) the leases licenses or other tenures of land (if any) required from the State;
- (j) disposal of waste materials;
- (k) drainage;
- (l) dust control measures; and
- (m) any other works, services or facilities proposed or required by the Joint Venturers.

SECTION 5.03 SUBJECT OF PROPOSALS Initially the said proposals may with the approval of the Minister and if so required by the State will be submitted as to the matter or matters mentioned in one or more of paragraphs (a) to (m) of section 5.02 and in that event submission of the said proposals as to the matter or matters mentioned in the other or others of the said paragraphs will be deferred but in any event will be finally submitted within the time mentioned in Section 5.02.

SECTION 5.04 USE OF EXISTING INFRASTRUCTURE The said proposals relating to any of the matters mentioned in Section 5.02 may with the approval 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.

SECTION 5.05 MINISTER TO BE SATISFIED At the time when the Joint Venturers submit the said proposals they will be required to show to the reasonable satisfaction of the Minister that the investigations and the studies in so far as the same are relevant to the said proposals have been completed. In order to be so satisfied the Minister may require the Joint Venturers to produce to him acceptable evidence of —

- (a) marketing arrangements demonstrating the Joint Venturers ability to sell iron ore and iron ore products in accordance with the said proposals;
- (b) the availability of finance necessary for the fulfilment of the operations to which the said proposals refer; and
- (c) the readiness of the Joint Venturers to embark upon and proceed to carry out the operations referred to in the said proposals.

SECTION 5.06 PORT LOCATION The Minister's determination in respect of the Joint Venturers proposals relating to the location of the port and in respect of proposals relating to the overall development of the port and the location of the port townsite will be conclusive final and binding on all parties and the same shall not be referable to arbitration.

CLAUSE VI

SECTION 6.01 CONSIDERATION OF PROPOSALS On receipt of the said proposals the Minister may —

- (a) 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 one or more of the other matters mentioned in one or more of the paragraphs (a) to (m) of Section 5.02 not covered by the said proposals; or
- (b) approve of the said proposals either wholly or in part without qualification or reservation; 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 (having regard to the circumstances including the overall development of and the use by others as well as the Joint Venturers of all or any of the facilities proposed to be provided) thinks reasonable and in such case will disclose to the Joint Venturers the reasons for requiring such conditions precedent.

SECTION 6.02 MINISTER'S DECISION The Minister will within two (2) months after receipt of the said proposals give notice to the Joint Venturers of his decision in respect to the same and will disclose to the Joint Venturers by such notice the reasons for such decision.

SECTION 6.03 CONSULTATION WITH MINISTER If the decision of the Minister is as mentioned in either of paragraphs (a) or (c) of Section 6.01 he will afford the Joint venturers full opportunity to consult with him and should they so desire to submit new proposals either generally or in respect of some particular matter.

SECTION 6.04 MINISTER'S DECISION SUBJECT TO ARBITRATION If the decision of the Minister is as mentioned in paragraph (c) of Section 6.01 and the Joint Venturers consider that such decision or any condition precedent imposed is technically financially economically or otherwise unreasonable the Joint Venturers may within two (2) months after receipt of the notice mentioned in Section 6.02 elect to refer to arbitration in the manner hereinafter provided the question of the reasonableness of such decision or of the condition precedent.

SECTION 6.05 REASONABLENESS OF MINISTER'S DECISION In addition to any other matter to which the arbitrator is required (whether pursuant to the provisions of Section 32.01 or otherwise) to have regard in considering the reasonableness of any decision of the Minister made pursuant to Section 6.01 the Minister will not be regarded to have acted unreasonably if he shall defer his decision on a proposal made in relation to the matters mentioned in paragraph (i) of Section 5.02 until the said proposals in relation to the matters mentioned in the other paragraphs of Section 5.02 have become or deemed to have become approved proposals.

SECTION 6.06 ARBITRATING AWARD An award made on an arbitration pursuant to Section 6.04 shall have force and effect as follows —

- (a) if by the award it is adjudged that the condition precedent is reasonable then the decision of the Minister in respect to the said proposals shall stand; or
- (b) if by the award it is adjudged that the condition precedent is unreasonable then the said proposals shall be deemed to have been approved by the Minister in the form in which the same were submitted.

SECTION 6.07 APPROVED PROPOSALS DEFINED Proposals which are approved by the Minister as provided in paragraph (b) of Section 6.01 and those (if any) which are deemed to have been approved as provided in paragraph (b) of Section 6.06 are hereinafter referred to as "approved proposals".

CLAUSE VII

SECTION 7.01 ADDITIONAL PROPOSALS If the Joint Venturers at any time during the continuance of this Agreement desire to expand their activities beyond those specified in any approved proposals they will give notice of such desire to the Minister and within two (2) months thereafter will 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 (m) of Section 5.02 as the Minister may require. The provisions of Clauses V and VI shall *mutatis mutandis* apply to detailed proposals submitted pursuant to this Section save that the provisions of Section 5.0a shall not apply.

SECTION 7.02 BASIS OF SUBMISSION In the event of the Joint Venturers submitting detailed proposals pursuant to Section 7.01 or if as a consequence of their submitting detailed proposals pursuant to Section 23.01 the Minister requires further detailed proposals to be submitted on any of the said matters mentioned in paragraphs (a) to (m) of Section 5.02 (which said detailed proposals and said further detailed proposals are herein referred to as “additional proposals”) then subject as provided in Section 7.03 the additional proposals will be submitted on the basis that should the same become approved proposals the provisions of Clause XVIII will apply *mutatis mutandis* in respect of any increase in the extent of the services and facilities mentioned in Section 18.01 and also in respect of the provision of the additional services or facilities (whether of the kind mentioned in Section 18.01 or not) occasioned in either case by the additional proposals becoming approved proposals.

SECTION 7.03 DETERMINATION OF JOINT VENTURERS’ OBLIGATIONS The extent of the Joint Venturers’ responsibilities under Clause XVIII to provide the capital cost of and to maintain any increased or additional services and facilities of the kind mentioned in Section 18.01 occasioned by the additional proposals or any of them becoming approved proposals will be determined by the Minister after discussion and negotiation on such matters with the Joint Venturers and in making such determination the Minister will have regard (*inter alia*) to the current and anticipated composition of any mining or other town affected and the extent to which the State’s current capital resources will permit of its undertaking its responsibilities ordinarily to provide the capital cost of and maintain such services and facilities.

CLAUSE VIII

SECTION 8.01 DETERMINATION BEFORE IMPLEMENTATION
In any of the following events namely —

- (a) if the right of occupancy ceases and determines pursuant to Section 3.09; or

- (b) if the Joint Venturers give to the State notice of their intention to abandon or discontinue the investigations and the studies; or
- (c) if the Joint Venturers fail within the time (or any extension thereof) limited by Section 5.02 to submit any proposals and fail to satisfy the Minister that they are then diligently and actively conducting the necessary investigations and studies incidental to the preparation of the proposals; or
- (d) if the effect of an award made upon an arbitration under Section 6.04 is that the decision of the Minister is to stand and the Joint Venturers fail within three (3) months after the making of the award to give notice that they accept the same and propose forthwith to implement the proposals in respect of which the award was made —

the State may give to the Joint Venturers one month's notice determining this Agreement and on the expiration of such notice this Agreement will cease and determine and neither party will have any claim against the other in respect of any matter or thing arising out of or done or performed or omitted to be done or performed under this Agreement except as provided under Clause XXVI.

PART III

Implementation of Proposals

CLAUSE IX

SECTION 9.01 MINERAL LEASE As soon as practicable after the said proposals become approved proposals the State will in accordance with the relevant approved proposal on the application of the Joint Venturers cause to be granted to them a mineral lease in the form set out in the Schedule to this Agreement for the mining of iron ore from such part or parts of the land comprised in the mining areas as is or are then subject to the right of occupancy and referred to in the said proposals. The following provisions will apply to the mineral lease —

- (a) the total area of the land the subject thereof will not exceed three hundred (300) square miles;
- (b) the boundaries of the land comprising such area will be so located as to form either a single parallelogram or a number of parallelograms;
- (c) the rent reserved thereby will be that fixed in Section 9.04;

- (d) the Joint Venturers will therein covenant to pay to the State in addition to the said rent the royalties fixed in Section 21.01;
- (e) subject to the due payment by the Joint Venturers of the said rent and royalties and to the due performance and observance by them of their other obligations thereunder and of their obligations under this Agreement the term thereof will be twenty one (21) years as from the date of the granting thereof but the Joint Venturers will during the continuance of this Agreement have the right to take successive renewals of the said term each for a period of twenty one (21) years upon the same terms and conditions subject to the sooner determination of the said term upon the cessation or determination of this Agreement. The said right will be exercisable by the Joint Venturers making written application for any such renewal not later than one month before the expiration of the current term of the mineral lease;
- (f) subject to paragraphs (a) to (e) inclusive of this Section and as in this Agreement otherwise provided all relevant provisions of the Mining Act and the Regulations thereunder will apply but subject to their discharging and carrying out their obligations under this Part (Part III) of this Agreement the Joint Venturers will not be required to comply with the labour conditions imposed by the said Act in respect of mineral leases.

SECTION 9.02 SURVEY The State will cause to be made any survey necessary to define the area and boundaries of the land to be comprised in the mineral lease and the Joint Venturers will upon demand made on or after the completion of such survey pay to the State the cost thereof. The Minister for Mines may decline to issue the instrument for the mineral lease until such survey is completed.

SECTION 9.03 SURRENDER OF PORTIONS Notwithstanding the provisions of paragraph (e) of Section 9.01 the Joint Venturers may from time to time (with abatement of future rent in respect to the area surrendered but without any abatement of rent already paid or any rent which has become due and has been paid in advance) surrender to the State all or any portion or portions (of reasonable size and shape) of the mineral lease.

SECTION 9.04 RENTAL The rent payable by the Joint Venturers under the mineral lease will be an annual rent (payable annually in advance) of a sum equal to seventy cents (\$0.70) per acre per annum calculated on the total area of land for the time being the subject of the mineral lease. The said rent will run as from the date of the granting of the mineral lease on which date the first payment of rent will become due and payable notwithstanding that the survey

mentioned in Section 9.02 may not have been commenced or completed or the instrument for the mineral lease may not have been issued.

SECTION 9.05 OTHER LEASES The State will to such extent as may be reasonably practicable on the application of the Joint Venturers from time to time grant to the Joint Venturers or assist them in obtaining the grant of leases and other rights for limestone, dolomite, granite, diorite, silica sand and other minerals and substances reasonably required by the Joint Venturers for the purposes of this Agreement.

SECTION 9.06 EXCLUSIVE MINING RIGHTS The State will not during the continuance of this Agreement register any claim or grant any lease or other mining tenement under the Mining Act or otherwise whereby any person other than the Joint Venturers might under the laws relating to mining or otherwise obtain any rights to mine or take natural substances (other than petroleum as defined by the Petroleum Act, 1967) from within the mineral lease unless the Minister reasonably determines that the registration or grant is not likely unduly to prejudice or interfere with the Joint Venturers' operations hereunder.

SECTION 9.07 ACCESS OVER MINERAL LEASE The Joint Venturers will at all times permit the State and third parties (with or without stock vehicles and rolling stock) to have access to and to pass over the mineral lease (by separate route, road or railway) so long as that access and passage does not unduly prejudice or interfere with the operations of the Joint Venturers under this Agreement.

SECTION 9.08 LAND RESUMPTION The State will as and for a public work under the Public Works Act, 1902 resume any land required for the purposes of this Agreement and will if it considers it expedient so to do sell lease or otherwise dispose of the land to the Joint Venturers.

CLAUSE X

SECTION 10.01 LEASES FOR OTHER PURPOSES The State will in compliance on its part with the approved proposals as and when required by the Joint Venturers so to do cause to be granted to the Joint Venturers such other leases of Crown lands as the parties may consider reasonable and necessary for all or any of the following purposes namely town sites, private roads, railway lines and sidings, tailing areas, over-burden areas, water pipelines, pumping installations and reservoirs, airport, power transmission lines and stockpile areas and for any other of the purposes of this Agreement. Such leases will be granted for such periods at such rentals and upon and subject to such other terms and conditions as shall be reasonable having regard to the obligations of the Joint Venturers under this Agreement.

SECTION 10.02 SPECIAL LEASE; Pursuant to Section 10.01 the State will in particular when required by the Joint Venturers so to do cause to be granted to it —

- (a) a special lease (or special leases) of Crown land at the mine townsite for residential, professional, business, commercial and industrial purposes and for the purpose of providing communal facilities. Such special lease will be granted upon all usual terms and conditions and in particular will contain the following provisions —
 - (i) the term thereof (unless sooner determined) will expire on the same date as that on which the term of the mineral lease or any renewal thereof terminates or is determined;
 - (ii) the rental payable thereunder will be one peppercorn per annum payable if and when demanded;
 - (iii) the Joint Venturers will have the right during the continuance thereof to purchase (for a price comparable with that charged by the State for other Crown land released for freehold sale in similar towns in the general region of the Joint Venturers' operations) the fee simple of any parcel or lot being part of the land thereby demised on which the Joint Venturers have erected buildings or structures (not being dwellings) costing at least ten thousand dollars (\$10,000) or dwellings costing at least seven thousand dollars (\$7,000);
- (b) a special lease (or special leases) of Crown land at or near the port for industrial stockpiling, ship loading, power generation and other similar purposes. Such special lease will be granted upon all usual terms and conditions and in particular will contain the following provisions —
 - (i) the term thereof will (unless sooner determined) expire on the same date as that on which the term of the mineral lease or any renewal thereof terminates or is determined;
 - (ii) the rental payable thereunder will be an annual rental of two dollars (\$2.00) per acre payable in advance;
- (c) notwithstanding the provisions contained in the mineral lease or any other lease granted pursuant to either of paragraphs (a) or (b) of this Section 10.02 whereby the rent payable thereunder and the times at which such rent is so payable are fixed the Joint Venturers will during the continuance of this Agreement from and after the

commencement of Year 16 pay to the State as and by way of an additional annual rent to that payable under such one or more of such leases as the Joint Venturers may from time to time at their option in a notice to the State designate a sum equal to 25 cents per ton on all iron ore products in respect of which a royalty is payable under this Agreement in the ensuing financial year. The said additional rent shall be paid within three (3) months of the shipment sale use or production as the case may be of the said iron or products being included in a return to the State under Section 21.03.

CLAUSE XI

SECTION 11.01 NO RESUMPTION Subject to the performance by the Joint Venturers of their obligations hereunder the State will not resume or suffer or permit to be resumed by any instrumentality or by any local or other authority of the said State any portion of the land the subject of any special lease mentioned in Section 10.02 the resumption of which would unduly prejudice or interfere with the Joint Venturers' works and activities conducted or reasonably likely or contemplated to be conducted thereon or any portion of the land the subject of the mineral lease whereon any of the Joint Venturers' works are situate or are reasonably likely or contemplated to be situate the resumption of which would unduly prejudice or interfere with the Joint Venturers' mining or other activities including mining or other activities conducted or reasonably likely or contemplated to be conducted thereon nor will the State create or grant or permit or suffer to be created or granted by an instrumentality or authority of the said State any road right of way or easement of any nature or kind whatsoever over or in respect of the land comprised in the said leases whereon any of the Joint Venturers' works are situate or are reasonably likely or contemplated to be situate without the consent in writing of the Joint Venturers first had and obtained which consent the Joint Venturers agree they will not arbitrarily or unreasonably withhold.

SECTION 11.02 NO DISCRIMINATORY RATES Except to the extent provided by this Agreement the State will not impose or permit or suffer any instrumentality of the said State or any local or other authority to impose discriminatory taxes, rates or charges of any nature whatever on or in respect of the titles, property or other assets, products, materials or services used or produced by or through the operations of the Joint Venturers required to be carried out under this Agreement and the State will not take or permit any such instrumentality or any local or other authority to take any other discriminatory action that would deprive the Joint Venturers of the rights granted or intended to be granted to them under this Agreement.

SECTION 11.03 ZONING The State will ensure that land the subject of the mineral lease or any other lease licence or easement granted under or pursuant to this Agreement and all freehold land or land of any other tenure used or occupied by the Joint Venturers for any of the purposes of this Agreement will

not except as provided in this Agreement be made subject to any such restriction as to its use as would prevent or unreasonably hinder the Joint Venturers carrying out any of the operations required or permitted to be carried out under this Agreement whether the restriction be by way of zoning regulation, by-law or other exercise of statutory power by the State or any local or other authority.

SECTION 11.04 VALUATION BASIS The State will ensure that notwithstanding the provisions of any Act or anything done or purported to be done under any Act the valuation of all land (whether of a freehold or leasehold nature) the subject of this Agreement (except any part upon which for the time being a permanent residence is erected or which for the time being is occupied in connection with that residence and except also any part upon which for the time being there stands any improvements that are used in connection with a commercial undertaking not directly connected with the operations of the Joint Venturers under this Agreement) will for rating purposes be deemed to be on the unimproved value thereof and no such land will be subject to any discriminatory rate but the Joint Venturers will be at liberty should they so desire to make the election provided for by Section 533B of the Local Government Act, 1960.

CLAUSE XII

SECTION 12.01 IMPLEMENTATION OF PROPOSALS The Joint Venturers will within four (4) years next following the date on which all the said proposals required to be submitted pursuant to Section 5.02 have become approved proposals at a cost of not less than sixty million dollars (\$60,000,000) 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 or at the port (as the case may be) 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 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 ten thousand (10,000) 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 after export date shall not be less than one million (1,000,000) tons.

CLAUSE XIII

SECTION 13.01 CONSTRUCTION OF RAILWAY Subject to the — State assuring to the Joint Venturers all necessary rights in or over Crown lands available for the purpose the Joint Venturers will in a proper and workmanlike manner and in accordance with recognised standards for railways of a similar nature operating under similar conditions construct along the route specified in the approved proposals (but subject to the provisions of the Public Works Act, 1902, to the extent that they are applicable) the railway having a four feet eight and one-half inch (4ft. 8 1/2in.) gauge specified in the approved proposals and will also construct *inter alia* any necessary deviations loops spurs sidings crossings points bridges signalling switches and other works and appurtenances and provide for crossing places and (where appropriate and required by the Minister) flashing lights boom gates grade separation or other protective devices at places where the specified railway crosses or intersects with major roads or existing railways (all of which together with the specified railway being hereinafter referred to as “the said railway”) and will operate the said 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.

SECTION 13.02 OPERATION OF RAILWAY The Joint Venturers will during the continuance of this Agreement operate the said railway in a safe and proper manner and where they can do so without unduly prejudicing or interfering with their other operations hereunder they will provide crossing places for livestock and also for any roads or other railways which now exist or in the future may be constructed and which cross or may be required to cross the said railway.

SECTION 13.03 OTHER PASSENGERS AND FREIGHT Where they can do so without unduly prejudicing or interfering with their operations hereunder and subject to the payment to them of the charges prescribed by and for the time being payable under any by-laws made by the Joint Venturers in respect of the transporting of passengers and the carriage of freight over the said railway and subject to the due compliance with the other requirements and conditions prescribed by such by-laws (or should there be no such by-laws for the time being in force then subject to the payment of such charges and the due compliance with such requirements and conditions as in either case are reasonable having regard to the cost to the Joint Venturers of the construction and operation of the said railway) the Joint Venturers will if and when reasonably required so to do by the State transport passengers and carry the freight of the State and third parties over the said railway but in relation to the carriage of such freight the Joint Venturers will not be deemed to be a common carrier at law or otherwise.

CLAUSE XIV

SECTION 14.01 ROAD CONSTRUCTION Subject to the State assuring to the Joint Venturers all necessary rights in or over Crown lands available for the purpose the Joint Venturers will at their own cost and expense construct such new roads as they may reasonably require for the purposes of this Agreement, such roads to be of such widths, of such materials, with such gates crossings (level or grade separated where required) and passovers for cattle sheep and other livestock and along such routes as the parties mutually agree after consideration of the requirements of the Commissioner of Main Roads. Except to the extent that the Joint Venturers' relevant approved proposal otherwise provides, the Joint Venturers will allow the public to use free of charge any roads constructed or upgraded pursuant to or for the purposes of this Agreement so long as such use will not unduly prejudice or interfere with the Joint Venturers' operations hereunder.

SECTION 14.02 USE OF PUBLIC ROADS The Joint Venturers will have the right to use any public roads that may from time to time exist in the area of their operations under this Agreement both prior to the commencement date and also in the course of their operations hereunder. If the exercise by the Joint Venturers of such right results in or is likely to result in intensive use of any public road whereby excessive damage or deterioration is caused thereto or whereby the road becomes inadequate for use by the Joint Venturers and the public the Joint Venturers will upon demand (except where and to the extent that the Commissioner of Main Roads agrees to bear the whole or part of such cost) pay to the State or the local authority concerned or other authority having control of such road the cost of preventing or making good such damage or deterioration or of upgrading the road to a standard commensurate with the increased traffic.

SECTION 14.03 ROAD UPGRADING If required by the Joint Venturers the State will at the Joint Venturers' cost and expense (except where and to the extent that the Commissioner of Main Roads agrees to bear the whole or any part of the cost) widen upgrade or realign any public road existing from time to time which the Joint Venturers desire to use for their operations hereunder.

SECTION 14.04 LIABILITY FOR USE OF ROADS

- (a) For the purpose of determining whether and the extent to which —
 - (i) the Joint Venturers are liable to any person or body corporate (other than the State) or

- (ii) 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 construction or 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.

- (b) For the purposes of this Section the terms “municipality” “street” and “care control and management” shall have the meanings which they respectively have in the Local Government Act 1960.

CLAUSE XV

SECTION 15.01 COASTAL WATER REQUIREMENTS The Joint Venturers will give to the State not less than two (2) years notice of the estimated amount of water likely to be required for consumption at the port and at the port townsite and of the rate or rates at which the same in each case will be required to be supplied. The said estimated amounts or such other amounts as the parties may agree in that connection are hereinafter called “the Joint Venturers’ coastal water requirements”.

SECTION 15.02 COASTAL WATER SEARCH Upon receipt of such notice the State will in collaboration with the Joint Venturers and in accordance with a mutually agreed programme and budget at the expense of the Joint Venturers search in areas agreed to by the parties for subterranean water sources sufficient to supply the Joint Venturers’ coastal water requirements.

SECTION 15.03 DEVELOPMENT OF WATER SOURCES In the event of the search mentioned in Section 15.02 identifying and proving subterranean water sources which the parties mutually agree are adequate to satisfy the Joint Venturers’ coastal water requirements the State will in accordance with a mutually agreed programme and budget develop the said water sources by constructing or arranging to have constructed at the Joint Venturers’ expense all bores valves pipelines meters tanks equipment and appurtenances (in this Clause called “water works”) necessary to produce a water supply capacity sufficient to satisfy the Joint Venturers’ coastal water requirements.

SECTION 15.04 PROGRAMME AND BUDGET If —

- (a) within six (6) months after receipt of the notice mentioned in Section 15.01 the parties fail to produce a mutually agreed programme and budget for the purposes of Section 15.02 or —
- (b) within six (6) months after identifying and proving the subterranean water source the parties fail to produce a mutually agreed programme and budget for the purpose of Section 15.03 —

then the latest proposal of the State in respect of such programme and budget will in either case be deemed to be the mutually agreed programme and budget for the purposes of Section 15.02 or Section 15.03 (as the case may be) unless the Joint Venturers within the time fixed in the paragraph (a) or paragraph (b) of this Section 15.04 (as the case may be) refer the matter to arbitration under Section 32.01 but nothing contained in this Section will effect the obligation of the State at the Joint Venturers' expense to comply with Section 15.02.

SECTION 15.05 ADDITIONAL CAPACITY The State may in its discretion further develop the said water sources by constructing water works capable of achieving a capacity greater than that needed to meet the Joint Venturers' coastal water requirements and in that event the Joint Venturers will pay to the State a sum or sums to be mutually agreed as being the Joint Venturers' fair share of the cost of constructing the same.

SECTION 15.06 STATE TO SUPPLY WATER To the extent that the water sources developed by the State pursuant to Sections 15.02 and 15.03 are hydrologically capable so to do the State shall supply the Joint Venturers' coastal water requirements from such sources up to an amount and at a rate not less than that set out in the notice given pursuant to Section 15.01 but should such sources prove hydrologically inadequate of meeting the Joint Venturers' coastal water requirements the State may limit the amount of water which may be taken from such sources at any one time or from time to time to the maximum which such sources are hydrologically capable of meeting.

SECTION 15.07 INLAND WATER REQUIREMENTS. The Joint Venturers will give to the State not less than six (6) months notice of the estimated amount of water likely to be required for consumption at the mine townsite and also elsewhere within or near the mineral lease in order to enable them to implement their obligations hereunder and of the rate or rates at which the same in each case will be required to be supplied. The said estimated amounts or such other amounts as the parties may agree in that connection are hereinafter called "the Joint Venturers' inland water requirements".

SECTION 15.08 INLAND WATER SEARCH The Joint Venturers will in collaboration with the State search for and make investigations to establish the availability of suitable subterranean water sources within the mineral lease or at other locations approved by the Minister as the parties mutually agree and will employ and retain experienced groundwater consultants where appropriate and

will furnish the Minister with copies of the consultants' reports or alternatively if so requested by the Joint Venturers the State will carry out the said search and investigations at the Joint Venturers' expense.

SECTION 15.09 WATER WORKS CONSTRUCTION In the event of the search mentioned in Section 15.08 identifying and proving subterranean water sources which the parties agree are adequate to satisfy the Joint Venturers' inland water requirements the Joint Venturers will provide and construct at their own expense to standards and designs satisfactory to the reasonable requirements of the said Minister and in accordance with their relevant proposals all water works necessary to draw transport use and dispose of water drawn from such sources in accordance with the licences issued to the Joint Venturers pursuant to Section 15.10.

SECTION 15.10 LICENCE

- (a) The Joint Venturers will make application under the provisions of the Rights in Water and Irrigation Act 1914 to the Minister for Works for a licence to draw water up to an amount and at a rate not less than that set out in the notice given pursuant to Section 15.07 from the subterranean water sources mentioned in Section 15.09 and the State will ensure that the said Minister will grant to the Joint Venturers such licence;
- (b) Should such water sources subsequently be found to be hydrologically inadequate to meet the Joint Venturers inland water requirements the said Minister may limit the amount of water which may be taken from such water sources at any one time or from time to time to the maximum which the same are hydrologically capable of meeting.

SECTION 15.11 REVOCATION OF LICENCE If during the currency of a licence granted under Section 15.10 the Minister is of the opinion that it is desirable that the water sources from which the Joint Venturers are licensed to draw water and the water works constructed by the Joint Venturers pursuant to Section 15.09 be made available to the State for such purposes, (*inter alia*) as water conservation water management utilisation of unused hydrological capacity supply of water to third parties (where such supply will not unduly prejudice or interfere with the Joint Venturers' operations hereunder) and the establishment of a regional water supply system incorporating the area of operations of the Joint Venturers the Minister will (after first affording the Joint Venturers an opportunity to consult with him) so notify the Joint Venturers and the Joint Venturers will after the expiration of 6 months from the date of such notice relinquish the ownership control and operation of the said water works to the State and thereupon the State will assume the ownership control and operation of the same and will cause the Minister for Works to revoke all relevant licences to draw water previously issued to the Joint Venturers. The State will not be

liable to pay the Joint Venturers compensation in respect of the water works so relinquished or the licences so revoked. Immediately after the revocation of such licences the State will (subject only to the continued hydrological availability of water from the water sources previously the subject of such licences) commence and thereafter continue to supply water to the Joint Venturers up to the same amount and at the same rate as that which the Joint Venturers would have been entitled to draw under such revoked licences and paragraph (b) of Section 15.10 will apply as if included in this Section.

SECTION 15.12 REGIONAL WATER SUPPLY The State may in its discretion develop any district or regional water supply and for the purposes thereof construct water works to a greater capacity than that required to supply the Joint Venturers' inland water requirements but in, that event the cost of the water works so constructed shall be shared by the parties in such manner as they mutually agree to be fair in all the circumstances.

SECTION 15.13 NON-POTABLE WATER The Joint Venturers will so design and construct their plant and facilities for the mining handling processing and transportation of iron ore that as far as practicable non-potable water may be used therein.

SECTION 15.14 CHARGES FOR WATER The Joint Venturers will pay to the State for water supplied by it pursuant to this Clause a fair price to be mutually agreed between the parties but such rate will not be less than the actual cost incurred by the State in supplying the water to the Joint Venturers including operating maintenance and overhead costs and a provision for replacement of the necessary water works. Notwithstanding the foregoing provision the Joint Venturers will pay to the State in respect of water supplied by the State to the Joint Venturers for domestic purposes such charges as are levied from time to time pursuant to the provisions of the Country Areas Water Supply Act 1947.

SECTION 15.15 ADDITIONAL WATER SEARCH Should the State at any time pursuant to Section 15.06 or paragraph (b) of Section 15.10 limit the amount of water to be taken from the water sources therein mentioned to the maximum amount which such water sources are hydrologically capable of meeting the Joint Venturers will collaborate with the State in a search at the Joint Venturers' expense for new or additional subterranean water sources with a view to restoring the full quantity or quantities of water required by the Joint Venturers and such search will (if necessary and agreed between the parties) extend to and include investigations into surface water resources made pursuant to Section 15.16.

SECTION 15.16 SURFACE WATER Without prejudice to the provisions of Sections 15.02 and 15.08 the Joint Venturers will collaborate with the State in an investigation of surface water catchments storage dams and reticulation facilities should water supplies from available underground sources prove insufficient to meet the Joint Venturers' coastal water requirements and the

Joint Venturers' inland water requirements and the Joint Venturers will if they propose to utilise such water catchments and/or storage dams pay to the State a sum or sums to be mutually agreed towards the cost of such investigation and of constructing any water storage dam or dams and reticulation facilities required but nevertheless the State may in its sole discretion elect to construct a water storage dam or dams and reticulation facilities having a capacity in excess of that required to supply the Joint Venturers' needs and in that event the Joint Venturers' contribution to the cost thereof will be limited to a fair and reasonable proportion of the total cost of constructing such water storage dam or dams and reticulation facilities.

SECTION 15.17 RIGHTS IN WATER AND IRRIGATION ACT

The provisions of the Rights in Water and Irrigation Act 1914 relating to water rights and licences will except where inconsistent with the provisions of this Agreement apply to any water sources developed by the Joint Venturers for the purposes of this Agreement.

CLAUSE XVI

SECTION 16.01 ELECTRICITY FACILITIES The Joint Venturers will in accordance with the approved proposals construct without cost or expense to the State the necessary plant equipment and systems (in this Clause called "electricity facilities") for the generation and transmission of electricity needed to enable the Joint — Venturers to carry out their obligations hereunder. The Joint Venturers will so design and construct the electricity facilities as to facilitate the ultimate connection of the same with similar electricity facilities owned by the State Electricity Commission (in this Clause called "the Commission") or other third parties.

SECTION 16.02 PURCHASE OF ELECTRICITY Notwithstanding the provisions of Section 16.01 (and for the purpose of facilitating integration of electricity generation and transmission facilities in areas where the Joint Venturers operate) the Joint Venturers will be at liberty to purchase electricity from the Commission and third parties or to negotiate with the Commission or third parties for the augmentation of the electricity facilities of the Commission and such third parties to enable them to supply the Joint Venturers in lieu of the Joint Venturers providing their own electricity facilities pursuant to the said Section.

SECTION 16.03 ACQUISITION OF FACILITIES The State may at any time give the Joint Venturers twelve (12) months notice of its intention to acquire and may thereafter acquire the Joint Venturers' electricity facilities or any part thereof up to the first point of voltage breakdown or such other appropriate point as may be agreed at a price to be agreed between the parties and the Joint Venturers will take all such steps as may be necessary to effect the acquisitions. The State undertakes that in such event the Joint Venturers will for their purposes

hereunder have first call on the power generated by such electricity facilities or such part thereof as may be transmitted by the same and that (subject only to its inability to supply power for any of the reasons set out in Section 25.02) it will supply to the Joint Venturers with electrical power for all their purposes hereunder up to the normal continuous full load capacity of such electrical facilities and that (in the event of such inability occurring) it will take all possible steps to restore such supply regardless of the time or day when such inability arises and may call upon the Joint Venturers to provide employees for that purpose.

SECTION 16.04 CHARGES FOR ELECTRICITY In the event of the State acquiring the Joint Venturers' electricity facilities the Joint Venturers will pay to the Commission for all electricity supplied to the Joint Venturers by the Commission at a rate equal to the standard tariff applying from time to time in respect to the supplying of electricity by the Commission less the difference (if any) between the Commission's standard tariff in force at the time of the State's acquisition of the said electricity facilities and the Joint Venturers' costs of operating the same (including (*inter alia*) appropriate capital charges) at the time of the acquisition. The said rate will apply only in respect of an amount of electricity equal to the continuous full load capacity of the electricity facilities so acquired and the Joint Venturers will pay for all electricity in excess of such amount supplied to them by the Commission from other sources at the Commission's standard tariff from time to time.

SECTION 16.05 BULK SUPPLY TO STATE Should the Joint Venturers' relevant approved proposal provide for the Commission to reticulate electricity to houses occupied by the Joint Venturers' workforce (including their dependants) and by any other persons (including their dependants) connected directly with Joint Venturers' operations whether employees or not and to commercial establishments directly connected with such operations the Joint Venturers will sell to the Commission in bulk electricity in sufficient quantities to meet the needs of such workforce persons and establishments at a price equal to the Joint Venturers' actual cost of generating and transmitting such electricity including *inter alia* appropriate capital charges.

CLAUSE XVII

SECTION 17.01 PORT DEVELOPMENT

- (a) The Joint Venturers will develop the port, construct the Joint Venturers' wharf and carry out all necessary dredging of approach channels, swinging basin and berth at the Joint Venturers' wharf and provide all necessary buoys beacons markers navigational aids lighting equipment and services and facilities in accordance with the Joint Venturers' relevant approved proposal.

- (b) Notwithstanding the provisions of paragraph (a) of this Section the parties recognise that it could be to their mutual advantage if the State provided all or some of the said works mentioned in the said paragraph and accordingly the State will confer with the Joint Venturers and the others users and potential users of the port as to the manner in which and the terms and conditions upon which the State should provide such works. The Joint Venturers will pay to the State such sum or sums as the parties agree (not exceeding the amount that would have been payable had the Joint Venturers carried out the said works) towards the cost of each of the said works as are provided by the State.

SECTION 17.02 USE OF WHARF

- (a) Subject to the payment to them of the charges prescribed by and for the time being payable under any by-laws made by the Joint Venturers in respect of the use by others of the Joint Venturers' wharf and subject to the due compliance with the other requirements and conditions prescribed by such by-laws or should there be no such by-laws for the time being in force then subject to the payment of such charges and the due compliance with such requirements and conditions as in either case may be reasonable having regard to the cost to the Joint Venturers of the construction and operation of the Joint Venturers' wharf the Joint Venturers will permit the State and third parties to use the Joint Venturers' wharf and the port installations wharf machinery and port services and facilities constructed or provided by the Joint Venturers in connection therewith if and for so long as such user does not unduly prejudice or interfere with the operations of the Joint Venturers under this Agreement.
- (b) Subject to the provisions of Section 17.03 nothing in this Agreement shall be construed to limit the application of the Shipping and Pilotage Act, 1967.

SECTION 17.03 NO CHARGE FOR CARGOES 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 port the State will not (and ensures that a State agency or authority or instrumentality will not) make any charge or levy on the Joint Venturers in relation to the loading of outward or the unloading of inward cargoes from the Joint Venturers' wharf whether such cargoes be the property of the Joint Venturers or of a third party but the State will be under no obligation to undertake such loading or unloading and will be at liberty to make all statutory charges from time to time prevailing in respect of services rendered by the State or by any State agency authority or instrumentality or by any local or other authority on behalf of the State and to charge vessels using the Joint Venturers' wharf ordinary light conservancy and tonnage dues.

CLAUSE XVIII

SECTION 18.01 TOWNSITES

- (a) Should the approved proposals provide for the establishment of a new town at the port townsite or at the mine townsite or of new towns at both places the Joint Venturers will at their own cost and in accordance with the approved proposals —
- (i) provide at the townsite or at each townsite (as the case may be) such housing accommodation services and works (including sewerage reticulation and treatment works water supply works and main drainage works and also educational hospital medical police fire and other services and social recreational cultural and civic facilities) as may be reasonably necessary in order to provide for the needs of persons (and the dependants of those persons) connected directly with the Joint Venturers' operations under this Agreement, whether or not such persons are employed by the Joint Venturers;
 - (ii) provide at the townsite or at each townsite (as the case may be) all necessary public roads public buildings and other public works; and
 - (iii) provide all equipment required for the operation and proper functioning of the services and works mentioned in paragraph (i) above established in such new town or new towns;
 - (iv) service maintain and where necessary repair and renovate the housing accommodation services and works mentioned in the said paragraph (i);
 - (v) (subject to and in accordance with by-laws from time to time to be made and altered by the Joint Venturers which include provisions for fair and reasonable prices rentals or charges or if no such by-laws are made or in force then at such prices rentals or charges and upon and subject to such terms and conditions as are fair and reasonable) ensure that the said housing accommodation services and works are at all times readily available to persons requiring the same 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 their employees licensees or agents including the dependants of such persons; and

(vi) ensure that the roads buildings and other works mentioned in paragraph (ii) above and the equipment mentioned in paragraph (iii) above are readily available free of charge to those desiring to use the same.

(b) Nothing contained in Section 18.01 (a) shall be construed as placing on the Joint Venturers an obligation to provide and pay for personnel required to operate the educational hospital medical or police services mentioned in such Section.

SECTION 18.02 EQUIPMENT The Joint Venturers shall at their own cost equip all the buildings mentioned in Section 18.01 (a) to the extent and of a standard at least equal to that normally adopted by the State in similar types of buildings used for similar purposes in comparable townsites.

SECTION 18.03 STAFF HOUSING The Joint Venturers will at their own cost provide adequate housing accommodation for married and single staff directly connected with the educational hospital medical and police services mentioned in paragraphs (i) and (iii) of Section 18.01 (a).

SECTION 18.04 EXISTING TOWNS If the approved proposals provide for the assimilation into any existing town of the whole or part of the Joint Venturers' workforce (including their dependants) and any other persons (including their dependants) connected directly with the Joint Venturers' operations (whether employees of the Joint Venturers or not) whereby the population of such existing town is increased then the Joint Venturers will subject to the provisions of Section 7.03 bear the cost of the provision and maintenance at that existing town of additional housing accommodation services works and equipment of the kind mentioned in paragraph (i) of Section 18.01 (a) to the extent necessary in order to provide for the needs of the said increase in population of such existing town. The said additional housing services works and equipment may be provided by the State or by another party under an agreement with the State and in either case will be to the extent and of a standard at least equal to that normally adopted by the State in similar types of buildings used for similar purposes in comparable towns. The Joint Venturers will pay to the State or such other party such proportion of the cost of such additional housing services works and equipment as is fair and reasonable having regard to the extent of the said increase in the population of such existing town.

SECTION 18.05 STATE PROVIDED SERVICES Should the approved proposals place an obligation on the State itself to provide any services or facilities of the kind mentioned in paragraph (i) of Section 18.01 (a) or require the State to procure and accept the responsibility of the provision of any such services and facilities the State will provide or procure the provision of the same

but (unless the approved proposals otherwise provide) subject to the following conditions namely —

- (a) that the State is satisfied that the need to provide such services and facilities results solely from or is reasonably attributable solely to the Joint Venturers' operations under this Agreement; and
- (b) the Joint Venturers agree to bear the capital cost involved and thereafter to pay reasonable charges for the maintenance and operation of the said services or facilities other than the operation charges in respect of education hospital medical and police services.

CLAUSE XIX

SECTION 19.01 ENVIRONMENTAL PROTECTION Nothing in this Agreement will 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 operations of the Joint Venturers hereunder that may be made by the State or any State agency or instrumentality or any local or other authority or statutory body of the State pursuant to the Environmental Protection Act 1971 or any other Act for the time being in force relating to environmental protection.

CLAUSE XX

SECTION 20.01 COMPLIANCE WITH STATE LAWS The Joint Venturers will in the construction operation maintenance and use of any work installation plant machinery equipment service or facility provided or controlled by them comply with and observe the provisions of this Agreement and subject thereto the laws for the time being in force in the said State.

SECTION 20.02 INSTALLATIONS TO BE KEPT IN GOOD REPAIR The Joint Venturers will at all times keep and maintain in good repair and working order and where necessary replace all such works installations plant machinery and equipment railways wharfs roads (other than public roads unless and to the extent otherwise provided herein) and water and power supplies for the time being the subject of this Agreement.

SECTION 20.03 LOCAL LABOUR AND SUPPLIERS The Joint Venturers will as far as it is reasonably and economically practicable for them so to do —

- (a) use the labour for the time being available within the said State;
- (b) when calling for tenders and letting contracts for works materials plant equipment and supplies ensure that Western Australian suppliers manufacturers and contractors are given reasonable opportunity to tender or quote —
- (c) give proper consideration and where possible preference to Western Australian suppliers manufacturers and contractors when letting contracts or placing orders for works materials plant equipment and supplies and where price quality delivery and service are equal to or better than that obtainable elsewhere.

SECTION 20.04 COMMONWEALTH CONSENTS

- (a) The Joint Venturers will from time to time make application to the Commonwealth or to the Commonwealth constituted agency, authority or instrumentality concerned for the grant to them of any licence or consent under the laws of the Commonwealth of Australia necessary to enable or permit them to enter into this Agreement and/or to perform any of their obligations hereunder;
- (b) On request by the Joint Venturers the State will make representations to the Commonwealth or to the Commonwealth constituted agency authority or instrumentality concerned for the grant to the Joint Venturers of any licence or consent mentioned in Section 20.0 (a).

CLAUSE XXI

SECTION 21.01 ROYALTY The Joint Venturers will during the continuance of this Agreement pay to the State a royalty on all iron ore products at the rates herein specified in respect of each particular class of iron ore product namely —

- (a) on iron ore products (being direct shipping ore and fine ore and fines not sold or shipped separately as such) sold and shipped beyond the Commonwealth at the rate of seven and one half percentum (7 1/2%) of the FOB revenue (computed at the rate of exchange prevailing on date of receipt by the Joint Venturers of the purchase price of such iron ore products) PROVIDED NEVERTHELESS that subject as provided in paragraph (a) of Section 21.02 the total royalty payable under this paragraph will not be less than the sum ascertained by multiplying sixty cents (\$0.60) by the total tonnage of such iron ore products.

- (b) On iron ore products (being fine ore and fines so sold or shipped separately as such) sold and shipped beyond the Commonwealth at the rate of seven and one half percentum (7 1/2%) of the FOB revenue (computed as mentioned in paragraph (a) of this Section) PROVIDED NEVERTHELESS that subject as provided in paragraph (b) of Section 21.02 the total royalty payable under this paragraph shall not be less than the sum ascertained by multiplying thirty cents (\$0.30) by the total tonnage of such iron ore products.
- (c) on iron ore products (being such as are produced by secondary processing locally used ore) sold and shipped beyond the Commonwealth at the rate of fifteen cents (\$0.15) per ton.
- (d) on any other iron ore products of whatsoever kind —
 - (i) where the same are sold and shipped beyond the Commonwealth — at the rate of seven and one half percentum (7½%) of the FOB revenue (computed as aforesaid) without any minimum royalty;
 - (ii) where the same are not so sold and shipped at the rate of fifteen cents (\$0.15) per ton.

SECTION 21.02 FURTHER ROYALTY PROVISIONS The following provisions will also apply in relation to the payment of the royalty —

- (a) if the amount ascertained by multiplying sixty cents (\$0.60) by the total tonnage of direct shipping ore shipped or sold (and liable to royalty under paragraph (a) of Section 21.01) in any financial year is less than the total royalty which would be payable in respect of that ore but for the operation of the proviso to that paragraph 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;
- (b) if the amount ascertained by multiplying thirty cents (\$0.30) by the total tonnage of fine ore and fines shipped or sold separately as such (and liable to royalty under paragraph (b) of Section 21.01) in any financial year is less than the total royalty which would be payable in respect of that ore but for the operation of that proviso to that paragraph then that proviso shall not apply in respect of fine ore and fines shipped or sold separately as such in that year and at the expiration of that year any necessary adjustments shall be made;
- (c) the rate of royalty of fifteen cents (\$0.15) per ton mentioned in paragraphs (c) and (d) of Section 21.01 will 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 in accordance with any variation in the average of the basic prices of foundry pig iron CIF Australian capital city ports as announced by BHP 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;

- (d) where iron ore products produced from secondary processing hereunder are so produced from an admixture of iron ore from the mineral lease and other iron ore a portion (and a portion only) of the iron ore products so produced (being that part of the whole of the iron ore products so produced as bears to that whole the same ratio as the amount of iron in the iron ore from the mineral lease used in the production of those iron products bears to the total amount of iron in the iron ore so used) will be deemed to be iron ore products within the meaning of that term as defined in Section 1.01.

SECTION 21.03 ROYALTY PAYMENT The Joint Venturers will during the continuance of this Agreement within fourteen (14) days after the following quarter days namely the last days of March June September and December in each year (commencing with the quarter day next following the export date) furnish to the Minister a return showing the quantity of all iron ore and/or iron ore products on which royalty is payable hereunder and shipped sold or used (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 such of the iron ore products mentioned in Section 21.01 as are locally used and will also pay to the Minister in respect of such of the said iron ore products as are shipped or sold a sum on account of the royalty payable hereunder calculated on the basis of the invoices or provisional invoices (as the case may be) therefore rendered by the Joint Venturers to the purchaser (which invoices the Joint Venturers shall render without delay and simultaneously will furnish copies thereof to the Minister) and will from time to time when the f.o.b. revenue realised in respect of the shipments has been ascertained in the next following appropriate return and payment (in the return and by cash) make all such necessary adjustments and give to the Minister full details thereof.

SECTION 21.04 INSPECTION OF RECORDS The Joint Venturers will throughout the continuance of this Agreement permit the Minister or his nominee at all reasonable times to inspect the books of account and records of the Joint Venturers relative to any shipment sale or use of iron ore products hereunder including sales contracts and to take copies or extracts therefrom and for the purpose of determining the f.o.b. revenue payable in respect of any shipment or sale of iron ore products hereunder the Joint Venturers will take reasonable steps (either by the certificate of a competent independent party acceptable to the Minister or otherwise to the Minister's reasonable satisfaction) to satisfy the State as to the correctness of all relevant weights assays and analyses and will give due

regard to any objection or representation made by the Minister or his nominee as to any particular weight assay or analysis that may affect the amount of royalty payable hereunder. The information obtained by the Minister or his nominee as a result of any such inspection shall be used only for the purposes of verifying the amount of royalty payable by the Joint Venturers and for no other purpose and shall not be disclosed by the State the Minister or his nominee to any other party for any other purpose.

CLAUSE XXII

SECTION 22.01 OFF-LOADING WITHIN COMMONWEALTH

Subject to Section 22.03 the Joint Venturers will not at any time during the continuance of this Agreement unless the Minister otherwise permits offload or permit to be offloaded any iron ore products shipped pursuant to this Agreement at a place within the Commonwealth.

SECTION 22.02 NOTICE OF OFFLOADING

Where iron ore products are off loaded in breach of Section 22.01 the Joint Venturers will forthwith after becoming aware of that event give notice of the same to the Minister and will without prejudice to any other rights or remedies of the State by reason of the breach on demand pay to the State by way of additional royalty such sum as the Minister may determine but not more than a sum representing one dollar (\$1.00) per ton on the quantity of iron ore products off-loaded.

SECTION 22.03 PERMISSIBLE OFFLOADING

The Joint Venturers will not be deemed to have committed a breach of Section 22.01 if iron ore products are off-loaded at a place within the Commonwealth in any of the following circumstances —

- (a) where the iron ore products are shipped in a vessel that is not owned by the Joint Venturers or an associated company and the Joint Venturers have taken appropriate steps to ensure that iron ore products will not again be off-loaded in breach of Section 22.01; or
- (b) because the vessel in which the iron ore products are being carried is diverted for necessary repairs or because of a *force majeure* or other unforeseeable cause and the Joint Venturers satisfy the Minister that because of any such event they could not take or be reasonably expected to have taken steps to prevent the off-loading; or
- (c) where the iron ore products off-loaded are locally used ore and the tonnage of ore of that kind which has been off-loaded in any part of the Commonwealth in any year does not exceed fifty percentum (50%) (or such other percentage as the Minister approves) of the

tonnage of locally used ore consumed used or otherwise applied in the said State.

PART IV

Secondary Processing

CLAUSE XXIII

SECTION 23.01 SECONDARY PROCESSING PROPOSALS

The Joint Venturers will from time to time renew the investigations already commenced by them as to the feasibility of establishing within the said State a plant or plants for secondary processing of iron ore from the mineral lease and will by the end of Year 10 (or within such extended time as the Minister may allow) submit to the Minister detailed proposals for the establishment of such a plant or plants on the following basis —

- (a) the plant or plants to be of such design and dimensions that will progressively have the capacity to process annually —
 - (i) by the end of Year 12 not less than two million (2,000,000) tons of iron ore,
 - (ii) by the end of Year 21 not less than four million (4,000,000) tons of iron ore,
 - (iii) by the end of Year 30 not less than six million (6,000,000) tons of iron ore.
- (b) the capital cost involved to be not less than eighty million dollars (\$80,000,000) unless the Joint Venturers utilize a less expensive but at least equally satisfactory method of secondary processing of iron ore than any at present known to either party.

SECTION 23.02 CONSIDERATION OF PROPOSALS

If such detailed proposals are submitted by the Joint Venturers to the Minister within the time mentioned in Section 23.01 the Minister will within two months of the receipt thereof give to the Joint Venturers notice either of his approval of the said proposals or of any objections he has or alterations he desires thereto. In the latter case the Minister will afford the Joint Venturers an opportunity to consult with and to submit new or further proposals to him and if within thirty (30) days after receipt of such notice agreement is not reached as to the said proposals the Joint Venturers may within a further period of thirty (30) days by notice to the State elect to refer to arbitration under Section 32.01 any question as to the

reasonableness of the Minister's decision. If by the award on the arbitration the question is decided in favour of the Joint Venturers the Minister will be deemed to have approved of the said proposals as submitted by the Joint Venturers.

SECTION 23.03 FAILURE TO SUBMIT PROPOSALS If such detailed proposals are not submitted by the Joint Venturers to the Minister within the time mentioned in Section 23.01 or if such proposals are so submitted but are not approved by the Minister within two months of receipt thereof (or within such further time as the Minister may desire to take before delivering his decision) or if upon an arbitration under Section 23.02 the question is decided against the Joint Venturers then the following provisions shall apply —

- (a) subject as provided in paragraph (c) of this Section the Joint Venturers shall not after the end of the Year 12 export iron ore hereunder at an annual rate in excess of five million (5,000,000) tons unless prior to Year 10 the Minister has already approved of proposals by the Joint Venturers involving the export of iron ore at an annual rate in excess of five million (5,000,000) tons, and —
- (b) if by the end of Year 13 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 within the said State a plant for secondary processing 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 then this Agreement will (subject as hereinafter provided) cease and determine at the end of Year 21 or at the date on which the Third Party substantially establishes the said plant in accordance with terms agreed between the State and the Third Party whichever date is the later;
- (c) if by the end of Year 13 the State has not given to the Joint Venturers a notice pursuant to the provisions of paragraph (b) of this Section then the provisions of paragraph (a) of this Section shall as from the end of Year 13 cease to operate and have effect.

SECTION 23.04 SUBMISSION OF PROPOSALS AFTER YEAR 10 Notwithstanding the provisions of Section 23.03 the Joint Venturers may nevertheless at any time after the end of Year 10 submit proposals for the establishment of the said plant if at the time they have not received a notice pursuant to the provisions of paragraph (b) of Section 23.03 and the provision of Section 23.02 will apply to such proposals but the Joint Venturers may not submit such proposals between the end of Year 10 and the end of Year 21 if by the end of Year 13 they receive such a notice and the same is not subsequently withdrawn. In the event of negotiations between the Minister and the Third Party being terminated the Minister will withdraw such notice.

SECTION 23.05 FAILURE NOT A DEFAULT The failure by the Joint Venturers to submit proposals to the Minister pursuant to Section 23.01 or the non-approval by the Minister of any proposals so submitted shall not constitute a breach of this Agreement by the Joint Venturers but subject as herein otherwise provided the only consequence arising from such failure or non-approval will be that set out in Section 23.03.

SECTION 23.06 PROVISIONS APPLYING TO PROPOSALS Subject as in this Clause (Clause XXIII) otherwise provided the provisions of Clauses V, VI and VII shall apply *mutatis mutandis* to detailed proposals made under this Clause.

SECTION 23.07 “ SUBSTANTIALLY ESTABLISHED” For the purposes of this Clause a plant for secondary processing will be deemed to have been substantially established when and not before such plant has a capacity to process not less than two million (2,000,000) tons of iron ore per annum and the Minister is satisfied that the party establishing the plant will proceed *bona fide* to operate and develop the same.

SECTION 23.08 “TERMS NOT MORE FAVOURABLE” When considering for the purposes of this Clause whether or not the terms agreed by the State for the establishment of a plant for secondary processing are not more favourable on the whole to the party establishing the same than those proposed by or applicable to the Joint Venturers regard will be had (*inter alia*) to the following —

- (a) the obligations which would have devolved on the Joint Venturers had their proposals for the establishment of a plant for secondary processing been approved by the State and the Joint Venturers had proceeded to the substantial establishment of such plant;
- (b) the obligations of the Joint Venturers to mine and transport by rail and ship iron ore mined from the mineral lease and the restrictions relating thereto;
- (c) the obligations of the Joint Venturers to pay rent and royalty hereunder;
- (d) the possible loss of rights under this Agreement by reason of the same ceasing and determining pursuant to the provisions of this Clause;
- (e) the need for the Third Party to pay on a fair and reasonable basis for or for the use of property made available by the State to them; and

- (f) the equivalent or additional obligations to the State assumed by the Third Party.

SECTION 23.09 SUPPLIES TO FOURTH PARTY If at any time after Year 15 or such earlier date as the parties may mutually agree the Minister shall give to the Joint Venturers notice that some other company or party (hereinafter referred to as "the Fourth Party") has agreed to establish tertiary processing facilities within the said State the Joint Venturers will upon being requested by the Minister so to do (he having had due regard to the obligations of the Joint Venturers under existing sales contracts) at any time after Year 17 after reasonable notice supply to the Fourth Party at the rate of five million (5,000,000) tons per annum iron ore of a grade equal to the average grade of direct shipping ore which at the time is being sold and shipped by the Joint Venturers or if the parties shall mutually agree then such quantity per annum of iron ore products produced by the Joint Venturers by secondary processing as shall contain the same quantity of iron as would be contained in five million (5,000,000) tons of such direct shipping ore. The Joint Venturers will charge the Fourth Party for all iron ore or iron ore products so supplied a fair and reasonable price to be mutually agreed between them and the Fourth Party (or in default of agreement as fixed by arbitration in accordance with the provisions of the Arbitration Act 1895).

CLAUSE XXIV

SECTION 24.01 PROTECTION FOR CURRENT CONTRACTS If this Agreement should cease and determine pursuant to any provision contained in Clause XXIII and if at the date of such cessation or determination the Joint Venturers are under an obligation arising under a current contract or contracts with some other party originally entered into by them pursuant to proposals approved by the Minister to supply iron ore to that other party the Joint Venturers may give notice of that fact to the Minister and request the State to ensure that the Third Party agrees itself to take over and assume liability for the due and punctual discharge of the Joint Venturers said obligations or alternatively agrees to supply iron ore to enable them to discharge their said obligations and the State will forthwith upon receipt of such notice or as soon as possible or practicable thereafter do or cause to be done all such acts matters or things as may be fair and reasonable in the circumstances to comply with the Joint Venturers' said request.

PART V

General Provisions

CLAUSE XXV

SECTION 25.01 GENERAL APPLICATION The provisions of this Part (Part V) shall have application throughout this Agreement.

SECTION 25.02 DELAYS This Agreement is deemed to be made subject to any delays in the performance of the obligations hereunder and to the temporary suspension of the continuing obligations hereunder that may be caused by or arise from circumstances beyond the power and control of the party responsible for the performance of those obligations including delays or any temporary suspension caused by or arising from an act of God *force majeure* floods storms tempest 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 profitably to sell iron ore products or factors due to overall world economic conditions or factors due to action taken by or on behalf of any government or governmental authority (other than the State or any authority of the State) or factors that could not reasonably have been foreseen but the party whose responsibility it is to perform the obligations the performances of which are so delayed or suspended will minimise the effect of the cause thereof as soon as possible after its occurrence.

SECTION 25.03 NOTICE OF DELAYS In the happening of any event mentioned in Section 25.02 that in the opinion of the Joint Venturers may delay the performance by them of any of their obligations hereunder within a specified time the Joint Venturers will promptly give notice to the Minister of that event and of any likely delay and in that case the Minister will grant such extension of time for the performance of the obligation as shall in all the circumstances be fair and reasonable and where the Joint Venturers object to the decision of the Minister as to what is a fair and reasonable extension the matter will be referred to arbitration hereunder.

SECTION 25.04 ASSIGNMENT AND MORTGAGE The Joint Venturers jointly or any one of them severally may at any time —

- (a) by an assignment mortgage charge subletting or other disposition assign mortgage charge sublet or otherwise dispose of to an associated company as of right or to any third party with the consent of the Minister the whole or any part of their or its rights (including their or its rights to or as the holder of any lease licence easement grant or other title) and obligations hereunder; or
- (b) by appointment in writing appoint an associated company as of right or any third party with the consent of the Minister to exercise for and on their or its behalf all or any of the powers functions and authorities that are or may be conferred on them hereunder;

subject however to the assignee (as hereinbefore defined) 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 of this Agreement by or on the part of the Joint Venturers to be complied with observed or performed in regard to the subject of such assignment subletting or other disposition or appointment.

SECTION 25.05 JOINT VENTURERS TO REMAIN LIABLE

Notwithstanding anything contained in or anything done under or pursuant to Section 25.04 but subject as provided in Section 25.06 the Joint Venturers and each of them will 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 licence easement grant or other title the subject of an assignment mortgage charge sub-letting or other disposition or appointment under Section 26.04 but the Minister may however agree to release the Joint Venturers or any of them from any such liability where he considers such release will not be contrary to the interests of the State.

SECTION 25.06 JOINT VENTURERS MAY BE DISCHARGED

Where any agreement that is not inconsistent with the terms of this Agreement is entered into by the Joint Venturers with some other company or person and results in that other company or person discharging all or any of the obligations undertaken by the Joint Venturers under this Agreement or renders it unnecessary for the Joint Venturers to discharge any obligation undertaken by them hereunder the Minister may discharge or temporarily relieve the Joint Venturers from such part of their obligations as is reasonable having regard to the extent of and the period during which the other company or person actually effects the discharge of those obligations.

SECTION 25.07 BY-LAWS The Governor in Executive Council may upon the recommendation of the Joint Venturers make alter and repeal by-laws for the purpose of enabling the Joint Venturers to fulfil their obligations under Sections 13.02, 13.03, 16.05 and 17.02 and (unless and until the townsite concerned is declared a townsite pursuant to Section 10 of the Land Act) under Item (v) of Section 18.01 (a) upon terms and subject to conditions (including terms and conditions as to user charging and limitation of the liability of the Joint Venturers) consistent with the provisions hereof. If at any time it appears that any by-law made hereunder has as a result of altered circumstances become unreasonable or inapplicable then the Joint Venturers will recommend to the Governor that he makes 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) as may be decided by arbitration as herein provided.

CLAUSE XXVI

SECTION 26.01 DETERMINATION In any of the following events namely —

- (a) if the Joint Venturers make default in the due performance or observance of any of their obligations or responsibilities hereunder (including the breach of any covenant agreement or condition contained in any lease licence easement grant or other document of title and by or on their part to be performed or observed) and fail to remedy such default within a 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 and the arbitrator finds that there was a *bona fide* dispute and that the Joint Venturers had not been dilatory in pursuing the arbitration); or
- (b) if all of the Joint Venturers and all assignees who have executed or are bound by a Deed of Covenant mentioned in Section 25.04 abandon their operations or repudiate their obligations under this Agreement and fail to resume such operations or resume such performance within a reasonable time after notice specifying in what respects they have failed to resume operations or resume performance of their obligations is given to them by the State or (if the alleged failure is contested by the Joint Venturers or any such assignees and promptly submitted to arbitration) within the time fixed by the arbitration award where the question is decided against the Joint Venturers and the arbitrator finds that there was a *bona fide* dispute and that the Joint Venturers or such assignees had not been dilatory in pursuing the arbitration; or
- (c) if all the Joint Venturers still bound by any of the terms of this Agreement and all assignees who have executed and are still bound by a Deed of Covenant mentioned in Section 25.04 go into liquidation (other than a voluntary liquidation for the purpose of reconstruction); or
- (d) if the Joint Venturers surrender the entire mineral lease —

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 licence easement or right granted hereunder or pursuant hereto will thereupon cease and determine.

SECTION 26.02 FORM OF NOTICES A notice given by the State pursuant to paragraph (a) of Section 26.01 or pursuant to paragraph (b) of that Section shall specify the nature of the default or other ground (if any) on which the State claims to be entitled to exercise the right to determine this Agreement

and the time within which the default is required to be remedied and (where appropriate and possible for the State so to do) shall name the party or parties whose responsibility it is to remedy the same. Such notice shall be given to the Joint Venturers and to any assignee or any mortgagee of whose name and address for service the State has had previous notice in writing.

SECTION 26.03 ASSIGNEE OR MORTGAGEE MAY REMEDY DEFAULT Any assignee or any mortgagee will be at liberty to remedy any default specified in any notice given pursuant to paragraph (a) of Section 26.01 or pursuant to paragraph (b) of Section 26.01 within the time specified in such notice and such remedying shall be accepted by the State as and in lieu of a remedying of the default by the Joint Venturers.

SECTION 26.04 STATE MAY REMEDY DEFAULT Instead of determining this Agreement as provided in Section 26.01 the State may itself remedy or cause to be remedied any default on the part of the Joint Venturers for which purpose the State will have full power and authority by its agents or workmen or otherwise to enter into and upon land occupied by the Joint Venturers and to use all of any plant machinery equipment and installations thereon and all costs and expenses incurred by the State in remedying such default or causing the same to be remedied will be a debt due by the Joint Venturers to the State and be payable on demand.

SECTION 26.05 EFFECT OF DETERMINATION Upon the cessation or determination of this Agreement —

- (a) the rights of the Joint Venturers and those of any assignee or mortgagee of the Joint Venturers under this Agreement or under the mineral lease or any other lease, licence, easement or right granted hereunder or pursuant hereto and all the right title and interest of the Joint Venturers and of any such assignee or mortgagee in and to any land wherever situated granted to the Joint Venturers or to such assignee for any other of the purposes of this Agreement will except as otherwise agreed by the Minister thereupon cease and determine, but without prejudice to the liability of either of the parties 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 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;
- (b) the Joint Venturers will forthwith pay to the State all monies that may then have been payable or accrued due hereunder; and
- (c) the Joint Venturers will forthwith furnish to the State complete factual statements of the work research surveys and reconnaissance

carried out under Clause IV if and in so far as the statements may not have been furnished; and

- (d) except as provided in Section 26.06 or otherwise provided in this Agreement neither of the parties will have any claim against the other of them in respect to any matter or thing contained in or arising out of this Agreement.

SECTION 26.06 PROPERTY PASSES TO STATE Upon the cessation of this Agreement all buildings erections and other improvements erected on any land then occupied by the Joint Venturers or any associate company or assignee of the Joint Venturers under the mineral lease or any other lease licence easement, right or grant made hereunder for the purposes hereof (including the said railway and the appurtenances constructed pursuant to Section 13.01 and including also the Joint Venturers' wharf) shall become and remain the absolute property of the State without the payment of any compensation or consideration to the Joint Venturers or any other party and freed and discharged from all mortgages and other encumbrances and the Joint Venturers will do and execute all such deeds documents and other acts matters and things (including surrenders) as the State may reasonably require to give effect to the provisions of this Section.

SECTION 26.07 STATE OPTION TO PURCHASE In the event of the Joint Venturers immediately prior to the cessation or determination of this Agreement or subsequently thereto desiring to remove any of their locomotives rolling stock, or their electricity facilities or any of their other fixed or movable plant and equipment (excluding the said railway and appurtenances and the Joint Venturers' wharf) from any part of the land occupied by them at the date of such cessation or determination they will give to the State notice of such desire and thereby will grant to the State the right or option exercisable within three (3) months thereafter to purchase at a valuation *in situ* the said locomotives rolling stock electricity facilities and other fixed or movable plant and equipment or any part thereof. Such valuation will be such as is mutually agreed or in default of agreement shall be made by a competent valuer mutually appointed by the parties or in default of agreement by two valuers, one to be appointed by each party and an umpire appointed by such valuers should they fail to agree.

CLAUSE XXVII

SECTION 27.01 INDEMNIFICATION 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 any work carried out by or on behalf of the Joint Venturers pursuant to this Agreement or relating to their operations or arising out of in connection with the construction maintenance operation or use by them or their servants agents contractors appointees or assignees of the works or services

constructed maintained operated or used by them under this Agreement or the plant apparatus or equipment installed in connection therewith.

CLAUSE XXVIII

SECTION 28.01 VARIATION The parties 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 licence easement or right granted hereunder or pursuant hereto for the purpose of implementing or facilitating any of the purposes and objects of this Agreement.

SECTION 28.02 VARIATIONS TO BE TABLED IN PARLIAMENT Where in the opinion of the Minister an agreement made under Section 28.01 constitutes a material or substantial alteration of the rights or obligations of either party hereto, the agreement will contain a declaration to that effect and the Minister will cause the agreement to be laid before each House of the Parliament of the said State for the twelve (12) sitting days of that House next following the execution of the Agreement. If within that time neither House passes a resolution disallowing the same, the agreement shall have effect as and from the last day on which the agreement might have been disallowed.

CLAUSE XXIX

SECTION 29.01 MINISTER MAY GRANT EXTENSION OF TIME Notwithstanding any other provision of this Agreement the Minister may at the request of the Joint Venturers from time to time extend or further extend any period or vary or further vary any date referred to in this Agreement for such period or to such later date as the Minister thinks fit whether or not the period to be extended has expired or the date to be varied has passed.

CLAUSE XXX

SECTION 30.01 NOTICES Any notice consent or other writing required by this Agreement to be given or sent by the State to the Joint Venturers will be deemed to have been duly given or sent if the same be signed by the Minister or by a senior officer of the Civil Service of the said State acting by the direction of the Minister and forwarded by pre-paid post to the Joint Venturers at their principal place of business for the time being in Perth in the said State or at the registered office or address for the time being in the said State and any notice consent or other writing required by this Agreement to be given or sent by the Joint Venturers to the State will be deemed to have been duly sent if the same be executed by the Joint Venturers or signed for and on behalf of the Joint Venturers by any person or persons authorized by the Joint Venturers in that behalf or by the

solicitors for the time being appointed to act on their behalf (of whose appointment the State has had previous notice) and forwarded by pre-paid post to the Minister at his office in Perth in the said State and every such notice consent or writing will be deemed to have been duly given or sent on the day on which it would be delivered to the addressee in the ordinary course of post.

CLAUSE XXXI

SECTION 31.01 STAMP DUTY EXEMPTION The State will cause all of the following documents to be exempted from any stamp duty which but for the operation of this Section would or might be chargeable thereon —

- (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 associated company or permitted assignee of the Joint Venturers any tenement lease easement licence or other right or interest;
- (c) any assignment sublease or disposition (other than by way of mortgage or charge) and any appointment to or in favour of the Joint Venturers or an associated company of any interest right obligation power function or authority made pursuant to the provisions of this Agreement.

SECTION 31.02 EXEMPTION TIME LIMIT Section 31.01 will not apply to any instrument or other document executed or made after Year 7.

SECTION 31.03 REFUND If prior to the commencement date stamp duty has been assessed and paid on any instrument or other document referred to in Section 31.01 the State will after the passing of the enabling Act refund the stamp duty paid on any such instrument or other document to the person by whom it was paid.

CLAUSE XXXII

SECTION 32.01 ARBITRATION Except where otherwise specifically provided in this Agreement to the contrary any dispute or difference between the parties in respect to any act matter or thing arising out of or in connection with this Agreement or any agreed amendment or variation thereof or addition thereto and particularly 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 hereunder or thereunder or as to any matter left to be agreed upon

between the parties shall in default of agreement between the parties be referred for decision to two (2) arbitrators one to be appointed by each party and an umpire appointed by the arbitrators before proceeding in the reference and every such arbitration shall be conducted in accordance with the provisions of the Arbitration Act 1895.

SECTION 32.02 ARBITRATOR MAY EXTEND TIME If when hearing a reference made pursuant to this Clause it shall appear or be made to appear to the arbitrators and the umpire that in consequence of the reference having been made or because of any delay in the issuing of the award made thereon either party to the reference had been or is likely to be prevented from doing performing or carrying out within a time prescribed by this Agreement some act matter or thing required by this Agreement to be done performed or carried out by that party within that time whereby the rights of that party hereunder have been or could be put in jeopardy and the arbitrators and the umpire consider it reasonable in order to protect such rights that the prescribed time be extended the arbitrators and the umpire shall have and are hereby granted full power and authority for and on behalf of the Minister on the application of the party concerned to grant such extension of the prescribed time as they in the circumstances considered reasonable and by their award to order accordingly.

CLAUSE XXXIII

SECTION 33.01 APPLICABLE LAW This Agreement will be interpreted according to law for the time being in force in Western Australia.

AND THEREFORE THE GUARANTOR AGREES WITH THE STATE as follows —

CLAUSE XXXIV

SECTION 34.01 GUARANTEE The Guarantor will and hereby guarantees to the State the due and punctual performance by the said Rhodes Ridge Mining Co. Ltd (hereinafter in this Clause referred to as “the Subsidiary”) of all the covenants agreements and obligations of the Subsidiary under this Agreement notwithstanding any time or indulgence granted to the Subsidiary or any addition to or amendment of or variation of the provisions of this Agreement or the cancellation thereof.

THE SCHEDULE

WESTERN AUSTRALIA

Mining Act, 1904-1970

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 TO WHOM these presents shall come, GREETING: KNOW YE that —

WHEREAS by an Agreement made the
day of

1972 between the Honourable JOHN TREZISE TONKIN, MLA the Premier of the State of Western Australia acting for and on behalf of the said State and its instrumentalities for the time being (hereinafter called "the State") of the first part RHODES RIDGE MINING CO. LTD a company incorporated under the laws of the State of Delaware in the United States of America and having its executive offices situate at the 55th Floor, 200 Park Avenue, New York in the United States of America and registered in the State of Western Australia and having its registered office in the said State situate at the 2nd Floor, 7 Havelock Street, West Perth, HANCOCK PROSPECTING PTY LIMITED a company incorporated in the State of Western Australia and having its registered office at the 14th Floor, Lombard House, 251 Adelaide Terrace, Perth in that State and WRIGHT PROSPECTING PTY LIMITED a company also incorporated in the said State and having its registered office situate at the 14th Floor, Lombard House, 251 Adelaide Terrace, Perth aforesaid (in the said Agreement and herein called the "Joint Venturers" which expression shall where the context so admits or requires extend to and include the Joint Venturers jointly and each of them severally their and each of their successors and permitted assigns and appointees) of the second part and TEXAS GULF INC. a company incorporated under the laws of the State of Texas in the United States of America and having its executive offices situate at the 55th Floor, 200 Park Avenue, New York aforesaid of the third part (being the Agreement referred to in Section 2 of "Iron Ore (Rhodes Ridge) Agreement Authorization Act, 1972") the State agreed to cause to be granted to the Joint Venturers a mineral lease of a portion or portions of the land referred to in the said Agreement as the mining areas (being the land hereinafter described)

AND WHEREAS the said Agreement was executed by the State pursuant to the authority granted by the Iron Ore (Rhodes Ridge) Agreement Authorization Act, 1972 and the same operates and takes effect as provided in the said Act.

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 the following shares that is to say —

as to one undivided half share the said Rhodes Ridge Mining Co. Ltd. and as to the remaining one undivided half share the said Hancock Prospecting Pty. Ltd. and the said Wright Prospecting Pty. Ltd. as tenants in common in equal shares —

subject to the said provisions ALL THOSE pieces and parcels of land situated in the Mineral Field containing by admeasurement acres (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 of the said Agreement 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, 1946, and all amendments thereof for the time being in force and the regulations for the being in force made thereunder and (subject to and as modified by the said Agreement) those of the Mining Act in 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 1967.

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 seals of the Joint Venturers have been affixed hereto this day of 19

IN WITNESS WHEREOF this Agreement has been executed the day and year first hereinbefore written.

SIGNED by the said THE HONOURABLE JOHN TREZISE TONKIN, MLA in the presence of —

}

Minister for Development and Decentralisation

Minister for Mines

THE COMMON SEAL OF RHODES RIDGE CO. LTD was hereunto affixed With the authority of a resolution of the Board of Directors and in the presence of —

}

Secretary

THE COMMON SEAL OF HANCOCK) PROSPECTING PTY LTD. Was hereunto affixed with the authority of a resolution of the Board of Directors and in the presence of —

}

Secretary

THE COMMON SEAL OF WRIGHT
PROSPECTING PTY LTD. was hereunto
affixed with the authority of a
resolution of the Board of
Directors and in the presence of —



Director

Secretary

THE COMMON SEAL OF TEXAS
GULF INC.) was hereunto affixed with the
authority of a resolution of the
Board of Directors and in the
presence of —



Secretary