

Western Australia

**Industrial Lands (CSBP & Farmers Ltd.)  
Agreement Act 1976**

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Western Australia

# **Industrial Lands (CSBP & Farmers Ltd.) Agreement Act 1976**

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Western Australia

## **Industrial Lands (CSBP & Farmers Ltd.) Agreement Act 1976**

**An Act to ratify an agreement between the State of Western Australia and CSBP & Farmers Ltd. providing for the sale of certain lands at Kwinana and matters related thereto.**

**1. Short title**

This Act may be cited as the *Industrial Lands (CSBP & Farmers Ltd.) Agreement Act 1976*<sup>1</sup>.

**2. Interpretation**

In this Act —

*the Agreement* means the Agreement a copy of which is set forth in the Schedule, and if the Agreement is amended in accordance with its provisions, includes the Agreement as so amended from time to time.

**3. Ratification of Agreement**

The Agreement is hereby ratified.

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THIS AGREEMENT is made this 12th day of MAY 1976 BETWEEN THE HONOURABLE SIR CHARLES WALTER MICHAEL COURT O.B.E. M.L.A., Premier of the State of Western Australia, acting for and on behalf of the said State and its instrumentalities from time to time (hereinafter called "the State") of the one part, and

CSBP & FARMERS LTD. a company incorporated under the *Companies Act 1961* of the State of Western Australia and having its registered office at 133 St. George's Terrace, Perth (hereinafter called "CSBP" in which term shall be included its successors and permitted assigns) of the other part.

**WHEREAS:**

- (a) Pursuant to the agreement contained in the Schedule to the *Industrial Lands (Kwinana) Agreement Act 1964* CSBP has established a plant at Kwinana for the manufacture of nitrogenous fertiliser and other products;
- (b) CSBP in agreement with the State has surrendered the special lease of certain land at North Fremantle granted pursuant to the *Mount Lyell Mining and Railway Company Limited Lease Act 1909* some 35 years prior to the date of expiration of the lease and has at a cost of approximately \$15 000 000 removed its superphosphate works from the land the subject of the lease and rebuilt the manufacturing capacity of those works in conjunction with its plant at Kwinana;
- (c) It is the desire of the parties hereto that provision be made for further future expansion of CSBP's plant at Kwinana and for this purpose the State has agreed to make certain additional land available to CSBP.

NOW THIS AGREEMENT WITNESSETH —

**Interpretation<sup>2</sup>**

1. (1) IN this Agreement subject to the context —  
"apply", "approve", "approval", "consent", "certify", "direct", "notify", "request" or "require" means apply, approve, approval, consent, certify, direct, notify, request or require in writing as the case may be;

“Area A” means portion of Cockburn Sound Location 244 being that part of Lot 35 on Diagram 48055, comprising an area of about 6.000 0 hectares (subject to survey) as is delineated and coloured green on the plan and being part of the land comprised in Certificate of Title Volume 1400 Folio 80;

“Area B” means that part of Area A as is contiguous to Area C, comprising an area of about 6 750 square metres (subject to survey) and is delineated by hatchuring over green on the plan;

“Area C” means firstly portion of Cockburn Sound Location 244 being that part of Lot 31 on plan 9541 (sheet 3) delineated and coloured red on the plan, comprising an area of about 16.590 0 hectares (subject to survey) and being part of the land comprised in Certificate of Title Volume 1355 Folio 550, and secondly portion of Cockburn Sound Location 244 and being that part of Lot 30 on Plan 9541 (sheet 3) delineated and coloured red on the plan and being part of the land comprised in Certificate of Title Volume 1355 Folio 549 and comprising an area of 1.870 0 hectares (subject to survey);

“Area D” means that part of Rockingham Road to be closed as is delineated and coloured brown on the plan, comprising an area of about 2.055 0 hectares (subject to survey);

“Area E” means firstly portion of Cockburn Sound Location 244 being that part of Lot 33 on plan 9541 (sheet 1) delineated and coloured red on the plan and being part of the land comprised in Certificate of Title Volume 1355 Folio 552 and secondly, portion of Cockburn Sound Location 244 being that part of the land on Plan 8471 delineated and coloured red on the plan and being part of the land comprised in Certificate of Title Volume 1164 Folio 343 and thirdly, the closed portion of Beach Street on Plan 8471 delineated and coloured red on the plan, these three constituents of Area E comprising a total area of about 3.250 0 hectares (subject to survey);

“Area F” means firstly portion of Cockburn Sound Location 244 being those parts of Lots 25 and 26 on Plan 9541 (sheet 1) delineated and coloured blue on the plan and being part of the land comprised in Certificate of Title Volume 1355 Folio 544 and Volume 1355 Folio 545 and secondly, portion of Cockburn Sound Location 244 being Lot 11 on Diagram 32985 and being the whole of the land

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comprised in Certificate of Title Volume 1311 Folio 99, the two constituents of Area F comprising an area of about 3.040 0 hectares (subject to survey);

“Area G” means those portions of Kwinana Beach Road and First and Second Avenues delineated and coloured brown on the plan and comprising an area of about 8 600 square metres (subject to survey);

“Area H” means that portion of Reserve 29233 delineated and coloured red on the plan and comprising an area of about 1.786 4 hectares (subject to survey);

“Area J” means portion of Cockburn Sound Location 244 and being Lots 1, 2, 50, 6, 41, 4, 52, 38, and 39 on plan 5198 and Diagram 16736 being respectively the whole of the land comprised in Certificates of Title Volume 1109 Folio 339, Volume 1080 Folio 680, Volume 1152 Folio 161, Volume 1064 Folio 905, Volume 1415 Folio 938, Volume 1281 Folio 778, Volume 1152 Folio 163, Volume 1142 Folio 499, and Volume 1142 Folio 498 comprising an area of about 9 105 square metres (subject to survey) and coloured blue on the plan;

“Area K” means portion of Cockburn Sound Location 244 and being Lots 10, 9, 5, 3, 40, 42, 53, 27, 28, 11, 26, 44 and 45 on Plan 5198 and Diagram 16736 being respectively the whole of the land comprised in Certificate of Title Volume 1067 Folio 797, Volume 195 Folio 56A, Volume 1072 Folio 84, Volume 1115 Folio 881, Volume 1081 Folio 614, Volume 1299 Folio 873, Volume 1256 Folio 296, Volume 1096 Folio 399, Volume 1113 Folio 987, Volume 115 Folio 19A, Volume 322 Folio 23A, Volume 1112 Folio 501 and Volume 1136 Folio 198 comprising an area of about 1.315 3 hectares (subject to survey) and coloured purple on the plan;

“Area L” means portion of Cockburn Sound Location 244 and being those parts of Lots 25, 26 and 33 on Plan 9541 delineated and coloured yellow on the plan comprising an area of about 9 882 square metres (subject to survey) and being part of the land comprised respectively in Certificates of Title Volume 1355 Folio 544, Volume 1355 Folio 545 and Volume 1355 Folio 552;

“Area M” means portion of Cockburn Sound Location 244 and being Lots 7, 8 and 51 on Plan 5198 and Diagram 16736 comprising an



area of 3 035 square metres and being respectively the whole of the land comprised in Certificates of Title Volume 1 Folio 379A, Volume 1068 Folio 418, Volume 1152 Folio 162, and delineated and coloured pink on the plan;

“Area O” means those portions of Areas J and K and comprising an area of about 8 368 square metres as are required for the deviation road and are delineated within the orange coloured border on the plan;

“Area P” means firstly portion of Cockburn Sound Location 244 being that part of Lot 30 on Plan 9541 (sheet 3) delineated and coloured black on the plan and being part of the land comprised in Certificate of Title Volume 1355 Folio 549 and secondly, portion of Cockburn Sound Location 244 being part of Lot 31 on Plan 9541 (sheet 3) delineated and coloured black on the plan and being part of the land comprised in Certificate of Title Volume 1355 Folio 550 and thirdly, portion of Cockburn Sound Location 244 being part of Lot 35 on Plan 9541 (sheet 2) and being that part of “A” delineated by hatching over green on the plan, and being part of the land comprised in Certificate of Title Volume 1400 Folio 80 the three constituents of Area P comprising an area of about 6.668 0 hectares (subject to survey);

“the Commissioner” means the Commissioner for Main Roads appointed under the *Main Roads Act 1930*;

“the Commission” means the Western Australian Government Railways Commission constituted by the *Government Railways Act 1904*;

“the additional land” means Areas B, C, D, E, F, G, H and so much of Areas J and K abutting Area G as are not included in Area O;

“the deviation road” means the road to be constructed on Areas L and O and part of Area A;

“the deviation railway” means the railway to be constructed on Area P and part of Area A;

“the plan” means the plan showing *inter alia* the additional land the deviation road and the deviation railway and signed by the parties hereto for the purpose of identification;

“W.M.C.” means Western Mining Corporation Limited and includes its successors and assigns;

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“W.M.C.’s Nickel Refinery” means the nickel refinery at Kwinana constructed and operated by W.M.C. pursuant to the Agreements contained in the schedules to the *Nickel Refinery (Western Mining Corporation Limited) Agreement Act 1968-1974*;

“Ratifying Act” means the Act to ratify this Agreement referred to in clause 2 hereof;

“Crown Grant” means a Crown Grant under the *Land Act 1933*;

“Town Planning Board” means the Board of that name established by the *Town Planning and Development Act 1928*;

“Minister” means the Minister in the Government of the said State for the time being responsible (under whatsoever title) for the administration of the Ratifying Act and pending the passing of that Act and the appointment of the responsible Minister means the Minister for the time being holding the portfolio of Minister for Industrial Development and includes any other Minister of the Crown temporarily acting in the place of the latter Minister;

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

reference to an Act unless otherwise specifically expressed includes the amendments to that Act for the time being in force and also any Act passed in substitution therefor or in lieu thereof and the regulations for the time being in force thereunder;

reference to a clause is a reference to the clause of this Agreement referred to and reference to a sub-clause is a reference to the sub-clause of the clause in which the reference occurs.

(2) Marginal notes shall not affect the interpretation or construction of this Agreement<sup>2</sup>.

**Ratification<sup>2</sup>**

2. THE State shall introduce and sponsor a Bill in the Parliament of Western Australia to ratify this Agreement and endeavour to secure its passage as an Act prior to the 30th day of June, 1976.

**Operation of Agreement<sup>2</sup>**

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

(2) If before the 30th day of June 1976 the said Bill has not commenced to operate as an Act this Agreement will, unless the parties hereto otherwise agree, then cease and determine and neither of the parties hereto will have any claim against the other of them with respect to any matter or thing arising out of, done, performed or omitted to be done or performed under this Agreement.

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

**Sale of land<sup>2</sup>**

4. (1) Subject to the provisions hereinafter contained the State will sell and CSBP will purchase an estate in fee simple in —

(a) Areas B, C, D, E, F, G and H comprising an area of about 30.126 4 hectares but excluding improvements therein;

(b) So much of Areas J and K abutting Area G as are not included in Area O and comprising an area of about 1.340 0 hectares;

and subject to the exceptions and reservations contained in the Crown Grants of the land or if in a particular case there is no Crown Grant then to the exceptions and reservations usual in Crown Grants and (other than in respect of Area K) to the encumbrances notified in the First Schedule hereto and (in respect of Area K) to the encumbrances (if any) subject to which Area K is acquired by the State.

(2) CSBP will transfer Area M to the State, such parts of Area M as are not included in Area O to be retransferred to CSBP following subdivisional approval and final settlement.

(3) CSBP shall pay to the State —

(a) for Areas B, C, D, E, F, G and H the sum of \$744 423 calculated at the rate of \$24 710 per hectare but subject to adjustment upon completion of the survey as hereinafter

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provided, the payment to be made forthwith upon the ratifying Act coming into operation;

- (b) for and in respect of Area J the sum of \$77 900, the payment to be made forthwith upon the ratifying Act coming into operation;
- (c) for and in respect of Area K a sum equal to the actual cost to the State of acquisition by the State of Area K including in addition to the moneys paid or payable by the State to the owner of any estate or interest in Area K or any part thereof in respect of the acquisition by the State compulsorily or otherwise of that estate or interest all fees costs and expenses of whatsoever nature or kind sustained or incurred by the State (including all fees costs and expenses sustained or incurred by its officers) in respect of or in connection with the acquisition of Area K payment to be made as and when requested in writing by the Minister from time to time;
- (d) in respect of Area L the sum of \$24 418.42 calculated at the rate of \$24 710.00 per hectare but subject to adjustment upon completion of survey as hereinafter provided and subject to adjustment as provided in Clause 4.4, the payment to be made forthwith upon the ratifying Act coming into operation;
- (e) in respect of Area P the sum of \$164 766.28 calculated at the rate of \$24 710.00 per hectare but subject to adjustment upon completion of the survey as hereinafter provided and subject to adjustment as provided in Clause 4.4, the payment to be made forthwith upon the ratifying Act coming into operation;
- (f) the cost of the land in addition to Areas L, P and O required to be purchased or otherwise acquired for carrying out the works referred to in sub-paragraphs (a), (b), (c), (d), (e), (f), and (g) of Clause 7, to be adjusted by deducting therefrom the value of Areas J and K not included in the additional land or in Area O.

(4) The total amount of the payment to be made by CSBP to the State pursuant to paragraphs (d), (e) and (f) of sub-clause 3 shall when ascertained be adjusted by deducting therefrom the value of Areas G, D and E equivalent to the sum of \$152 337.00 calculated at the rate of \$24 710.00 per hectare but subject to adjustment upon completion of the survey as hereinafter provided.

**Advances of purchase moneys<sup>2</sup>**

(5) CSBP shall at the request in writing of the Minister and within fourteen (14) days of receipt of the request advance to the State from time to time on account of the payment to be made by CSBP to the State pursuant to paragraph (c) of sub-clause (3) the amount specified by the Minister in the request but so that the amount of any advance or if more than one the aggregate amount of all advances made by CSBP to the State pursuant to this sub-clause shall not exceed the total amount estimated by the Property and Valuation Officer of the Public Works Department of the State to be payable by CSBP to the State pursuant to paragraph (c) of sub-clause (3).

**Subdivision and consolidation<sup>2</sup>**

5. (1) As soon as conveniently may be after the coming into operation of the ratifying Act the State shall at the cost of CSBP submit to the Town Planning Board plans of subdivision and consolidation showing respectively the additional land the deviation road and the deviation railway in the form of the Plan (subject to survey) or in any altered form upon which the parties hereto may mutually agree and the additional land in the form aforesaid consolidated with Lot 4 on Lands Titles Office<sup>3</sup> Diagram 32154.

**Town planning<sup>2</sup>**

(2) The Town Planning Board having prior to the execution hereof considered and tentatively approved the plans referred to in sub-clause (1) will on the formal submission hereafter of the said plans in the form or in any altered form as in this clause provided approve those plans without alteration thereto and the approval of the Town Planning Board so given shall be deemed to be an approval within the meaning and for the purposes of the *Town Planning and Development Act 1928*.

**Conditions of approval<sup>2</sup>**

(3) CSBP shall at its expense comply with any conditions subject to which the approval of the Town Planning Board pursuant to sub-clause (2) is given.

**Title to be consolidated<sup>2</sup>**

(4) CSBP shall forthwith after the additional land has transferred or granted to it as the case may be apply to the Registrar of Titles for and the Registrar of Titles shall subject to payment by CSBP of the prescribed fee issue

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a new certificate of title for the land the subject of the plan secondly mentioned in sub-clause (1).

**Public Works Act 1902<sup>2</sup>**

6. THE State may as and for a public work under the *Public Works Act 1902* resume any land or any estate right or interest in land required for the purposes of this Agreement and notwithstanding any other provisions of that Act may sell lease or otherwise dispose of any of the foregoing to CSBP and the provisions of sub-sections (2) to (7) inclusive of Section 17 and the provisions of Section 17A of that Act shall not apply to or in respect thereof or the resumption thereof.

**Additional payments<sup>2</sup>**

7. (1) In addition to the moneys payable by CSBP pursuant to clause 4 hereof CSBP shall pay to the State, or as the State may in writing direct, the following —

**Railway<sup>2</sup>**

- (a) A sum equal to the cost of construction of the deviation railway including the provision of crossings, signs, signals and other things necessary in accordance with plans and specifications determined by the Commission PROVIDED the liability of CSBP under this paragraph shall be limited to the cost of constructing a railway of equivalent standards and specifications and having equivalent crossings signs signals and other things necessary thereto to the railway to be replaced. The estimated cost for the deviation railway based on the Commission's drawing No. CE 68045 constructed to the equivalent standards and specifications at the 1st April 1976 is \$360 000.

**Roads<sup>2</sup>**

- (b) A sum equal to the cost of construction in accordance with plans and specifications determined by the Commissioner of the deviation road and of the alteration to existing roads (including the closure of the Patterson Road intersection) so as to link Kwinana Beach Road and Patterson Road PROVIDED that the liability of CSBP under this paragraph in relation to the cost of constructing the deviation road shall be limited to the cost of

constructing a road of equivalent standards and specifications to the road to be replaced. The estimated cost for the deviation road based on Commissioner's drawing No. 7621-24 as at 1st April 1976 is \$185 650 and the estimated payment by CSBP under this paragraph is \$154 650, the remaining \$31 000 to be provided from the Metropolitan Councils Urban Road Fund by the Kwinana Shire Council.

**Water supply<sup>2</sup>**

- (c) A sum equal to the cost of construction of deviation water mains in accordance with plans and specifications determined by the Metropolitan Water Supply Sewerage and Drainage Board to replace the existing water mains passing through Areas D and G PROVIDED that the liability of CSBP under this paragraph shall be limited to the cost of constructing water mains to equivalent standards and specifications as the water mains to be replaced. The estimated cost for such deviation water mains as at 1st April 1976 is \$151 000.

**S.E.C.<sup>2</sup>**

- (d) A sum equal to the cost of construction of deviation power lines in accordance with plans and specifications determined by the State Energy Commission to replace the existing power lines passing through Areas D and G PROVIDED that the liability of CSBP under this paragraph shall be limited to the cost of constructing power lines to equivalent standards and specifications as the power lines to be replaced. The estimated cost for such deviation power lines as at 1st April 1976 is \$11 500.

**Telecommunications<sup>2</sup>**

- (e) A sum equal to the cost of construction of deviation telecommunications in accordance with plans and specifications determined by the Australian Telecommunications Commission to replace the existing telecommunications passing through Areas E, G and H PROVIDED that the liability of CSBP under this paragraph shall be limited to the cost of constructing telecommunications to equivalent standards and specifications as the telecommunications to be replaced. The estimated cost

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for such deviation telecommunications as at 1st April 1976 is \$15 000.

**WMC refinery<sup>2</sup>**

- (f) A sum equal to the cost of alteration or replacement but only to the extent necessary as a consequence of the sale of the additional land and of the works referred to in preceding sub-paragraphs (a) (b) (c) (d) (e) in accordance with plans and to specifications to be determined by WMC of all facilities and installations including without limiting the generality of the foregoing pipes railway spur lines sidings roads cables and wires forming part of or serving WMC's nickel refinery PROVIDED that in relation to replacement the liability of CSBP under this paragraph shall be limited to the cost of facilities and installations of equivalent standards and specifications to the facilities to be replaced.

**Fremantle Port Authority<sup>2</sup>**

- (g) A sum equal to the cost of alteration or replacement but only to the extent necessary as a consequence of the sale of the additional land and of the works referred to in preceding sub-paragraphs (a), (b), (c), (d) (e) in accordance with plans and to specifications determined by the Fremantle Port Authority all facilities and installations including without limiting the generality of the foregoing pipes, buildings, roads, fences, cables and wires forming part of or serving Fremantle Port Authority's jetty PROVIDED that in relation to replacement the liability of CSBP under this paragraph shall be limited to the cost of facilities and installations of equivalent standards and specifications as the facilities to be replaced. The estimated cost as at 1st April 1976 is \$209 627.

**CSBP to arrange re-location of communication services<sup>2</sup>**

(2) It is the sole responsibility of CSBP to arrange the removal of the telecommunication cables referred to in paragraph (e) of sub-clause (1) but failure by CSBP to do so shall in no way vitiate this Agreement or give rise to any claim against the State.



**Manner of payment<sup>2</sup>**

(3) CSBP shall make the payments to be made by it pursuant to sub-clause (1) within twenty eight days of receipt of a written request as referred to in that sub-clause.

**Advances<sup>2</sup>**

(4) CSBP shall at the request in writing of the Minister and within fourteen (14) days of receipt of the request advance to the State from time to time on account of the payment to be made by CSBP pursuant to sub-clause (3) the amount specified by the Minister in the request.

**Obligations of State<sup>2</sup>**

8. (1) The State shall as soon as conveniently may be after the ratifying Act comes into operation:

**Works<sup>2</sup>**

(a) cause the works referred to in clause 7(1) to be commenced and completed with all possible expedition PROVIDED that the timetable for deviating the chemical pipelines or other facilities supplying WMC's nickel refinery shall be as agreed between WMC and CSBP;

**Survey<sup>2</sup>**

(b) at the cost of CSBP cause a survey to be made which shall be binding on the parties hereto accurately defining the boundaries of the additional land the deviation road and the deviation railway;

**Acquisition<sup>2</sup>**

(c) acquire or compulsorily take or resume an estate in fee simple free of encumbrances in so much of Area K as then remains alienated from the Crown or the State.

**Variation of purchase price<sup>2</sup>**

(2) If the area of that part of the additional land comprising Areas B, C, D, E, F, G and H as determined by the survey made pursuant to paragraph (b) of sub-clause (1) varies from the area mentioned in clause 2 the total purchase price for those areas shall be adjusted accordingly.

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**Possession<sup>2</sup>**

(3) Forthwith upon completion of the works referred to in paragraph (a) of clause 8 (1) the Minister shall notify CSBP in writing to that effect and CSBP shall thereupon be entitled to possession of the additional land or receipt of the rents and profits thereof as the case may be on the day following the day the notice is received by CSBP.

**Rates and taxes<sup>2</sup>**

(4) CSBP shall from and including the day on which it is entitled to possession of the additional land bear pay and discharge all rates taxes charges impositions and outgoings charged or assessed upon or in respect of the additional land.

**Closure of streets<sup>2</sup>**

(5) On and from the day before the day on which CSBP is entitled to possession of the additional land those parts of the additional land as comprise streets dedicated to public use being more specifically Areas D, G and portion of Beach Street shall by force of the ratifying Act and this Agreement be closed and the absolute property in those areas shall be revested in the Crown (if not already so vested) and shall be freed from rights of passage by the public.

**Transfer of land<sup>2</sup>**

(6) Subject to payment of all moneys payable by CSBP hereunder the State shall at its election either cause the additional land to be transferred to CSBP or cause a Crown Grant thereof to be made to CSBP (subject to the limitations reservations exceptions and conditions usual in Crown Grants) on or as soon as practicable after the date on which CSBP is entitled to possession of the additional land.

**Statutory authorities<sup>2</sup>**

(7) For the purpose of giving effect to the provisions of this Agreement a statutory authority is notwithstanding the provisions of the Act by which it is constituted empowered by virtue of the Ratifying Act and this Agreement and shall at the direction of the Minister transfer in accordance with the direction all or any part of the additional land of which it is registered as the proprietor at the date on which any direction is so given and the land so transferred and the transferee thereof shall not unless the Minister in the direction otherwise determines be subject to the conditions limitations or restrictions which but for the provisions of this sub-clause might otherwise apply by virtue of the

provisions of the Act by which the authority is constituted. The Provisions of the Industrial Development (Resumption of Land) Act and Industrial Lands Development Authority Act shall be deemed to be duly complied with and be no longer applicable on transfer of land to CSBP.

9. This agreement does not vary any of the provisions of the agreement dated 24th November 1964 being the schedule to the *Industrial Lands (Kwinana) Agreement Act 1964*, and the provisions of clauses 14 to 16 inclusive, 18 to 23 inclusive, 26 and 27 of the said Agreement shall apply to this agreement and to the additional land *mutatis mutandis*.

**Events of default <sup>2</sup>**

10. In any of the following events namely if CSBP shall make default in the due performance or observance of any of the covenants or obligations to the State herein which the State considers material and shall fail to remedy that default within reasonable time after notice specifying the default is given to it by the State (or if the alleged default is contested by CSBP and promptly submitted to arbitration then within a reasonable time fixed by the arbitration award where the question is decided against CSBP the arbitrator finding that there was a *bona fide* dispute and that CSBP had not been dilatory in pursuing the arbitration) or if CSBP shall abandon or repudiate its operations under this Agreement or if CSBP shall go into liquidation (other than a voluntary liquidation for the purpose of reconstruction) then and in any of such events the State may by notice to CSBP determine this Agreement and thereupon the rights of CSBP hereunder shall cease and determine.

**Effect of determination <sup>2</sup>**

11. On the cessation or determination of this Agreement —

- (a) except as otherwise agreed by the Minister the rights of CSBP to in or under this Agreement and the rights of CSBP or of any assignee of CSBP shall thereupon cease and determine but without prejudice to the liability of either of the parties hereto in respect of any antecedent breach or default under this Agreement;
- (b) CSBP shall forthwith pay to the State all moneys which may then have become payable or accrued due;
- (c) save as aforesaid and as otherwise provided in this Agreement neither of the parties hereto shall have any claim against another

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of them with respect to any matter or thing in or arising out of this Agreement.

**Variation<sup>2</sup>**

12. (1) 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 for the purpose of more effectively or satisfactorily implementing or facilitating any of the objects of this Agreement.

(2) The Minister shall cause an agreement made pursuant to sub-clause (1) in respect of any addition substitution cancellation or variation of the provisions of this Agreement to be laid upon the Table of each House of Parliament within the twelve (12) sitting days next following its execution.

(3) Either House may within twelve (12) sitting days of that House after the agreement has been laid before it pass a resolution disallowing the agreement but if after the last day on which the agreement might have been disallowed neither House has passed such a resolution the agreement shall have effect from and after that last day.

**Extension of time<sup>2</sup>**

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

**Environment<sup>2</sup>**

14. Nothing in this Agreement shall be construed to exempt CSBP from compliance with any requirement in connection with the protection of the environment arising out of or incidental to the operations of CSBP 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 any Act for the time being in force.

**Further assurances<sup>2</sup>**

15. Each of the parties hereto shall take all steps and do all acts matters and things within its power as may be necessary or desirable to enable the others to obtain the full benefit of this Agreement.

**Disputes<sup>2</sup>**

16. Any dispute or difference between the parties hereto arising out of or in connection with this Agreement or any agreed amendment or variation thereof or agreed addition thereto or as to the construction of this Agreement or any such amendment variation or addition or as to the rights duties or liabilities of any party hereunder or as to any matter to be agreed upon between the parties under this Agreement shall in default of agreement between the parties and in the absence of any provision in this Agreement to the contrary be referred to the arbitration of arbitrators one to be appointed by each party to the dispute the arbitrators and every such arbitration shall be conducted in accordance with the provisions of the *Arbitration Act 1895* but so that this clause shall not apply to any case where the State the Minister or any Minister is by this Agreement given either expressly or impliedly a discretionary power.

**Notices<sup>2</sup>**

17. Any notice consent approval or other writing authorised or required by this Agreement to be given or sent shall be deemed to have been duly given or sent by the State if signed by the Minister or by any senior officer of the Public Service of the said State acting by the direction of the Minister and forwarded by prepaid post to CSBP at its registered office for the time being in the said State and by CSBP if signed on its behalf by a director manager or secretary of CSBP or by any person or persons authorised by CSBP in that behalf or by its solicitors who have been notified to the State from time to time and forwarded by prepaid post to the Minister and any such notice consent or writing shall be deemed to have been duly given or sent (unless the contrary be shown) on the day on which it would be delivered in the ordinary course of post.

**Delay<sup>2</sup>**

18. 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 such temporary suspension as aforesaid caused by or arising from act of God *force majeure* floods storms tempest washaways fire (unless caused by the actual fault or privity of CSBP) act of war act of public enemies riots civil commotion 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 or factors that could not reasonably have been

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foreseen PROVIDED ALWAYS that the party whose performance of obligations is affected by any of the said causes shall promptly give notice to the other party of the event or events and shall minimise the effect of such causes as soon as possible after their occurrence.

19. This Agreement and the documents necessary to give effect to the foregoing provisions hereof shall be exempt from stamp duties payable under the laws of the said State,

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

SIGNED SEALED AND DELIVERED  
by THE HONOURABLE SIR  
CHARLES WALTER MICHAEL  
COURT, O.B.E.: — } CHARLES COURT

in the presence of —

ANDREW MENSAROS,

Minister for Industrial  
Development.

THE COMMON SEAL OF CSBP &  
FARMERS LTD. was hereunto affixed in  
accordance with its Articles of  
Association and in the presence of — } [C.S.]

Director: H. C. PHILLIPS.

Secretary: K. A. MARTIN.

### **Notes**

- <sup>1</sup> This is a compilation of the *Industrial Lands (CSBP & Farmers Ltd.) Agreement Act 1976*. The following table contains information about that Act and any reprint.

#### **Compilation table**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Industrial Lands (CSBP &amp; Farmers Ltd.) Agreement Act 1976</i>	31 of 1976	9 Jun 1976	9 Jun 1976
<b>Reprint 1: The <i>Industrial Lands (CSBP &amp; Farmers Ltd.) Agreement Act 1976</i> as at 9 Jul 2004</b>			

- <sup>2</sup> Marginal notes in the agreement have been represented as bold headnotes in this reprint but that does not change their status as marginal notes.
- <sup>3</sup> Lands Titles Office diagrams are now being held by the Western Australian Land Information Authority (see the *Land Information Authority Act 2006* s. 100).