

Western Australia

**Iron Ore Processing (Mineralogy Pty. Ltd.)
Agreement Amendment Act 2008**

As at 10 Dec 2008

No. 48 of 2008

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Western Australia

Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Act 2008

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Western Australia

Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Act 2008

No. 48 of 2008

**An Act to amend the *Iron Ore Processing (Mineralogy Pty. Ltd.)
Agreement Act 2002*.**

[Assented to 10 December 2008]

The Parliament of Western Australia enacts as follows:

1. Short title

This is the *Iron Ore Processing (Mineralogy Pty. Ltd.)
Agreement Amendment Act 2008*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;

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(b) the rest of the Act — on the day after that day.

3. Act amended

This Act amends the *Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Act 2002*.

4. Section 3 amended

In section 3:

(a) in the definition of *the Agreement* delete “provisions.” and insert:

provisions;

(b) after the definition of *the Agreement* insert:

variation agreement means the agreement a copy of which is set out in Schedule 2.

5. Section 6 inserted

After section 5 insert:

6. Variation agreement ratified and implementation authorised

- (1) The variation agreement is ratified.
- (2) The implementation of the variation agreement is authorised.
- (3) Without limiting or otherwise affecting the application of the *Government Agreements Act 1979*, the variation agreement operates and takes effect despite any other Act or law.

6. Schedule 2 inserted

After Schedule 1 insert:

Schedule 2 — Variation agreement

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2008

**THE HONOURABLE COLIN JAMES BARNETT
PREMIER OF THE STATE OF WESTERN AUSTRALIA**

and

**MINERALOGY PTY. LTD.
ACN 010 582 680**

and

**AUSTEEL PTY. LTD.
ACN 058 430 032
BALMORAL IRON PTY. LTD.
ACN 058 429 931
ANSHAN RESOURCES PTY. LTD.
ACN 058 429 977
KOREAN STEEL PTY. LTD.
ACN 058 429 600
SINO IRON PTY. LTD.
ACN 058 429 708
INTERNATIONAL MINERALS PTY. LTD.
ACN 058 341 638**

**IRON ORE PROCESSING (MINERALOGY PTY LTD)
AGREEMENT 2002**

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RATIFIED VARIATION AGREEMENT

[Solicitor's details]

THIS AGREEMENT is made the 14th day of November 2008

BETWEEN

THE HONOURABLE COLIN JAMES BARNETT MEd., MLA., Premier of the State of Western Australia, acting for and on behalf of the said State and its instrumentalities from time to time (**State**) of the first part

AND

MINERALOGY PTY. LTD. ACN 010 582 680 of Mineralogy House, Level 8, 135 Wickham Terrace, Spring Hill, Queensland (**Company**) of the second part

AND

AUSTEEL PTY. LTD. ACN 058 430 032, **BALMORAL IRON PTY. LTD.** ACN 058 429 931 and **ANSHAN RESOURCES PTY. LTD.** ACN 058 429 977 all of Mineralogy House, Level 8, 135 Wickham Terrace, Spring Hill, Queensland, **KOREAN STEEL PTY. LTD.** ACN 058 429 600 of 99 St Georges Terrace, Perth, Western Australia, **SINO IRON PTY. LTD.** ACN 058 429 708 of C/- Gilbert & Tobin, Level 37, 2 Park Street, Sydney, New South Wales and **INTERNATIONAL MINERALS PTY. LTD.**

ACN 058 341 638 of Level 4, 5 Mill Street, Perth Western Australia
(**Co-Proponents**) of the third part.

RECITALS

- A.** The State, the Company and the Co-Proponents are the parties to the agreement made 5 December 2001 which was ratified by the *Iron Ore Processing (Mineralogy Pty Ltd) Agreement Act 2002*. That agreement is referred to in this Agreement as the “**Principal Agreement**”.
- B.** The State, the Company and the Co-Proponents wish to vary the Principal Agreement as set out in this variation including:
- (a) to allow Project Proponents to produce iron ore concentrates for sale within Australia or by export to overseas producers;
 - (b) to amend Area A, Area C and Area D as defined in the State Agreement; and
 - (c) to provide for the relinquishment by the Company of land to the State to facilitate the future development of multi user port facilities at Cape Preston outside Area A.

THE PARTIES AGREE AS FOLLOWS:

1. Subject to the context, the words and expressions used in this Agreement have the same meanings respectively as they have in and for the purpose of the Principal Agreement.
2. The State shall sponsor a Bill in the Parliament of Western Australia to ratify this Agreement and shall endeavour to secure its passage as an Act prior to 31 December 2008 or such later date as the parties may agree.
3. (a) Clause 4 of this Agreement shall not come into operation unless or until an Act passed in accordance with clause 2 of this Agreement ratifies this Agreement.

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- (b) If by 31 December 2008 or such later date as may be agreed pursuant to clause 2 of this Agreement, clause 4 of this Agreement has not come into operation then unless the parties hereto agree this Agreement shall cease and determine and none of the parties hereto shall have any claim against the other parties with respect to any matter or thing arising out of, done, performed or omitted to be done or performed under this Agreement.

4. The Principal Agreement is hereby varied:

- (1) in clause 1:

- (a) by inserting in the appropriate alphabetical positions the following new definitions;

“Access Act” means the *Railways (Access) Act 1998*;

“Access Code” means the *Railways (Access) Code 2000*;

“Access Minister” means the Minister in the Government of the State for the time being responsible for the administration of the Access Act;

“including” means “including, but not limited to”;

“Plan 3” and “Plan 4” mean respectively the plans marked “3” and “4” initialled by or on behalf of the parties hereto for the purpose of identification;

“Project 4” means a project or projects for the production of iron ore concentrates within Western Australia with subject to Clause 2(h) an initial minimum production capacity of six million tonnes per annum (or lesser amount approved by the Minister) from a mine or mines within Area A and an iron ore concentrates production facility located

within Area A including expansions of projects the subject of approvals from time to time and may include inter alia a mine, concentrator, power station, desalination plant, port, pipelines and any other necessary facilities to enable iron ore concentrates to be produced transported and shipped for sale within Australia or for export to overseas purchasers including, subject to subclause (7) of Clause 11, as part of a blended product;

“Rail Safety Act” means the *Rail Safety Act 1998*;

“said State” means the State of Western Australia;

“Sino Iron” means Sino Iron Pty. Ltd. ACN 058 429 708 (formerly called Bellswater Pty. Ltd.) and includes its successors and permitted assigns;

“Sino Iron Project” means the project of the type of Project 1 the subject of proposals submitted by Sino Iron and the Company on 29 February 2008 and approved by the Minister under Clause 7 as modified, expanded or otherwise varied from time to time in accordance with this Agreement;

“variation date” means the date on which clause 4 of the variation agreement made on or about 14 November 2008 between the State, the Company and the Co-Proponents comes into operation;

- (b) in the definition of “Ancillary Tenement” by deleting “and its application for miscellaneous licence 08/20” and substituting “, 08/63 and 08/74, applications by it for general purpose leases over land currently the subject of its general purpose lease 08/52 for a pellet plant or accommodation village or both and its

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- applications for miscellaneous licences 08/20, 08/22 and 08/23”;
- (c) in the definition of “Area A”:
 - (i) by deleting in paragraph (a) “Sheet 1 of Plan 1” and substituting “Plan 3”;
 - (ii) by deleting in paragraph (a)(ii) “and 08/660” and substituting “, 08/660 and 08/1414”;
 - (iii) by inserting in paragraph (a)(iii) “exploration licence 08/1451 being” before “the exploration licence”; and
 - (iv) by deleting in paragraph (a)(vi) “Sheet 1 of Plan 1” and substituting “Plan 3”;
 - (d) in the definition of “Area C” by deleting “Plan 2” and substituting “Plan 4”;
 - (e) in the definition of “Area D”:
 - (i) by deleting “light blue” and substituting “green”; and
 - (ii) by deleting “Plan 2” and substituting “Plan 4”;
 - (f) in the definition of “iron ore concentrates” by deleting “mean” and substituting “means”;
 - (g) in the definition of “Mining Leases” by deleting “that have been dedicated to a Project” and substituting “the carrying out of mining of iron ore on all or part of which is authorised by an approved proposal”;
 - (h) in the definitions of “Project 1”, “Project 2” and “Project 3” by deleting “supply of a minor

tonnage of iron ore concentrates for use as heavy media in the coal washing industry” and substituting “production of iron ore concentrates from iron ore mined as part of the Project for sale within Australia or for export to overseas purchasers including, subject to subclause (7) of Clause 11, as part of a blended product”; and

- (i) in the definition of “Project” by deleting the first reference to “or Project 3” and substituting “, Project 3 or Project 4”;
- (2) in clause 2:
 - (a) by inserting in paragraph (c) “and subclause” after “Clause”; and
 - (b) by, in paragraph (h):
 - (i) inserting “, or Project 4” after the first reference to “Project 3”; and
 - (ii) deleting “Project 3 or a combination thereof” and substituting “, Project 3 or Project 4 or a combination of Project 1, Project 2 or Project 3”;
- (3) in clause 5(1) by deleting “its field” and substituting “the field (including drilling and sampling)”;
- (4) by inserting after clause 5 the following new clauses 5A and 5B:

“Community and social benefits plan

- 5A. (1) In this Clause, the term “community and social benefits” includes:
 - (a) training and guaranteed employment for indigenous and non-indigenous

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- persons living in the Pilbara region of the said State;
- (b) regional development and local procurement of goods and services;
 - (c) contribution to community services and facilities; and
 - (d) a regionally based workforce.
- (2) For the purposes of this Clause “Sino Iron Project” shall include the proposed production as part of it of 36 million tonnes per annum of iron ore concentrates for sale within Australia or for export to overseas purchasers.
- (3) Sino Iron acknowledges the need for community and social benefits flowing from the Sino Iron Project.
- (4) As soon as practicable after the variation date Sino Iron shall:
- (a) consult, or as the case may be continue its consultations with, relevant local government or local governments with respect to the need for community and social benefits in relation to the developments proposed as part of the Sino Iron Project;
 - (b) following such consultation, prepare a plan which describes Sino Iron’s proposed strategies for achieving community and social benefits in connection with the developments proposed as part of the Sino Iron Project and such plan shall include a

process for regular consultation by Sino Iron with the relevant local government or local governments in respect of the strategies; and

- (c) submit to the Minister the plan prepared pursuant to subclause (4)(b) and confer with the Minister in respect of the plan.
- (5) The Minister shall within one month after receipt of a plan submitted under subclause (4)(c), either notify Sino Iron that the Minister approves the plan as submitted or notify Sino Iron of any changes that the Minister requires be made to the plan. If Sino Iron is unwilling to accept the changes which the Minister requires it shall notify the Minister to that effect and either party may refer to arbitration hereunder the question of the reasonableness of the changes required by the Minister.
- (6) The effect of an award made on an arbitration pursuant to subclause (5) shall be that the plan submitted by Sino Iron pursuant to subclause (4)(c) shall, with such changes required by the Minister under subclause (5) as the arbitrator determines to be reasonable (with or without modification by the arbitrator), be deemed to be the plan approved by the Minister under this Clause.
- (7) During the continuance of this Agreement, Sino Iron shall implement the plan approved or deemed to be approved by the Minister under this Clause.
- (8) Sino Iron shall report to the Minister about the results of its periodic ongoing consultation with the relevant local

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government or local governments in accordance with the plan approved or deemed to be approved by the Minister under this Clause and as soon as practicable after each such consultation takes place.

- (9) The State acknowledges that the Company is intending to:
- (a) establish as soon as practicable after commencement of shipping operations as part of the Sino Iron Project a Prescribed Private Fund (“the Fund”) as defined in section 995-1 of the Income Tax Assessment Act of 1997;
 - (b) include the advancement of medical research and the support of the indigenous communities in Western Australia (“the Objects”) as part of the objects of the Fund; and
 - (c) provide the Fund during the term of this Agreement with a total of \$100,000,000 of benefits and grants to achieve the Objects.

Land to be the subject of this Agreement

- 5B. (1) Area A covers the areas of Fortescue and Cape Preston in the Pilbara region of the said State that the Company believes will satisfy requirements for development in the short to medium term after the variation date. Area B1 and Area B2 contain iron ore formations which are seen by the Company as having long term exploration and development potential.

- (2) Subject to subclause (3) of Clause 19, the land to be granted pursuant to this Agreement, whether under the LA Act, the Mining Act or otherwise, will be drawn from within:
- (a) Area A; and
 - (b) such other areas of land in the vicinity of Area A as the Minister, before the Project Proponents submit proposals in respect thereof, approves as land the Project Proponents may as part of the particular proposals and in accordance with but subject to this Agreement request the grant to the Company of leases, licences or other tenure over to support the undertaking of the particular Project.
- (3) (a) The Company shall in accordance with the Mining Act or other relevant Act promptly lodge for registration surrenders in respect of Area D of all mining tenements and other titles, and withdrawals of all applications for mining tenements, which it then holds or as the case may be has made, over Area D upon at least 3 months notice from the Minister given not earlier than 36 months after the variation date. In consideration of the Company doing so the State shall upon such surrender or as soon as practicable thereafter grant or arrange to have granted to the Company an easement to allow the pipelines and communications cables then constructed as part of the Sino Iron

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Project within that part of Area D shown cross hatched on Plan 4 to be continue to be used, operated, maintained and repaired for a term determinable, if it has not already determined, upon the expiration of 6 months notice from the grantor of the easement if the Project Proponents for the Sino Iron Project cease (other than by reasons of force majeure) to operate the Sino Iron Project.

- (b) Without limiting the Company's obligations under the Mining Act consequent upon such surrenders the Company shall yield up Area D free of all improvements (excepting the pipelines and the communications cables to be the subject of the abovementioned easement and any road) in a state of repair and condition as shall be consistent with the obligations of the Project Proponents for the Sino Iron Project under the approved proposals for the Sino Iron Project and to the satisfaction of the Minister.”;
- (5) in clause 6(1) by deleting in the second sentence “or Project 3 or a combination thereof as aforesaid” and substituting “, Project 3 or Project 4 or a combination of Project 1, Project 2 and/or Project 3 as described in the definition of Project in Clause 1. However, the production by Sino Iron or the Company and Sino Iron together of iron ore concentrates from iron ore mined from mining leases 08/123–08/125 may only be proposed (pursuant to Clause 8) as part of the Sino Iron Project.”;
- (6) in clause 6(2):

- (a) by deleting the words “recover and process” and substituting the words “recover, concentrate and (if applicable) process or blend”;
- (b) by deleting in paragraph (a)(ii) all the words after “Clause 10 in respect of the project” and inserting the following new subparagraphs:
 - “(iii) any existing mining lease or leases, further mining leases or leases or other mining leases comprising part of Area A, or part thereof, from which the Project Proponents propose iron ore be mined as part of and for the purposes of the project and the amount of iron ore from such mining lease or leases to be assigned to the project; and
 - (iv) any Ancillary Tenement or part thereof which the Project Proponents propose be used for the purposes of the project;”;
- (c) by deleting in paragraph (b) the words “for processing of iron ore” and substituting the words “for producing iron ore concentrates and for processing or blending of iron ore concentrates”;
- (d) by inserting in paragraph (g) “(including as part of a blended product)” after “transportation of iron ore concentrates”;
- (e) by deleting paragraph (l) and substituting the following new paragraph (l):
 - “(l) production of iron ore concentrates (including for sale within Australia or for export to overseas purchasers) and final products from iron ore concentrates by pelletising and/or direct reduction and/or steel making or, subject to subclause (7) of Clause 11, by blending and disposal of residues;”;

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- (f) by inserting in paragraph (m) “iron ore concentrates and” after “ship loading of”; and
 - (g) by deleting in paragraph (n) “and corridors for”;
- (7) in clause 6(4):
- (a) by inserting “or proposed” after “Use of existing” in the heading of clause 6(4);
 - (b) by inserting “proposed to be constructed or acquired by them or,” after “belonging to the Company or the Project Proponents or”; and
 - (c) by inserting the following new sentence:

“The Minister’s abovementioned consent will not be required for a Project 4 to provide for the use by its Project Proponents of any existing facilities equipment or services belonging to any Project Proponents in their capacity as Project Proponents for a project of the type of Project 1, Project 2, Project 3 or combination thereof as described in the definition of Project in Clause 1.”;
- (8) by inserting after clause 6(4) the following new subclause (4a):
- “(4a) The Project Proponents for a Project of the type of Project 1, Project 2, Project 3 or combination thereof as described in the definition of Project in Clause 1 may with the consent of the Minister propose, as part of their proposals under Clause 6 or Clause 8, the construction establishment or provision as the case may be as part of their Project of facilities, equipment or services as the case may be for use by Project Proponents of a particular Project 4 (whether current or proposed).”;

- (9) by deleting clause 6(5) and substituting the following new subclause (5):
- “(5) Proposals submitted pursuant to subclause (1) for Plant areas in respect of any area within Area C shall make reasonable provision for future third party use of port facilities as provided for in subclause (3) of Clause 21.”;
- (10) in clause 7(2) by deleting in paragraph (a) “section 40(1)(b)” and substituting “Part IV”;
- (11) in clause 9(2):
- (a) by deleting “, dedication thereof to one of the Projects and, in any other case, surrender of the tenement by the Company” and substituting “it becomes a Mining Lease and in any other case surrender of the tenement by the Company”;
- (b) by deleting in paragraph (c)(i) “any Ancillary Tenements,” and substituting “in respect of any Ancillary Tenements which are being used as part of a Project in accordance with approved proposals,”;
- (c) by deleting “and” at the end of paragraph (c)(ii);
- (d) by deleting in paragraph (c)(iii) “(not being a mining lease which has been dedicated to a Project)” and substituting “(not being a Mining Lease)”;
- (e) by deleting the full stop at the end of paragraph (c)(iii) and substituting “; and”; and
- (f) by inserting after paragraph (c)(iii) the following new paragraph (c)(iv):
- “(iv) in respect of mining leases, the mining of iron ore (other than exploration, bulk sampling or testing) shall not be undertaken other than as part of a Project

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subject to and in accordance with this Agreement.”;

- (12) in clause 9(5) by deleting “five” in paragraph (b) and substituting “ten”;
- (13) in clause 9(6) by deleting “and as if the word “five” in paragraph (b) of subclause (5) were deleted and substituted by the word “ten” ”;
- (14) in clause 9(7) by inserting “(excluding all Ancillary Tenements)” after “the aggregate area of Area A”;
- (15) in clause 9(8):
 - (a) by deleting in paragraph (a) “or part thereof within Area A other than a mining lease dedicated to a Project or a mining lease granted pursuant to Clause 10” and substituting “within Area A other than a Mining Lease”;
 - (b) by deleting “or part thereof” in paragraph (a)(ii); and
 - (c) by deleting “or part thereof” in paragraph (c)(i);
- (16) in clause 10(2):
 - (a) by deleting in paragraph (a) the words “becomes dedicated to a Project” and substituting the words “first becomes a Mining Lease”; and
 - (b) by deleting paragraph (b) and substituting the following new paragraph (b):
 - “(b) The parties acknowledge that more than one Project may be established in accordance with approved proposals upon an existing mining lease or further mining lease.”;

- (17) by inserting after clause 10(2) the following new subclause (3a):
- “Mining of iron ore
- (3a) A Mining Lease shall, in addition to any covenants and conditions that may be imposed pursuant to the Mining Act or this Agreement, be subject to the condition that during the currency of this Agreement the mining of iron ore (other than exploration, bulk sampling or testing) shall not be undertaken other than as part of a Project subject to and in accordance with this Agreement.”;
- (18) in clause 10(7) by inserting “or Ancillary Tenements” after “within the Mining Leases”;
- (19) in clause 10(8) by deleting “[]” and substituting “2002”;
- (20) in clause 11(3):
- (a) by inserting “(including iron ore concentrates)” after “quantities of input, other iron ore”;
- (b) by inserting “, and also showing such other information in relation to the abovementioned return as the Minister may from time to time reasonably require in regard to and to assist in verifying the calculation of royalties in accordance with subclause (1),” after “due date of the return”;
- (21) in clause 11(6) by renumbering the existing paragraph (d) as paragraph (e) and inserting the following new paragraph (d):
- “(d) “processed” in relation to iron ore concentrates means processed into pellets, DRI or steel as the case may be as part of a Project;”;
- (22) by inserting after clause 11(6) the following new subclause (7):

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“Blending of iron ore

- (7) (a) Project Proponents may as part of their Project undertake within Area A the blending of iron ore concentrates produced as part of their Project with iron ore owned by any one or more of them or of a third party or parties and mined from mining tenements or other mining titles within the Pilbara outside Area A, B1 and B2 (“Non-Agreement ore”) for the purpose of shipping such blended ore through port facilities established under this Agreement.
- (b) The Project Proponents must establish and keep in place adequate systems and controls, to the reasonable satisfaction of the Minister for Mines, for the correct apportionment between each of the relevant mining leases or other mining titles of the quantities of iron ore concentrates and other iron ore being blended and which systems and controls monitor production, concentrating, transportation, stockpiling and shipping of all such ore.
- (c) If any blending occurs as contemplated by this subclause then for the purposes of calculating the royalty payable as provided in this Clause 11 on the iron ore concentrates produced as part of the Project and used in the admixture, the gross sale price of the blended product as set out in the invoices relating to the sale (and converted if necessary to Australian currency in accordance with the *Mining Regulations 1981*) shall be apportioned to those iron ore concentrates (as their gross invoice value) in the same proportion as the total amount of iron in those iron ore

concentrates bears to the total amount of iron in the blended product.

- (d) To avoid doubt the parties acknowledge that the mining, concentrating, processing and transport of Non-Agreement ore to Project Proponents within Area A for blending as referred to above will not be part of Projects under this Agreement.”;
- (23) in clause 14 by deleting in paragraph (a) all the words after “generate electricity”, inserting a colon followed by the following new subparagraphs:
- “(i) for their activities on the Mining Leases and at the Plant areas;
 - (ii) if the Company so desires, for the activities of other Project Proponents on the Mining Leases and at the Plant areas as permitted under subclauses (4) and (4a) of Clause 6; and
 - (iii) if the Company so desires and with the Minister’s consent given before submission and approval of their abovementioned proposals (which consent may be given subject to a condition as to the amount to be generated for such purpose), for supply to third parties or other third parties as the case may be; and”;
- (24) in clause 20(1) by deleting “or dedicated to the Project” and substituting “or to be mined as part of the Project”;
- (25) in clause 21(3):
- (a) by inserting “and in accordance with the principles for access contained in section 6(4) of the Competition Principles Agreement made on 11 April 1995 between the Commonwealth, New South Wales, Victoria, Queensland, Western Australia, South Australia, Tasmania, the Australian Capital

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Territory and the Northern Territory” after “the Company or the Project Proponents as the case may be”;

- (b) by inserting “(excepting the Export Wharves and Associated Facilities)” before “PROVIDED THAT”;
- (c) by inserting “in the reasonable opinion (after consultation with the Project Proponents) of an Independent Person” after “PROVIDED THAT such use shall not”;
- (d) by deleting the full stop at the end of this subclause and inserting the following:

“(which approval shall not be unreasonably withheld). For the purpose of this subclause:

- (a) an “Independent Person” means such person as is agreed upon between the Company and the State or third parties as the case may be seeking the abovementioned use and in default of agreement within one month of the Minister requiring such person to be agreed upon then as nominated by the Minister; and
- (b) the “Export Wharves and Associated Facilities” means the wharf or wharves, stockpile areas, conveyors and ship loaders constructed or provided by the Company and the Project Proponents or either of them at Cape Preston for the export from the said State of iron ore concentrates and other final products produced as part of a Project.

The Company and such of the State or third parties as the case may be seeking the abovementioned use shall each pay one half of the Independent Person’s costs and expenses.”;

- (26) by inserting after clause 21(4) the following new subclause (5):

“Access pursuant to legislation

- (5) The Company must, during the currency of this Agreement, consult with and keep the State fully informed concerning any steps that the Company proposes to take or is taking, or concerning any steps which the Company is aware any other person proposes to take or is taking, to have the wharf and port installations wharf machinery and equipment and wharf and port services and facilities referred to in subclause (2) (including the Export Wharves and Associated Facilities) made subject to Part III of the *Trade Practices Act 1974.*”;

- (27) in clause 22(1):

- (a) by deleting “and operated”; and
(b) by deleting “thereto” and substituting “to its construction and operation”;

- (28) in clause 22(2):

- (a) by inserting “and in accordance with approved proposals, the Rail Safety Act and” after “Subject to”; and
(b) by deleting “shall operate the said railway” and substituting “shall operate or ensure the said railway is operated”;

- (29) in clause 22(3):

- (a) by deleting “operate and maintain the said railway” and substituting “keep the said railway in operation and operated and maintained in”;

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- (b) by deleting “1998”; and
- (c) by inserting the at end of this subclause:

“Without limiting the generality of the foregoing provisions the Company shall during the continuance of this Agreement:

- (a) ensure that the obligations imposed under the Rail Safety Act on an owner and an operator (as those terms are therein defined) are complied with in connection with the said railway and (from when the Access Act and Access Code apply to the said railway) ensure that the obligations imposed under the Access Act and the Access Code on a railway owner (as that term is therein defined) are complied with in connection with the said railway; and
- (b) shall not at any time without the prior consent of the Minister dismantle, sell or otherwise dispose of any part or parts of the said railway or permit this to occur, other than for the purpose of maintenance, repair, upgrade or renewal.

Nothing in this Agreement shall be construed to exempt the Company or any other person from compliance with the Rail Safety Act and the Access Act and the Access Code or limit their application to the Company’s or Project Proponents’ operations generally.”;

- (30) by inserting after clause 22(5) the following new subclause (6):

“Access Act and Code

- (6) (a) The Company shall, during the continuance of this Agreement and until the Access Act

and the Access Code are applied to and in respect of the said railway and associated roads which provide access to the said railway, notify the Minister of all written requests made by third parties to the Company for access to the said railway and associated roads which provide access to the said railway and as soon as practicable after such requests are made.

- (b) The Minister shall provide to the Access Minister a copy of each notification from the Company as soon as practicable after such notification is received for consideration by the Access Minister as to whether or not in the Access Minister's discretion the Access Act and the Access Code should be applied to and in respect of the said railway and associated roads which provide access to the said railway.
 - (c) The Company acknowledges that the Access Act and the Access Code may during the continuance of this Agreement be applied to and in respect of the said railway and associated roads which provide access to the said railway (but not to the Company's rolling stock, rolling stock maintenance facilities, office buildings, housing, freight centres, terminal yards and depots and any other facilities which are not railway infrastructure (as that term is defined in the Access Act).”;
- (31) by deleting clause 25 Rating;
- (32) by inserting after clause 28(2) the following new subclause (3):
- “(3) (a) For the purposes of this subclause (3) the “State” includes the Minister, the Minister

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for Mines, any other Minister for the time being in the Government of the State, any department for the time being of the Government of the State, any governmental or semi-governmental body, any statutory authority or agency and the agents, servants, employees and contractors from time to time of each of them.

- (b) Except as otherwise provided in this Agreement the State may in respect of a Project or proposed Project communicate directly with any Project Proponent or proposed Project Proponent for that Project without involving any other Project Proponent or proposed Project Proponent for that Project. However, such communication shall not bind such other Project Proponent or proposed Project Proponent.”;
- (33) in clause 30(2):
 - (a) by deleting “Except as regards the land referred to in paragraph (b) of this subclause, the” and substituting “The”;
 - (b) by deleting paragraph (b) and the designation “(a)” before the first paragraph;
- (34) by inserting after clause 31(1) the following new subclause (1a):
 - “(1a) The Company will advise the Minister within 30 days after it ceases to beneficially hold 50% of the voting rights in a Co-Proponents of that occurrence together with details of the new holder or holders and their respective holdings of voting rights.”;
- (35) in clause 33(1) by deleting “The” and substituting “Subject to subclause (1a) the”;

(36) by inserting after subclause 33(1) the following new subclause (1a):

“(1a) Subclause (1) does not apply to the obligation to construct the pellet plant approved for construction as part of the Sino Iron Project.”; and

(37) by deleting 33(3) and substituting the following new subclause (3):

“(3) The party whose performance of obligations is affected by any of the said events or circumstances shall:

(a) promptly give notice to the other party of the event or circumstance;

(b) consult with the other party and promptly provide the other party with all such information as may be reasonably required by the other party to satisfy itself as to the existence of the events or circumstances; and

(c) shall use its best endeavours to minimise the effects of such causes as soon as possible after the occurrence.”

5. Upon clause 4 of this Agreement coming into operation (“variation date”):

(1) notwithstanding the provisions of the *Mining Act 1978* and the *Mining Regulations 1981*:

(a) the Company’s exploration licence 08/636 shall be deemed to have been surrendered on the variation date in relation to that part of it coloured red on Sheet 1 of Plan 5; and

(b) the Company’s general purpose lease 08/52 shall be deemed to have been surrendered on the variation

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date in relation to that part of it coloured green on Sheet 2 of Plan 5; and

- (c) the Company's application for general purpose lease 08/74 shall be deemed to have lapsed in relation to that part of it coloured brown on Sheet 2 of Plan 5; and

- (2) the Company shall, in the manner provided in regulation 59 of the *Mining Regulations 1981*, mark out the land that remains the subject of its application for general purpose lease 08/74 as soon as may be practicable and such marking in that manner shall be valid notwithstanding it is done after the application for the general purpose lease has been made.

For the purpose of this clause 5 "Plan 5" means the plan marked "5" (comprising Sheet 1 and Sheet 2) initialled by and on behalf of the parties for the purpose of identification.

- 6. Subject to the *Environmental Protection Act 1986* and to clause 4 of this Agreement coming into operation, the State shall cause to be granted to the Company:

- (1) its application for general purpose lease 08/63 as soon as practicable after:
 - (a) an indigenous land use agreement with the native title party or parties affected by its grant is entered into and registered under the *Native Title Act 1993* (Commonwealth) ("NTA"); and
 - (b) that native title party or those native title parties as the case may be withdraw all objections previously made by it or them under the NTA in respect of the grant of that application and advise the State in writing that it or they no longer wish to pursue the objections previously made by it or them under the *Mining Act 1978* ("Mining Act") in respect of the grant of that application,

and upon such reasonable terms and conditions as the Minister for the time being responsible for the administration of the Mining Act (“Minister for Mines”) shall determine; and

- (2) its application for general purpose lease 08/74 (less the area lapsed under clause 5(1)(c) of this Agreement) as soon as practicable after:
- (a) clause 5(2) of this Agreement has been complied with;
 - (b) an indigenous land use agreement with the native title party or parties affected by its grant is entered into and registered under the NTA;
 - (c) that native title party or those native title parties as the case may be withdraw all objections previously made by it or them under the NTA in respect of the grant of that application;
 - (d) the Warden’s Court proceedings in respect of the proposed grant to this application are completed and a recommendation of the mining registrar or Warden as required by the Mining Act is provided to the Minister for Mines; and
 - (e) that native title party or those native title parties advise the State in writing that it or they no longer wish to pursue the objections previously made by it or them under the Mining Act in respect of the grant of that application,

and upon such reasonable terms and conditions as the Minister for Mines shall determine.

EXECUTED as a deed.

SIGNED by **THE HONOURABLE**)

s. 6

COLIN JAMES BARNETT)
in the presence of:) [Signature]

[Signature]
Witness

Name Sean David

SIGNED by MINERALOGY)
PTY. LTD. ACN 010 582 680 by its)
Attorney Murray R K Wheeler)
under Power of Attorney dated)
12 November 2008 who)
declared that he has no notice of)
revocation of the said Power of Attorney)
in the presence of:) [Signature]

[Signature]
Witness

Name Paul Sartori

SIGNED by AUSTEEL PTY. LTD.)
ACN 058 430 032 by its Attorney)
Murray R K Wheeler)
under Power of Attorney dated)
12 November 2008 who)
declared that he has no notice of)
revocation of the said Power of Attorney)
in the presence of:) [Signature]

[Signature]
Witness

Name: Paul Sartori

SIGNED by **BALMORAL IRON**)
PTY. LTD. ACN 058 429 931 by its)
Attorney Murray R K Wheeler)
under Power of Attorney dated)
12 November 2008 who)
declared that he has no notice of)
revocation of the said Power of Attorney)
in the presence of:) [Signature]

[Signature]
Witness

Name Paul Sartori

SIGNED by **ANSHAN RESOURCES**)
PTY. LTD. ACN 058 429 977 by its)
Attorney Murray R K Wheeler)
under Power of Attorney dated)
12 November 2008 who)
declared that he has no notice of)
revocation of the said Power of Attorney)
in the presence of:) [Signature]

[Signature]
Witness

Name Paul Sartori

s. 6

**SIGNED by KOREAN STEEL
PTY. LTD.** ACN 058 429 600 by its)
Attorney Rick Joseph Malone)
under Power of Attorney dated)
5 November 2008 who)
declared that he has no notice of)
revocation of the said Power of Attorney)
in the presence of:) [Signature]

[Signature]
Witness

Name Philip Richard Scott

SIGNED by SINO IRON PTY. LTD.)
ACN 058 429 708 by its Attorney)
Rick Joseph Malone)
under Power of Attorney dated)
5 November 2008 who)
declared that he has no notice of)
revocation of the said Power of Attorney)
in the presence of:) [Signature]

[Signature]
Witness

Name Catherine Ann Pinchin

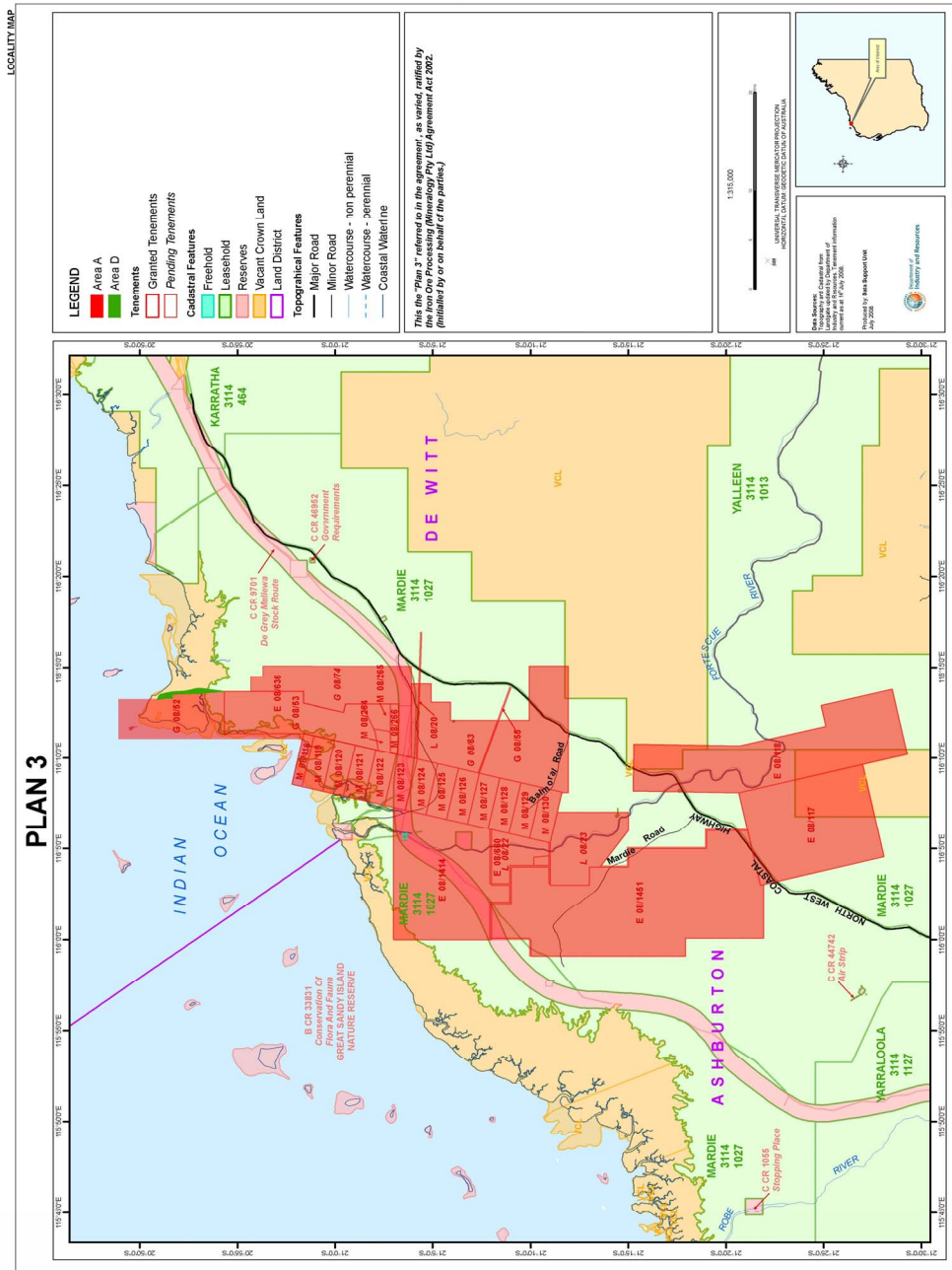
SIGNED by **INTERNATIONAL**)
MINERALS PTY. LTD.)
ACN 058 341 638 by its Attorney)
Murray R K Wheater)
under Power of Attorney dated)
12 November 2008 who)
declared that he has no notice of)
revocation of the said Power of Attorney)
in the presence of:) [Signature]

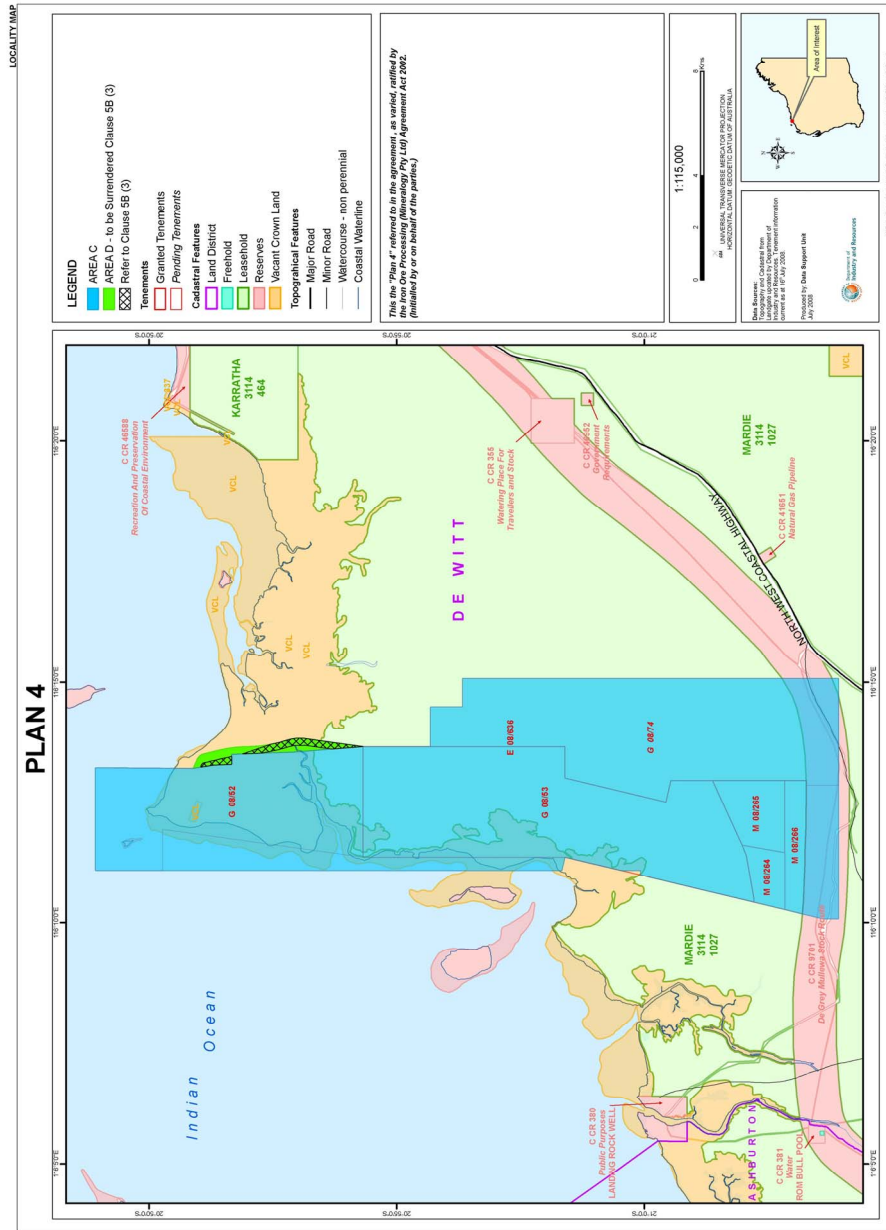
[Signature]
Witness

Name Paul Sartori

Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Act 2008

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Iron Ore Processing (Mineralogy Pty. Ltd.) Agreement Amendment Act 2008

s. 6

