



Western Australia

Wundowie Charcoal Iron Industry Sale Agreement Act 1974

As at 11 Sep 2010

Version 01-c0-07
Published on www.legislation.wa.gov.au

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Defined terms

Wundowie Charcoal Iron Industry Sale Agreement Act 1974

An Act to ratify an Agreement between the State and Agnew Clough Limited and Mt. Dempster Pty. Ltd. providing for the sale of the undertakings and business maintained and carried on on behalf of the State at Wundowie; to amend the *Wood Distillation and Charcoal Iron and Steel Industry Act 1943*²; and for purposes connected therewith.

1. Short title

This Act may be cited as the *Wundowie Charcoal Iron Industry Sale Agreement Act 1974*¹.

2. Interpretation

In this Act unless the contrary intention appears —

the Agreement means the Agreement a copy of which is set out in the First Schedule to this Act, but if the Agreement is amended in accordance with its provisions includes the Agreement as so amended from time to time, and, except for the purposes of section 3, a reference to the Agreement shall be construed as a reference to the Agreement as from time to time altered pursuant to the First Variation Agreement, the Second Variation Agreement, and the Third Variation Agreement;

the First Variation Agreement means the Variation Agreement ratified consequent upon the *Wundowie Charcoal Iron Industry Sale Agreement Act Amendment Act 1977*, a copy of which is set out in the Second Schedule to this Act;

the Second Variation Agreement means the Variation Agreement dated 26 September 1978, entered into and laid upon

s. 3

the Table of each House of Parliament pursuant to and in accordance with the provisions of clause 21 of the Agreement and not disallowed by either House;

the Third Variation Agreement means the Variation Agreement ratified consequent upon the *Wundowie Charcoal Iron Industry Sale Agreement Act Amendment Act 1979*, a copy of which is set out in the Third Schedule to this Act.

[Section 2 inserted: No. 11 of 1979 s. 2.]

3. Ratification of Agreement

The Agreement is hereby ratified.

3A. Approval and ratification of the First Variation Agreement

The First Variation Agreement is approved and ratified.

[Section 3A inserted: No. 11 of 1979 s. 3.]

3B. Approval and ratification of the Third Variation Agreement

The Third Variation Agreement is approved and ratified.

[Section 3B inserted: No. 11 of 1979 s. 4.]

[4. Omitted under the Reprints Act 1984 s. 7(4)(e).]

[Heading deleted: No. 19 of 2010 s. 42(2).]

First Schedule — Wundowie Charcoal Iron Industry Sale Agreement

[s. 2]

[Heading amended: No. 19 of 2010 s. 4.]

THIS AGREEMENT is made the 14th day of November One thousand nine hundred and seventy four 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 instrumentalities thereof from time to time (hereinafter called “the State”) of the first part AGNEW CLOUGH LIMITED a company incorporated under the *Companies Act 1961* of the said State and having its registered office therein at 22 Mount Street Perth (hereinafter called “the Company” which expression will include the successors and assigns of the Company and unless the context otherwise requires any assignee of the Company under clause 20 hereof) of the second part and MT. DEMPSTER MINING PTY. LTD. a company incorporated under the *Companies Act 1961* of the said State and having its registered office therein at 22 Mount Street Perth (hereinafter called Mt. Dempster which expression will include the successors and assigns of Mt. Dempster) of the third part.

WHEREAS:

- (1) Pursuant to the provisions of the *Wood Distillation and Charcoal Iron and Steel Industry Act 1943* the Government of the State: —
 - (a) established and since doing so has maintained and carried on certain undertakings upon the land described in the First and Second Schedules hereto for the purpose of producing charcoal and other products by any process of wood distillation and of producing charcoal iron and steel, and
 - (b) has carried on the business of selling or using the charcoal and other products and the charcoal iron and steel produced as aforesaid;(which undertakings and business are hereinafter collectively called “the Industry”).
- (2) Mt. Dempster is a corporation related to the Company in terms of Section 6(5) of the *Companies Act 1961* and is the registered holder

and beneficial owner of the Mineral Claims (herein defined) situate in close proximity to the Industry.

- (3) Mt. Dempster is presently engaged in feasibility studies for the development of the Mineral Claims and the mining and treatment of ore therefrom: —
- (a) for the production of vanadium pentoxide (herein referred to as “Coates Stage I”); and
 - (b) for the development of processes for the production of a range of iron and ferro alloys and other products (herein referred to as “Coates Stage II”).
- (4) The parties hereto, mindful of the economies and advantages which would accrue if the Industry were carried on in conjunction with Coates Stage I and any further development thereof and the eventual integration therewith of Coates Stage II and with the intent of furthering the decentralization of industry and the continuance of the Industry at Wundowie have agreed that the State will sell and the Company will purchase the Industry and the assets thereof subject to and upon the terms and conditions hereinafter contained.

NOW THIS INDENTURE WITNESSETH:

Interpretation³

1. (1) In this Agreement unless the context otherwise requires: —

“Act” means the *Wood Distillation and Charcoal Iron and Steel Industry Act 1943*;

“advise” “apply” “approve” “approval” “consent” “certify” “direct” “notice” “notify” “request” or “require” means advise apply approve approval consent certify direct notice notify request or require in writing as the case may be and any inflexion or derivation of any of those words has a corresponding meaning;

“Balance Sheet” means a balance sheet of the assets and liabilities of the Industry at the Sale Date audited by the Auditor General of the State and certified by him in terms of Section 30 of the Act;

“BHP Agreement” means the Agreement made the 18th day of November 1960 between The Honourable David Brand M.L.A.

of the one part and The Broken Hill Proprietary Company Limited of the other part as amended by the variation Agreement made the 23rd day of May 1973 between The Honourable John Trezise Tonkin M.L.A. of the first part and the said Company of the second part (inter alia) which Agreements were respectively ratified by Acts No. 67 of 1960 and 47 of 1973 by the Parliament of Western Australia;

“Board” means the Charcoal Iron and Steel Industry Board of Management constituted under and for the purposes of the Act and when used in this Agreement means the Board having and exercising the management and control of the Industry and in addition the powers, duties and functions set out in the Act;

“Coates Stage I” has the meaning ascribed to that term in recital (3) hereof;

“Coates Stage I Plant” has the meaning ascribed to that term in clause 8(2) hereof;

“Coates Stage II” has the meaning ascribed to that term in recital (3) hereof;

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

“forest produce” has the meaning ascribed to that term in the *Forests Act 1918*;

“the Industry” has the meaning ascribed to that term in recital (1) hereof;

“Loan Agreements” mean the agreements covering the loans details whereof are set out in the Seventh Schedule hereto, copies whereof have been produced to and initialled by the parties hereto for the purposes of identification;

“Mineral Claims” means the mineral claims granted for the mining of vanadium and titanium particulars whereof are set out in the Sixth Schedule hereto and the ground the subject thereof and all mining rights, titles or tenements whatsoever (including any extensions and renewals thereof) whether in substitution therefor or in lieu thereof and whether relating to the same, more or less ground, as the case may be;

“Minister” means the Minister in the Government of the said State for the time being responsible (under whatsoever title) for the administration of the Ratifying Act and pending the passing of that Act means the Minister for the time being 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;

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

“the Nominated Company” means a wholly-owned subsidiary corporation of the Company nominated by the Company in writing to and approved by the Minister prior to the Sale Date as the purchaser of the Industry in terms of clause 5 hereof;

“the Sale Date” means the date determined pursuant to clause 4(1) hereof;

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

(2) Marginal notes shall not affect the interpretation or construction hereof³.

Reference in this Agreement to an Act shall include 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.

Ratification and Operation³

2. (1) The State shall introduce and sponsor a Bill in the Parliament of Western Australia to ratify this Agreement.

(2) Clauses 3 to 29 (both inclusive) of this Agreement shall not operate unless and until the Bill to ratify this Agreement as referred to in sub-clause (1) of this clause is passed as an Act by or before the 31st day of December 1974 or such later date as the parties hereto may mutually agree upon. If the Bill is not so passed by or before that date or later date (as the case may be) this Agreement will then cease and determine and neither of the parties hereto will have any claims against the other of them with respect to any matter or thing arising out of or done performed or omitted to be done or performed under this Agreement.

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

- (a) the provisions of clauses 4, 5, 7, 8, 9, 10, 12, 14, 15, 21, 22, 27, 28 and 29 shall take effect as though the same had been brought into force and had been enacted by the Ratifying Act;
- (b) subject to paragraph (a) of this sub-clause the State and the Minister respectively shall have all the powers discretions and authorities necessary or requisite to enable them to carry out and perform the powers discretions authorities and obligations conferred or imposed upon them respectively hereunder.

Mt. Dempster or Company Submit Proposals³

3. (1) Mt. Dempster or the Company (whichever of them as may submit the detailed proposals hereunder being in this clause 3 referred to as “the Proposer”) will within the six (6) months commencing on the date of this Agreement or such extended time as the Minister may approve (having regard to the Proposer’s endeavours and the provisions of clause 29 hereof) submit to the Minister: —

- (a) to the fullest extent reasonably practicable its detailed proposals, including plans where practicable and specifications where reasonably required by the Minister with respect to the development of Coates Stage I including date of commencement, quantity, manner and method of mining and treatment AND shall give to the Minister such further information plans and specifications (within a reasonable time after notice to the Proposer therefor) in respect of any matter or thing arising out of or incidental to the detailed proposals as the Minister may from time to time reasonably require;
- (b) satisfactory evidence: —
 - (i) of the availability of finance necessary for the fulfilment of the detailed proposals hereunder;
 - (ii) that any consent approval authority or certificate (necessary for finance to be made available) to be given by any person corporation authority or body (statutory

or otherwise) pursuant to any Commonwealth or State law will be so given at the relevant time; and

- (iii) that the Proposer will be able to fulfil perform or do any requirement act matter or thing (necessary for finance to be made available) required pursuant to any Commonwealth or State law at the relevant time.

Approval or Amendment Proposals³

(2) Within two months after the Proposer has delivered to the Minister its detailed proposals and such further information plans and specifications (referred to in paragraph (a) of the preceding sub-clause) and the evidence (referred to in paragraph (b) of the preceding sub-clause) the Minister shall notify the Proposer: —

- (a) that he approves of the detailed proposals referred to in sub-clause (1)(a) of this clause; or
- (b) of alterations required to the detailed proposals in which case he shall afford to the Proposer opportunity to consult with and submit new proposals to the Minister. In that notification the Minister shall disclose his reasons for such alterations. If within the twenty eight (28) days next following the receipt by the Proposer of the Minister's notification the Proposer has not submitted to the Minister new proposals or submits new proposals which the Minister does not approve of this Agreement shall cease and determine;
- (c) that he is satisfied with the evidence referred to in sub-clause (1)(b) of this clause (in which case the evidence shall be deemed to be approved) or is not satisfied. In the latter case the Minister shall afford the Proposer an opportunity to consult with and to submit further evidence to him. If within the twenty eight (28) days next following the receipt by the Proposer of the Minister's notification the Proposer has not submitted to the Minister further evidence or submits further evidence which the Minister does not approve of this Agreement shall cease and determine.

Sale Date³

4. (1) The Sale Date shall be the latest of the following dates that is to say: —
- (a) the date of approval of the proposals referred to in clause 3(1)(a) hereof in terms of clause 3(2);
 - (b) the date of approval of the evidence referred to in clause 3(1)(b) hereof in terms of clause 3(2);
 - (c) the date the Ratifying Act is passed as an Act; or
 - (d) the 1st day of January 1975.

Cancellation of dedication³

- (2) On or from time to time after the Sale Date for the purpose of giving effect to the provisions of paragraphs (a) and (b) of clause 7(1) hereof: —
- (a) the Governor by notice published in the *Government Gazette* shall cancel the dedication of all land which has been dedicated to the purposes of the Act, and
 - (b) the State notwithstanding the provisions of any Act or law will transfer to the Company an estate in fee simple free of all trusts in the lands described in the First Schedule hereto and grant an estate in fee simple free of all trusts in the lands described in the Second Schedule hereto or any other reserve or any Crown land which at the date of this Agreement is required or used for the Industry subject to the encumbrances respectively notified against those lands.

Mt. Dempster Covenants Mineral Claims³

- (3) Mt. Dempster for itself and its transferees and successors in title of the Mineral Claims HEREBY COVENANTS with the State and with the Company to the intent that the covenants enure to the benefit of the Company and its transferees successors and assigns of and others claiming under them to the land and being Avon Location 27073 now the subject of reserve 22605: —
- (a) not to surrender or permit the Mineral Claims to be surrendered other than for the ground the subject thereof to be applied for by Mt. Dempster or the Company as a mineral lease or mineral leases;

- (b) duly and punctually to observe perform and comply with the provisions of all Acts statutory rules and ordinances (both Federal and State) insofar as they are applicable to the Mineral Claims;
- (c) not to do or permit to be done any act matter or thing whereby the Mineral Claims or any of them may be or become liable to be forfeited or cancelled;
- (d) not to assign charge mortgage lease or dispose of the Mineral Claims or any estate or interest therein without the written consent of the Minister and subject in the case of an assignment transfer or sub-lease to the assignee transferee or sub-lessee (as the case requires) first executing a deed of covenant (in a form approved by the Minister) containing covenants with the State and the Company identical with the covenants stated in this sub-clause;
- (e)
 - (i) to do and permit the Company to do all those acts matters and things; and
 - (ii) to comply with observe and perform and permit the Company to comply with observe and perform all the provisions hereof

relating to or concerning the Mineral Claims and which are required to be done or performed thereon by the Company to enable it to duly and punctually observe perform or comply with its obligations under this Agreement.

Sale by State to Company³

5. (1) Subject to the provisions of this Agreement the State shall on the Sale Date for the consideration set out in sub-clause (3) of this clause sell and assign or cause to be sold and assigned to the Company or to the Nominated Company (as the case may be) and the Company or the Nominated Company shall purchase and take over on a going concern basis as at the Sale Date the Industry and all of its real and personal assets whatsoever and wheresoever situate including without limitation the following: —

- (a) an estate in fee simple free of encumbrances (save as mentioned in the First Schedule) in the lands described in the First and

Second Schedules together with all fixtures and improvements thereon;

- (b) the plant, machinery, tools, apparatus, and equipment particulars of which or some of which are set out in the Third Schedule hereto;
- (c) stock on hand and on consignment;
- (d) stores and raw materials on hand;
- (e) the rights and obligations of the Board pursuant to clause 12 of the BHP Agreement and the Board's plant and equipment installed on and about the leased areas mentioned in that clause;
- (f) the benefit of the contracts or agreements relating to the Industry particulars whereof are set out in the Fourth Schedule;
- (g) the benefit of all permits licences forest leases and other privileges granted under the *Forests Act 1918* subsisting at the Sale Date and particulars whereof are set out in the Fifth Schedule;
- (h) debts due to the Board and cheques bills or notes or securities for the same together with all cash in hand or at bank;
- (i) books of account, books of reference to customers and other records of the Industry;
- (j) all policies of insurance of any kind (subject where necessary to the consent of the insurer);
- (k) patents, patent rights and rights to processes;

but excluding any special rights power immunities privileges and authorities of the Minister or the Board or enjoyed by them or either of them by virtue of or pursuant to the provisions of the Act.

(2) The Company shall not be entitled to make any objections or requisitions in relation to any of the property hereby sold and purchased after the day preceding the Sale Date.

Consideration³

(3) As and by way of consideration for the purchase of the property hereby sold and purchased the Company shall: —

- (a) on the respective due dates for payment duly and punctually pay satisfy and discharge all the current and deferred liabilities of the Board (including penalties operating liabilities of the Board superannuation payments and all rates taxes assessments rents permit and licence fees royalties insurance premiums and other outgoings assessed or payable in respect of any property the subject of transfer or assignment to the Company hereunder) subsisting at the Sale Date and as disclosed by the Balance Sheet;
- (b) on the day prior to the respective due dates for payment thereof duly and punctually pay to the Board amounts equal to the amounts which the Board is required to pay in satisfaction of instalments of principal and interest in respect of the several loans made to the Board (details of which are set out in the Seventh Schedule hereto) in conformity with the terms and conditions respectively set out in the Loan Agreements;
- (c) pay to the State the sum of THREE HUNDRED AND NINETY THOUSAND DOLLARS (\$390 000) free of interest on or before the expiration of six (6) years commencing on the Sale Date;
- (d) accept the obligation to discharge all employee entitlements accrued as at the close of business on the day prior to the Sale Date as are transmitted to or assumed by the Company in accordance with the terms of engagement agreed between the Company and those of the Board's employees as may accept the Company's offer of employment pursuant to the terms of clause 9(a) hereof. In this Agreement "employee entitlements" include annual leave, long service leave, sick pay, superannuation or pension benefits salaries and wages and "employee" shall not include any member of the Board other than a member who on the day prior to the Sale Date was receiving or was entitled to receive any employee entitlements.

Nominated Company Covenants³

(4) Should a Nominated Company purchase the real and personal assets of the Industry in terms of subclause (1) of this clause 5 it shall subscribe and adhere to this Agreement by Deed made with the State to the effect that the Nominated Company (which expression shall include any of its permitted successors transferees and assigns and their respective permitted successors transferees and assigns): —

- (a) shall perform observe and comply with and be bound by all the covenants agreements obligations and provisions on the part of the Company expressed or implied in this Agreement to the intent that those covenants agreements and obligations shall be binding upon the Nominated Company in the same manner and to the same extent as if the Nominated Company were expressly named herein in lieu of the Company; and
- (b) shall be or be deemed to be entitled to the benefit of all representations and warranties expressed hereunder by the State in favour of the Company and to exercise and enjoy all such rights, benefits, powers and privileges as are granted to or conferred upon the Company under this Agreement to the intent that those rights benefits and advantages may be exercised and enjoyed by the Nominated Company in the same manner and to the same extent as if it were expressly named herein in lieu of the Company.

Hereafter in this Agreement wherever the context requires any reference to the Company shall include or be deemed to refer to the Nominated Company.

Allocation of consideration³

(5) On the Sale Date (or as soon thereafter as it is available) the State shall deliver a true copy of the Balance Sheet to the Company with such supporting statements or notes as may be requisite or necessary or which the Company may reasonably request in explanation thereof and shall by writing state the total consideration payable by the Company pursuant to the provisions of sub-clause (3) of this clause and shall after consultation with the Company agree with the Company an allocation of the consideration thus determined to the several items of property sold and purchased in terms of this clause 5.

Company to remain liable³

(6) Notwithstanding anything contained in or anything done under or pursuant to sub-clause (1) of this clause by the Nominated Company the

Company shall at all times during the currency of this Agreement be and remain liable for the due and punctual performance and observance of all the covenants and agreements on its part contained herein.

(7) On the Sale Date the Company shall be entitled to possession of all property purchased in terms of this Agreement.

AND the Company shall at all times indemnify and keep indemnified the Crown in right of the State of Western Australia the Minister and the Board against all actions proceedings and claims and demands arising out of or incidental to or in respect of any liability principal moneys instalments interest act matter or thing referred to in this clause 5.

State Warranty³

6. The State REPRESENTS WARRANTS AND AGREES with the Company as follows: —

- (a) that the Balance Sheet and supporting accounts of the Industry as at the Sale Date are or will be true and correct in every respect and have been or will be prepared in accordance with usual accounting concepts and practices on a consistent basis and duly audited by the Auditor General of the State and that the same exhibit or will exhibit a true and fair view of the assets and liabilities of the Industry as at the date thereof and that full disclosure has been or shall be made of all liabilities present and contingent of the Industry and of all material changes that have taken place in the financial position of the Industry during the period covered thereby;
- (b) that the property sold or assigned to the Company in terms of clause 5 is the sole and absolute property of the State and that save as herein stated or disclosed the same is sold free from all charges liens and encumbrances whatsoever or the rights interests or claims of third parties;
- (c) that other than as disclosed in the Balance Sheet or otherwise by express disclosure there are no contracts agreements arrangements acknowledgments liabilities or obligations of any kind whether actual or contingent incurred or entered into or agreed to be incurred or entered into by or on behalf of the Industry as at the Sale Date;
- (d) that the Loan Agreements are at the date hereof in good standing and that the State is not in default in terms of any of

them and that all payments of principal and interest due to the date hereof have been met and will be met up to and including the Sale Date;

- (e) that from and after the Sale Date the State will cause the Board to continue in being and to pay and discharge all instalments of principal moneys and interest thereon as and when the same fall due for payment in terms of the Loan Agreements until such time as the loans the subject of the Loan Agreements have either been repaid novated in favour of the Company or otherwise renegotiated by or with the consent of the Company;
- (f) that so long as any moneys remain owing by the Board in terms of the Loan Agreements or any of them the Treasurer's Guarantee thereof will remain in full force and effect;
- (g) that the lease agreements relating to plant and equipment particulars whereof are set out in the Fourth Schedule hereto are at the date hereof in good standing and of full force and effect and all payments due thereunder have been met and all payments for the time being falling due up to and including the Sale Date will be met.

Obligation of State to Transfer Assets to Company³

7. (1) The State will for the consideration aforesaid as to soon as conveniently may be after the Sale Date: —

- (a) transfer and convey or cause to be transferred and conveyed to the Company an estate in fee simple in the land described in the First Schedule hereto;
- (b) grant or cause to be granted to the Company an estate in fee simple in the lands described in the Second Schedule hereto;
- (c) assign or cause to be assigned to the Company the Board's right title and interest in the agreements and contracts described in the Fourth Schedule hereto;
- (d) assign or cause to be assigned to the Company the right title and interest of the Board in the permits licences and forest leases described in the Fifth Schedule hereto subject to the conditions and provisions under which they have been respectively

granted, the *Forests Act 1918* and to the consent of the Conservator of Forests as therein provided;

(2) The Company covenants to take over and accept the obligations of the Board under the instruments referred to in paragraphs (c) and (d) of subclause (1) hereof and shall discharge comply with and observe those obligations and the Company shall at all times indemnify and keep indemnified the Crown in right of the State of Western Australia the Minister and the Board against all actions proceedings and claims and demands arising out of or incidental to or in respect of any of those instruments.

Obligation of Company to Continue Production of Charcoal Iron³

8. (1) The Company shall: —

- (a) continue to carry on at Wundowie the production of pig iron for a period of not less than six (6) years commencing on and from the Sale Date at an average monthly rate of not less than two thousand five hundred (2 500) tonnes;
- (b) use its best endeavours during such period aforesaid to develop and expand the Industry;

Construction Coates Stage I³

(2) Mt. Dempster or the Company shall within the twelve (12) months next following the Sale Date commence to erect and thereafter will diligently continue to proceed with the construction and establishment, or cause the erection to be commenced and thereafter the construction and establishment to be diligently proceeded with of a plant (on the land described in the First or Second Schedules hereto or on or near the land the subject of the Mineral Claims) designed to produce and capable of producing not less than one million kilograms (1,000,000 kg) of vanadium pentoxide per annum and shall within the thirty (30) months next following the Sale Date complete the construction and establishment of that plant on the said land and provide thereon all necessary ancillary buildings works plant equipment and services for the production of vanadium pentoxide (“the Coates Stage I Plant”) AND within the thirty six (36) months next following the Sale Date commence and thereafter diligently continue to produce marketable quantities of vanadium pentoxide.

Proposals Coates Stage II³

(3) During the currency of this Agreement Mt. Dempster or the Company shall diligently continue with a feasibility study for the development

of Coates Stage II and within a reasonable time after the first second third and fourth anniversary of the Sale Date Mt. Dempster or the Company will report to the Minister the progress of the feasibility study made in the year preceding each of those anniversaries AND before the expiration of the five (5) years next following the Sale Date Mt. Dempster or the Company shall submit to the Minister to the fullest extent reasonably practicable its detailed proposals including plans where practicable and specifications there reasonably required by the Minister with respect to the development of Coates Stage II.

Maintenance of Employment³

9. The Company will: —

- (a) accept the transfer to its employ or offer employment to all employees of the Board engaged in the Industry as at the close of business on the day prior to the Sale Date at salary or wage rates not less than those applicable to such employees respectively as at such date.
- (b) accept responsibility for all employee entitlements in respect of those of the Board's employees transferring to the Company's employ or accepting the Company's offer of employment aforesaid the liability wherefor is transmitted to or assumed by the Company pursuant to the terms of Clause 5(3)(d).
- (c) at all times from and after the Sale Date and during the currency of this Agreement use its best endeavours to maintain in employment at or near Wundowie a like number of persons as are there employed by the Board on the day immediately preceding the Sale Date.

State's Assistance to Company³

10. To ensure the continuance at Wundowie of the production of charcoal and pig iron and to encourage the development of electric furnace capacity for pig iron and ferro alloy production (subject to clause 14 hereof) the State will use its best endeavours where and to the extent reasonably practicable to ameliorate difficulties caused by the location of the Industry and in particular will: —

Raw Materials³

- (a) assist the Company in obtaining access to supplies of coal and in any application for deposits of sandstone limestone iron ore and other raw materials reasonably required by the Company for the production of pig iron and steel, for the treatment of ore

from the Mineral Claims, for the production of ferro alloys or for any operation carried on by the Board prior to the Sale Date;

Transport³

- (b) cause the Commissioner of Transport under the provisions of the *Transport Commission Act 1966* to issue licences in respect of commercial goods vehicles for them to carry: —
 - (i) from Wundowie to Fremantle or Kwinana pig iron and vanadium pentoxide produced by the Company;
 - (ii) from Fremantle or Kwinana to Wundowie (either by back-loading such vehicles or otherwise) limestone and other raw materials used or incidental to the production of pig iron or ferro alloy products;
 - (iii) logs and timber to Wundowie for the Industry's requirements save that such licences for the carriage of sawn timber for the saw mill operations at Wundowie will unless otherwise agreed, be limited to a radius of sixty (60) kilometres from the saw mill at Wundowie.

Iron Ore³

- (c) obtain the assignment to the Company of the Board's rights and obligations under and subject to clause 12 of the BHP Agreement;

Charcoal Timber³

- (d) cause the Company to be issued from time to time during the currency of this Agreement with licences under the *Forests Act 1918* to take such forest produce as is specified therein as will enable the Company to produce therefrom charcoal at an annual rate not less than the average rate maintained by the Industry in respect of the three (3) years immediately preceding the Sale Date;

Milling Timber³

- (e) cause the Company to be issued with licences under the *Forests Act 1918* in respect of the three (3) years next following the Sale Date to enable the Company to operate the sawmill at the

same rate of log intake as in the three (3) years immediately preceding the Sale Date;

Railway Transport³

- (f) cause the Western Australian Government Railways Commission to transport iron ore between Koolyanobbing and the Industry at Wundowie as reasonably required by the Company subject to the Company maintaining an annual tonnage rate not less than the average of the three (3) years immediately preceding the Sale Date and paying the freight rate as stipulated from time to time in the Goods Rates Book of the said Commission unless the said Commission otherwise agrees;

Electricity³

- (g) on receipt of reasonable notice from the Company of any substantial changes in electricity requirements at the works site or adjacent thereto, cause the State Electricity Commission to supply electricity on the Commission's usual conditions and practice and at the appropriate tariffs prescribed from time to time. In any event two (2) years' notice shall be given for substantial increments in demand up to ten (10) Mw and three (3) years' notice for increments in excess of ten (10) Mw, but increments in demand in excess of thirty (30) Mw will only be available if generating capacity is at the time available within the Commission's system. The State acknowledges that the Company anticipates requiring substantial quantities of electricity in excess of that provided in the schedule of rates for industrial consumers and agrees that the State Electricity Commission will have regard to the nature of the electrical load and the overall reduced cost per unit of generating and distributing, such large quantities of power when considering the rate commensurate with such supply;

Water³

- (h) cause the reasonable water requirements necessary for the operation of the Industry, the Coates Stage I Plant (as enlarged or expanded from time to time including Coates Stage II) to be made available at Wundowie subject to the Company giving reasonable notice of its water requirements and the Company advancing an agreed contribution towards the cost of works

necessary to provide such augmented supply which will be in accordance with the provisions of the *Country Areas Water Supply Act 1947*;

Natural Gas³

- (i) ensure that regard will be given to the Company's reasonable requirements for natural gas in any future supply system developed and controlled by the State PROVIDED THAT: —
 - (i) the supply authority has (having due regard to the supply of gas available from the gas reserves) allocated a proportion of the reserves for uses such as that proposed by the Company;
 - (ii) the supply authority is satisfied that the construction of a pipeline passing within reasonable proximity of Wundowie is warranted and has received reasonable notice of the Company's requirements to ensure such pipeline has adequate capacity to supply the Company;
 - (iii) the Company pays for gas supplied to it by the supply authority in accordance with the supply authority's standard tariffs and conditions.

Housing³

11. The State recognises that there is now a demand by Industry employees for additional houses at Wundowie and that the development and treatment of ore from the Mineral Claims the subsequent integration of those operations with the Industry and the installation at the Industry of electric furnace capacity will each result in further demands for additional housing within the existing boundaries of the Wundowie townsite. Subject to the Company satisfying the State as to the need therefor and the number thereof from time to time required and giving to the State not less than six (6) months' notice of its requirements and to the provisions of clause 14 hereof the State will use its best endeavours to cause if and so far as funds permit such additional number of houses to be erected in the Wundowie townsite as the Company satisfies the State are needed.

Zoning³

12. Subject to clause 14 hereof the State: —

- (a) will use its best endeavours to ensure that the land referred to in the First and Second Schedules hereto the land the subject of the Mineral Claims and land adjacent thereto utilised by the company or Mt. Dempster for any of the purposes of this Agreement (in this clause all of such land being referred to as “the Company’s land”) will be and remain zoned for use or otherwise protected so that the operations of the Company and Mt. Dempster under this Agreement may be undertaken and carried out thereon without any interference or interruption by the State by any State agency or instrumentality or by any local or other authority of the State on the ground that such operations are contrary to any zoning by-law or regulation;

No Discriminating Rates³

- (b) will not impose nor permit nor authorise any of its agencies or instrumentalities or any local or other authority of the State to impose discriminatory taxes rates or charges of any nature whatsoever on or in respect of the Company’s land the titles property or other assets products materials or services used or produced by or through the operations of the Company or Mt. Dempster in the production of pig iron and steel and of vanadium pentoxide and ferro alloys;

Rating³

- (c) will ensure that the valuation of the Company’s land (except as to any part upon which a permanent residence shall be erected) shall for rating purposes under the *Local Government Act 1960* be deemed to be on the unimproved value thereof and no such lands shall be subject of any discriminatory rate.

Export Licence³

13. On request by the Company the State will make representations to the Commonwealth for the continuation or grant (as the case may require) of such licence or licences as may be requisite or necessary under the law of the Commonwealth for the export of pig iron from time to time produced by (or at)

the Industry and of the range of vanadium products produced by the Company or Mt. Dempster from the ore from the Mineral Claims.

Limitation of Obligations³

14. The provisions of clauses 10, 11, 12 and 13 of this Agreement shall operate until the seventh (7th) anniversary date of the Sale Date without review or revision. Should the Company at any time from and after the seventh (7th) anniversary of the Sale Date (for reasons not attributable to any delay within the meaning of clause 29 hereof) fail to do one or other of the following alternatives, that is to say: —

- (a) continue to carry on at Wundowie the production of pig iron at the rate specified in clause 8(1)(a) hereof; or
- (b) complete the construction of the establishment of Coates Stage II in accordance with and subject to the proposals plans and specifications referred to in clause 8(3) hereof;

then the Minister may at any time and from time to time by notice to the Company in that behalf revoke suspend or modify any or all of the services facilities privileges or rights by such provisions conferred upon the Company PROVIDED ALWAYS that in making any such determination the Minister shall have due regard to the needs of the Industry at that time and the State's reasonable ability to continue to provide any such services privileges, facilities or rights.

Subsidy³

15. The State recognises that the Company wishes to rationalise the transport of ore and other materials from various sources to the Industry at Wundowie and that the Company proposes as soon as practicable to effect such rationalisation. The State agrees that until that rationalisation is effected in a manner approved by the Minister the State shall cause the freight subsidy of ONE DOLLAR AND NINETY SIX CENTS (\$1.96) per ton of iron ore transported by the Western Australian Government Railways Commission from Koolyanobbing to Wundowie (paid prior to the Sale Date) to be continued subject to the following conditions: —

- (a) the total amount of the freight subsidy so payable shall not exceed TWO HUNDRED THOUSAND DOLLARS (\$200 000) in any one (1) year;

- (b) it is only payable on that iron ore during the period of the six (6) years next following the Sale Date; and
- (c) that the Company duly and punctually observes performs and complies with the covenants and agreements on its part herein contained.

For the purposes of this clause 15 only, a year shall be computed from the Sale Date and each anniversary.

Transitional Provisions³

16. (1) The State will ensure that as from the date of this Agreement to the cessation or determination of this Agreement referred to sub-clause (2) of clause 2 hereof or the Sale Date (as the case may be): —

- (a) the Industry shall operate at its normal business level activity;
- (b) no material asset will be disposed of save with the prior consent of the Company which consent will not be withheld unreasonably;
- (c) no material commitment which would extend beyond the Sale Date will be entered into (actual or contingent) save with the prior consent of the Company (which consent will not be withheld unreasonably) save and except beneficial contracts in the ordinary course of business.

(2) The Board shall subject to the provisions of the Act be at liberty between the date hereof and the Sale Date to make all payments and receive all moneys in the usual and normal course of the operations of the Industry.

Particulars to be Supplied to Company by State³

17. As soon as conveniently may be after the execution of this Agreement the State will cause the Company to be supplied with the following particulars: —

- (a) details of employment and conditions thereof (including employee entitlements) for all employees of the Board;
- (b) a memorandum outlining the current systems of stock and raw materials purchase, stock control, sales and general accounting procedures;
- (c) a summary of current sales orders and contracts;
- (d) details of negotiations now proceeding for future contracts;

- (e) details of any agreements or contracts (subsisting at date hereof) with individuals or organisations including advertising contracts, lease agreements and all agreements to supply materials;
- (f) details of current insurance policies;
- (g) details of any claims demands proceedings or actions made instituted or taken or of any of which are likely or contemplated to be made instituted or taken: —
 - (i) by any person or corporation against the Board; or
 - (ii) by the Board against any person or corporation;
- (h) a copy of the audited balance sheet for the Industry as at 30th June, 1974;
- (i) any other information or detail pertinent to the sale and purchase which the Company may reasonably require.

Securities³

18. (1) On the Sale Date or so soon thereafter as is practicable the Company or the Nominated Company (whichever of them effects the purchase of the Industry in terms of clause 5 hereof being hereafter in this clause 18 referred to as “the Purchaser”) will execute: —

- (a) in favour of the State (or such corporation or person as it nominates): —
 - (i) a mortgage to be registered as a first mortgage under the *Transfer of Land Act 1893* and *Land Act 1933* (as the case may require) over the lands set out in the First and Second Schedules hereto; and
 - (ii) a debenture to be registered as a first charge over the Purchaser’s undertaking carried on at Wundowie and elsewhere in respect thereto and all the property and assets of that undertaking both real and personal whatsoever and wheresoever both present and future including all book debts

to secure the State for the payment of the unpaid purchase price of THREE HUNDRED AND NINETY THOUSAND DOLLARS (\$390,000);

- (b) in favour of the State: —
- (i) a mortgage to be registered as a second mortgage under the *Transfer of Land Act 1893* and *Land Act 1933* (as the case may require) over the lands set out in the First and Second Schedules hereto; and
 - (ii) a debenture to be registered as a second charge over the Purchaser's undertaking carried on at Wundowie and elsewhere in respect thereto and all the property and assets of that undertaking both real and personal whatsoever and wheresoever both present and future including all book debts

to secure the State for the guarantees given by it to the several lenders mentioned in the Loan Agreements (herein called "the Lenders") whereby the State respectively guaranteed the Lenders the repayment of the sum of SEVEN HUNDRED THOUSAND DOLLARS (\$700,000) other moneys and interest thereon as therein provided

PROVIDED HOWEVER that no such mortgage or debenture shall extend to or include the Coates Stage I Plant or any other property of the Purchaser unless it is part of or used in connection with the Industry as acquired by the Purchaser hereunder or affixed to any land mentioned in either the First or Second Schedules.

(2) All the securities referred to in this clause shall be in a form to be approved by the Minister and shall respectively contain such covenants agreements provisions and conditions as the Minister requires and the Purchaser shall do or cause to be done all acts matters and things for the securities to be registered according to the priorities aforesaid.

(3) The Purchaser may with the consent of the Minister substitute other securities for those referred to in sub-clause (1) of this clause provided: —

- (a) the value of the property the subject of those other securities exceed by such percentage as the Minister approves the balance of the unpaid purchase price of THREE HUNDRED AND NINETY THOUSAND DOLLARS (\$390,000) then owing and the Treasurer's aggregate liability (contingent or otherwise) under those guarantees, and

- (b) the securities to be substituted are: —
- (i) in the Minister's opinion readily realisable, and
 - (ii) where applicable registered as a first mortgage or charge (as the case may be) or in such priority as the Minister directs.

(4) The Purchaser may with the prior approval of the Minister first had and obtained at any time and from time to time substitute the guarantee or guarantees of a substantial corporation or corporations as security in lieu of and in substitution for any or all of the securities referred to in this clause 18.

Maintenance and Insurance³

19. Until the consideration referred to in clause 5 hereof has been paid satisfied and discharged the Company shall at all times: —

- (a) well and substantially repair amend and keep and maintain in good repair and condition all buildings erections and other improvements for the time being standing or erected upon the lands referred to in the First and Second Schedules hereto and shall also at all times repair amend and keep and maintain in a good state of repair order working condition and renew as occasion requires all machinery plant tools apparatus equipment and appliances used in the production of charcoal and charcoal iron and steel;
- (b) insure and keep insured in the joint names of the State and the Company according to their respective rights and interests therein such of the property referred to in paragraph (a) of this clause as is of an insurable nature against loss or damage by fire storm tempest earthquake and such other risks as the State may from time to time require to the full insurable value in some insurance office in Perth to be approved by the State and will punctually pay all premiums and sums necessary for effecting and keeping up such insurance and forthwith hand to the Minister every policy and receipt relating thereto.

Assignment³

20. (1) Subject to the provisions of this clause the Company may at any time with the consent in writing of the Minister assign mortgage charge sublet or

dispose of to any party or company the whole of or any undivided interest in the whole of the rights of the Company hereunder (including its rights to or as the holder of any title lease or permit licence or forest lease (issued pursuant to the *Forests Act 1918*) or contract or agreement hereunder) and of the obligations of the Company hereunder subject to the assignee executing in favour of the State a deed of covenant in a form to be approved by the Minister to comply with observe and perform the provisions hereof on the part of the Company to be complied with observed or performed in regard to the matters assigned.

(2) Notwithstanding anything contained in or anything done under or pursuant to sub-clause (1) of this clause the Company shall at all times during the currency of this Agreement be and remain liable for the due and punctual performance and observance of all the covenants and agreements on its part contained herein and in any permit licence or forest lease (issued pursuant to the *Forests Act 1918*) or in any agreement contract or loan agreement herein referred to and the subject of the assignment under sub-clause (1) of this clause.

Variation³

21. (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 or of any lease licence easement or right granted hereunder or pursuant hereto for the purpose of more efficiently or satisfactorily implementing or facilitating any of the objects of this Agreement.

(2) The Minister shall cause an agreement made pursuant to sub-clause (1) of this Clause 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.

Extension³

22. Notwithstanding any provision hereof (other than clause 15 hereof) the Minister may at the request of the Company from time to time extend any period or date referred to in this Agreement for such period or to such later date as the Minister thinks fit and the extended period or later date when advised to

the Company by notice from the Minister shall be deemed for all purposes hereof substituted for the period or date so extended.

Environment³

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

Further Assurance³

24. 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.

Arbitration³

25. Any dispute or difference between the parties hereto or any two of them 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 or any two of them under this Agreement shall in default of agreement between those 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 (where two only are appointed) to appoint their umpire before proceeding in the reference and every such arbitration shall be conducted in accordance with the provisions of the *Arbitration Act 1895* but this clause does not apply to any case where the State the Minister or any Minister is by this Agreement given either expressly or impliedly a discretionary power.

Notices³

26. Any notice consent approval or other writing authorized or required by this Agreement to be given or sent shall be deemed to have been duly given or sent by the State if signed by the Minister or by any senior officer of the Public Service of the said State acting by the direction of the Minister and forwarded by prepaid post to the Company or Mt. Dempster (as the case may require) at its registered office respectively for the time being in the said State and by the

Company or Mt. Dempster if signed on its behalf by a director manager or secretary of the Company or Mt. Dempster or by any person or persons authorised by the Company or Mt. Dempster in that behalf or by its solicitors (which solicitors 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.

Default³

27. (1) If the Company or Mt. Dempster make default which the Minister considers material in the due and punctual performance of any of their respective covenants agreements or obligations hereunder and either the Company or Mt. Dempster shall fail to remedy that default within a reasonable time after notice specifying the default is given to them or either of them (as the case may require) by the State or if either the Company or Mt. Dempster abandons or repudiates their respective operations under this Agreement or if the Company or Mt. Dempster goes into liquidation (other than a voluntary liquidation for the purpose of reconstruction) then and in any of such events the State may by notice given to the Company determine this Agreement and the rights of the Company hereunder and under any permit licence or forest lease aforesaid and upon receipt by the Company of that notice this Agreement and the rights of the Company hereunder and under any permit licence or forest lease aforesaid shall determine PROVIDED HOWEVER that if the Company or Mt. Dempster fails to remedy or to cause to be remedied any default after notice is given to the Company or Mt. Dempster (as the case may be) specifying the default the State instead of determining this Agreement as aforesaid because of such default may itself remedy such default or cause the same to be remedied (for which purpose the State by its agents workmen or otherwise shall have full power to enter upon lands occupied by the Company and the lands the subject of the Mineral Claims and to make use of all plant and machinery equipment and installations on both or either of those lands) and the costs and expenses incurred by the State remedying or causing to be remedied such default shall be a debt payable by the Company to the State on demand made by the State.

Effect of Determination³

- (2) On the cessation or determination of this Agreement: —
- (a) except as otherwise agreed by the Minister the rights of the Company to in or under this Agreement and the estate interest

and rights and concessions of the Company or any mortgagee to in under or pursuant to (as the case may be) the lands described in the First and Second Schedules hereto and any other lands transferred or granted under clause 4(2) hereof and the permits licences or forest leases (described in the Fifth Schedule hereto) shall thereupon cease and determine but without prejudice to the liability of the Company in respect of any antecedent breach or default under this Agreement or in respect of any indemnity given hereunder and the buildings structures and improvements made constructed or erected on any of those lands and all the right title and interest of the Company in all the plant equipment goods chattels and effects on those lands or any lands used in connection with the Industry shall become the absolute property of the Crown without compensation and freed and discharged from all mortgages charges and encumbrances and the Company shall without consideration but otherwise at the request and cost of the State transfer or surrender to the State or the Crown the lands described in the First and Second Schedules hereto and any other lands transferred or granted under clause 4(2) hereof and those permits licences or forest leases aforesaid and do and execute such acts matters things and documents as the State may reasonably require to give effect to this provision and the Company hereby irrevocably constitutes and appoints the Minister or such person as he may from time to time nominate the true and lawful attorney of the Company to execute the transfer or surrenders aforesaid and to do and execute such acts matters things and documents as the State reasonably requires to give effect to the provision aforesaid;

- (b) the Company shall forthwith pay to the State all moneys which may then have become payable or accrued due.

Limit on Default³

(3) If the Company and Mt. Dempster have at all times up to and including the sixth (6th) anniversary date of the Sale Date duly and punctually observed performed and complied with all their respective covenants and obligations contained in this Agreement then the provisions of this clause 27 shall cease to have any further force or effect after that date.

Exemption from Stamp Duty³

28. The State shall exempt from any stamp duty which but for the operation of this clause would be chargeable on: —

- (a) this Agreement;
- (b) any instrument executed by the State pursuant to this Agreement granting to or in favour of the Company or permitted assignee under clause 20 hereof 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 Company of any interest right obligation power function or authority made pursuant to the provisions of clause 20 hereof.

PROVIDED THAT this clause shall not apply to any instrument or other document executed or made more than two (2) years next following the Sale Date.

Delays³

29. 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 the Company) 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 products or factors due to overall world economic conditions or factors that could not reasonably have been 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.

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.

FIRST SCHEDULE

ALL THOSE pieces of land being: —

1. Portion of Swan Location 1317 and being Lot 1 the subject of Diagram 14219 and being the whole of the land comprised in Certificate of Title Volume 1109 Folio 949 less portion resumed.
2. Portion of Avon Location 1953 and being Lot M2140 on Plan 6744 except and reserving metals minerals and gems specified in Transfer 18843/1957 and being the whole of the land comprised in Certificate of Title Volume 1209 Folio 856 less portion resumed.
3. Portion of Avon Location 1953 and being Lot M2050 the subject of plan 6214 except and reserving metals minerals gems and mineral oil specified in Transfer 7341/1954 and being the whole of the land comprised in Certificate of Title Volume 1169 Folio 19 less the portion resumed.
4. Portion of Avon Location 1953 being part of each of Lots M2137 and M2139 on plan 6744 except and reserving metals minerals gems mineral oil specified in Transfer 47584/65 and being the whole of the land comprised in Certificate of Title Volume 1391 Folio 69.
5. Portion of Avon Location P1 and being Lot 9 the subject of Diagram 16395 and being the whole of the land comprised in Certificate of Title Volume 1217 Folio 534.
6. Portion of each of Cockburn Sound Locations 124 and 329 and being Lot 20 on plan 5777 and being the whole of the land comprised in Certificate of Title Volume 1073 Folio 929.
7. Avon Location 5616 and being the whole of the land comprised in Certificate of Title Volume 983 Folio 54.
8. Avon Location 26783 and being the whole of the land comprised in Certificate of Title Volume 1179 Folio 549.

9. Wundowie Lot 1 and being the whole of the land comprised in Certificate of Title Volume 1202 Folio 452.

The lands comprised in items 7 and 8 are subject to an unregistered lease made between the Charcoal Iron and Steel Industry Board of Management and A.W. and H.D. Llewellyn.

SECOND SCHEDULE

1. Avon Locations 27073, 28416, 28417 and 28418 being Reserve 22605 subject to an unregistered Lease made between the Charcoal Iron and Steel Industry Board of Management of the one part and the Wundowie Club (Incorporated) of the other part in respect of that portion of Avon Location 27073 as is delineated and coloured green (kiosk) in the Schedule to the Lease.
2. Avon Locations 24008, 24009, 24010, 24011, 24012, 24013, 28497 and 28498.

THIRD SCHEDULE

CHARCOAL IRON AND STEEL INDUSTRY
PLANT AND BUILDINGS

Identification Reference	Item
1A	No. 1 Blast Furnace
1B	No. 1 Cast House
1C	No. 1 Blast furnace stoves — 2 off
2A	No. 2 Blast furnace
2B	No. 2 Cast House
2C	No. 2 blast furnace stoves — 2 off
2D	Shaking Ladle and Equipment — including 4 Ladle chassis, 7 ladles, 2 shaking ladle stands
2E	Shaking Ladle Buildings, including 50 ton crane
3A	Bins at No. 1 Blast Furnace — 12 off, Bins at No. 2 Blast Furnace — 20 off, Charcoal Bins O/Head — 4 off

Wundowie Charcoal Iron Industry Sale Agreement Act 1974**First Schedule** Wundowie Charcoal Iron Industry Sale Agreement

Identification Reference	Item
3B	Scale Cars — 4 off (2 only used)
3C	Ore Handling Equipment — including conveyors, tippler, screens and Jaques Limestone Crusher, F'mtle crusher and Screens
3D	Charcoal Screening Plant
4A	Gas Cleaning Plant — including 3 Venturi and 3 Cyclone gas cleaners
4B	Gas pipes and Gantry
4C	Settling Pits
5A	Pig Casting Machine and Equipment — including crane O/H
5B	No. 1 and No. 2 Pig Casting Machines — including one spare machine
5C	Foundry Buildings
5D	Foundry Equipment
5F	Birlec Induction Furnace
5G	Fettling Shop — old
5J	New Railway Siding
5K	Foundry Extensions — including core making equipment, air compressor (at Power House), sand plant (link belt) and miscellaneous equipment
5L	Fettling Shop and equipment
5M	No. 2 Birlec Furnace
5N	Disamatic Moulding Machine
6A	Turbo Blowers — 3 off
7A	Power House — building only
7B	Boilers and Ancillaries — 4 off
7C	Turbo Alternator
7D	6RK Diesel Alternator
7F	Electricity Distribution
8A	Water Supply
8B	Cooling Tower and Pipelines
8C	Fire Control — 1 Trailer and Tanks
9A	Compressed air supply — 5 Compressors
9B	Bulk Liquid Oxygen Equipment — includes all pipework after C.I.G. receivers
10E	Creek Pollution Prevention

Wundowie Charcoal Iron Industry Sale Agreement Act 1974
Wundowie Charcoal Iron Industry Sale Agreement **First Schedule**

Identification Reference	Item
12A	Batch Retorts — 8 off
12B	Transporter
12C	Predrier-48 buggy capacity
12D	Charcoal Coolers — 11 off
12E	Wood Buggies — approx. 170 off — and Wood Lines — 3 off
12F	Buggy Tipplers — 2 off
12G	Charcoal Weigher
13B	Lambiotte Retorts — 2 off
13C	Charcoal Handling Plant — including belts, apron feeders, etc.
13D	Waste Products Disposal Plant — including “Action” waste bins purchased
13E	Log Docker Mill
14A	Power (chain) saw
14D	Main Mill
14E	Dressing Mill
15B	Refinery
15C	Refinery Plant in Eastern States — Union Carbide depot
15D	Refinery Cooling Tower
16A	Fitters Workshop Building — including maintenance office
16B	Fitters Workshop Equipment
16C	Motor Workshop Building and Parking area
16D	Motor Workshop Equipment — including tyre changing equipment, greasing equipment
16E	Carpenters Workshop
16F	Instrument Fitters Workshop
17A	Office and Equipment
17B	Laboratory and Equipment
17C	Stores — 2 off — (i) Bulk (ii) General
17D	Weighbridge
17E	Fremantle Pig Iron Dept.
17F	Drawing Office
17G	Quantovac and New Leased Quantovac Bldg. Extn.
17H	Shiftboss Office
17J	Transport Office
18B	Koolyanobbing Plant
18C	Koolyanobbing Office and Amenities

Identification Reference	Item
18E	Koolyanobbing Vehicles (see supplementary schedule)
19A	Three Staff Houses
19B	Shower Rooms and Lavatory Block
19C	Ambulance Building
19D	Singlemen's Quarters
19E	Small Cottages and Huts
19F	Security Fence
20C	Engineering Spares
21A	Vehicles (see supplementary schedule)
A5	Greengrocery Shop

SUPPLEMENTARY SCHEDULE FOR ITEM 21A
(VEHICLES AT WUNDOWIE)

C.I.S.I. No. or Registration No.	Vehicle
M6	Ford jib crane
M21	Ford jib crane
M42	AEC mobile magnet
M53	ERF cast truck
M57	Foden tip truck
M59	ERF shovel/magnet
M62	Austin tip truck
M68	International tip truck
M69	International tip truck
M73	International prime mover and semi trailer
M74	International table-top truck
M75	International tip truck
M76	ERF cast truck
M77	Fire truck
M78	International tip truck
M82	MAN prime mover and semi trailer

Wundowie Charcoal Iron Industry Sale Agreement Act 1974
Wundowie Charcoal Iron Industry Sale Agreement **First Schedule**

C.I.S.I. No. or Registration No.	Vehicle
M83	Mercedes prime mover and semi trailer
MT10	Harman excavator and magnet
MT11	Ruston Bacyrus RB19 magnet
MT19	Caterpillar road grader
MT24	Simplex diesel locomotive
MT29	Clark fork-lift tractor
MT30	Fiat 550 tractor
MT31	Chamb. end loader
MT35	BHB fork-lift tractor
UQK731	Holden one ton truck
UQL529	Falcon XA Utility
UQM457	Falcon utility
UQN317	Holden utility
UQN417	Holden utility
UQN672	Dodge utility
UQO608	Dodge utility
UQL377	Torana sedan
UQL539	Falcon XA station sedan
N1408	Cortina sedan
N1473	Falcon sedan
N1341	Torana sedan
N312	Falcon sedan
XDE510	Falcon sedan
N1435	Falcon sedan
UQO442	Holden station sedan
N1779	Fairmont sedan
UQP907	Torana sedan
UQP572	Holden station sedan

C.I.S.I. No. or Registration No.	Vehicle
UQC557	Mercedes Benz prime mover
UQT026	Bosich semi-trailer
UQT027	Bosich semi-trailer
UQC600	Allis-Chalmers log loader

SUPPLEMENTARY SCHEDULE FOR ITEM 18E

VEHICLES AT KOOLYANOBING

C.I.S.I. No. or Registration No.	Vehicle
KM1	22R.B. shovel
KM2	Le Tourneau 15-ton dumper
KM3	Le Tourneau 15-ton dumper
KM4	Caterpillar frond-end loader
KM5	AEC 4-wheel drive truck
KM6	Mack 8-wheel tip truck
KM9	Chamberlain rear-end loader
KM11	15-ton Euclid dumper
KM13	Holden 1-ton cab and chassis
KM10	Holden 1-ton van

FOURTH SCHEDULE
PART A
CHARCOAL IRON AND STEEL INDUSTRY — SUMMARY OF LEASED VEHICLES AND PLANT

Item No.	CISI No.	Unit	Commencing date	Leasing Company
1		Danckaert 23½ in. x 7 in. 4-sider planning and mould: machine	7/1/70	Gen. Credits
2	{	Skeleton Frame	28/8/70	Commonwealth Trading Bank
		2¼ in. high tensile pins		
		6-wheeled complete with BPW 10-stud axles, double air line brakes etc. 4 in. bolsters and 2¼ in. pins	28/8/70	Commonwealth Trading Bank
		Allis Chalmers	28/8/70	Commonwealth Trading Bank
3	{	Base Station Equipment	1/9/70	Gen. Credits
		One Multi-channel base station complete with Power supply 20 ft. mast and 60 ft. cable		
		5 multi-channel mobile unit	1/9/70	Gen. Credits
		1 mobile unit with carry portable	1/9/70	Gen. Credits
		4 mounting kits with whip aerials	1/9/70	Gen. Credits
		1 mobile unit with carry portable (less mounting hardware)	1/9/70	Gen. Credits
4	MT33	1 multi channel mobile unit for new truck	1/9/70	Gen. Credits
		1 regulated power supply	1/9/70	Gen. Credits
4	MT33	BHB Mobilift	3/12/70	Gen. Credits
		TC 35 truck-mounted crane with 12 ft. jib extension — Engine No. 236U52099		
5	MT34	International	27/1/71	C.A.G.A.
		Payloader — Model AH65 Series "B"		

Wundowie Charcoal Iron Industry Sale Agreement Act 1974
First Schedule Wundowie Charcoal Iron Industry Sale Agreement

6	M79	Mercedes Benz	LK2624 Cab and Chassis Engine No. 355975 20 025251	6/7/71	Gen. Credits
7	M70	Howard Porter	Transporter Semi-trailer Model S.T.T. 424/26/82SU	6/7/71	Gen. Credits
8	M81	International	2396 ACC-ODF Tipping Body and Hoist Cab and Chassis Engine No. U186365 Chassis No. 36560	20/10/72	Gen. Credits
9		M.A.N.	Prime Mover Cab and Chassis Engine No. 101777/72 Chassis No. 164-0018 0018	26/6/72	Commonwealth Bank
10	M80	International	2396 ACC-ODF Cab and Chassis 20 ft. x 8 ft. Drum Tray Body Shearlift 201 Crane Engine No. 186381	20/10/72	Gen. Credits
11	MT37	John-Deere	Payloader with 4 yd. Bucket S/N.105279 Model JD544, Engine No. 161934	20/10/72	Gen. Credits
12	MT36	John-Deere	Payloader Model No. 544 with Bucket Teeth Drawbar S/No.TEB3T102603T, Engine No. ME37B15637T	20/10/72	Gen. Credits
13	KM12	John-Deere	644 Fourwheel Drive Loader, Serial No. FBST/103893 Engine No. 404/2516511 Plus : 2 cu. yd. Rock Bucket 20.5 x 25 x 16 ply tyres	6/4/74	Commonwealth Bank
14	UQP481	Mercedes-Benz	LK2624/36 Prime Mover Cab and Chassis with Bull Bar. Engine No. 355975 20 073924	1/10/74	Commonwealth Bank
15		QV Quantovac	Direct Reading Vacuum Spectrometer Serial No. QV 28 - 09 Digital Voltmeter complete with A204 systems Integration card	20/6/74	Commonwealth Bank
				20/6/74	Commonwealth Bank

PART B

VARIOUS CONTRACTS WITH THE BOARD

PARTY TO CONTRACT	SUBJECT MATTER OF CONTRACT
1. Abel, Lemon & Company Pty. Ltd.	Pig Iron Sales Agreement for the Eastern States of Australia
2. Union Carbide Australia Ltd. (Timbrol Ltd.)	Chemical Products Sales Agreement
3. CTF — ADAPS (W.A.) PTY. LTD	Debtors Control Services
4. Western Australian Haulage Terminal Pty. Ltd.	Transport of Chemical Products Agreement
5. P. Hoogland	Cleaning Contract
6. N. Farcich	Logging Contracts dated 16 July 1969 and August 1970 respectively including rights to purchase certain plant and equipment.

PART C

LEASES AND OTHER RIGHTS

1. Certificate of Registration	Quarrying Area No. 6 at Koolyanobbing.
2. Lease from W.A. Government Railways Commission	Railway Siding near Wundowie.

FIFTH SCHEDULE

1. Sawmilling Permit No. 1441 granted to the Charcoal Iron Steel Industry Board of Management under the provisions of the *Forests Act 1918*.
 2. Permit to get and remove timber or other forest produce No. 1547 granted to the Charcoal Iron and Steel Industry Board of Management under the provisions of the *Forests Act 1918*.
-

SIXTH SCHEDULE

MINERAL CLAIMS HELD BY MT. DEMPSTER MINING PTY. LTD.

1920H

4575H

4576H

4577H

4578H

4579H

SEVENTH SCHEDULE

LOANS GUARANTEED BY TREASURER

Dated	Amount	Lender	When repayable
28/6/72	\$100 000	The State Government Insurance Office	30/6/1992
12/7/72	\$200 000	The National Bank Savings Bank Limited	31/7/1992
1/8/72	\$100 000	The National Bank Savings Bank Limited	4/8/1992

Dated	Amount	Lender	When repayable
8/8/72	\$100 000	The Australia and New Zealand Savings Bank Limited	15/8/1982
25/7/73	\$200 000	The Rural and Industries Bank of Western Australia	by 50 half yearly payments at \$8 836.65 each commencing on 15/2/1974

SIGNED by the said THE HONOURABLE SIR CHARLES WALTER MICHAEL COURT O.B.E., M.L.A. in the presence of: — } CHARLES COURT

ANDREW MENSAROS,
Minister for Industrial Development.

THE COMMON SEAL of AGNEW CLOUGH LIMITED was hereunto affixed by authority of the Directors and in the presence of: — } (C.S.)

GARRICK AGNEW,
J. S. SMITHSON, Secretary.

THE COMMON SEAL OF MT. DEMPSTER MINING PTY. LTD. was hereunto affixed by authority of the Directors and in the presence of: — } (C.S.)

GARRICK AGNEW, Director.
J. S. SMITHSON, Secretary.

Second Schedule — First Variation Agreement

[s. 2]

[Heading amended: No. 19 of 2010 s. 4.]

THIS AGREEMENT is made the Second day of November, 1977 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 (hereinafter called “the State”) of the first part AGNEW CLOUGH LIMITED a company incorporated under *the Companies Act 1961* of the said State and having its registered office therein at 22 Mount Street, Perth (hereinafter called “the Company” which expression will include its successors and permitted assigns) of the second part and MT. DEMPSTER MINING PTY. LTD. a company incorporated under the *Companies Act 1961* of the said State and having its registered office therein at 22 Mount Street, Perth (hereinafter called “Mt. Dempster” which expression will include its successors and assigns) of the third part.

WHEREAS the parties are the parties to and desire to amend the agreement between them dated the 14th day of November, 1974 referred to in section 2 of the *Wundowie Charcoal Iron Industry Sale Agreement Act 1974* of the State of Western Australia (which agreement is hereinafter referred to as “the principal agreement”).

NOW THIS AGREEMENT WITNESSETH —

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 provisions of this Agreement shall not come into operation unless and until a Bill to approve and ratify this Agreement is passed by the Legislature of the said State and comes into operation as an Act.
3. The principal agreement is hereby varied as follows:
 - (1) as to clause 8 —
 - subclause (2) —
 - (a) by substituting for the passage “Mt. Dempster or the Company shall within the twelve (12) months next following the Sale Date commence” in lines 1 and 2, the passage “Mt. Dempster or the Company, having full regard for the

necessity to achieve ongoing employment for a substantial number of persons engaged in the Industry at Wundowie if the Industry ceases to operate, shall commence, on or before the 28th day of February, 1978,”;

- (b) by deleting the passage “within the thirty (30) months next following the Sale Date” in lines 11 and 12; and
 - (c) by substituting for the passage “within the thirty six (36) months next following the Sale Date commence and thereafter diligently continue to produce marketable quantities of vanadium pentoxide.” in lines 17 to 19 inclusive, the passage “shall not later than the 31st day of August, 1979 have the Coates Stage I Plant in production of vanadium pentoxide at a rate of not less than one million kilograms (1 000 000 kg) per annum.”;
- (2) by adding after clause 8 two new clauses 8A and 8B as follows:
- 8A. The provisions of clause 29 shall not apply —
 - (a) to paragraph (a) of subclause (1) of clause 8 during the period commencing on the Second day of November, 1977 and terminating on the 30th day of June, 1978;
 - (b) to subclause (2) of Clause 8 in respect of the construction of the Coates Stage I Plant except to delays or temporary suspensions caused by or arising from, act of God, floods, storms, tempest, washaways, fire (unless caused by the actual fault or privity of the company) act of war, act of public enemies, riots, civil commotions, strikes, lockouts, stoppages, restraint of labour (whether partial or general), shortages of essential materials or restraints of a fundamental nature (other than financial or market restraints), inability to obtain or delay in obtaining governmental approvals, permits, licences, or allocations (where the company is not at fault) or any law, proclamation, regulation, ordinance or order of any government agency or court.

8B. (1) Notwithstanding anything herein contained where the Minister is of the opinion that Mt. Dempster or the Company is irrevocably committed to proceed with and complete the construction of the Coates Stage I Plant, the Minister shall give notice to the Company releasing the Company from its obligations under —

- (a) paragraph (b) of subclause (3) of clause 5; and
- (b) subclause (1) of clause 8 to the intent that the provisions of clause 27 shall cease to have any further force or affect after the date of such notice.

(2) The State shall within 60 days after the date of the notice referred to in subclause (1) of this clause, re-imburse the Company for amounts paid by the Company to the Board pursuant to paragraph (b) of subclause (3) of clause 5 on and after the 1st day of May, 1977. ;

(3) as to clause 15 —

- (a) by substituting for the word “ton” in line 8 the word “tonne”;
and
- (b) by adding after the words “subject to” in line 11, the passage “the provisions of clause 15B and to”;

(4) by adding after clause 15 three new clauses, 15A, 15B and 15C as follows:

Extra subsidy³

15A. Notwithstanding the provisions of clause 15 but subject to the provisions of clause 15B and to the due performance by the Company and Mt. Dempster respectively of their obligations hereunder the State shall as from the Second day of November, 1977, provide, in addition to the freight subsidy referred to in clause 15, an extra freight subsidy of THREE DOLLARS AND NINETY TWO CENTS (\$3.92) per tonne of iron ore transported by the Western Australian Government Railways Commission from Koolyanobbing to Wundowie for the period commencing on the 1st day of May, 1977 and terminating on the 30th day of June, 1978 Provided However that if this Agreement is determined by

the State pursuant to clause 27 prior to the 30th day of June, 1978 the Company shall forthwith pay to the State an amount equal to the total extra freight subsidy received by the Company pursuant to this clause.

Total subsidy³

15B. The total amount of the freight subsidy payable to the Company pursuant to clauses 15 and 15A during the continuance of this Agreement shall not exceed One Million Two Hundred Thousand Dollars (\$1,200,000).

Reimbursement of Pay-roll Tax³

15C. Subject to the due performance by the Company and Mt. Dempster of their respective obligations hereunder up to and including the 30th day of June, 1978, the State shall pay to the Company as soon as practicable after the 30th day of June, 1978 (but not later than 60 days after that date) an amount equal to the total pay-roll tax actually paid by the Company under the provisions of the *Pay-roll Tax Assessment Act 1971* in respect of the taxable wages paid by the Company to those of its employees employed solely in the Industry and at Koolyanobbing for the period commencing on the 1st day of May, 1977 and terminating on the 30th day of June, 1978, (less any refund made to the Company or to which the Company is entitled under the Pay-roll Tax Assessment Act in respect of that period). ;

and

- (5) as to clause 18 by adding after subclause (4) a new subclause (5) as follows:

- (5) Where the Minister has served the notice referred to in clause 8B the State shall within 60 days after the date of the notice discharge, (subject to payment by the Company of the appropriate legal costs therefor), the mortgage and debenture referred to in paragraph (b) of subclause (1) of this clause.

IN WITNESS whereof these presents have been executed by or on behalf of the parties hereto the day and year first hereinbefore written.

SIGNED by THE HONOURABLE SIR
CHARLES WALTER MICHAEL
COURT, O.B.E., M.L.A. in the
presence of } CHARLES COURT

ANDREW MENSAROS
MINISTER FOR INDUSTRIAL
DEVELOPMENT.

The Common Seal of AGNEW
CLOUGH LIMITED was hereunto
affixed by authority of the Directors and
in the presence of — } [C.S.]

Director, W. H. CLOUGH.

Secretary, J. S. SMITHSON.

The Common Seal of Mt. DEMPSTER
MINING PTY. LTD. was hereunto
affixed by authority of the Directors and
in the presence of — } [C.S.]

Director, W. H. CLOUGH.

Secretary, J. S. SMITHSON.

[Second Schedule inserted: No. 64 of 1977 s. 5.]

Third Schedule — Third Variation Agreement

[s. 2]

[Heading amended: No. 19 of 2010 s. 4.]

THIS AGREEMENT is made the 8th day of May, 1979 BETWEEN THE HONOURABLE SIR CHARLES WALTER MICHAEL COURT, K.C.M.G., 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 (hereinafter called “the State”) of the first part AGNEW CLOUGH LIMITED a company incorporated under the *Companies Act 1961* of the said State and having its registered office therein at 22 Mount Street, Perth (hereinafter called “the Company” which expression will include its successors and permitted assigns) of the second part and MT. DEMPSTER MINING PTY. LTD. a company incorporated under the *Companies Act 1961* of the said State and having its registered office therein at 22 Mount Street, Perth (hereinafter called “Mt. Dempster” which expression will include its successors and assigns) of the third part.

WHEREAS:

The parties are the parties to the agreement between them defined in section 2 of the *Wundowie Charcoal Iron Industry Sale Agreement Act 1974-1977* of the State of Western Australia.

By agreement dated 26th day of September, 1978 the parties varied the said agreement pursuant to and in accordance with the provisions of clause 21 thereof (which said agreement and the variation thereto is hereinafter referred to as “the principal agreement”). The parties desire to further amend the principal agreement.

NOW THIS AGREEMENT WITNESSETH:

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.

Initial obligations of the State³

2. The State shall, (notwithstanding the provisions of clause 21 of the principal agreement), 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 31st day of December, 1979.

Ratification and operation³

3. The provisions of this Agreement shall not come into operation unless and until a Bill to approve and ratify this Agreement is passed by the Legislature of the State and comes into operation as an Act.

4. The principal agreement is hereby varied as follows —

(1) as to Clause 1 —

(a) by amending the definition of “Mineral Claims” by substituting for the passage “as the case may be;” at the end of the definition, the passage “as the case may be together with such other mineral claims that have been or may be granted to Mt. Dempster for the mining of vanadium and titanium as the Minister for Mines may approve;” ;

(b) by adding after the definition “Mineral Claims” a new definition as follows —

“mineral lease” means the mineral lease referred to in clause 4A and includes a 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;

(2) as to clause 4 subclause 3 paragraph (a) —

by substituting for paragraph (a) the following paragraph —

(a) not to surrender or permit the Mineral Claims to be surrendered other than for the ground the subject thereof to be incorporated in the mineral lease;

(3) by adding after clause 4 a new clause 4A as follows —

Mineral Lease³

4A. (1) On application made by the Company for a mineral lease over so much of the land as at the date of application is contained within and subject to the Mineral Claims as the Company desires, the State shall upon the surrender by Mt. Dempster of such Mineral Claims cause to be granted to the Company at the rental specified from time to time in the Mining Act, a mineral lease of such land so applied for (notwithstanding

that the survey in respect thereof has not been completed but subject to such corrections to accord with the survey when completed at the Company's expense) such mineral lease to be granted under and, except as otherwise provided in this Agreement, subject to the Mining Act but in the form set out in this clause and in respect of the minerals set out therein and subject to such of the conditions of the surrendered Mineral Claims as the Minister for Mines determines and such other conditions as the Minister for Mines may reasonably require from time to time for the purpose of reducing or making good injury to the surface of the land in the mineral lease or injury to anything on or below the surface of that land.

Term³

(2) Subject to the performance by the Company of its obligations under this Agreement and the Mining Act and notwithstanding any provisions of the Mining Act to the contrary, the term of the mineral lease shall be for a period of 21 years commencing from the date of receipt of application with the right during the currency of this Agreement to take successive renewals of the said term each for a period of 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, such right to be exercisable by the Company making written application for any such renewal not later than 1 month before the expiration of the current term of the mineral lease.

Labour conditions³

(3) The State shall ensure that during the currency of this Agreement and subject to compliance with its obligations hereunder the Company shall not be required to comply with the labour conditions imposed by or under the Mining Act in regard to the mineral lease.

Other mining tenements³

(4) The State shall not during the currency of this Agreement register any claim or grant any lease or other mining tenement under the Mining Act or otherwise by which any person other than the Company or an associated company will obtain under the laws relating to mining or otherwise any rights to mine

or take the natural substances (other than petroleum as defined in the *Petroleum Act 1967*) within the mineral lease unless the Minister reasonably determines that it is not likely to unduly prejudice or to interfere with the operations of the Company hereunder assuming the taking by the Company of all reasonable steps to avoid the interference.

Access over mineral lease³

(5) The Company shall 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 where applicable) so long as that access and passage does not materially prejudice or interfere with the operations of the Company under this Agreement.

Surrender of part of mineral lease³

(6) Notwithstanding the provisions of this Clause the Company may with the consent of the Minister for Mines from time to time (with abatement of future rent in respect to the area surrendered but without any abatement of the 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.

FORM OF MINERAL LEASE.

WESTERN AUSTRALIA.

MINING ACT 1904.

WUNDOWIE CHARCOAL IRON INDUSTRY SALE AGREEMENT ACT 1974.

MINERAL LEASE.

Lease No. Mineral Field

ELIZABETH THE SECOND by the Grace of God Queen of Australia and Her other Realms and Territories Head of the Commonwealth: TO ALL TO WHOM THESE PRESENTS shall come GREETINGS: KNOW YE that WHEREAS by

and to the Mining Act (as modified by the Agreement) YIELDING and paying therefor the rents and royalties as provided for in the Agreement AND WE do hereby declare that this lease is subject to the condition that the Company shall 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 time being in force made thereunder and the provisions of the Mining Act (as modified by the Agreement) in so far as the same affect or have application to this lease or any renewal thereof.

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

AND PROVIDED FURTHER that all petroleum and other minerals apart from titaniferous magnetite, vanadium, copper, lead, zinc and molybdenum on or below the surface of the demised land are reserved to Her Majesty or any person claiming under her and that any person lawfully authorized in that behalf may have access to the demised land for the purpose of searching for and obtaining petroleum, or subject to the terms of the Agreement other minerals (other than those aforesaid) in any part of the land under the provisions of the Mining Act or 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 seal of the Company was hereunto affixed by authority of the Board of Directors.

Dated the day of 19 .

THE SCHEDULE ABOVE REFERRED TO (plan of lease).

(4) as to clause 8 subclause (1) —

by substituting for paragraph (a) the following new paragraph —

- (a) continue to carry on at Wundowie the production of pig iron from two blast furnaces during the period commencing on the 1st day of July, 1979 and terminating on the 30th day of June, 1980 at a projected rate of eighty-five thousand (85,000) tonnes per annum but not less than a rate of sixty thousand (60,000) tonnes per annum

(5) as to Clause 8A —

by substituting for paragraph (a) the following new paragraph —

(a) to paragraph (a) of subclause (1) of clause 8 during the period commencing on the 1st day of November, 1978 and terminating on the 30th day of June, 1980;

(6) as to clause 8B subclause (1) —

by substituting for paragraph (b) the following paragraph —

(b) subclause (1) of clause 8 to the intent that the provisions of clause 27 shall cease to have any further force or effect after the date of such notice but not in any event prior to the 30th day of June, 1980. ;

(7) by substituting for clause 15C the following new clause —

Reimbursement of Pay-roll Tax³

15C. Subject to the due performance by the Company and Mt. Dempster of their respective obligations hereunder up to and including the 30th day of June, 1980, the State shall pay to the Company as soon as practicable after the 30th day of June, 1979 and the 30th day of June, 1980 (but not later than 60 days after the appropriate date) an amount equal to the total pay-roll tax actually paid by the Company under the provisions of the *Pay-roll Tax Assessment Act 1971* in respect of the taxable wages paid by the Company to those of its employees employed solely in the Industry and at Koolyanobbing for the period commencing on the 1st day of November, 1978 and terminating on the 30th day of June, 1979 and the period commencing on the 1st day of July, 1979 and terminating on the 30th day of June, 1980 (less any refund made to the Company or to which the Company is entitled under the Pay-roll Tax Assessment Act in respect of the appropriate period) PROVIDED THAT the maximum amount payable by the State pursuant to this clause in respect of the period commencing on the 1st day of November, 1978 and terminating on the 30th day of June, 1980 shall not exceed two hundred and twenty six thousand dollars (\$226,000) AND PROVIDED FURTHER THAT if this Agreement is determined by the State pursuant to clause 27 prior to the 30th day of June,

1980 the Company shall forthwith pay to the State any amount paid by the State to the Company pursuant to this clause. ;

- (8) by adding after clause 15E a new clause 15F as follows —

New subsidy³

15F. Subject to the due performance by the Company and Mt. Dempster respectively of their obligations hereunder the State shall as from the 1st day of November, 1978 provide in lieu of all other freight subsidies under this Agreement a new subsidy of two dollars (\$2) per tonne of iron ore transported by the Western Australian Government Railways Commission from Koolyanobbing to Wundowie for the period commencing on the 1st day of November, 1978 and terminating on the 30th day of June, 1980 PROVIDED THAT any payments by way of subsidy made by the State pursuant to clause 15 of this Agreement during this period shall be offset against payments due by the State to the Company pursuant to this clause AND PROVIDED FURTHER THAT if this Agreement is determined by the State pursuant to clause 27 prior to the 30th day of June, 1980 the Company shall forthwith pay to the State an amount equal to the freight subsidy received by the Company pursuant to this clause.

IN WITNESS whereof these presents have been executed by or on behalf of the parties hereto the day and year first hereinbefore written.

SIGNED by THE HONOURABLE SIR
CHARLES WALTER MICHAEL
COURT, K.C.M.G., O.B.E., M.L.A. in
the presence of —

}

CHARLES COURT

ANDREW MENSAROS
MINISTER FOR INDUSTRIAL
DEVELOPMENT.

The Common Seal of AGNEW
CLOUGH LIMITED was hereunto
affixed by authority of the Directors and
in the presence of — } [C.S.]

GARRICK AGNEW,
DIRECTOR.

J. S. SMITHSON,
SECRETARY.

The Common Seal of MT. DEMPSTER
MINING PTY. LTD. was hereunto
affixed by authority of the Directors and
in the presence of — } [C.S.]

GARRICK AGNEW,
DIRECTOR.

J. S. SMITHSON,
SECRETARY.

[Third Schedule inserted: No. 11 of 1979 s. 5.]

Notes

- ¹ This is a compilation of the *Wundowie Charcoal Iron Industry Sale Agreement Act 1974* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Wundowie Charcoal Iron Industry Sale Agreement Act 1974</i>	73 of 1974	10 Dec 1974	10 Dec 1974
<i>Wundowie Charcoal Iron Industry Sale Agreement Act Amendment Act 1977</i>	64 of 1977	23 Nov 1977	23 Nov 1977
<i>Wundowie Charcoal Iron Industry Sale Agreement Act Amendment Act 1979</i>	11 of 1979	24 May 1979	24 May 1979
Reprint 1: The <i>Wundowie Charcoal Iron Industry Sale Agreement Act 1974</i> as at 20 May 2005 (includes amendments listed above)			
<i>Standardisation of Formatting Act 2010</i> s. 4 and 42(2)	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)

- ² Repealed by the *Statutes (Repeals and Minor Amendments) Act 1997*. The provision in this Act amending that Act has been omitted under the *Reprints Act 1984* s. 7(4)(e).
- ³ Marginal notes in the agreement have been represented as bold headnotes in this reprint but that does not change their status as marginal notes.

Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
the Agreement.....	2
the First Variation Agreement.....	2
the Second Variation Agreement	2
the Third Variation Agreement	2