

varied or any of its provisions are cancelled in accordance with the provisions of the Agreement, includes the Agreement as so altered from time to time.

Ratification
of the
Agreement.

3. (1) The Agreement is ratified.

(2) Notwithstanding any other Act or law the Agreement shall, subject to its provisions, be carried out and take effect as though those provisions had been expressly enacted in this Act.

SCHEDULE.

S. 2.

THIS AGREEMENT is made the 18th day of November One thousand nine hundred and seventy BETWEEN THE HONOURABLE SIR DAVID BRAND, K.C.M.G., M.L.A., Premier and Treasurer of the State of Western Australia, acting for and on behalf of the said State and its instrumentalities from time to time (hereinafter called "the State") of the one part and ALWEST PTY. LIMITED a Company incorporated under the Companies Act, 1961, of Western Australia and having its registered office at 34-36 Stirling Street, Perth, in the said State (hereinafter called "the Company" in which term shall be included its successors and permitted assigns) of the other part.

WHEREAS the State has agreed to grant to the Company the right to mine bauxite and the Company has undertaken to process that bauxite into alumina, or to arrange for such processing to be carried out by another company approved by the Minister and, subject to the provisions of this Agreement, at a refinery to be erected at or near Bunbury in the said State and also, possibly, at another refinery to be erected at some other place within the said State.

NOW THIS AGREEMENT WITNESSETH—

1. In this Agreement subject to the context—

Interpreta-
tion.

"access channel" means the channel to be dredged to provide access for shipping to the new inner harbour at the port of Bunbury;

"apply" "approve" "approval" "consent" "certify" "direct" "notify" or "request" mean apply, approve, approval, consent, certify, direct, notify or request in writing as the case may be and the same rule shall apply with regard to derivatives, inflexions and variants of the quoted words;

"associated company" means—

(a) any company providing for the purposes of this Agreement capital of not less than Two Million Dollars (\$2,000,000) which is incorporated or formed within the United Kingdom the United States of America or Australia or such other country as the Minister may approve and which—

(i) is promoted by the Company for all or any of the purposes of this Agreement and in which

the Company or some other company acceptable to the Minister has not less than a twenty five per cent (25%) interest or some lesser interest acceptable to the Minister; or

(ii) being a corporation is related within the meaning of that term as used in section 6 of the Companies Act, 1961, to any company in which the Company or some other company acceptable to the Minister holds not less than twenty five per cent (25%) of the issued ordinary share capital; and

(iii) is notified to the Minister by the Company as being such a company;

(b) any company approved in writing by the Minister;

"bauxite" means ore which either with or without crushing washing and screening is sold as bauxite or is used for processing into alumina;

"Bunbury Port Authority" and "the Authority" means the body corporate established pursuant to the Bunbury Port Authority Act, 1909;

"commencement date" means the date on which the Company gives to the Minister the notice mentioned in Clause 2 hereof;

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

"Conservator of Forests" and "Conservator" means the Conservator of Forests appointed under the Forests Act, 1918;

"Crown land" means all land of the Crown, except land granted or agreed to be granted in fee simple and except land held or occupied under the Crown by lease or licence for any purpose other than pastoral or timber purposes, and includes all land reserved for State forests or the purpose of water conservation;

"inner harbour" means the harbour to be dredged at Bunbury;

"Land Act" means the Land Act, 1933;

"mineral lease" means the mineral lease referred to in Clause 7 hereof and includes any renewal thereof;

"Mining Act" means the Mining Act, 1904;

"Minister" means the Minister in the Government of the State for the time being responsible for the administration of the ratifying Act and pending the passing of that Act means the Minister for the time being designated in a notice from the State to the Company and includes any other Minister acting in place of the Minister;

"Minister for Mines" means the Minister in the Government of the State for the time being responsible for the administration of the Mining Act;

"month" means calendar month;

"notice" means notice in writing;

"person" or "persons" includes bodies corporate;

"production date" means the date on which the regular production of alumina commences at the refinery;

"Railways Commission" means the Western Australian Government Railways Commission established pursuant to the Government Railways Act, 1904;

"ratifying Act" means the Act to ratify this Agreement and referred to in Clauses 2 and 3 hereof;

"refinery" means a refining plant established pursuant to this Agreement in which bauxite is treated to produce alumina;

"smelter" means an electrolytic reduction plant for the conversion of alumina to aluminium using alumina produced from bauxite;

"special grade bauxite" means ore which is saleable as refractory grade abrasive grade or chemical grade bauxite;

"State Electricity Commission" means the State Electricity Commission of Western Australia established pursuant to the State Electricity Commission Act, 1945;

"stockpile area" means the land to be made available to the Company in the Port of Bunbury, in accordance with the terms of this Agreement, for use as a stockpile area;

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Agreement.

"this Agreement" "hereof" "hereto" and "hereunder" includes this Agreement as from time to time added to varied or amended;

"ton" means a ton of two thousand two hundred and forty (2,240) lbs net dry weight unless otherwise specified;

"turning basin" means the dredged waters of the inner harbour as developed by the State for the turning and navigation of vessels in the inner harbour;

reference in this Agreement to a company includes any joint venture, partnership or other association of companies;

monetary references in this Agreement are to Australian currency;

power given under any clauses of this Agreement other than Clause 21 hereof to extend or alter any period or date shall be without prejudice to the power of the Minister under the said Clause 21;

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

Marginal notes shall not affect the interpretation or construction hereof.

**Ratification
and
Operation.**

2. (1) The provisions of this Agreement other than Clause 3 hereof and subclause (9) of Clause 12 hereof shall not come into operation until the Bill referred to in Clause 3 hereof has been passed by the Parliament of Western Australia and comes into operation as an Act and the Company has given the Minister notice that it desires to proceed with the objects of this Agreement.

(2) If before the 31st of December, 1972, the said Bill is not passed or the notice referred to in subclause (1) of this Clause is not given this Agreement will then cease and determine and neither of the parties hereto will have any claim against the other with respect to any matter or thing arising out of, done, performed or omitted to be done or performed under this Agreement.

**Initial
Obligations
of the
State.**

3. The State shall—

(a) 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, 1970; and

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- (b) to the extent reasonably necessary for the purpose of this Agreement allow the Company to enter upon Crown lands and survey possible sites for its operations under this Agreement;
- (c) allow the Company to exercise until the granting of the mineral lease referred to in Clause 7 hereof, or the sooner determination of this Agreement, in respect of the areas previously constituting temporary reserves under the Mining Act numbered 2538H, 2539H, 2540H, 2562H, 2563H, 2564H, 2565H, 2566H, 2569H, 2570H, 2572H, 3494H, 3495H, 3496H, 3497H, 3498H, 3499H, such rights of occupancy as the Company previously held over those reserves according to the tenor of such rights.

4. The State may as and for a public work under the Public Works Act, 1902, resume any land required for the purposes of this Agreement and notwithstanding any other provisions of that Act may sell lease or otherwise dispose of the same to the Company and the provisions of sub-sections (2) to (7) inclusive of Section 17 and Section 17A of that Act shall not apply to or in respect of that land or the resumption thereof.

Resump-
 tions.

5. The Company covenants with the State that it shall—

Obligations
 of the
 Company.

- (1) as soon as reasonably possible after the coming into operation of this Agreement commence the construction of a refinery on a site at or near Bunbury as may be agreed by the Minister or at such other place as the parties may agree and thereafter continue such construction and within three years from the commencement date complete and have in operation the first stage of the refinery with a capacity to produce not less than two hundred thousand (200,000) tons of alumina per annum PROVIDED THAT if the Company shall in writing reasonably demonstrate to the Minister that it has used its best endeavours to negotiate the finance required to construct the refinery and to complete the sales contracts necessary for the sale of alumina produced at the refinery to make the Company's project economically practicable, but it has been unsuccessful in either of these endeavours, the Minister shall grant the Company such extensions of time as are appropriate to the situation;

- (2) transport all bauxite mined within the areas referred to in subclause (1) of Clause 7 of this Agreement to the refinery and to facilitate such

Facilities
 for
 Transport of
 Bauxite
 and Coal.

transport and the transport of coal required by the Company for use within the site of the refinery—

- (a) shall at its own expense construct along a route approved by the Minister and in accordance with recognised standards an appropriate conveyor or pipeline between the mineral lease area and the refinery with all proper ancillary equipment and without unduly interfering with any existing means of communication (including roads and railways), and/or
- (b) shall request the Railways Commission, at the expense of and in consultation with the Company, to—
 - (i) construct along a route approved by the Commission an appropriate railway having a gauge of either 3'6" or 4'8½" as the Company may elect between the mineral lease and a point on the Commission's existing railway system (the precise location of such point to be decided by the Commission) together with all necessary signalling switch and other gear, all proper and usual works and all crossing places as the Commission may reasonably require;
 - (ii) upgrade the Commission's existing railway either as 3'6" or a dual gauge line as may be necessary from the point of connection with the railway referred to in subparagraph (i) above to the refinery so as to make it adequate for the Company's requirements as to the transport of bauxite and coal;
- (c) may request the Railways Commission at the expense of and in consultation with the Company to upgrade the Commission's existing railway so as to make it adequate for the Company's requirements as to the transport of coal either as a 3' 6" or as a dual gauge line as the Company may elect from the

point of connection referred to in paragraph (b) to an agreed point in the Collie coalfield;

PROVIDED THAT—

(i) in the event of the State or the Railways Commission within five years of the date of this Agreement or within three years of the completion of the upgrading referred to in paragraph (b)(ii) and paragraph (c) of this subclause, whichever period is the longer, receiving contributions towards the cost of those upgradings from other users of the railways involved, then the State or the Commission shall return to the Company such part of the moneys advanced by the Company for those upgradings as is equitable;

(ii) in the event of any other person making use of the railway referred to in paragraph (b) (i) of this subclause within 15 years of the date of this Agreement and moving over that railway in any one year within that period 500,000 tons or more of bulk products the State shall require such other user to make a fair contribution to the cost of the establishment of the railway and from the proceeds of any such contribution or contributions shall return to the Company such part of the moneys advanced by the Company for the establishment of the railway as shall be equitable;

and, in the event of its electing to have a railway constructed as aforesaid the Company shall—

(d) provide to the satisfaction of the Railways Commission not less than twelve months in advance of its first requiring the use of rail transport such details of its requirements (including anticipated or provisional

Company to
Notify
Require-
ments.

annual tonnages) as to the use of the railway as will enable the Commission to make arrangements to meet those requirements and shall thereafter give adequate notice of any change in those requirements;

**Ancillary
Facilities.**

(e) at its own cost provide and maintain such sidings, shunting loops, spurs and other connections as it requires solely for its operations under this Agreement and provide and maintain loading and unloading facilities sufficient to meet train operating requirements and terminal equipment (including weighing devices), together with a staff adequate to ensure the proper operation of all such loading and unloading facilities and terminal equipment;

(f) ensure that all wagons are properly trimmed and loaded to prescribed tonnages;

**Rolling
Stock.**

(g) provide sufficient wagons (to a design and specification approved by the Railways Commission) to carry all bauxite and coal to the refinery and necessary replacements therefor except replacements made necessary by the wilful misconduct of the Commission;

(h) if required by the Railways Commission provide sufficient locomotives and brake vans (to a design and specification approved by the Railways Commission) for transport of bauxite and coal and lease such locomotives and brake vans to the Railways Commission on such terms and in such form as may be agreed by the parties;

**Freight
Rates.**

(i) pay in respect of all bauxite and coal carried in trains operated by the Railways Commission pursuant to this Agreement the appropriate freight rates set out in the schedule of rates in the First Schedule hereto by monthly payments on the basis of the anticipated or provisional annual tonnage indicated in the forward pattern of working referred to in Clause 5 (2) (d) hereof subject to annual

adjustment after the expiration of each year with regard to tonnages actually carried and in ascertaining the number of tons actually carried railway weighbridge weights or such alternative method of measuring as is mutually agreed shall be used but in no event shall any allowance be made for moisture contained in the material transported;

- (3) (a) (i) advance to the State a sum of one million five hundred thousand dollars (\$1,500,000) towards the cost of the dredging in progress in the port of Bunbury for an access channel and turning basin, and for the dredging of a berth for the Company in that port and also for the reclamation of adequate areas of land for the establishment of the stockpile area; Costs of Dredging.
- (ii) advance to the State a sum of \$400,000 towards the cost of dredging the access channel and turning basin from 36 feet to 40 feet PROVIDED THAT in the event of the State or the Bunbury Port Authority receiving contributions towards the cost of such dredging from other users of the port (other than Alcoa of Australia (W.A.) N.L.) requiring a greater depth than 36 feet the State, having regard to the amount of the contributions of such other users as aforesaid and to the State's existing obligations to refund to Alcoa of Australia (W.A.) N.L. part of any contribution that Company may have made to the cost of such dredging, shall return to the Company such part of the said sum of \$400,000 as is equitable;
- (iii) in the event of its desiring to use vessels requiring a greater depth of water than forty (40) feet and/or a greater width of access channel than four hundred and fifty (450) feet advance to the State a sum to be agreed towards the additional dredging necessary PROVIDED THAT in the event of any such additional dredging being carried out in accordance with this provision the State will to such extent and for such period as is reasonable having regard Additional Dredging.

to the cost of that dredging charge for the use of the additional depth so provided all persons (including the Company) having industrial or trading establishments at Bunbury and who in any one year move cargo of 300,000 tons or more (whether inward or outward) through the port of Bunbury in vessels drawing more than forty (40) feet AND the State shall from the proceeds of any such charges return to the Company by such equitable instalments as the State may determine the amount so advanced by the Company;

(iv) in the event of it electing to construct a wharf in the port of Bunbury, construct such wharf in accordance with plans and specifications approved by the State;

(v) provided that such use shall not interfere with the Company's own requirements in regard thereto, permit any wharf constructed by it to be used by any other person for the handling of inward and outward cargo belonging to that person; the Company and the Bunbury Port Authority shall from time to time mutually agree upon terms and conditions (including charges) for such handling and if required by the Authority the Company shall act as its agent for and in relation to the collection of such charges and shall remit to the Authority the portion thereof which shall be payable to the Authority; the Company may in addition to allowing any other person to use that part of the wharf as aforesaid, permit, in its sole discretion, such other person to use the Company's bulk loading and other facilities at the berth on reasonable terms and conditions;

(b) (i) whether or not it constructs a wharf as aforesaid, if required by the Authority, at a place within the port of Bunbury and in accordance with plans and specifications first approved by the Authority, construct a shiploader and conveyor system at the Company's expense capable of loading alumina into ships at a rate of not less than 1,200 tons per hour;

Use of
Wharf by
Others.

Construction
of Ship
Loader and
Conveyor
System.

- (ii) at the sole discretion of the Company permit any shiploader and conveyor system constructed at its own expense to be used by third parties on reasonable terms and conditions;
- (iii) in the event of the Bunbury Port Authority's electing to construct the shiploader and conveyor system at the Authority's expense, pay such handling charges for the use of the shiploader and conveyor system as the Authority may from time to time determine;
- (c) (i) throughout the continuance of this Agreement pay to the Bunbury Port Authority a wharfage charge for cargo passing over the wharf at the rate of 15 cents per ton or such other rate as may be agreed in respect of alumina and at rates to be negotiated for all other cargoes Wharfage.

PROVIDED THAT in each calendar year in which the total tonnage of bulk materials passing through the inner harbour exceeds two million (2,000,000) tons the wharfage charge payable by the Company on all alumina in excess of eight hundred thousand (800,000) tons shipped in that year shall be reduced by three cents per ton;

- (ii) pay to the Bunbury Port Authority standard handling charges on all Company cargo other than alumina handled by the Authority but no charge shall be made in respect of liquid caustic if and when a pipeline and related facilities are constructed at the expense of the Company to convey this substance from the point of import at Bunbury to the stockpile area or refinery; Handling Charges.

PROVIDED THAT the wharfage and handling charges (if any) payable pursuant to this Agreement shall be adjusted from time to time in proportion to any increase or decrease in the scale of wharfage and handling charges of the Bunbury Port Authority in respect of locally manufactured goods AND PROVIDED FURTHER that nothing in this Clause shall be taken to imply any exemption from the payment

of tonnage rates, conservancy dues or any other charges that would normally be payable by ships using the port of Bunbury;

Red Mud.

(4) (a) prior to the production date have submitted to and have had approved by the Minister proposals for the ponding of the red mud that is to be anticipated from 63 years production of alumina at the refinery and such proposals must provide—

- (i) for the acquisition before the production date of land suitably situated and sufficient in area on the basis that for a production of one million tons of alumina per year an area of 1,000 acres will be required every twenty years;
- (ii) for the formation of the ponds by constructing raised earth embankments to standards similar to those of an earth dam;
- (iii) for the location, construction and maintenance of the ponds so as to avoid interference to or pollution of underground water, groundwater or the land drainage system and for the establishment of an adequate system of observation wells for testing for such pollution, for the taking of samples from these wells every three months, the submission of such samples to chemical analysis and for producing to the Minister in writing the results of all such analyses;
- (iv) an alternative and satisfactory method of disposal should the particular ponding prove inadequate to prevent pollution;
- (v) for the progressive and adequate covering of filled ponds with soil and for the landscaping of such covered areas and the planting of trees and shrubs thereon;

(b) if so required sell to the State at fair market value any land which, pursuant to the requirements of paragraph (a) of this subclause has been acquired by the Company for the purpose of the disposal of red mud and which is surplus to its present and future requirements under this Agreement PROVIDED THAT the Company shall not in any event be required to sell land where—

- (i) the loss of such land could be expected to increase unreasonably the Company's capital costs or costs of production; or
- (ii) its use by others would be likely to interfere unreasonably with any of the Company's operations under this Agreement; or
- (iii) its use by others would unreasonably prejudice the competitive position of the Company; or
- (iv) other land reasonably situated and suitable for disposal of effluent is available for acquisition by the State;

AND PROVIDED THAT—

the Company shall not sell any land which, pursuant to the requirements of paragraph (a) of this subclause, has been acquired by the Company for the purpose of the disposal of red mud and which has been used for the ponding of red mud and subsequently covered with soil in accordance with the requirements of subparagraph (v) of paragraph (a) of this subclause without having first offered to sell it to the State nor (other than to the State) within twenty eight (28) days of any such offer having been made PROVIDED FURTHER THAT should the State notify the Company that it desires to acquire any part of such land for the purpose of its planned disposal for industrial purposes the Company shall sell to the State at fair market value such part of the land as it does not reasonably require for its own industrial purposes;

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Disposal of
Other Waste
Materials.

- (5) dispose of all waste materials other than red mud generated within the refinery site in such manner as to prevent the pollution of rivers, groundwater and underground water and comply with any reasonable direction which the Minister may give with regard to such disposal;

Drainage.

- (6) adequately drain the refinery site and related facilities and dispose of such drainage in accordance with plans and specifications to be submitted by the Company and approved by the Minister;

Housing.

- (7) (a) provide on the mineral lease or in some adjacent area (at such prices rentals or charges as are fair and reasonable under the circumstances) such services and facilities including housing assistance as may be necessary for the proper and reasonable accommodation health and recreation of workers employed by the Company and of contractors engaged in carrying out the Company's operations under this Agreement;

- (b) bear the capital cost involved to the State in the State's establishing on the mineral lease or adjacent areas any education, hospital, police or other services to the extent to which such services have been made necessary by the Company's operations under this Agreement;

- (c) share with the State or the appropriate authority on a fair and reasonable basis the capital cost of establishing additional services and works, including sewerage treatment works, water supply works, main drains, education and hospital services to the extent to which such additional services and works have been made necessary in Bunbury by the establishment of the refinery;

Use of
Local
Labour and
Materials.

- (8) (a) as far as reasonably and economically practicable use labour available within the State and give preference to Western Australian suppliers manufacturers and contractors in the placement of orders for works materials plant equipment and supplies where price quality delivery and service are equal to or better than that obtainable elsewhere;

- (b) in calling tenders and letting contracts for works materials plant equipment and supplies ensure that Western Australian sup-

pliers manufacturers and contractors are given reasonable opportunity to tender quote or otherwise be properly considered for such works materials plant equipment or supplies;

- (9) make all necessary applications from time to time to the Commonwealth or Commonwealth constituted agency, authority or instrumentality which may be concerned for the grant to the Company of any licence or consent under Commonwealth law required to permit the Company to enter into this Agreement and perform its obligations hereunder;

Common-
wealth
Consent.

- (10) (a) (i) subject to any increase or decrease provided for in the proviso to this paragraph pay to the State a royalty of 26.25 cents per ton on all alumina produced at the refinery during the period expiring at the end of seven years from the production date PROVIDED THAT the royalty payable under this paragraph shall be reviewed quarterly and shall be calculated separately for each of the quarterly periods mentioned in paragraph (d) of this subclause in accordance with the following formula

Royalties
on Alumina
and Bauxite
During First
Seven Year
Period.

$$B \times \frac{M}{52,500} = R.$$

Where B = the royalty mentioned in this paragraph (expressed in cents)

M = the mean quarterly world selling price per ton of aluminium as defined below (expressed in cents)

R = the royalty rate per ton (expressed in cents) which will become payable in respect of alumina as a result of the application of this formula;

the mean quarterly world selling price per ton of aluminium for any quarter is deemed to be the average (expressed in cents) of the four prices first quoted in the London Metal Bulletin in respect

of one pound of Canadian primary aluminium of 99.5 per cent purity F.O.B. Toronto in each of the four quarters which immediately precede that quarter multiplied by 2,240 and for the purpose of this proviso the conversion rate for Canadian dollars to Australian dollars shall be the mean between the buying and selling rate for telegraphic transfers as quoted by a trading bank acceptable to the Minister for Mines;

- (ii) during the period referred to in sub-paragraph (i) of paragraph (a) of this subclause pay to the State a royalty of 50 cents per ton on all special grade bauxite mined by the Company within the areas referred to in subclause (1) of Clause 7 of this Agreement;

Royalty on
Alumina and
Bauxite
After First
Seven Year
Period.

- (b) after the expiration of the period referred to in sub-paragraph (i) of paragraph (a) of this subclause pay to the State on all special grade bauxite mined by the Company within the areas referred to in subclause (1) of Clause 7 of this Agreement and on all alumina produced by it at the refinery royalties at the relevant rates specified in the regulations under the Mining Act PROVIDED THAT the amount payable by way of royalty on each ton of alumina shall not be greater than that payable by any other producer of alumina in the South West Division of the State of Western Australia as defined in the Land Act AND PROVIDED ALWAYS that subject to the proviso to sub-paragraph (i) of paragraph (a) of this subclause in no case shall the rate of royalty on alumina be less than 26.25 cents per ton;

- (c) except with the consent of the Minister not use bauxite (other than special grade bauxite) mined by the Company within the areas referred to in subclause (1) of Clause 7 of this Agreement in any other way than for the production of alumina at the refinery;

Return and
Payment of
Royalties.

- (d) after the production date, before the fifteenth day in each of the months of January, April, July and October in each year furnish to the Minister for Mines a

return of all bauxite and alumina produced during the quarterly period ending on the last day of the preceding December, March, June and September as the case may be together with all other particulars necessary to enable the calculation of the royalty payable thereon and within thirty (30) days after the expiration of each such quarterly period pay the State the amount of royalty due and payable in respect of that quarter;

- (e) permit the Minister for Mines or his nominee to inspect at all reasonable times the records of the Company relative to the quantities of special grade bauxite or alumina produced hereunder and to take copies or extracts therefrom for the purpose of determining the royalty payable and take reasonable steps to satisfy the Minister for Mines either by certificate of a competent independent party acceptable to the State or otherwise to the reasonable satisfaction of the Minister for Mines as to all relevant weights and analyses and will give due regard to any objection or representation made by the Minister for Mines or his nominee as to any particular weight or assay of special grade bauxite or alumina which may affect the amount of royalty payable hereunder; Inspection.

- (11) take reasonable measures to purchase or lease land required by the Company for the purposes of this Agreement.

6. (1) The Company undertakes to investigate the technical and economic feasibility of establishing a smelter in the State of Western Australia and from time to time review the matter and when requested by the Minister but not more than every twelve (12) months to inform the State fully in writing as to the progress and results of such investigations. Smelter.

The State may if it so desires also undertake studies and for this purpose the Company shall provide the State with such information as it may reasonably require but the Company shall not be obliged to supply technical information of a confidential nature in respect of processes which have been developed by the Company or an associated company or acquired from other sources and which is not generally available to the aluminium industry, or financial and economic information of a confidential nature which, if disclosed, could unduly prejudice the contractual or commercial arrangements between the Company and third parties.

(2) If the studies undertaken under subclause (1) of this Clause show that in the circumstances then applying to the Company a smelter is technically and economically viable and competitive on world markets then the Company shall establish a smelter and have it operating at a capacity and within a time to be agreed.

(3) If the Company is unwilling or fails to establish the smelter as provided in subclause (2) of this Clause the State may negotiate with a third party to establish a smelter on terms and conditions not more favourable on the whole to the third party than any terms it has offered to the Company. In such circumstances the Company will if required supply alumina for a reasonable period to the third party at a reasonable price (which shall have regard to the prices recently negotiated and currently under negotiation by the Company and shall take into account the cost of any additional capacity that has to be constructed by the Company) and in sufficient quantities to meet the requirements of the third party from time to time PROVIDED THAT the Company shall not be liable to supply the third party with a greater annual quantity of alumina than 100,000 tons in the first year after the smelter is established and thereafter at a progressively increasing annual tonnage until a maximum of 200,000 tons is reached in the fifth year.

**Mineral
Lease.**

7. (1) The State shall on application made by the Company at any time before the expiration of two (2) years from the commencement date cause to be granted to the Company a mineral lease of such Crown land as is applied for within the area delineated in blue on the plan marked "A" and initialled by or on behalf of the parties hereto for identification (notwithstanding that the survey in respect thereof has not been completed but subject to such corrections required to accord with the survey when completed), and as previously came within the temporary reserves mentioned in Clause 3 (c) of this Agreement or as is included in any application for a mineral claim under the Mining Act by the Company, The Broken Hill Proprietary Company Limited or Dampier Mining Company Limited, such lease to be granted under and, except as otherwise provided in this Agreement, subject to the Mining Act but in the form of the Second Schedule hereto.

(2) The Company shall not be required to comply with labour conditions imposed by or under the Mining Act with regard to any mineral lease, whether of Crown land or private land, granted within the area referred to in sub-clause (1) of this Clause PROVIDED THAT in the case of private land the owner, having been advised by the Company as to the effect of the terms of this Agreement insofar as they

relate to leases of private property, has expressly agreed in writing to the Company exercising, in respect of his land, the right of non-compliance with the labour conditions as conferred by this sub-clause.

(3) If the mineral lease granted pursuant to sub-clause (1) of this Clause or any mineral lease of private land as contemplated by sub-clause (8) of this Clause includes all or any part of the land coloured in red on the plan marked "A", such land being part of the Helena River and Collie River catchment areas, the Company, notwithstanding the existence of the particular lease, shall not mine or make any use whatsoever of such land until the State has notified the Company in writing that it approves of the Company mining or otherwise making use of the land and then only to the extent and subject to any conditions indicated in that approval.

(4) Rental under the mineral lease shall be paid to the State yearly in advance and for the first seven years of the lease shall be calculated at the rate of five dollars (\$5) per annum for every square mile contained in the leased area.

(5) After the expiration of the first seven years from the granting of the mineral lease and at the expiration of every seven year period of the lease thereafter the rental for the lease shall be reviewed. The rental for each such period after the first seven years shall be calculated separately in accordance with the following formula—

$$B \times \frac{M}{\$525} = R$$

Where B = the rental mentioned in subclause (4) of this Clause;

M = the mean quarterly world selling price per ton of aluminium as defined in Clause 5 (10) (a) (i) of this Agreement, but here expressed in dollars and cents;

R = the new rental;

PROVIDED THAT in no case shall the adjusted rental be less than FIVE DOLLARS (\$5) per square mile.

(6) Subject to the performance by the Company of its obligations under this Clause and notwithstanding any provision of the Mining Act to the contrary the term of the mineral lease will, subject as hereinafter provided, be for twenty-one (21) years from the date of receipt of the application referred to in subclause (1) of this Clause with

rights of renewal for two (2) consecutive further periods of twenty-one (21) years upon the terms and conditions contained in the mineral lease except that:—

- (i) the rental rate may be varied as provided in subclause (5) of this Clause;
- (ii) royalty rates may be varied as provided in subclause (10) of Clause 5 hereof;
- (iii) the right of renewal shall be excluded after the second renewal.

(7) Within the first six (6) months of the twelve (12) months immediately preceding the expiration of the second renewed period of twenty-one (21) years of the mineral lease the Company, if the refinery is then being operated pursuant to this Agreement, may give notice in writing to the State that it desires a further mineral lease under the Mining Act for bauxite of the leased area or of a part or parts thereof for a term of twenty-one (21) years and the State shall within six (6) months from its receipt of that notice notify the Company of the terms and conditions upon which it is prepared to grant such a further mineral lease of the leased area or of a part or parts thereof (as the case may be) and the Company for a period of three (3) months thereafter will have the right to accept such further mineral lease on those terms and conditions and for a period of two (2) years the State shall not offer to grant a mineral lease of the leased area or any part thereof for bauxite to any person other than the Company on more favourable terms and conditions than have been offered to the Company.

(8) If the Company obtains a mineral lease under the Mining Act over private land within the area which is referred to in subclause (1) of this Clause as being "delineated in blue", then, subject to the normal arrangements being made with the owner of such land the Company may renew any such lease in the normal way at any time whilst the lease referred to in subclause (1) of this Clause, or any renewal thereof, or any lease issued pursuant to subclause (7) of this Clause, is still current, notwithstanding the provisions of section 53 of the Mining Act.

**Construction
of Railway.**

8. (1) The State shall at the request of the Company and with all reasonable expedition but at the Company's expense in all things execute the railway construction and upgradings referred to in Clause 5 (2) (b) and (c) of this Agreement but shall not be required to complete such construction or upgradings within a period of less than two years from the date of the Company's particular request.

(2) The construction and upgradings referred to in subclause (1) of this Clause shall be carried out to the specifications of the Railways Commission but in deciding on any such specifications the Commission shall have due regard to the requirements of the Company and shall consult the Company as to those requirements.

(3) The provisions of section 96 of the Public Works Act, 1902, shall not apply to any railway constructed pursuant to this Agreement.

(4) The State shall maintain the railway constructed in accordance with Clause 5 (2) (b) (i) of this Agreement. Maintenance of Railway.

(5) During the currency of this Agreement, subject to the Company complying with its obligations hereunder in relation to its use of rail transport and, in particular, subject to the number of wagons provided by the Company being sufficient for the purpose, the State shall operate such trains as the Company reasonably requires for the transport of bauxite and coal. Operation of Trains.

(6) The State, at its own expense, shall maintain and service all locomotives, brakevans and wagons necessary for the purposes of this Agreement. Maintenance and Service of Locomotives, Brakevans and Rolling Stock.

9. The State covenants with the Company that the State shall— State's Obligations.

(1) if so required by the Company acquire for it any land required for the refinery; the price at which such land will be made available to the Company shall be the actual cost of acquisition by the State;

(2) on application grant, or make arrangements to have the Authority, or other interested instrumentality of the State, grant to the Company, or obtain for it, on such terms as are prescribed by law or are otherwise reasonable any land, lease, easement or any licence or other right (whether statutory or otherwise) which is necessary to enable the Company, subject to the terms of this Agreement to construct, install, establish, operate or maintain, as the case may be—

- (a) a pipeline or conveyor for the transport of bauxite from the mineral lease to the refinery site;
- (b) any pipeline for the transport of fresh water, sea water, fuel oil, liquid caustic, red mud or other effluent, or natural gas as is reasonably required for the purposes of this Agreement;
- (c) a wharf in the port of Bunbury, an adjacent stockpile area adequate for the purposes of the Company together with associated shiploader,

conveyors, storage bins, railway sidings and ancillary facilities for the storage, handling and shipment of alumina and, if required, a ship unloader and other facilities for the discharge and storage of liquid caustic, soda ash and limestone;

- (d) a conveyor for the transport of alumina from the refinery site to a loading point or points in the port of Bunbury;
- (e) housing recreational and other facilities, amenities and services required on or in an area adjacent to the mineral lease for the personnel of the Company or its contractors and their families;
- (f) any other facility contemplated by this Agreement or which the Company and the Minister agree is desirable for the purposes of the Agreement;

PROVIDED THAT the State shall be reimbursed by the Company for all expenses involved, whether because of resumption or otherwise, in its making or causing to be made available to the Company any such land, lease, easement or other right as aforesaid, and that the Company shall pay all fees and other charges normally payable in connection with the granting of any statutory right or licence

AND PROVIDED THAT wherever the grant of any such land, lease, easement, licence or other right is provided for by statute the particular grant shall be made under and the resulting right exercised subject to the terms of the relevant statute except to the extent that this Agreement provides otherwise

Modification
of Land Act.

BUT PROVIDED FURTHER THAT in respect of any land sold or leased to the Company by the State for any of the purposes of this Agreement the Land Act shall be deemed to be modified by:—

- (a) the substitution for subsection (2) of section 45A of the following subsection:—

“(2) Upon the Governor signifying approval pursuant to subsection (1) of this section in respect of any such land the same may subject to this section be sold or leased;”

- (b) the deletion of the proviso to section 116;
- (c) the deletion of section 135;
- (d) the deletion of section 143;

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

The provisions of the last proviso above shall not operate so as to prejudice the rights of the State to determine any lease licence or other right or title in accordance with the other provisions of this Agreement;

(3) should the Company desire to establish a second refinery for the processing of bauxite from the mineral lease, entertain and sympathetically consider any proposals which the Company may make with regard thereto including port, railway and other associated facilities;

(4) construct or cause to be constructed at the cost of the Company any road reasonably required by the Company to gain access to land contained in the mineral lease provided that the alignment and general standard of the road is acceptable to the State;

(5) ensure that no land the subject of any mineral lease or other lease, licence or easement granted under or pursuant to statute or this Agreement and no land of any other tenure (including freehold) used or occupied by the Company for any of the purposes contemplated by this Agreement shall be made subject to any restriction as to its use such as would prevent or unreasonably hinder the Company carrying out the operations contemplated by this Agreement, whether such restriction be by way of zoning, regulation, by-law or other exercise of statutory power and whether by the State or any local or other authority;

Zoning.

(6) except as provided in this Agreement 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 titles property or other assets products materials or services used or produced by or through the operations of the Company in the conduct of its business hereunder nor will the State take or permit to be taken by any such State authority any other discriminatory action which would deprive the Company of full enjoyment of the rights granted under this Agreement;

No Discrimination by Rates or Otherwise.

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Rating.

(7) ensure that notwithstanding the provisions of any Act or anything done or purported to be done under any Act the valuation of all lands (whether of a freehold or leasehold nature) the subject of this Agreement (except as to any part upon which a permanent residence shall be erected or which is occupied in connection therewith) shall for rating purposes be the unimproved value thereof and no such lands shall be subject to any discriminatory rate as against the Company as a party to this Agreement PROVIDED THAT nothing in this subclause shall prevent the Company making the election provided for by section 533B of the Local Government Act, 1960;

No
Resumption.

(8) not during the currency hereof without the consent of the Company resume or suffer or permit to be resumed by any State instrumentality or by any local or other authority of the said State any of the works installations plant equipment or other property for the time being the subject of or used for the purposes of this Agreement nor any of the lands the subject of any lease or licence granted under or pursuant to this Agreement or any freehold land of the Company used by it for the purposes of this Agreement PROVIDED THAT the State may at any time during the currency of this Agreement resume without compensation but otherwise in accordance with the provisions of the Public Works Act a strip of land five chains in width for the purpose of the future Bunbury by-pass freeway, but in determining the alignment of such road the State shall pay reasonable regard to the operations and projected operations of the Company.

Water.

10. (1) The Company will obtain 1.5 million gallons per day of the water required for its operations at the refinery from the Wellington Dam and to this end will pay to the State a sum sufficient to enable the State to design and construct a pipeline together with ancillary works of appropriate size to supply the 1.5 million gallons per day to the refinery. Such water shall be paid for by the Company at the prices prescribed under the provisions of the Country Areas Water Supply Act.

(2) The State as soon as possible after this Agreement comes into operation shall with all reasonable expedition construct the pipeline and ancillary works referred to in subclause (1) of this Clause and may construct such pipeline and ancillary works to a greater capacity than that indicated in subclause (1), but in that event the cost of the enlarged supply system will be shared on a basis to be negotiated between the State and the Company.

(3) To meet the total requirements of the Company it is proposed that the quantity of water to be supplied from Wellington Dam shall be supplemented by water from an underground source. In order to investigate the availability

(4) If the investigations mentioned in subclause (3) of this Clause establish the availability of suitable subterranean sources, the State shall grant to the Company licence to draw water from those sources but may impose a limit on the amount that may be taken and may from time to time stipulate the amount which may be taken, even though it involves reducing any such limit. Such licence may be revoked at any time without compensation if the State considers it would be desirable for water conservation purposes that all sources of water in the Bunbury Region be controlled and operated by the State and in the event of the State assuming control the Company's water requirements up to three million gallons per day (subject to availability) will be supplied by the State at a fair price to be negotiated, having regard to the capital costs already incurred and the operating costs being incurred by the Company in obtaining water pursuant to the provisions of this Agreement at the time of the revocation of the licence and to all other relevant matters.

(6) The State at the expense of the Company will provide water sufficient for the needs of the Company's mining operations and of its work force at such point or points as shall be chosen by the Company within the boundaries of the area delineated on the plan marked "A" and referred to in Clause 7 (1) of this Agreement. Such water shall be paid for by the Company at the prices prescribed from time to time for mining water under the provisions of the Country Areas Water Supply Act.

(2) The State will within six (6) months of the receipt of a request from the Company supply power to the site of the refinery sufficient for construction purposes and to the mining area sufficient for normal operating requirements.

(3) Power supplied to the Company pursuant to this Clause shall be on the State Electricity Commission's usual conditions and at its usual rates for the supply of power to industrial users.

Access to
Forests

12. (1) The State acknowledges that the Company for the purpose of its operations under this Agreement will need to enter upon and remove overburden from areas of State forests and Crown land within the mineral lease.

(2) The Company will subject as is hereinafter provided, from time to time, give to the Conservator of Forests on behalf of the State at least six (6) months prior notice of its intention to enter upon any area of State forest or Crown land to be specified in the notice and to cut and remove from the area forest produce and overburden for the purposes of the Company's operations under this Agreement and the Conservator unless he has good and sufficient reason to the contrary shall grant to the Company any permit or licence necessary for those purposes subject to usual or proper conditions. In the case of bauxite to be mined for test purposes, the period of notice required under this subclause shall be reduced to thirty (30) days:

PROVIDED HOWEVER that—

- (a) before the Company commences mining operations on the area the Conservator may cut and remove therefrom any merchantable timber or other forest produce; and
- (b) the Company in accordance with the directions of the Conservator, will dispose of all forest produce and overburden removed from the area in such places and in such manner as will not threaten or destroy the health or safety of any forest or forest produce on adjoining or other areas of State forest.

(3) As from the commencement of mining operations or from the first day of January, 1975, whichever shall first occur, the Company will pay to the Conservator compensation at the rate of TWO HUNDRED AND FIFTY DOLLARS (\$250) per acre for the area of forest destroyed by or in connection with the Company's mining activities. Such payments will be made in advance in the month of January of each year on the area of forest proposed to be destroyed in that year and payments by way of any necessary adjustment shall be made in the month of January next following. The rate of compensation aforesaid has been determined having regard to the current cost to the Conservator of acquiring one acre of suitable land and planting it with trees together with the estimated loss of royalty subsidy or grant and increased costs of management in respect of each acre of growing timber so destroyed and shall accordingly

be increased or decreased as from the termination of each period of five (5) years calculated from the date of commencement of mining operations or from the 1st day of January, 1975 whichever shall first occur having regard to any increase or decrease in the Conservator's costs and the loss of royalty subsidy or grant aforesaid which has occurred since date of the Agreement or the date of the last review as the case may be.

(4) The Forest Officer for the time being in charge of State forest within the area of the mineral lease may on reasonable grounds prohibit the use thereon of any roads or tracks and may from time to time give directions regarding the routes by which the ore or produce obtained may be removed or taken through any part of the State forest and the Company shall comply with and observe such directions PROVIDED THAT those directions shall not apply to roads built by the Company the Commissioner of Main Roads or any other statutory body with the exception of the Forests Department. Subject thereto and provided that the use of any road under the control of the Conservator does not result in undue damage to the forest or forest produce the Company may use such road or roads as it desires. Any damage to Forests Department roads or tracks resulting from operations by the Company shall be repaired by the Company at its own expense to the satisfaction of the Forest Officer.

(5) All debris resulting from clearing operations in areas of State forests and Crown land by the Company shall be disposed of by the Company to the satisfaction of the Conservator.

(6) The Company in its operations hereunder will comply with and observe the provisions of the Bush Fires Act, 1954.

(7) The Company will take all such necessary precautions as may be indicated by the Forest Officer to prevent the occurrence or spread of any fire within or adjacent to the area of the mineral lease.

(8) As may reasonably be required by the Conservator, the Company shall from time to time and at its own expense take adequate measures—

- (i) for the progressive restoration and re-afforestation of the forest destroyed;
- (ii) for the prevention of soil erosion;
- (iii) for the prevention of the formation of deep water pools and other dangers to persons who may use the forest areas,

PROVIDED THAT the Company shall not be obliged to restore to its original contour land on which forest has been destroyed.

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(9) The Company shall as soon as practical after the date of this Agreement and at its own expense and in consultation with the Conservator establish a trial area or areas not exceeding in the aggregate five acres for the purpose of investigating the most practical and effective methods of re-forestation of mined areas.

Right to
Grant
Mining
Tenements
for Other
Minerals.

13. Notwithstanding anything contained or implied in this Agreement or in the mineral lease the State may grant to or register in favour of persons other than the Company leases and other mining tenements in respect of the area subject to the mineral lease for minerals other than those the subject of the mineral lease and for stone sand or gravel unless the Minister for Mines determines that such grant or registration is likely unduly to prejudice or interfere with the operations of the Company hereunder assuming the taking by the Company of reasonable steps to avoid the prejudice or interference.

Sea Water.

14. The Company may without charge draw sea water from the Indian Ocean or from the inner harbour for any of its operations under this Agreement and may return to the open sea water which has been used for cooling only and for these purposes may subject to the approval of the Bunbury Port Authority and the Minister (which approvals shall not be unreasonably withheld) construct such works and use such portion of the sea bed as may be reasonably required.

Delays.

15. (1) This Agreement shall be deemed to be made subject to any delays in the performance of obligations under this Agreement and to the temporary suspension of continuing obligations hereunder which may be occasioned by or arise from circumstances beyond the power and control of the party responsible for the performance of such obligations including delays or any such temporary suspension as aforesaid caused by or arising from Act of God force majeure floods storms tempests washaways fire (unless caused by the actual fault or privity of the 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 to profitably sell alumina or factors due to overall world economic conditions or factors which could not reasonably have been foreseen PROVIDED ALWAYS that the party whose performance of obligations is affected by any of the said causes shall minimise the effect of the said causes as soon as possible after their occurrence.

(3) When any agreement entered into by the Company in accordance with the terms of this Agreement with some other company or person results in that other company or person discharging all or any of the obligations undertaken by the Company under this Agreement (including, without prejudice to the generality of this provision, the obligation to construct and operate a refinery as imposed by Clause 5 (1) hereof) or renders it unnecessary for the Company to discharge any obligation undertaken by it hereunder the Minister will discharge or temporarily relieve the Company from such part of its said obligations as is reasonable having regard to the extent of and period for which the other company or person actually effects the discharge of those obligations.

Determin-
ation of
Agreement.

17. In any of the following events namely if the Company shall make default in the due performance or observance of any of the covenants or obligations to the State herein or in any lease sublease licence or other title or document granted or assigned under this Agreement on its part to be performed or observed and shall fail to remedy that default within reasonable time after notice specifying the default is given to it by the State (or if the alleged default is contested by the Company and promptly submitted to arbitration within a reasonable time fixed by the arbitration award where the question is decided against the Company the arbitrator finding that there was a *bona fide* dispute and that the Company had not been dilatory in pursuing the arbitration) or if the Company shall abandon or repudiate its operations under this Agreement or if the Company being still bound by any of the terms of this Agreement shall go into liquidation (other than a voluntary liquidation for the purpose of reconstruction), then and in any of such events the State may by notice to the Company determine this Agreement and the rights of the Company hereunder and under any lease licence easement or right granted hereunder or pursuant hereto or if the Company shall surrender the entire mineral lease the rights of the Company hereunder and under any lease licence easement or right granted hereunder or pursuant hereto shall thereupon determine PROVIDED HOWEVER that if the Company shall fail to remedy any default after such notice or within the time fixed by the arbitration award as aforesaid the State instead of determining this Agreement as aforesaid because of such default may itself remedy such default or cause the same to be remedied (for which purpose the State by agents workmen or otherwise shall have full power to enter upon lands occupied by the Company and to make use of all plant machinery equipment and installations thereon) and the costs and expenses incurred by the State in remedying or causing to be remedied such default shall be a debt payable by the Company to the State on demand.

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|---|---|
| <p>18. On the cessation or determination of this Agreement—</p> <ul style="list-style-type: none"> (i) except as otherwise agreed by the Minister the rights of the Company to in or under this Agreement and the rights of the Company or of any assignee of the Company or any mortgagees to in or under the mineral lease and any other lease licence easement or right granted hereunder or pursuant hereto shall thereupon cease and determine but without prejudice to the liability of either of the parties hereto in respect of any antecedent breach or default under this Agreement or in respect of any indemnity given hereunder; (ii) the Company shall forthwith pay to the State all moneys which may then have become payable or accrued due; (iii) the right title and interest of the Company in the railway wagons provided by the Company pursuant to Clause 5 (2) (g) of this Agreement shall cease and determine and the same shall become the property of the State; (iv) save as aforesaid and as otherwise provided in this Agreement neither of the parties hereto shall have any claim against the other of them with respect to any matter or thing in or arising out of this Agreement. | <p>Effect of Cessation or Determination of Agreement.</p> |
| <p>19. The Company will indemnify and keep indemnified the State and its servants agents and contractors in respect of all actions suits claims demands or costs of third parties arising out of or in connection with any work carried out by or on behalf of the Company pursuant to this Agreement or relating to its operations or arising out of or in connection with the construction maintenance or use by the Company or its servants agents contractors or assignees of the Company's works or services the subject of this Agreement or the plant apparatus or equipment installed in connection therewith.</p> | <p>Indemnity</p> |
| <p>20. The parties hereto may from time to time by agreement in writing add to, vary or cancel all or any of the provisions of this Agreement or any lease license easement or right granted or demised hereunder or pursuant hereto for the purpose of more efficiently or satisfactorily implementing or facilitating any of the objects of this Agreement.</p> | <p>Variation.</p> |
| <p>21. 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.</p> | <p>Power to Extend Periods.</p> |

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New
Processes

22. Nothing in this Agreement shall in any way prevent or limit the Company at its sole discretion from adopting for the discharge of its obligations hereunder new processes or equipment incorporating the latest technical developments from time to time available whether or not used by the Company elsewhere in its operations.

Processing
of Bauxite
from Other
Sources.

23. Subject to the approval of the Minister the Company may process at the refinery bauxite obtained otherwise than pursuant to this Agreement.

Arbitration.

24. Except where otherwise specifically provided in this Agreement any dispute or difference between the parties arising out of or in connection with this Agreement or any agreed amendment or variation thereof or agreed addition thereto or as to the construction of this Agreement or any such amendment variation or addition or as to the rights duties or liabilities of either party thereunder or as to any matter to be agreed upon between the parties under this Agreement shall in default of agreement between the parties and in the absence of any provision in this Agreement to the contrary be referred to and settled by arbitration under the provisions of the Arbitration Act, 1895, PROVIDED THAT this Clause shall not apply to any case where the State or the Minister is by this Agreement expressly given a discretionary power.

Notices.

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

Exemption
From Stamp
Duty.

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

(a) this Agreement;

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Column 1	Column 2
In tons per financial year up to but not exceeding	Rates per net ton mile expressed in cents
SCALE A (STANDARD GAUGE)	
1 million tons per annum	1.20
2 million tons per annum	1.10
3 million tons per annum	1.00
4 million tons per annum ....	.90
5 million tons per annum ....	.825
6 million tons per annum ....	.75
7 million tons per annum ....	.725
8 million tons per annum ....	.70

SCALE B (NARROW GAUGE)	
1 million tons per annum	1.30
2 million tons per annum	1.20
3 million tons per annum	1.10
4 million tons per annum	1.00
5 million tons per annum ....	.925
6 million tons per annum ....	.85
7 million tons per annum ....	.825
8 million tons per annum ....	.80

- (1) The rate to apply to the aggregate tonnage actually transported shall be the rate appearing in Column 2 opposite the tonnage in Column 1 which is nearest above the actual tons transported—
 - (a) where bauxite and coal are hauled on standard gauge trains the annual tonnages of both commodities shall be aggregated and the rates shown in Scale A shall apply;
 - (b) where bauxite and coal are hauled on narrow gauge trains the annual tonnages of both commodities shall be aggregated and the rates shown in Scale B shall apply;
 - (c) where bauxite is hauled on standard gauge and coal on narrow gauge the annual tonnages of both commodities may be aggregated and the rates shown in Scale A for the aggregate tonnage shall apply to the tonnages of bauxite hauled and the rates shown in Scale B for the aggregate tonnage shall apply to the tonnage of coal hauled.

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(2) The rates set out in this Schedule have been calculated on the basis of the total turnaround time at terminals not exceeding two hours loading and three hours unloading for bauxite and two hours loading and two hours unloading for coal. If such times are not regularly adhered to by the Company the Railways Commission reserves the right to review the rates. The rates have been calculated also on the basis of a total turnaround time of twelve hours.

(3) The rates of freight set out in this Schedule are based on costs prevailing at the 22nd October, 1970 and shall be adjusted half-yearly on the 1st January and 1st July of each year on costs prevailing at those dates in accordance with the following formula:—

$$F1 = F + .45F \left\{ .80 \left(\frac{HR1 - HR}{HR} \right) + .05 \left(\frac{D1 - D}{D} \right) + .15 \left(\frac{SR1 - SR}{SR} \right) \right\}$$

WHERE:

- (i) F 1 = New freight rate.
- (ii) F = Agreement freight rate.
- (iii) HR = Average hourly rate as at 22nd October, 1970.
- (iv) HR 1 = New average hourly rate.
- (v) D = Price of distillate per gallon delivered to the public at North Fremantle as at 22nd October, 1970.
- (vi) D 1 = New price distillate.
- (vii) SR = Price of steel rails per ton f.o.w. Fremantle as ascertained from price schedule of Australian Iron & Steel Pty. Ltd. as at 22nd October, 1970.
- (viii) SR 1 = New price steel rail.

The rates applicable at the 22nd October, 1970 are:—

1st class driver	....	....	\$1.9450 per hour
1st class guard	....	....	\$1.5988 " "
Track repairer	....	....	\$1.2666 " "
			<hr/>
			\$4.8104
Average hourly rate	....		\$1.6034
Price of distillate per gallon—20.9 cents			
Price of steel rail per ton—\$104.50			

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(4) Freight charges shall be raised on a minimum of—

Standard Gauge:

Bauxite	75 tons
Coal	..	....	....	....	50 tons

Narrow Gauge:

Bauxite	....	....	....	....	63 tons
Coal	..	....	....	....	45 tons

per wagon per train actual weight as loaded.

(5) The escalation formula shall be subject to review on 1st January 1975 and thereafter at five-yearly intervals. Such review shall take into account any significant changes in the mode or basis of operations.

(6) Bauxite and/or coal shall be carried at the risk of the Company.

THE SECOND SCHEDULE

WESTERN AUSTRALIA

MINING ACT, 1904

**ALUMINA REFINERY (BUNBURY) AGREEMENT
ACT, 1970**

MINERAL LEASE

Lease No..... Mineral Fields

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

TO ALL TO WHOM THESE PRESENTS shall come GREETINGS:

KNOW YE that WHEREAS by section 48 of the Mining Act, 1904, power is given to the Governor of our State of Western Australia, in the Commonwealth of Australia, to grant leases of land for the purposes of mining thereon for any mineral other than gold upon the terms and conditions set forth in the said Act AND WHEREAS by an Agreement made between the State of Western Australia and Alwest Pty. Limited (hereinafter called "the Company" which expression includes its successors and permitted assigns) which Agreement (hereinafter referred to as "the Agreement") was ratified by the Alumina Refinery (Bunbury) Agreement Act, 1970 the State agreed to grant to the Company on application made by the Company a mineral lease under and, except as otherwise provided by the Agreement, subject to the Mining Act, 1904, AND WHEREAS the Company has now made application for a lease of the land hereinafter described for the purpose of mining thereon for bauxite

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 this day of 19

THE SCHEDULE ABOVE REFERRED TO (plan of lease)

IN WITNESS whereof the parties hereto have executed this Agreement the day and year first hereinbefore mentioned.

SIGNED SEALED AND DELIVERED by the said THE HONOURABLE SIR DAVID BRAND, K.C.M.G., M.L.A., in the presence of—	}	DAVID BRAND [L.S.]
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C. W. COURT,
MINISTER FOR INDUSTRIAL
DEVELOPMENT.

ARTHUR GRIFFITH,
MINISTER FOR MINES.

The Common Seal of ALWEST PTY. LIMITED was hereunto affixed with the authority of the Directors and in the presence of—	}	[C.S.]
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R. D. SOMERVILLE,
DIRECTOR.

W. I. KOMMER,
DIRECTOR.