IRON ORE (TALLERING PEAK) AGREEMENT.

11° Elizabeth II., No. LXVIII.

No. 68 of 1962.

AN ACT to amend the Iron Ore (Tallering Peak) Agreement Act, 1961.

[*Assented to 30th November, 1962.*]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title and citation

1. (1) This Act may be cited as the *Iron Ore (Tallering Peak) Agreement Act Amendment Act, 1962.*

(2) In this Act the Iron Ore (Tallering Peak) Agreement Act, 1961, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Iron Ore (Tallering Peak) Agreement Act, 1961-1962.

2. Section two of the principal Act is amended— S. 2 amended.

(a) by adding after the word, "the" in the second line of the interpretation, "the agreement", the word, "First", and adding after the word, "Act", being the last word in that interpretation, the words, "as amended by the supplementary agreement"; and

(b) by adding after the interpretation, "the State", the following interpretation—

"the supplementary agreement" means the agreement a copy of which is contained in the Second Schedule to this Act. .

3. The principal Act is amended by adding after section three the following section— S. 3A added.

3A. The supplementary agreement is approved, ratified and confirmed. . Supplementary agreement approved.

4. The heading to the Schedule to the principal Act is deleted and the following headings are substituted— The Schedule.

The Schedules.

First Schedule.

5. The principal Act is amended by adding at the end thereof the following schedule— The Second Schedule.

Second Schedule.

AN AGREEMENT under seal made the eighth day of November One thousand nine hundred and sixty-two BETWEEN THE HONOURABLE DAVID BRAND M.L.A. Premier and Treasurer of the State of Western Australia acting for and on behalf of the Government of the said State and its instrumentalities (hereinafter referred to as "the State") of the one part and WESTERN MINING CORPORATION LIMITED a company duly incorporated under the Companies Statutes of the State of Victoria and having its principal office in that State at 360 Collins Street Melbourne and having its registered office in the State of Western Australia at 55 Macdonald Street Kalgoorlie (hereinafter referred to as "the Company" which term shall include its successors and permitted assigns) of the other

part WHEREAS on the tenth day of August One thousand nine hundred and sixty-one the parties entered into an agreement under seal (hereinafter called "the 1961 Agreement") relating to the prospecting for and mining and processing of iron ore pyrites and concentrates within the boundaries of Temporary Reserve 1972H situate at Tallering Peak which agreement was ratified by Act No. 49 of 1961 AND WHEREAS from work done pursuant to Clause 3 of the 1961 Agreement the Company considers and the State accepts that the tonnages and grades of iron ore within the boundaries of the said Temporary Reserve 1972H are probably not capable of economic recovery and marketing by the Company under the 1961 Agreement but the parties consider that the tonnages and grades aforesaid combined with those within the boundaries of Temporary Reserve 1973H situate at Koolanooka Hills near Morawa in the said State would be capable of economic recovery and marketing under the 1961 Agreement as varied by the provisions of this Agreement.

NOW THIS AGREEMENT WITNESSETH as follows—

Ratification and operation.

1. This Agreement and the 1961 Agreement as varied by this Agreement shall have no force or effect unless before the 1st day of April, 1963 a Bill to ratify this Agreement shall come into operation as an Act but shall operate and have full force and effect if and when the Act (hereinafter referred to as "the ratifying Act No. 2") comes into operation as an Act.

Construction of Act 49 of 1961.

2. For the purposes of this and the 1961 Agreement the Act No. 49 of 1961 ratifying the 1961 Agreement shall be read and construed as if the definition of the expression "the agreement" in section 2 of the Act were amended by the addition thereto of the following passage namely—

> "as that agreement is varied by the provisions of a further agreement made between the same parties and ratified by an Act passed before the first day of April, 1963".

Interpretation.

3. In this Agreement unless the context otherwise requires words and expressions defined in the 1961 Agreement shall have the same meaning as in the 1961 Agreement.

Amendment of Cl. 2 of 1961 Agreement.

4. Clause 2 of the 1961 Agreement is amended by adding—

(a) after the definition of "associated company" new definitions as follows:—

> "direct shipping ore" means iron ore which has an average pure iron content of not less than sixty per cent. (60%) and which will not pass through a one quarter inch

mesh screen and for the purposes of clause 5 (7) (c) of this Agreement includes fine ore which is not sold at a penalty;

"fine ore" means iron ore which has an average pure iron content of not less than sixty per cent. (60%) and which will pass through a one quarter inch mesh screen; ;

(b) after the definition of the word "month" a new definition as follows:—

"notice date" means the date called the notice date in subclause (6) of clause 4 hereof; ;

(c) after the definition of the word "ton" a new definition as follows:—

"year" means calendar year; .

Amendment of Cl. 3.

5. Clause 3 of the 1961 Agreement is amended by substituting for the passage "in clause 6 hereof" in the last line of paragraph (b) the passage "in clause 6 (1) (a) hereof".

Amendment of Cl. 4 (1) (2) and (3).

6. Subclauses (1) (2) and (3) of clause 4 of the 1961 Agreement are deleted and the following subclause is substituted for subclause (3):—

(3) At any time—

(a) prior to the 31st day of March, 1963;

(b) where the ratifying Act No. 2 does not come into operation as an Act prior to the 1st day of March, 1963 then within one month of the date on which the ratifying Act No. 2 comes into operation as an Act;

(c) where the Company has been granted an extended period under subclause (7) of this clause then prior to the expiry of such extended period;

(d) where the Company has applied for an extended period under subclause (7) of this clause and such extended period has been refused and the Company has not within fourteen (14) days of receipt of a notice in writing from the Minister of such refusal requested that the matter of the refusal be referred to arbitration then prior to the expiration of such fourteen (14) days; or

(e) where upon arbitration pursuant to paragraph (d) of this subclause the refusal of the Minister is upheld or an award is

made extending the period then prior to the date of the award upholding the Minister's refusal or the expiration of the extended period awarded as the case may be—

the Company may give notice to the State in writing that it has as vendor entered into a contract or contracts for the sale from the mineral leases and shipment ex Geraldton (subject to the proviso to this subclause) of approximately two million (2,000,000) tons or more in the aggregate of iron ore pyrites and concentrates or of some one or more of them and providing for the supply of not less than five hundred thousand (500,000) tons of the same per year commencing not later than three (3) years from the giving of the notice and shall submit to the State proof that it has entered into a contract or contracts as aforesaid and copies thereof for perusal: PROVIDED that except in the case of contracts *bona fide* entered into for the sale of iron ore or concentrates for the purpose of smelting or processing within the State of Western Australia or of iron ore or concentrates *bona fide* sold for that purpose or except where the State otherwise consents—

(i) every such contract and every subsequent contract or a variation of a previous contract with respect to iron ore or concentrates the subject of this Agreement shall provide for and require delivery at or transport of the ore or concentrates the subject of the contract or variation contract to a port outside the Commonwealth of Australia and any Territory of or under the administration of the Commonwealth; and

(ii) the Company in respect of any such iron ore or concentrates smelted or similarly treated in any State of Australia (other than the State of Western Australia) or any Territory of or under the administration of the Commonwealth will in addition to royalty pay to the State on demand as and for liquidated damages a sum equal to the tonnage of ore or concentrates (as the case may be) involved multiplied by ten shillings (10/-).

Nothing in this proviso contained shall prevent the Company from or impose any penalty on the Company for smelting or otherwise processing ore or concentrates within the State of Western Australia.

7. Subclause (4) of clause 4 of the 1961 Agreement is deleted and the following subclause substituted— Amendment of Cl. 4 (4).

(4) If the notice referred to in subclause (3) of this clause is not given to the State prior to one of the dates mentioned or referred to in that subclause then the parties hereto shall thereupon by force of this subclause be released from all obligations under the 1961 Agreement and this Agreement and the Company's rights and interests to and in Temporary Reserves Numbers 1972H and 1973H and in any mineral leases granted within either of those Reserves shall forthwith cease and determine.

8. Subclause (7) of clause 4 of the 1961 Agreement is deleted and the following subclause substituted— Amendment of Cl. 4 (7).

(7) If prior to the 31st day of March, 1963 or if the ratifying Act No. 2 shall not have come into operation as an Act before the 1st day of March, 1963 then before the expiration of one (1) month from the date on which the ratifying Act No. 2 comes into operation as an Act the Company has been unable to enter into a contract or contracts as aforesaid the Company may by the 30th day of April, 1963 or by the expiration of two (2) months from the date on which the ratifying Act No. 2 comes into operation as an Act as the case may be produce to the Minister evidence sufficient to show that if given an extension of time it has reasonable prospects of being able to negotiate such contract or contracts the Minister will extend the period for giving the notice referred to in subclause (3) of this clause for such period not exceeding (without his consent) one (1) year from the 31st day of March, 1963 or from the expiration of one (1) month from the date on which the ratifying Act No. 2 comes into operation as an Act (whichever is the later) as the evidence produced by the Company shall justify. The Minister shall advise the Company in writing of his decision within one (1) month of receipt of the evidence from the Company and the Company if dissatisfied with the Minister's decision may within one (1) month refer to arbitration the question whether the Minister should extend the period for giving notice or should extend it for a longer period. If the question is decided against the State the arbitrator arbitrators or umpire shall extend the period for such period not exceeding three (3) years from the 31st day of March, 1963 as the evidence produced by the Company shall justify.

9. Subclause (3) of clause 5 of the 1961 Agreement is deleted and the following subclause substituted— Amendment of Cl. 5 (3).

(3) At any time after the notice date the Company may apply under the provisions of the Mining Act, 1904 for such mineral leases for iron ore and the ores

and earths of that metal including iron pyrites situated within Temporary Reserves Numbers 1972H and 1973H as it sees fit and the State shall ensure that the Minister approves such applications upon and subject to the provisions of the said Act and of this Agreement.

Amendment of Cl. 5 (7).

10. Subclause (7) of clause 5 is deleted and the following subclause substituted—

(7) The Company shall pay to the Department of Mines on behalf of the State royalty as follows:—

(a) six shillings (6/-) per dry weight ton on the first one million (1,000,000) dry weight tons of iron ore recovered from any mining tenements within the boundaries of the said Temporary Reserve 1972H and sold (whether as ore or concentrates) or smelted or similarly processed otherwise than by the Company within the State of Western Australia;

(b) six shillings (6/-) per dry weight ton on the first one million two hundred thousand (1,200,000) dry weight tons or iron ore recovered from any mining tenements within the boundaries of the said Temporary Reserve 1973H and sold (whether as ore or concentrates) or smelted or similarly processed otherwise than by the Company within the State of Western Australia

and subject to the foregoing paragraphs—

(c) six shillings (6/-) per dry weight ton on all direct shipping ore recovered by open cut mining methods and sold;

(d) six shillings (6/-) per dry weight ton on all direct shipping ore recovered by open cut mining methods and concentrated and sold;

(e) one shilling and sixpence (1/6) per dry weight ton on all other iron ore recovered and sold other than concentrates derived by upgrading iron ore;

(f) one shilling and sixpence (1/6) per dry weight ton on all concentrates derived by upgrading iron ore (other than direct shipping ore) and sold;

(g) at such rate as is from time to time prescribed by regulation under the Mining Act, 1904 on all iron pyrites recovered and sold; and

(h) one shilling and sixpence (1/6) per dry weight ton on all—

(i) iron ore recovered; and on

(ii) concentrates from iron ore recovered—

and in either case smelted or similarly processed by the Company within the State of Western Australia.

11. Subclause (9) of clause 5 is deleted and the following subclause substituted— Amendment of Cl. 5 (9).

(9) For the purpose of computing the tonnages in respect of which royalties are payable the weight thereof as recorded by the Railways Commission for the purposes of calculating freight charges with such corrections or adjustments thereof as shall be necessary to ensure reasonable exactitude shall after deduction of a proper allowance for the moisture content be taken as correct. The State may carry out such check sampling and testing as it desires and the Company will provide facilities for that purpose.

12. Clause 5 is amended by adding the following subclause thereto— New subclause to Cl. 5.

(10) The Company will concentrate ore not being direct shipping ore where to the extent and as soon as it is economically practicable so to do having regard *inter alia* to available markets and may if it thinks fit subject to prior ascertainment of and agreement with the State as to quantities concentrate direct shipping ore. For the purposes of this subclause the Company will furnish to the State on request therefor particulars of the available markets and any other factors or circumstances which the Company considers to be relevant to the question of such economic practicability.

13. A new clause is inserted in the 1961 Agreement after clause 5 as follows— New Cl. 5A.

5A. (1) Subject to the laws of the Commonwealth of Australia and to any necessary authority under those laws and also to the provisions of this Agreement the Company may (unless otherwise mutually agreed) at its own risk and expense export ex Geraldton iron ore pyrites and/or concentrates from the mineral leases at the rate and within the limits mentioned in this clause. Export of iron ore.

(2) The maximum export in any year will be one million (1,000,000) tons of which not more than eight hundred thousand (800,000) tons will be direct shipping

ore and the minimum export in any year after the expiration of the year in which export commences will be five hundred thousand (500,000) tons of iron ore pyrites and/or concentrates.

(3) The State does not warrant that facilities do or will exist to enable one million (1,000,000) tons or any other tonnage of ore to be shipped through Geraldton in any year. The State will investigate the problems and practicability of and costs involved in improving the harbour and its facilities so as to accommodate ore carriers requiring up to thirty-two (32) feet draught and will confer with the Company thereon.

New Cl. 6.

14. Clause 6 of the 1961 Agreement is deleted and the following clause substituted—

Railways.

6. (1) The Company covenants and agrees with the State that within a period of three (3) months from the notice date the Company will along a practicable route which subject to and after approval thereof by the Railways Commission shall be surveyed by the Company commence to construct in accordance with such reasonable specifications as may be laid down by the Railways Commission and will thereafter with due diligence complete and to the extent required by the Railways Commission fence on land to be leased to the Company by the State for the purpose—

(a) a single line railway with its appurtenances from a point to be determined by the Company within Temporary Reserve No. 1972H to the railhead at Mullewa or to such other point within two (2) miles of the said railhead on the existing railway as the Railways Commission determines; or

(b) a single line railway with its appurtenances from a point to be determined by the Company within Temporary Reserve No. 1973H to Morawa or such other point within three (3) miles of Morawa as the Railways Commission determines.

If the Company complies with the foregoing provisions of this subclause by constructing the railway referred to in paragraph (b) of this subclause it will in any event at the expiration of the year during which it offers for haulage by such last-mentioned railway less than five hundred thousand (500,000) tons of iron ore pyrites and concentrates commence the construction of the railway referred to in paragraph (a) of this subclause and will thereafter with due diligence complete the railway as aforesaid with appurtenances

and will commence *bona fide* mining operations on the land comprised within Temporary Reserve Number 1972H and the company simultaneously with the execution of this Agreement will execute a bond for the sum of one hundred thousand pounds (£100,000) conditioned on the Company's fulfilling its obligations under this paragraph.

(2) Upon completion of the construction of either of the railways referred to in paragraph (a) or (b) of subclause (1) of this clause the Company will provide and deliver to the Railways Commission two (2) diesel locomotives of a design and specifications to be approved by the Railways Commission and bogey rolling stock of a design and specifications to be so approved having an iron ore carrying capacity over the relevant route—

(a) if the Company constructs first the railway referred to in the said paragraph (a)—of not less than one thousand two hundred and forty (1,240) tons together with at least six (6) additional appropriate wagon bogeys complete with axles wheels and clasp brakes; or

(b) if the Company constructs first the railway referred to in the said paragraph (b)—of not less than one thousand seven hundred and sixty (1,760) tons together with at least eight (8) additional appropriate wagon bogeys complete with axles wheels and clasp brakes.

(3) If the Company shall give to the State a notice pursuant to paragraph (b) of subclause (9) of this clause the Company shall prior to the date specified in the notice as the date by which the State is to provide the trains to transport the additional tonnage hereinafter in this subclause mentioned provide such additional locomotives and rolling stock as may be mutually agreed or determined in default of agreement by arbitration as may be necessary to transport such additional tonnage of iron ore per week above eleven thousand five hundred (11,500) tons as the Company in its notice signifies it proposes to transport.

(4) The Company in relation to each of the railways (including signalling equipment and other appurtenances) and fencing referred to in paragraphs (a) and (b) of subclause (1) of this clause will maintain the same when constructed to the satisfaction of the Railways Commission during the term of the lease referred to in subclause (5) of this clause relating to the relevant railway and also during the period while the State's obligations under subclause (10) of this clause continue.

(5) Before commencing construction of either of the railways referred to in paragraphs (a) and (b) of subclause (1) of this clause the Company shall give notice in writing to the State of its intention to commence and thereafter may at any time give a further notice in writing to the State that it desires to commence construction of the other of such railways in accordance with the provisions of the said subclause (1). Upon the receipt of either such notice the State if the making of the railway the subject of the notice has then already been authorised by an Act and otherwise so soon as authorisation therefor has been given shall so soon as conveniently may be—

(a) at the expense of the State and the Company equally acquire such land and exercise such other statutory powers as may be necessary to enable the construction of the railway the subject of the notice; and

(b) grant to the Company a lease of the land so acquired and all other land that may be necessary to enable the construction of the railway the subject of the notice for a term of twelve (12) years at an annual rental of one peppercorn subject however to the provisions of this Agreement and in any event if after five (5) years from the grant of the lease either party shall—within a period of six (6) months after the expiration of any year in which the Company shall offer for transport under this Agreement less than five hundred thousand (500,000) tons of iron ore pyrites and/or concentrates by means of the railway constructed on the land the subject of the lease—give to the other notice that the lease is then to determine the lease shall at the expiration of six (6) months from the giving of the notice determine accordingly. Such lease shall contain a covenant by the Company to construct the railway the subject of the relevant notice and such other covenants and provisoes as the Solicitor General for the said State reasonably considers necessary for the protection of the State as lessor.

(6) The State shall as soon as conveniently may be introduce a Bill in the said Parliament seeking the approval of the said Parliament to the making of either of the said railways to the making of which such approval has not already been given. If and when such Bill is passed as an Act both the said railways shall for all purposes be deemed railways to which Part VI of the Public Works Act, 1902 applies.

(7) Any expense incurred or payable by any Minister of the said State under sections 100, 101, 102, 103, 104, 108, 110, 112 or 113 of the Public Works Act, 1902 in relation to the said railways or either of them by reason of their or its being deemed railways or a railway as provided in subclause (6) of this clause shall be borne and paid by the State and the Company equally.

(8) The said railways and their appurtenances shall not be subject to tenant's rights in the Company and at the expiration or sooner determination of either of the said leases the Company's interest in the railway and appurtenances thereof (whether or not fixtures) shall absolutely cease and shall vest or revest in the State and when both the said leases have expired or sooner determined the said diesel locomotives and the said rolling stock shall become the absolute property (freed from all encumbrances) of the State which shall not be obliged to pay any compensation to the Company in respect of the said railways appurtenances locomotives or rolling stock or in respect of improvements effected on the land the subject of the leases.

(9) The State shall at its own expense—

(a) as from a date to be specified in a notice in writing from the Company being a date upon which the Company proposes to commence offering iron ore pyrites and/or concentrates for transport over either of the said railways and while either of the leases referred to in paragraph (b) of subclause (5) of this clause subsists provide sufficient crews to operate and shall operate sufficient trains to transport up to eleven thousand five hundred (11,500) tons of ore each week from any one or more of the mineral leases specified in the notice to Geraldton with the locomotives and rolling stock provided by the Company under subclause (2) of this clause;

(b) if the Company shall desire to transport from the said mineral leases to Geraldton more than eleven thousand five hundred (11,500) tons of iron ore each week and of such its desire shall give notice in writing to the State specifying the number of tons of iron ore it desires to transport as aforesaid and the period during which it anticipates it will desire so to do use reasonable endeavours to provide as from a date to be specified in the notice being

a date not earlier than three (3) months from the date thereof sufficient crews to operate and to operate sufficient trains to transport as aforesaid the number of tons of iron ore referred to in such notice if and to the extent that it is reasonably economic and practicable for the State so to do;

(c) while operating trains pursuant to either of the previous paragraphs of this subclause or pursuant to subclause (10) of this clause service and maintain locomotives and rolling stock provided by the Company as in this clause herein mentioned until because of fair wear and tear any locomotive or rolling stock requires replacement whereupon the Company shall at its own cost replace the same.

AND the Company shall be liable to the State in damages if and to the extent that having given a notice under paragraph (b) of this subclause it fails to offer for transport the weekly tonnage of iron ore specified in the notice during the period therein mentioned.

(10) Notwithstanding the expiry of both the leases referred to in paragraph (b) of subclause (5) of this clause the obligations of the State referred to in subclause (9) of this clause shall continue until the Company ceases to offer for transport approximately five hundred thousand (500,000) tons in the aggregate of iron ore pyrites and concentrates or some one or more of them by the said railways or either of them in any year but notwithstanding anything contained in subclause (9) of this clause the State shall not be obliged to operate any train for which a full load is not offered.

(11) The loading and unloading of ore wagons other than shunting on the mineral leases and at Geraldton shall be the responsibility at all times of the Company which shall load and trim all wagons in a manner acceptable to and to the satisfaction of the Railways Commission for proper distribution of load and safe travel. Loading shall not exceed the tonnage capacity shown on the wagon and all wagons shall be loaded to capacity.

(12) At any time after the Company has commenced construction of either railway referred to in paragraph (a) or (b) of subclause (1) of this clause the Company may by notice in writing to the State require the State to recondition the existing railway from Mullewa to Geraldton if the railway specified by the notice is the railway referred to in paragraph (a) of subclause (1) of this clause or the existing railway

from Morawa to Geraldton if the railway specified in the notice is the railway referred to in paragraph (b) of the said subclause (1) and in either case where the Company gives such a notice the State will commence to recondition the existing railway from Mullewa to Geraldton or the existing railway from Morawa to Geraldton as the case may be so as to enable it to carry not less than eleven thousand five hundred (11,500) tons of iron ore each week by the locomotives and rolling stock in this clause hereinbefore referred to and will complete such reconditioning with due diligence and will thereafter maintain the railway reconditioned in that order and condition while the relevant lease referred to in paragraph (b) of subclause (5) of this clause subsists and thereafter while the State's obligations under subclause (10) of this clause continue.

(13) (a) The Company shall use only the rail facilities referred to in this clause and no other facilities for the transport of iron ore pyrites and concentrates from the mineral leases or any of them to Geraldton and shall pay to the State freight charges as follows—

	Ex Tallering Peak	Ex Koolanooka
(i) For all tonnages between 500,000 and 750,000 tons in a year and up to 500,000 tons where the Company fails to offer for haulage 500,000 tons in a year by reason of a delay referred to in Clause 22 hereof.	11/9 per ton	16/- per ton
For all tonnages in excess of 750,000 tons in a year	10/9 per ton	15/- per ton

(ii) Subject to clause 19A hereof if in any one year the Company fails (other than in consequence of a delay referred to in clause 22 hereof) to offer for haulage to Geraldton five hundred thousand (500,000) tons of iron ore pyrites and/or concentrates under this Agreement the freight payable for that year shall be calculated in such manner as may be agreed between the Company and the Railways Commission : PROVIDED THAT notwithstanding the provisions of clause 22 hereof or the hap-

pening of any event referred to therein if the State shall carry out reconditioning work pursuant to subclause (12) of this clause between Morawa and Geraldton and shall not itself be in default under this Agreement the Company shall pay to the State a minimum amount of one hundred thousand pounds (£100,000) per annum for a period of three (3) years next following the commencement of such reconditioning.

(b) The Company shall as far as practicable offer for haulage not less than ten thousand (10,000) tons per week of iron ore concentrates and pyrites and shall give seven (7) days' notice if this quantity will not be available.

(14) The freight rates set out in subclause (13) of this clause are based on the costs prevailing at the first day of July 1962 and shall (unless otherwise mutually agreed) be adjusted to the nearest penny from time to time as hereinafter provided to recognise the amount of any increase or decrease in the cost to the Railways Commission of maintaining the railways and operating the services provided by the State under this clause.

On the tenth day of August, 1967 and thereafter as soon as practicable after the first day of January in each year each freight rate set out in the schedule to subclause (13) of this clause shall be adjusted for the period to the 31st day of December of that year in accordance with the following formula:—

$$F_1 = F\left(.60\,\frac{(x_1)}{(x)} + .30\,\frac{(y_1)}{(y)} + .10\,\frac{(z_1)}{(z)}\right)$$

where F_1 represents the new freight rate to be applied; F represents the freight rate set out in or agreed pursuant to subclause (10) of this clause; X_1 represents the Male Basic Wage applicable at Geraldton as last declared by the Court of Arbitration of the said State prior to the date from which the new freight rates become effective; X represents the said basic wage as at the 1st day of July, 1962 (£14 17s. 3d.); Y_1 represents the price of steel rails per ton f.o.w. Fremantle as ascertained from the price schedule of the Broken Hill Proprietary Company Limited current at the date from which the new freight rates become effective; Y represents the price of steel rails ascertained as aforesaid as at the 1st day of July, 1962 (£44 10s. 0d. per ton); Z_1 represents the price per gallon to the public of diesel distillate delivered at Geraldton as supplied by the Shell Company of Australia Pty. Ltd. at the date from which

the new freight rates become effective; Z represents the price per gallon to the public of diesel distillate delivered at Geraldton as supplied by the Shell Company of Australia Pty. Ltd. at the 1st day of July, 1962 (2/2½d. per gallon). If at any time the method of adjustment set out in this subclause becomes inappropriate the adjustment shall be made by mutual agreement and in default thereof by arbitration so as best to give effect to the intention of the parties as indicated in this subclause.

(15) (a) Where the Company requires backloading (i.e. transport by a train hauling empty ore wagons) from Geraldton to any of the mineral leases of goods reasonably required by it for carrying on its operations on the mineral leases or any of them and if the Company provides and maintains in good order rolling stock approved by the Railways Commission for the purpose then the Company so long as the State is obliged to provide railway transport under subclause (9) or subclause (10) of this clause will not be charged as freight for such backloading freight charges higher than those set out in subclause (13) as varied from time to time under subclause (14) in respect of the transport of ore. The gross tonnage of any of the above goods transported in any train will be as determined by the Railways Commission.

(b) With respect to any such backloading the Company will be responsible for—

(i) the loading of same at Geraldton; and

(ii) the discharging of same at the mineral leases

and shall so discharge at the mineral leases the goods transported in such manner as to avoid undue delay to the ore trains or other traffic on the said railways.

(16) The number of tons transported for the purpose of calculating the amount of freight charges payable by the Company to the Railways Commission shall be calculated on wagon load capacities in the first instance and adjusted to accord with shipping weights at quarterly intervals except in the case of concentrated ore as to which railway weighbridge weights shall be used. The railway weighbridge if used for the purposes of calculating freight charges shall be tested and adjusted at the expense of the State whenever either party requests this to be done.

(17) The Railways Commission shall each month forward to the Company a statement showing the freight charges payable by the Company in respect of

materials and goods transported or backloaded during the previous month and the Company shall pay the charges due within fourteen (14) days of the receipt of the statement.

(18) The State will at the request and cost of the Company if reasonably practicable make available to the Company on a leasehold tenure Crown land or land vested in the Railways Commission within approximately two (2) miles of Geraldton Harbour reasonably suitable for the processing of ore transported under this Agreement and in reasonable proximity to an existing railway.

(19) In laying down any specifications and determining whether or not to grant any approval the Railways Commission shall act reasonably and if any dispute shall arise between the parties as to whether the Railways Commission have so acted the question in dispute shall be referred to arbitration as hereinafter provided.

Amendment to Cl. 9.

15. Clause 9 of the 1961 Agreement is amended as follows—

(a) by substituting for the passage "No. 2 Wharf" in line one the passage "No. 1 Berth";

(b) by substituting for the passage "ore carriers of not less than ten thousand (10,000) tons burthen" the passage "ore carriers having a draught of not more than 27 feet".

New Cl. 19A added.

16. A new clause 19A is added to the 1961 Agreement after clause 19 as follows:—

First and last years of operation.

19A. In relation to any of the Company's operations hereunder which are required to be done annually reasonable adjustments shall be made in the year of commencement and in the final year thereof based upon the proportion which the period thereof in the relevant year bears to a year.

Amendment of Cl. 21.

17. Clause 21 of the 1961 Agreement is amended by adding thereto the passage—

"Provided that before this Agreement is terminated the Minister may at the request or with the concurrence of the Company extend the time or period by or within which anything hereunder is to be done or commenced." .

IN WITNESS WHEREOF the parties hereto have executed this Agreement

SIGNED SEALED AND DELIVERED by the said THE HONOURABLE DAVID BRAND M.L.A. in the presence of— } DAVID BRAND. [L.S.]

ARTHUR F. GRIFFITH,
Minister for Mines.

THE COMMON SEAL of WESTERN MINING CORPORATION LIMITED was hereunto affixed in the presence of— } [C.S.]

L. BRODIE-HALL,
Director.

D. P. McINTYRE,
Authorised Witness.