

1962.] *Iron Ore (Mount Goldsworthy)* [No. 9.
Agreement.

IRON ORE (MOUNT GOLDSWORTHY) AGREEMENT.

11° Elizabeth II., No. IX.

No. 9 of 1962.

AN ACT to approve an agreement relating to iron ore at Mount Goldsworthy iron ore deposits, and for incidental and other purposes.

[Assented to 27th September, 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:—

1. This Act may be cited as the *Iron Ore (Mount Goldsworthy) Agreement Act, 1962.* Short title.

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Interpre-
tation.

2. In this Act unless the contrary intention appears—

“the Agreement” means the agreement a copy of which is set out in the Schedule to this Act, and, if that agreement is altered in accordance with its provisions, includes the agreement as so altered from time to time.

Agreement
approved
and effect
to be given
thereto.

3. (1) The Agreement is approved.

(2) Notwithstanding any other Act or law, but subject to the provisions of section ninety-six of the Public Works Act, 1902, being complied with in respect of the railway to be constructed under the Agreement, the Agreement shall be carried out and take effect subject to its provisions, as though those provisions had been expressly enacted in this Act.

By-law
made under
agreement.

4. Any by-law duly made under clause 5 of the Agreement—

- (a) shall be published in the *Government Gazette*;
- (b) takes effect and has the force of law from the date it is so published or from such later date as is fixed by the by-law; and
- (c) is not subject to the provisions of section thirty-six of the Interpretation Act, 1918.

SCHEDULE.

s.2.

THIS AGREEMENT made the 27th day of February 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 said State and Instrumentalities thereof from time to time (hereinafter called “the State”) of the one part and CONSOLIDATED GOLD FIELDS (AUSTRALIA) PTY. LIMITED a Company incorporated under the Companies Ordinances of the Australian Capital Territory and having its executive office at 15 O’Connell Street Sydney in the State of New South Wales and its registered

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office in the State of Western Australia (hereinafter referred to as "the said State") at Saint George's House Saint George's Terrace Perth CYPRUS MINES CORPORATION a Corporation incorporated in the State of New York in the United States of America and having its executive offices situate at 1234 Pacific Mutual Building 523 West Sixth Street Los Angeles California in the said United States of America and UTAH CONSTRUCTION & MINING CO. a Corporation incorporated in the State of Delaware in the United States of America and having its executive offices situate at 550 California Street San Francisco in the said United States of America (hereinafter called "the Joint Venturers" and in which term shall be included the Joint Venturers and each of them and their and each of their respective successors and assigns) of the other part

WHEREAS :—

- (a) The State recently called tenders for the mining transport and shipment of up to fifteen million (15,000,000) tons of iron ore from the Mount Goldsworthy iron ore deposits comprised within an area of sixteen square miles or thereabouts and situate approximately sixty-two miles easterly of Port Hedland in the said State at the rate of approximately but not exceeding one million (1,000,000) tons per annum.
- (b) The conditions of tender provided that any tenderer might submit any alternative or additional proposals in regard to any matter mentioned in the Conditions of Tender particularly in regard to the method of transport of ore to the place of shipment and alternative sites or proposals for provision of wharf facilities.
- (c) The parties contemplate the possibility that the Commonwealth may from time to time grant to the Joint Venturers licenses to export iron ore mined from the mining area and elsewhere in the said State in excess of fifteen million (15,000,000) tons and at a greater rate than one million (1,000,000) tons per annum.
- (d) The Joint Venturers submitted to the State a tender for the mining transport and shipment of iron ore from the said deposits and pursuant to the negotiations which have taken place between the State and Joint Venturers the parties hereto have agreed to enter into and execute these presents.

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NOW THIS AGREEMENT WITNESSETH that the parties hereto COVENANT AND AGREE with each other AND IT IS HEREBY DECLARED as follows:—

Definitions.

1. In this Agreement subject to the context the following terms shall have the following meanings—

“beneficiated ore” means ore which is not direct shipping ore but which is before shipment concentrated upgraded pelletized agglomerated sintered or otherwise treated to make it acceptable as blast furnace feed;

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

“deposits” means the iron ore deposits within the mining area;

“Depuch Townsite” means the townsite on the mainland opposite Depuch Island;

“direct shipping ore” means ore which smelters will purchase in the condition in which it is mined without concentration or other beneficiation;

“financial year” means a year commencing on and including the first day of July;

“fines” means ore which after shipment is pelletized agglomerated sintered or otherwise treated by special plant to make it acceptable as blast furnace feed;

“f.o.b. revenue” means moneys payable to the Joint Venturers by the purchaser thereof in respect of any shipment of iron ore from the mining area shipped from Depuch Island less all costs and charges properly incurred and payable by the Joint Venturers from the time the ore shall be placed on ship at the wharf at Depuch Island to the time the same is delivered and accepted by the purchaser including—

- (i) ocean freight
- (ii) marine insurance
- (iii) port and handling charges at the port of discharge
- (iv) all costs incurred in delivering the ore from port of discharge to the smelter as shown in the relevant invoices copies of which shall be furnished by the Joint Venturers to the State
- (v) all weighing sampling assaying inspection and representation costs
- (vi) all sales agency and shipping agency charges

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(vii) all import taxes by the country of the port of discharge;

“Island” means Depuch Island;

“Land Act” means the Land Act, 1933 and the regulations made thereunder for the time being in force;

“mineral lease” means the mineral lease of the mining area as herein provided;

“Mining Act” means the Mining Act, 1904 and the regulations made thereunder for the time being in force;

“mining area” means the area at Mount Goldsworthy in the said State delineated and shown on the plan marked “A” and initialled by or on behalf of the parties hereto for the purposes of identification;

“Minister” means the Minister for Mines in the Government of the said State and includes his successors in office or other the Minister for the time being responsible (under whatsoever title) for the administration of the Mining Act;

“Minister for Works” means the Minister for Works in the Government of the said State and includes his successors in office or other the Minister for the time being responsible (under whatsoever title) for the administration of the Country Areas Water Supply Act, 1947;

“month” means calendar month;

“notice” means notice in writing;

“person” or “persons” includes bodies corporate;

“special lease” means a special lease or license to be granted in terms of this Agreement under the Land Act, 1933 or the Jetties Act, 1926;

“said State” means the State of Western Australia;

“this Agreement” and “hereof” include this Agreement as from time to time amended;

“ton” means a ton of 2240 lbs. net dry weight;

“townsite” means any townsite which may be constituted and defined under section 10 of the Land Act, 1933 primarily for the purposes of a town for employees of the Joint Venturers;

“wharf” includes any jetty structure;

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Reference to any Act shall include any amendments to such Act and also any Act passed in substitution therefor or in lieu thereof and the regulations for the time being in force thereunder.

Any covenant or agreement on the part of the Joint Venturers hereunder will be deemed to be a joint and several covenant or agreement as the case may be.

Immediate
obligations
of State.
Temporary
reserve.

2. The State shall—

- (1) within one (1) month after the execution hereof upon application by the Joint Venturers therefor cause to be granted to them a temporary reserve under the Mining Act at a rental of four pounds (£4) per square mile (payable quarterly in advance) of the mining area for a term of eighteen (18) months from the date hereof or until the Joint Venturers shall give to the State the notice referred to in clause 3 (2) (a) hereof to the effect that they will not proceed further with the project the subject of this Agreement: Provided that subject to and at any time after the approval by Parliament of this Agreement prior to the 31st day of October 1962 the State will with all reasonable despatch at the request and cost of the Joint Venturers survey the mining area and grant to the Joint Venturers the mineral lease thereof generally in the form of the First Schedule hereto but for a term commencing from the date of the request and expiring on the date upon which a notice under clause 3 (2) is given to the State or upon a date eighteen (18) months after the date hereof whichever shall first occur and at the same rental as hereinbefore in this paragraph provided in respect of the temporary reserve. The temporary reserve shall grant to the Joint Venturers the sole and exclusive right to prospect for and obtain for testing purposes iron ore minerals and other iron bearing substances and the Joint Venturers shall during the currency thereof furnish to the State written quarterly reports commencing from the date hereof of all geological and geophysical work on the temporary reserve testing and sampling work and reconnaissances for water resources done or carried out during the quarter immediately preceding the due date for the report;

- (2) at the request and expense from time to time of the Joint Venturers co-operate with them in the discharge of their obligations under the next succeeding clause;

Co-operation.

(3) during the period first mentioned in clause 5 hereof ^{Access.}
allow the Joint Venturers their agents servants and
workmen to enter upon Crown land between the
deposits and the harbour area at the Island to the
extent reasonably necessary for the purposes of this
Agreement;

(4) unless the Joint Venturers shall have previously <sup>Introduction
of Bill.</sup>
given to the State notice under paragraph (a) of
subclause (2) of the next succeeding clause that
they do not intend to proceed further with the
project the subject of this Agreement at the next
Session of the Parliament of Western Australia
introduce and sponsor a Bill to ratify this Agree-
ment and endeavour to secure the passing of the
Bill as an Act prior to the 31st day of October, 1962.

3. (1) Within one (1) month after the execution hereof <sup>Immediate
obligations
of the Joint
Venturers.</sup>
the Joint Venturers shall commence and thereafter with
all reasonable diligence proceed to complete at an estimated
total cost of two hundred and ninety-one thousand pounds
(£291,000)—

- (a) a major programme of geological investigation of
the deposits;
- (b) a general reconnaissance of the various sites of
operations;
- (c) a selection of the most suitable route for a railway
from the said deposits to a suitable harbour and
wharf installation for the export of the said iron
ore;
- (d) an engineering investigation of suitable wharf sites
for their purposes but having due regard to the
considerations referred to in paragraph (e) of clause
4 hereof;
- (e) an investigation of suitable water supplies for the
townsites and port services;
- (f) the planning of suitable townsites at Mount
Goldsworthy and in consultation with the State at
Depuch townsite having due regard to the possible
general development of Depuch townsite;
- (g) metallurgical and market research by means of
samples and trial shipments of ore from the
deposits.

(2) As soon as the Joint Venturers have to their satisfac-
tion concluded the work and investigations referred to in
the last preceding subclause and in any event within eighteen
(18) months next following the execution of this Agreement
or within such further period not exceeding six (6) months

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as the parties hereto may mutually agree the Joint Venturers shall give to the State one or other of the following notices namely—

- (a) A notice to the effect that the Joint Venturers do not intend to proceed further with the project the subject of this Agreement and in the event of such notice being given this Agreement will forthwith cease to be operative and 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 save nevertheless that the Joint Venturers shall furnish to the Minister complete factual statements of—

- (i) all geological and geophysical work carried out at the mining area;
- (ii) testing and sampling work;
- (iii) all metallurgical and market research; and
- (iv) the surveys and reconnaissances of the railway road and port facilities and water resources and sites for towns,

and the Joint Venturers shall in that event pay to the State the moneys that are then due to the State hereunder; or

- (b) A notice to the effect that the Joint Venturers intend to proceed with the rest of the project the subject of this Agreement and in the event of such notice being given the remaining provisions of this Agreement will forthwith operate and have full force and effect subject however to the approval by Parliament of this Agreement prior to the 31st day of October, 1962.

Further obligations of State.

Grant of mineral lease.

4. The State shall—

- (a) if necessary with all reasonable despatch complete the survey of and grant to the Joint Venturers in the form of the First Schedule hereto a mineral lease of the mining area for a term which subject to the provisions of the Mining Act and to the payment of rent and royalty hereinafter mentioned and to the performance by the Joint Venturers of their obligations in relation to the mining lease and otherwise under this Agreement during the currency hereof shall be for a period commencing on and from the date upon which the notice referred to in paragraph (b) of subclause (2) of clause 3 hereof is given by the Joint Venturers to the State and expiring upon the determination of this Agreement;

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- (b) consult with the Joint Venturers with respect to suitable sites for townsites both on the mining area and at Depuch townsite the routes of the road and railway between the mining area and the Island and the location of suitable areas on the mainland and on the Island to be the subject of special leases as hereinafter mentioned; Consulting re sites.
- (c) consult with the Joint Venturers in regard to the provision distribution and supply of water electric power and other services for the Depuch townsite and if necessary on the Island; Consulting re services.
- (d) subject to the prior construction and to the maintenance by the Joint Venturers of suitable buildings and other improvements in locations and to standards and designs to be mutually agreed provide during the continuance of this Agreement education and police services in relation to the mining area Depuch townsite and the Island; Provision of education and police services.
- (e) allocate and grant to the Joint Venturers by special lease under the Land Act, 1933 for the currency of this Agreement such suitable and adequate areas not exceeding in the aggregate three hundred (300) acres on the Island as the Joint Venturers shall by notice to the State select for the reasonable jetty marshalling stockpiling loading and ancillary requirements (including provision for the berthing of ore ships of not less than forty thousand (40,000) tons dead weight) of the Joint Venturers for the purposes of this Agreement and generally as indicated in the tender and accompanying plans submitted by the Joint Venturers to the State on the 1st day of September, 1961: Provided that the Joint Venturers shall not without the approval of the State make such selection before the 15th April, 1962 and in making such selection shall consult with the State and its consulting engineers Messrs. Rendel Palmer and Tritton and shall give due and proper consideration and regard to their reports and advices on the general development and utilisation of the Island as a deep sea port and if the State shall consider that the areas selected by the Joint Venturers will prejudicially affect the proper development use or capacity of the port as a whole it may give notice in that behalf to the Joint Venturers and if within four (4) weeks of the receipt by the Joint Venturers of such notice the matters in dispute shall not be resolved then the same shall be submitted to and determined by arbitration as hereinafter provided AND the Joint Venturers hereby covenant and agree to pay to the State as rental under the lease for the said areas Special lease of parts of Island. Rental.

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the nominal rental of one pound (£1) per annum for the period commencing from the date of the grant of the said lease and expiring on the 15th anniversary of the date upon which the Joint Venturers first ship iron ore from the said wharf in commercial quantity but not later than twenty (20) years from the date hereof AND THEREAFTER until this Agreement is determined the Joint Venturers will pay to the State a rental equal to two shillings and sixpence (2/6d.) per ton for all iron ore shipped by the Joint Venturers from the Island hereunder in any financial year provided that the rental will be payable within one (1) month after the ascertainment of the amount thereof and in respect of any financial year will be not less than seventy-five thousand pounds (£75,000) but any amount so paid in respect of any financial year in excess of the rental payable for that year at the rate of two shillings and sixpence (2/6d.) per ton as aforesaid shall be offset by the Joint Venturers against any amount payable by them to the State above the minimum amount payable to the State under this paragraph in respect of either of the two financial years immediately following the year in respect of which the said minimum sum was paid;

Withholding
of rights in
mining area
to others.

- (f) not during the continuance of this Agreement or of any extension thereof register any claim or grant any lease or other mining tenement under the Mining Act or otherwise by which any persons other than the Joint Venturers will obtain under the laws relating to mining or otherwise any rights to mine or take natural substances (other than petroleum as defined in the Petroleum Act 1936) within the mining area which is likely to unduly prejudice or interfere with the operations of the Joint Venturers hereunder;

Grants
within
Depuch
townsite.

- (g) as soon as possible after the location and layout of Depuch townsite shall have been determined as provided by paragraph (7) of clause 5 hereof grant or cause to be granted to the Joint Venturers free of consideration a Crown Grant or Grants or other appropriate tenures of the lands to be granted to the Joint Venturers in terms of such paragraph;

Other tene-
ments within
mining area.

- (h) on application by the Joint Venturers at any time during the term of this Agreement cause to be granted to the Joint Venturers such machinery tailings or other leases or tenements (including leases for the dumping of overburden) under the Mining Act or the Land Act 1933 as the Joint

Venturers may reasonably require and request for the purpose of carrying on operations under this Agreement on the mining area;

(i) as soon as conveniently may be after the giving by the Joint Venturers to the State of the notice referred to in paragraph (b) of subclause (2) of clause 3 hereof cause to be granted to the Joint Venturers a special lease or special leases under the provisions of the Land Act 1933—

Other special leases.

- (i) of the land (being forty-four (44) yards wide except where the circumstances may reasonably require and then up to sixty-six (66) yards wide) mutually agreed as the route of the said railway subject to the reasonable requirements of the public for crossing;
- (ii) of areas of the Island and on the mainland as may be mutually agreed from which the Joint Venturers shall be entitled to excavate and remove such quantities of rock and soil as they may desire for and until the completion of the construction of the said causeway between the mainland and the said Island and of the said railway and roads and to grade the surface of such areas in such manner as the parties hereto shall mutually agree for the purpose of carrying out operations under this Agreement but having regard to possible use of the Island by third parties;
- (iii) of the land comprised within the causeway (when completed) referred to in paragraph (4) of clause 5 hereof;
- (iv) of the land for the roads referred to in paragraph (3) of clause 5 hereof;
- (v) of such areas as the parties mutually agree to be reasonably required by the Joint Venturers for the purpose of the construction of an aerodrome or aerodromes in the vicinity of the mining area and the Island

and the Joint Venturers shall pay to the State the cost of any survey involved and the nominal sum of one pound (£1) per annum by way of rental payable as and when demanded and the term of every such lease shall commence from the date of application therefor and shall expire on the date of the determination of this Agreement or on such earlier date as herein provided or as the Joint Venturers may by notice determine;

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Rights under
Jetties Act.

(j) grant to the Joint Venturers all such rights authorities and licenses under the Jetties Act 1926 as the Joint Venturers reasonably require for their purposes hereunder;

Provision of
navigation
aids.

(k) subject to the Joint Venturers bearing the capital cost involved and also reasonable charges therefor from time to time provide and maintain or cause to be provided and maintained in the harbour and anchorage at the Island all such lights buoys markers and other aids to navigation (including pilot's vessel) as are usual or as are necessary for the proper safety of vessels using such harbour or anchorage and shall also if so required by the Joint Venturers provide such pilots as shall be necessary for the pilotage of all such vessels but so nevertheless that the Joint Venturers shall give to the Minister or such person as he shall from time to time direct at least forty-eight hours' notice of the projected arrival of any vessel for which such pilotage shall be required:

Provided always that the State may at any time under existing or future legislation make provision for the control and management of the harbour and anchorage at or near the Island so nevertheless that the Joint Venturers' operations are not unduly hampered or interfered with;

No
resumption
of works.

(l) having regard to the particular nature of the industry proposed to be established by the Joint Venturers hereunder and subject to the performance by the Joint Venturers of their obligations under this Agreement not during the currency of this Agreement without the consent of the Joint Venturers resume nor 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 belonging to the Joint Venturers the subject or used for the purposes of this Agreement nor any of the lands the subject of any lease or license granted to the Joint Venturers in terms of this Agreement: Provided however that without such consent (which shall not be unreasonably withheld) the State will not create or grant or permit or suffer to be created or granted by any instrumentality or authority of the State as aforesaid any road right-of-way or easement of any nature or kind whatsoever over or in respect of any of such lands;

Labour re-
quirements.

(m) if so requested by the Joint Venturers and so far as its powers and administrative arrangements permit use reasonable endeavours to assist the

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Joint Venturers to obtain adequate and suitable labour for the construction and the carrying out of the works and operations referred to in this Agreement including suitable immigrants for that purpose;

- (n) not impose nor permit nor authorise any of its agencies or instrumentalities or any local or other authority 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 Joint Venturers in the conduct of business incidental to the Joint Venturers' business hereunder nor will the State take or permit to be taken any other discriminatory action which would deprive the Joint Venturers of full enjoyment of the rights granted and intended to be granted under this Agreement.

No discrim-
inatory
charges.

5. The Joint Venturers COVENANT AND AGREE with the State that they will with all convenient despatch commence to and thereafter continuously proceed with and within a period of three and one-half ($3\frac{1}{2}$) years from the date of execution of this Agreement (with a view to the mining on the mining area the transport to the Island and to the shipment therefrom of such quantity (not being less than fifteen million (15,000,000) tons) of iron ore from the mining area as shall from time to time be permitted by export license at such rate (not being less than one million (1,000,000) tons per annum) as shall from time to time be permitted by export license)—

Further
obligations
of Joint
Venturers.

- (1) (a) construct instal and provide upon the mining area mining plant and equipment together with such crushing screening stockpiling and car loading plant and facilities of such capacity as shall adequately mine handle load and deal with not less than three thousand three hundred (3,300) tons of direct shipping ore per diem and shall use their best endeavours to mine and transport and ship from the Island the quantities of iron ore and at the rate already mentioned in this clause and in accordance with the laws and requirements from time to time of the said State and of the Commonwealth;

Mining
operations

- (b) construct and erect on the mining area a power house and workshop adequate for their operations;

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(c) lay out on the mining area a site for a town and in relation thereto provide adequate and suitable housing school roads amenities and water power and other services as shall be reasonable having regard to the locality;

Railways.

(2) in a proper and workmanlike manner and in accordance with the recognised standards of railways of a similar nature operating under similar conditions construct (which the Joint Venturers are hereby authorised to do) a 4 feet 8½ inch gauge railway (with all necessary signalling switch and other gear and all proper and usual works) from the mining area to the mainland end of the causeway referred to in paragraph (4) of this clause and from the Island end of the causeway to the area of the Joint Venturers' wharf on the Island along a route to be mutually agreed between the parties hereto having regard to the general development of the Island as a port and provide for the running of such railway with sufficient locomotives freight cars and other railway stock to haul the tonnage of ore hereinbefore in this clause referred to AND the Joint Venturers covenant and agree with the State that so long as the same shall not interfere with their operations they will at all reasonable times transport passengers and carry freight of third parties on the railway subject to and in accordance with by-laws (including provision for reasonable charges) from time to time to be made altered and repealed by the Joint Venturers with the approval of the Governor in Executive Council of the said State which by-laws the Joint Venturers with such approval are hereby empowered to make alter and repeal and subject to the by-laws (if any) for the time being in force upon reasonable terms and conditions to be mutually agreed between the parties hereto: Provided however that in relation to their use of the said railway the Joint Venturers shall not be deemed to be common carriers at common law or otherwise howsoever;

Roads.

(3) subject to the State having ensured to them all rights in that behalf construct in a manner usual to the district such roads as the parties shall mutually agree to be necessary for the carrying out of the Joint Venturers' operations hereunder but in so doing the Joint Venturers shall so far as reasonably practicable collaborate with all Shire Councils through whose districts any such roads may pass and where any such roads shall pass through any fences on any pastoral lease provide

and thereafter during the currency of this Agreement will maintain either a proper gate or an effective sheep and cattle pass-over and will where and to the extent that it is reasonable and practicable so to do allow the public to use such roads free of charge;

- (4) along a route to be selected by the Joint Venturers after consultation with the State construct a ^{Causeway.} causeway approximately three (3) miles in length of such dimensions and design and of such materials as the Joint Venturers think fit (together with any bridges considered necessary by the Joint Venturers to provide openings therein for the flow of tidal waters) joining the mainland and the Island and construct thereon a railway and road to the area allocated to the Joint Venturers on the Island: Provided that if at any time during the continuance of this Agreement the State or any person or company nominated by the State shall be desirous of constructing another causeway linking the Island to the mainland the State shall use its best endeavours to ensure that such causeway shall be constructed independently of the causeway to be constructed by the Joint Venturers hereunder but if it shall be found that there is no independent site reasonably suitable for such other causeway then if the State or such person or company shall desire to construct an addition to the causeway constructed by the Joint Venturers as aforesaid so as to widen the same and of such desire shall give to the Joint Venturers notice accompanied by details of the proposals for such widening then so long as the proposed addition shall not prejudicially affect the foundations stability construction or maintenance of the said causeway or unduly hamper or interfere with its use or maintenance by the Joint Venturers for the purpose of their operations or adversely affect or prejudice the use or maintenance of the harbour wharf and installations of and by the Joint Venturers the Joint Venturers will (subject to the State or such person or company agreeing to pay to the Joint Venturers not less than fifty per cent (50%) of the original cost of the construction of the Joint Venturers' causeway) negotiate with the State or such person or company as the case may be in respect to the terms and conditions upon which such addition shall be constructed and maintained;
- (5) on the areas to be allocated to the Joint Venturers for the purpose construct and erect upon the Island a wharf workshops screening stockpiling bulk handling loading installations (including a loading ^{Wharf and the use of the wharf and approaches.}

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boom) power house and plant therefor adequate to load ships of not less than thirty thousand (30,000) tons dead weight AND during the currency of this Agreement so long as the same shall not interfere with their operations make available the wharf facilities in connection therewith and the causeway and the approaches to all of them for use by third parties subject to and in accordance with by-laws (including provision for reasonable charges) from time to time to be made altered and repealed by the Joint Venturers with the approval of the Governor in Executive Council of the said State which by-laws the Joint Venturers with such approval are hereby empowered to make alter and repeal and subject to the by-laws (if any) for the time being in force upon reasonable terms and conditions to be mutually agreed between the parties hereto;

Dredging.

- (6) carry out such dredging to the approaches to and the swinging basin at the Island as the Joint Venturers may consider necessary to accommodate ships of such dead weight tonnage as are requisite for the carrying on of the Joint Venturers' operations;

Depuch townsite.

- (7) consult with the State regarding the location and laying out of a townsite as Depuch townsite including provision for adequate and suitable housing recreational facilities and services with a view to the granting by the State to the Joint Venturers of adequate and suitable land reasonably required by the Joint Venturers on a freehold basis for the purpose of employee housing and on leasehold or other appropriate basis for school water power and other services (including roads) and amenities and the setting aside of areas as reserves for recreational or other public purposes and the vesting of those areas in the Joint Venturers under the provisions of the Land Act 1933 and in regard to which the Joint Venturers undertake to carry out or erect such improvements as they shall think most suitable for the purposes aforesaid and on the determination of this Agreement the Joint Venturers agree on request by the State to surrender to the State any areas so vested in them which shall thereupon be deemed re-vested in the Crown as of its former estate;

Schools.

- (8) provide at both townsites buildings for schools and teachers' accommodation of standards and designs and with equipment as shall be mutually agreed between the parties hereto and adequate for the number of children of primary school age residing

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in each townsite and permit the use thereof by the State during the continuance of this Agreement free of any charge but the State shall ensure that the land the subject of a school and land used in connection therewith shall not be subject to any land tax.

6. The Joint Venturers further covenant and agree with the State that—

Additional obligations of Joint Venturers.

Compliance with laws.

(a) in the construction operation maintenance and use by the Joint Venturers of facilities and property referred to in this Agreement they shall subject to the provisions hereof comply with and observe the laws for the time being in force in the said State;

(b) at all times during the continuance of this Agreement they shall keep and maintain all installations plant and equipment and the railway causeway jetty wharf roads within Depuch townsite and on the Island dredging and water and power supply for the time being the subject of this Agreement in good repair and proper working order and condition;

Maintenance.

(c) (i) they shall pay to the State a royalty on all ore shipped (other than beneficiated ore or ore shipped for testing purposes) at the rate of seven and one half per centum ($7\frac{1}{2}\%$) of the f.o.b. revenue (computed at the rate of exchange on the date of receipt by the Joint Venturers) realised in respect of the ore shipped under this Agreement provided nevertheless that such royalty shall not (except in the case of fines) be less than four shillings and sixpence ($4/6d.$) per ton. The royalty payable on beneficiated ore shall be at the rate of one shilling and sixpence ($1/6d.$) per ton on the ore shipped;

Royalty

(ii) within fourteen (14) days of the last day of the months of March June September and December in each year commencing with the year in which the first commercial shipment of iron ore is made from the Island the Joint Venturers shall furnish to the Minister a return showing the quantity of all iron ore shipped by the Joint Venturers during the three (3) calendar months ending on the last day of the month preceding such return and shall not later than two (2) months after the furnishing of such return pay to the Minister on account of the royalty an amount calculated on the basis of provisional invoices rendered by the Joint Venturers to the purchaser of such iron ore and shall from time

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to time in subsequent returns and payments make all such necessary adjustments when the actual f.o.b. revenue realised in respect of the shipments for each quarter shall have been actually ascertained;

(iii) they shall permit the Minister and any officer appointed by him to inspect the books of account and records of the Joint Venturers relative to any shipment or sale of iron ore and to take copies thereof and extracts therefrom and also endeavour to ensure that a representative appointed by the Minister shall be permitted to be present at the weighing sampling assaying and inspection of the said ore at the smelters and the Joint Venturers shall give to the State and its representatives reasonable assistance in regard to the matters mentioned in this subparagraph;

(iv) for the purpose of computing the royalty payable under this Agreement the weights and assays of ore as finally agreed between the Joint Venturers and the purchaser of the ore shall be accepted by the Minister as correct but before finally agreeing any such weights or assays the Joint Venturers shall pay due regard to any objections or representations which may be made by the representative of the Minister;

(d) (i) within one (1) month after the grant to them of the mineral lease of the mining area they shall pay to the State the actual cost of survey thereof;

(ii) by way of rent for the mineral lease they shall pay to the State annually in advance during the Joint Venturers' tenure thereof the annual sum of One thousand eight hundred pounds (£1,800) commencing on and accruing from the grant of the mineral lease;

(e) they shall ship from the Island all ore mined from the mining area and sold and use best endeavours to obtain therefor the best price possible having regard to market conditions from time to time existing;

(f) they shall from time to time upon reasonable notice in that behalf from the State endeavour to make available to any person or persons designated by the State the use on such terms and conditions as shall be reasonable in the circumstances from time to time existing of the facilities and installations

Survey fee
and rent of
mining area.

Obtaining
of best price
for iron ore.

Availability
of facilities
and installa-
tions.

belonging to the Joint Venturers pursuant to this Agreement so long as such use shall not unduly interfere with the operations of the Joint Venturers.

7. The parties hereto **MUTUALLY COVENANT AND AGREE** with each other as follows— Mutual covenants.

- (a) That nothing in this Agreement shall limit any rights of the Joint Venturers under the mining laws of the said State and upon application by the Joint Venturers for leases or other rights in respect of metals minerals and other natural substances (other than iron ore pyrites and iron bearing substances) within the mining area the State shall grant to the Joint Venturers or shall procure the grant to the Joint Venturers of such leases or rights on terms no less favourable than those provided for by the mining laws of the said State. Further mineral rights.
- (b) That the Joint Venturers shall have the right on the mining area or with the consent of the State (having regard to existing water supplies of pastoral lessees) elsewhere to bore for construct catchment areas store (by dams or otherwise) and take water from any lands (whether still vested in the Crown or alienated therefrom and whether the subject of a pastoral lease under the Land Act 1933 or of any other tenure of any nature) so that the Joint Venturers shall be able to provide adequate water supplies for their operations under this Agreement and for domestic and other purposes in relation to any townsite as aforesaid. Water supplies.
- (c) In choosing or selecting any site or route under or for the purposes of this Agreement each party hereto will have regard not only to their respective interests but also to the general development of the area or areas likely to be affected. Choice of sites.
- (d) That the Joint Venturers may use any public roads which may from time to time exist in the area of their operations for the purpose of transport of goods and materials in connection therewith provided nevertheless that the Joint Venturers shall on demand pay to the State or Shire Council concerned the cost of making good any damage to any public roads occasioned by such user. Use of public roads.
- (e) That on the expiration or determination of any lease granted by the State to the Joint Venturers hereunder of land on or of any berth at the Island the improvements and things erected thereon or provided for or in connection therewith shall remain or become the absolute property of the State without compensation and the Joint Venturers will Effect of determination of lease

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do and execute such documents and things as the State may reasonably require to give effect to this provision. On the expiration or sooner determination of any other lease license or right granted by the State to the Joint Venturers hereunder the Joint Venturers shall be entitled at any time within six (6) months after the expiration or determination to remove from the land the subject of the lease license or right all ore at grass or in stock pile and all plant machinery equipment and other improvements of a removable nature including locomotives rolling stock vehicles and stores but not such as shall constitute or form part of any permanent work or installation thereof.

No charge
for the
handling of
cargoes.

- (f) That subject to the Joint Venturers at their own expense providing all works buildings dredging and things of a capital nature reasonably required for their operations on and from the Island no charge or levy shall be made by the State or any State authority in relation to the loading of outward or the unloading of inward cargoes from the said wharf whether such cargoes shall be the property of the Joint Venturers or of any other person or corporation nor shall any charge be made or levied by the State or such authority in respect of vessels using the said wharf other than the usual charges from time to time prevailing in respect of services rendered by the State or such authority.

Zoning.

- (g) That the mining lease and the lands the subject of any Crown grant lease or license granted to the Joint Venturers under this Agreement shall be and remain zoned for use and otherwise protected during the currency of this Agreement so that the operations of the Joint Venturers hereunder may be undertaken and carried out thereon without any interference or interruption by any Municipal or Shire Council or by any other governmental or semi-governmental authority of the State or by any person on the ground that such operations are contrary to any zoning by-law or regulation of any such Municipal or Shire Council or other authority.

Rentals and
evictions.

- (h) That any State legislation for the time being in force in the said State relative to the fixation of rentals shall not apply to any houses belonging to the Joint Venturers in any townsite and that in relation to each such house the Joint Venturers shall have the right to include as a condition of its letting thereof that the Joint Venturers may take proceedings for eviction of the occupant if the latter shall fail to abide by and observe the

terms and conditions under which such occupant shall occupy or sublet the same from the Joint Venturers or if the occupant shall cease to be employed by the Joint Venturers.

- (i) That in respect to the mining area and Depuch townsite the Joint Venturers accept responsibility for the provision distribution and supply to consumers of electric power and water and for these purposes are deemed to be a supply authority within the meaning and for the purposes of the Electricity Act, 1945 and may—
- Provision of services.
- (i) generate and supply electric power to consumers and for such purpose on the mining area and elsewhere with the consent of the State instal power lines through in and along any roads streets and ways and for such purpose break up roads and any such streets or ways and erect therein such poles and transformers as may be deemed necessary but shall make good any damage occurring therefrom;
 - (ii) subject to the prior consent of the State in relation to the use of any land outside the mining area construct such reservoirs and water storage installations as they may think fit and lay such water mains pipes and connections along and under any roads streets or ways and for such purposes break up and open any road street or way but shall make good any damage occurring therefrom;
 - (iii) make such charges for the installation of such electric power and water connections and for the supply of electric power and water to any person (whether an employee of the Joint Venturers or not) as they shall think fit but so that the same shall not exceed the general rate ruling on the North West Coast for similar charges; and
 - (iv) in relation to the supply of water to and within any townsite and the Island have and exercise such of the rights powers authorities and obligations of the Minister for Works of the said State or the relevant local authority as may from time to time be mutually agreed between the parties hereto including any of the rights powers authorities and obligations of a water board for the time being constituted under the Water Boards Act, 1904.
- (j) That the Joint Venturers in making use of any public roads (not being roads constructed by the Joint Venturers) shall not permit or suffer the use
- Use of public roads.

of any vehicle belonging to or used by them or any contractor of theirs having a gross axle load exceeding twelve (12) tons or having tyre pressures exceeding one hundred (100) lbs. per square inch but until the said railway from the mining area to Depuch townsite is constructed and in operation but in relation only to the transport North of the twenty-sixth (26th) parallel of South latitude of goods belonging to the Joint Venturers and required for the purposes of this Agreement the provisions of the State Transport Co-ordination Act, 1933 shall have no application.

Fences and
cross-overs.

- (k) That the Joint Venturers shall not in the construction of the said railway be under any responsibility to fence the same but shall at the point at which the same shall run through any fence existing on any pastoral lease at the time of construction instal and maintain a sheep and cattle cross-over of sufficient length and dimensions to prevent sheep and cattle passing through the opening made in such fence. The Joint Venturers may also erect and place gates or booms across any road or street crossing the said railway and where so erected or placed shall maintain the same.

Accidents
from use of
railway.

- (l) That the Joint Venturers shall not be liable for the loss of any livestock by reason of any accident thereto arising out of the construction or existence of the said railway or the running of any trains locomotives or vehicles thereon nor shall they be liable for any claim for damages for personal injury to any person or for any claim under the Fatal Accidents Act, 1959 arising out of and in connection with the said railway or the running of trains locomotives or vehicles thereon unless the same shall be the result of or be caused by the negligence of the Joint Venturers or any servant or agent of the Joint Venturers.

Labour
conditions.

- (m) That during the currency of this Agreement and subject to compliance with their obligations hereunder the Joint Venturers shall not be required to comply with the labour conditions imposed by or under the Mining Act in regard to the mineral lease.

Covenants
not to be
altered.

- (n) That unless otherwise mutually agreed at any time the terms covenants conditions and provisos of all leases and licenses (whether under the Mining Act the Land Act or otherwise) granted to the Joint Venturers pursuant to the provisions of this Agreement shall not during the currency thereof respectively (including any renewal or renewals thereof) through any act of the State be impaired disturbed or prejudicially affected.

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(o) That without affecting the liability of the parties under the provisions of this Agreement either party shall have the right from time to time to entrust to third parties the carrying out of any portions of the operations which it is authorised or obliged to carry out under this Agreement. Subcon-
tracting.

(p) 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 or be deemed to be on the unimproved value thereof and shall not be subject to any discriminatory rate. Rating.

8. The Joint Venturers shall have the right with the consent in writing of the State to assign or otherwise dispose of their rights and obligations under this Agreement or any interest therein and such consent shall not be arbitrarily or unreasonably withheld subject to the assignee executing in favour of the State a Deed of Covenant to comply with and observe the assigned obligations. Assignment
of rights.

9. Any obligation or right under the provisions of or the terms of any lease or license granted hereunder may from time to time be cancelled added to varied or substituted by agreement in writing between the parties hereto so long as such cancellation addition variation or substitution shall not constitute any material or substantial alteration of the major obligations or rights of either party under this Agreement. Variation.

10. This Agreement shall be deemed to be made subject to any delays in the performance of obligations under this Agreement 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 caused by or arising from Act of God act of war force majeure act of public enemies floods and washaways 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 riots and civil commotion and inability to profitably sell ore or factors due to overall world economic conditions or factors which could not reasonably have been foreseen. Delays.

11. The Joint Venturers shall and do hereby jointly and severally indemnify and agree to indemnify and save harmless the State from and against all actions suits claims Indemnity.

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demands and costs arising out of or in connection with the construction maintenance or use by the Joint Venturers of the wharf railway and other works herein provided to be constructed by the Joint Venturers or the plant apparatus and equipment installed in connection therewith.

Export
licenses.

12. (1) The State shall with all reasonable despatch when requested by the Joint Venturers so to do and so far as it is reasonably able from time to time assist the Joint Venturers in any representations to the Commonwealth for the grant of a license or licenses under the laws of the Commonwealth for the export of such quantity and at such rate of direct shipping or beneficiated ore or fines as the Joint Venturers may for the time being intend and within a reasonable time (having regard to the circumstances of the case) be capable of mining from the mining area and exporting from the Island and so that the State shall not at any time give to any other party any assistance in any representations to the Commonwealth of a like nature which shall in manner or terms be more favourable (except as to rate or quantity) than the assistance so given to the Joint Venturers.

(2) Unless the parties hereto otherwise mutually agree this Agreement is entered into by the parties hereto subject to the granting to the Joint Venturers by the Commonwealth within three (3) months of the date of application therefor (to be made within eighteen (18) months after the date hereof) of such license or licenses for the export to such country or countries as the Joint Venturers may from time to time desire of iron ore to a total quantity of not less than fifteen million (15,000,000) tons of direct shipping ore at a rate of not less than one million (1,000,000) tons per annum with the proviso to such license or licenses that if in any year for any of the reasons mentioned in clause 10 hereof (relating to delays) or for any other reason beyond the control of the Joint Venturers less than one million (1,000,000) tons is exported by the Joint Venturers then the amount by which the quantity so exported shall be less than one million (1,000,000) tons may be carried forward and exported in any of the next subsequent three (3) years AND if at any time any such license shall be withdrawn or suspended by the Government of the Commonwealth of Australia then unless the Joint Venturers shall at any time by notice in writing in that behalf notify the Minister that they desire by reason of such withdrawal or suspension to determine this Agreement as from the date specified in such notice (in which event this Agreement shall cease and determine as from that date but without prejudice to the liability of either party for any antecedent breach of any the terms hereof) the term of this Agreement or any extension thereof shall be extended by an equivalent period to that which

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shall occur until a further license to export iron ore in the place of the one so withdrawn shall be granted to the Joint Venturers or to that of such suspension as the case may be.

13. Any dispute or difference between the parties arising out of or in connection with this Agreement or any agreed variation thereof or as to the construction of this Agreement or any such variation or as to the rights duties or liabilities of either party thereunder or as to any matter to be agreed upon between the parties in terms of 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. Arbitration.

14. Any notice consent or other writing authorised or required by this Agreement to be given or sent shall be deemed to have been duly 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 Joint Venturers at an address to be nominated by them from time to time as their principal office for the time being in Perth aforesaid or sent addressed to them care of their solicitors for the time being in Perth aforesaid and by the Joint Venturers if signed on their behalf by any person or persons authorised by the Joint Venturers in that behalf or by their 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. Notices.

15. Without prejudice to the State's rights powers and remedies under the second proviso to clause 16 hereof in any of the following events namely if the Joint Venturers shall make default in the due performance or observance of any of the covenants or obligations herein on their part to be performed or observed and shall fail to remedy that default within a reasonable time after notice specifying the default is given to them by the State or if the Joint Venturers shall abandon or repudiate their operations for the mining transport and shipment of iron ore from the mining area then and in any of such events the State may by notice to the Joint Venturers determine this Agreement and the rights of the Joint Venturers hereunder or under any lease license or mining tenement granted hereunder or pursuant hereto. Default.

16. The term of this Agreement (subject to the provisions hereof) shall be twenty-one (21) years from the date hereof and shall continue thereafter for successive periods of Term.

twenty-one (21) years so long as the Joint Venturers shall not less than one (1) year before the expiration of each period of twenty-one (21) years give to the Minister notice of their desire to continue this Agreement: Provided always that the Joint Venturers may at any time after the expiration of five (5) years from the date hereof upon giving to the State at least twelve (12) months' notice in writing of its intention in that behalf determine this Agreement and upon the expiration of such notice this Agreement and the Joint Venturers' rights in and under any lease license or right granted hereby or pursuant hereto shall cease and determine but without prejudice to any liability on the part of the Joint Venturers for any antecedent breach of any of the terms and conditions hereof: Provided further that if in any financial year after the expiration of twenty-one (21) years from the date hereof the tonnage of iron ore mined from all or any mining tenements held by the Joint Venturers (whether under this Agreement or otherwise) and shipped from the Island by the Joint Venturers is less than one million (1,000,000) tons then the State may within the period of six (6) months next following the expiration of that financial year give to the Joint Venturers notice that it intends to invoke this clause and thereupon if in that financial year and the next two succeeding financial years the total tonnage of iron ore so shipped is less than three million (3,000,000) tons then subject to the provisions of clause 10 hereof the State may by notice to the Joint Venturers given at any time during the period of twelve (12) months next following the expiration of the third of the three financial years above referred to in this proviso determine this Agreement whereupon the rights of the Joint Venturers hereunder and under any lease license or mining tenement granted hereunder or pursuant hereto shall cease and determine but without prejudice to any liability on the part of the Joint Venturers for any antecedent breach of or liability under any of the provisions hereof but in assessing the tonnage shipped for the purpose of this proviso there shall be taken into account any iron ore from all or any mining tenements held by the Joint Venturers (whether under this Agreement or otherwise) and shipped by them from the Island during the relevant financial year.

Exemption
from stamp
duty.

17. If within the period of seven years next following the execution hereof the Joint Venturers should transfer their rights and interests to in and under and including any assets for the time being belonging to the Joint Venturers pursuant to this Agreement to a new public company or subsidiary company or companies to be incorporated within Australia for the purposes only of company reconstruction

or internal reorganisation the State shall exempt from ad valorem duty any instrument whereby the said rights and interests are transferred to the new company: Provided that the rights conferred by this clause shall apply only on the first such transfer.

18. This Agreement shall be interpreted according to the laws for the time being in force in the said State. Interpretation.

THE FIRST SCHEDULE

WESTERN AUSTRALIA

THE MOUNT GOLDSWORTHY IRON ORE DEPOSIT
AGREEMENT ACT, 1962

MINERAL LEASE

Lease No. Mineral Field
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 the Mount Goldsworthy Iron Ore Deposit Agreement Act, 1962 and the Agreement ratified thereby the Government of the said State agreed to grant to CONSOLIDATED GOLDFIELDS (AUSTRALIA) PTY. LIMITED CYPRUS MINES CORPORATION and UTAH CONSTRUCTION & MINING CO. (hereinafter with their respective successors and assigns referred to as "the Joint Venturers") a mineral lease of the lands referred to in the said Agreement as "the mining area" NOW WE in consideration of the rents and royalties reserved by and of the provisions of the said Agreement DO BY THESE PRESENTS GRANT AND DEMISE unto the Joint Venturers as tenants in common in equal shares subject to the said provisions ALL THOSE pieces and parcels of land comprised in the said mineral lease for the period and for the purpose mentioned in the said Agreement TO HOLD the mineral lease unto the Joint Venturers for the period and purposes and upon and subject to the terms covenants and conditions set out in the said Act and Agreement and (subject thereto) in accordance with the provisions of the Mining Act, 1904 and the amendments thereto and the regulations made thereunder for the time being in force YIELDING and paying therefor the rent and royalties as set out in the said Agreement.

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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 this day of One thousand nine hundred and sixty-two.

IN WITNESS WHEREOF the hands and seals or the common seals of the parties hereto have hereunto been affixed the day and year first hereinbefore mentioned.

SIGNED SEALED AND DELIVERED by the said THE HONOURABLE DAVID BRAND, M.L.A. in the presence of:—
Arthur Griffith } David Brand (L.S.)

THE COMMON SEAL OF CONSOLIDATED GOLDFIELDS (AUSTRALIA) PTY. LIMITED was hereunto affixed on the 27th day of February One thousand nine hundred and sixty-two in the presence of:—
Frank R. Beggs } (C.S.)
Director.

Q. R. Stow
A person duly authorised
in that behalf.

SIGNED SEALED AND DELIVERED for and on behalf of CYPRUS MINES CORPORATION by its attorney FRANK RUNDLE BEGGS in the presence of:—
Q. R. Stow, } Frank R. Beggs (L.S.)
Solicitor
Perth

SIGNED SEALED AND DELIVERED for and on behalf of UTAH CONSTRUCTION & MINING CO. by its attorney RICHARD DENTLER ELLETT in the presence of:—
A. H. Telfer. } Richard D. Ellett (L.S.)
