

## IRON ORE (SCOTT RIVER) AGREEMENT.

10° Elizabeth II., No. XXXV.

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No. 35 of 1961.

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**AN ACT to approve and ratify a certain Agreement relating to the establishment in the State of a Processed Iron Ore Industry; to provide for carrying that Agreement into effect; and for other and incidental purposes.**

[Assented to 6th November, 1961.]

**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.

1. This Act may be cited as the *Iron Ore (Scott River) Agreement Act, 1961.*

Interpre-  
tation.

2. In this Act, unless the context otherwise requires—

“land” includes any estate or interest in land;

“the Agreement” means the agreement of which a copy is set forth in the Schedule to this Act;

“the State” includes its instrumentalities; and expressions used have respectively the same meanings as those expressions have in the Agreement.

3. (1) The Agreement is by this Act approved and ratified.

Agreement approved and ratified.

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

4. (1) The State may—

(a) by agreement with the owner; or

(b) by compulsory process as provided in this section,

Power to acquire.

acquire any land that is reasonably required by the State or the Company, for any purpose contemplated by the Agreement.

(2) The State may grant to the Company the whole or part of any land, including land the subject of Class A or other reserve, within or adjoining the works site or the wharf site.

(3) Any land referred to in subsection (1) of this section may be set apart, taken or resumed as for a public work under the Public Works Act, 1902, as if the land were required for a public work within the meaning of that Act and, when so set apart, taken or resumed, shall be used and disposed of in accordance with and for the purposes of the Agreement.

(4) Subject to subsection (3) of this section, the provisions of the Public Works Act, 1902, apply with such adaptations as are necessary in all respects as if the land were required for a public work authorised pursuant to the provisions of that Act.

State to  
carry out  
certain  
works.

5. The State is authorised and required to construct roads and to provide electric power, in accordance with, and subject to, the Agreement.

Company  
relieved of  
certain  
obligations.

6. The Company, whilst duly complying with its obligations under the Agreement, shall not be required to comply with any labour covenants or conditions, in respect of its operations on the mineral claims.

State's  
obligations  
not to be  
prejudiced.

7. Nothing done by any person (whether by or under any Act or otherwise) shall, subject to the Agreement, operate so as to prevent or hinder the State from fulfilling its obligations under the Agreement.

Section 2.

SCHEDULE.

AN AGREEMENT under seal made the ninth day of March One thousand nine hundred and sixty-one 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 its instrumentalities (hereinafter referred to as "the State") of the first part MINERAL MINING AND EXPORTS (W.A.) PTY. LTD. a company incorporated in the said State and having its registered office at 24 Saint George's Terrace Perth in the said State (hereinafter referred to as "the Company" which term shall include its successors and permitted assigns) of the second part AND HEINE BROTHERS (AUSTRALASIA) PTY. LIMITED a company incorporated under the Companies Statutes of the State of Victoria and having its registered office at 473 Bourke Street Melbourne in that State (hereinafter referred to as "the Guarantor" which term shall include its successors) of the third part.

WHEREAS:

The Company the Guarantor and Walter Paul Rudolf Heine of 473 Bourke Street Melbourne aforesaid Company Director have requested the State to assist the Company in the establishment by the Company of a processed iron ore industry within the said State which the State has agreed to do upon and subject to the terms and conditions hereinafter contained.

NOW THIS AGREEMENT WITNESSETH and the State and the Company covenant and agree with each other as hereinafter contained and the Guarantor hereby covenants with and guarantees to the State that the Company will duly and punctually perform and discharge such of its obligations and liabilities as fall to be performed and discharged during the continuance of the guarantee:

1. (1) The clauses of this Agreement other than this clause and clauses 2 3 5 6 28 and 30 thereof shall not come into operation unless the Parliament of the said State passes a Bill to ratify this Agreement.

(2) If such a Bill is so passed the whole of this Agreement shall upon the day when the Bill becomes operative as an Act come into operation and be binding on the parties hereto and if such a Bill is not so passed this Agreement shall not thereafter operate and none of the parties hereto shall have any claim against the other or others of them with respect to any matter or thing arising out of this Agreement.

(3) The State as soon as it considers it practicable to do so will introduce such a Bill into the said Parliament and such Bill will make provision for—

- (a) the compulsory or other acquisition of the whole or part of the works site and the wharf site and also all such other land and rights interests and easements in over or in respect of land adjacent to such sites or otherwise as contemplated by this Agreement as the State and the Company may mutually agree to be reasonably required by the Company for its purposes hereunder including easements relating to the laying and maintenance of pipes and the pumping of water from the Scott River to the works site and including rights or easements in over or in respect of any Class "A" or other Reserve within the area of the wharf site;
- (b) authorising and requiring the State to construct the roads and to provide the power in accordance with and subject to the provisions of this Agreement;
- (c) providing that nothing done by any person whether by or under any Act or otherwise shall operate so as to prevent the State from fulfilling its obligations under this Agreement in accordance with and subject to the provisions hereof; and

(d) the Company whilst duly complying with its obligations under this Agreement not being required in respect of its operations on the mineral claims to comply with the labour covenants or conditions in regard thereto imposed by or under the provisions of the Mining Act, 1904.

Interpreta-  
tion.

2. (1) In this Agreement unless the context otherwise requires the following terms have the following meanings—

“factory” means the factory to be erected and established by the Company pursuant to clause 9 hereof and includes all the plant equipment and ancillary things on the works site necessary for the production of processed iron ore pursuant to this Agreement;

“financial year” means the period of twelve months ending on the 30th day of June;

“iron ore” means iron ore from the iron ore areas as mined;

“iron ore areas” means the lands the subject of the mineral claims referred to in clause 5 hereof;

“low grade ore” means iron ore in which the iron content does not exceed 50%;

“Minister” means the Minister for Industrial Development in the Government of the said State his successors in office or other the Minister for the time being responsible under whatsoever title for the administration of industrial development in the said State;

“Minister for Mines” means the Minister of the Crown to whose administration the Mining Act, 1904 is for the time being committed and includes the Minister of the Crown for the time being acting as Minister for Mines or discharging the duties of his office;

“month” means calendar month;

“notice date” means the notice date referred to in clause 4 hereof;

“person” or “persons” includes bodies corporate;

“processed iron ore” means iron ore that has been processed beyond the condition of up-graded ore by thermal treatment;

“the said State” means the State of Western Australia;

“ton” means a ton of 2240 pounds weight;

“up-graded ore” means iron ore which has been up-graded by mechanical means other than thermal treatment;

“wharf” includes any jetty structure or other form of bulk ship loading structure;

“wharf site” means the site selected by the Company and accepted by the State pursuant to clause 4 hereof comprising a wharf in the Flinders Bay Area together with such adjoining land reasonably required by the Company for the handling and storing of materials and cargo on the scale envisaged by this Agreement as shall be determined by mutual agreement between the State and the Company or by arbitration as hereinafter provided;

“works site” means the land comprising (subject to survey) 867 acres or thereabouts referred to in clause 10 hereof and upon which the Company will erect the factory and being the land generally delineated in red and hachured red on the Plan marked “A” initialled by or on behalf of the parties hereto for the purposes of identification but less any land which prior to the notice date may be required by the State for road purposes.

(2) Any reference in this Agreement to an Act means that Act as amended from time to time and includes any Act passed in substitution for that Act and the regulations and by-laws made and for the time being in force thereunder.

3. Upon the execution hereof the Company will—

Immediate  
obligations  
of company.

- (a) commence or continue to prospect for iron ore within the boundaries of the temporary reserves numbered 1805H 1842H and 1830H held by or on behalf of the Company under the Mining Act 1904 and will diligently proceed with such prospecting and for this purpose will sink necessary bores and carry out necessary tests in order to discover the tonnages and grades of iron ore within the said boundaries and the Company will keep the State fully informed in writing from time to time as to its progress and results under this paragraph;
- (b) diligently proceed with the selection of a wharf site and with the investigation and determination of the best design and methods of construction of a wharf and approaches thereto at the wharf site and of related loading appliances for facilities suitable for the handling of vessels up to twenty thousand (20,000) tons capacity or greater on a basis of at least ten thousand (10,000) tons loading capacity per day for the export of processed

iron ore produced at the factory under this Agreement. For the purposes of this paragraph the Company will at its own cost retain or continue to retain the services of Messrs. Maunsell and Partners of London and Melbourne Engineering Consultants and/or other consultants of similar standing and repute to advise and assist the Company in its said investigation and determination and from time to time will consult and maintain close liaison with and arrange for any such consultants to consult and maintain close liaison with the appropriate engineers of the Public Works Department of the State concerning the matters referred to in this paragraph with a view to the selection by the Company with the concurrence of such engineers of the most suitable location of the wharf site and the location design and methods of construction for the purposes of this Agreement of the works referred to in this paragraph and all improvements and things ancillary thereto on the wharf site and the recording of information in regard thereto in the notice and plan referred to in the next succeeding clause: Provided that in the event of dispute as to location design or methods of construction the final decision shall rest with the Minister who in making his decision will give due consideration to any unfair burden or added cost or interference with the Company's workings that might be imposed on the Company by the selection of a location design or method of construction other than one recommended by the Company's consultants;

- (c) investigate methods overseas of producing processed iron ore and for this purpose will retain or continue to retain the services of recognised experts in Australia and overseas and will obtain the advice of successful producers of processed iron ore and will at quarterly intervals computed from the date hereof inform the State in writing of the progress of the Company under this paragraph and the results of the investigations and the advices of the experts and producers; and
- (d) further investigate the economics involved in and arrange for the provision of capital necessary for the discharge by the Company of its further obligations under this Agreement.

4. (1) At any time prior to the 31st day of December 1962 <sup>Notice date.</sup> or such later date as the State and the Company may in writing mutually agree the Company may give to the State notice (with annexures as required by subclause (2) of this clause) in writing that the Company—

- (a) has satisfied itself that the iron ore areas contain iron ore of tonnages and grades suitable for the Company's purposes under this Agreement;
- (b) has satisfied itself on the advice and recommendation of the said Maunsell and Partners or other consultants as aforesaid and with the agreement (subject to the proviso to clause 3(b) hereof) of the said appropriate engineers of the Public Works Department as to the best location of the wharf site and the design and methods of construction and location for the purposes of this Agreement of the works on or in connection with the wharf site referred to in paragraph (b) of clause 3 hereof;
- (c) has decided upon the method (to be described in the notice) of producing processed iron ore from the factory as referred to in clause 9 hereof; and
- (d) has arranged for all finance (of which the sources and details shall be disclosed in the notice) necessary for the discharge of the Company's obligations under this Agreement and is able and willing to proceed with the discharge thereof in accordance with the provisions of this Agreement.

(2) The notice given under subclause (1) of this clause shall have annexed to it two copies of a plan of the wharf site showing thereon—

- (a) the nature and location of all structures and other improvements which the Company proposes to erect or construct on or in connection with the wharf site;
- (b) the particular areas of the wharf site of which—
  - (i) the Company desires exclusive possession;
  - (ii) the Company desires possession subject to the right of other persons with the consent of the Minister to use those areas for the handling of inward and outward cargo other than that of the



Company on reasonable terms and in such manner as will not unduly interfere with the Company's user of the areas. Such reasonable terms being in default of agreement between the State and the Company determined by arbitration as hereinafter provided; and

- (iii) the Company desires only a license to occupy.

(3) In preparing the plan referred to in the last preceding subclause the Company shall have regard to the following considerations—

- (a) the wharf site may be the most or only suitable site for harbour facilities in the Augusta-Flinders Bay area;
- (b) during the Company's occupancy thereof other persons may desire to make use of and/or to build a wharf from some part of the wharf site in order to handle inward and/or outward cargo; and
- (c) the State may wish to assist such persons in such desire.

(4) If the notice referred to in subclause (1) of this clause and the plan referred to in subclause (2) of this clause are not given to the State prior to the date or later date (if any) referred to in subclause (1) of this clause the parties hereto shall thereupon by force of this subclause be released from all obligations under this Agreement to be performed after the notice date and the Company's rights and interests to and in the wharf site and the iron ore areas and the mineral claims granted or registered in respect thereof shall forthwith cease and determine and the claims will be deemed to be surrendered by the Company.

(5) If the notice (with annexures) referred to in subclause (1) of this clause is given to the State prior to the date or later date (if any) referred to in that subclause the State shall without unreasonable delay consider the same make any investigations in regard thereto as the State may desire and advise the Company in writing of the State's requirements (if any) in regard to the matters the subject of the notice. If and when the State is satisfied with the notice given by the Company (subject to any modification subsequently agreed with the Company) the State shall forthwith give notice in writing to the Company accordingly and the date of the notice from the State to the Company shall for the purposes of this Agreement be the "notice

date". The State however shall not withhold the giving of its notice to the Company except on reasonable grounds and without affording to the Company a reasonable period within which to satisfy the State's requirements (if any). If however the State decides not to give such notice it shall forthwith notify the Company accordingly and unless the Company within thirty (30) days thereafter refers the question to arbitration or if having so referred such question the question is decided against the Company then the consequences set out in subclause (4) of this clause following the failure of the Company to give the notice therein referred to shall follow as if repeated in this subclause. If however the question is decided against the State the arbitrator arbitrators or umpire (as the case may be) shall have power in the arbitration award to fix and shall so fix a date as the notice date for the purposes of this Agreement.

5. (1) As soon as possible after the execution of this Agreement the Company will under Regulation 55 made under the Mining Act 1904 make application for the registration of not less than forty-six (46) nor more than eighty (80) mineral claims each of not more than three hundred (300) acres north of the Scott River within the boundaries of Temporary Reserves numbered 1805H 1842H and 1830H held by or on behalf of the Company under the said Act as shall be mutually agreed with the State and subject to the compliance by the Company with the requirements of the said regulation 55 the State will ensure that the Minister for Mines will approve the application for each of the said mineral claims upon and subject to the provisions of the said Act and of this Agreement: Provided that the Company may within three (3) months of the execution of this Agreement or within such extended time (if any) as the State and the Company may mutually agree by way of substitution for some of the said mineral claims which will in such case be surrendered or by way of addition thereto (but within the limit aforesaid) make application under the said regulation 55 for mineral claims each of not more than three hundred (300) acres within the said boundaries in such locations as the State and the Company shall mutually agree and the State will ensure that the Minister for Mines will approve all such further applications in manner aforesaid.

Iron Ore  
Areas.

(2) Subject to the provisions of the said Act and of this Agreement the said mineral claims shall continue in existence for a period of twenty-one (21) years from the date of the approval and registration thereof and the Company shall have a right of renewal of the term of the claims for a further period of twenty-one (21) years on the same terms except this present right of renewal: Provided that if the Company having duly performed and discharged

all its obligations under this Agreement exercises the said right of renewal and during the renewal period continues so to perform and discharge such obligations then the Minister for Mines will not in respect of the areas of the renewed mineral claims or of any of them approve any application for a mineral claim or mineral lease by a person other than the Company unless the Company shall first have been given the right of refusal thereof.

(3) Subject to subclause (4) of this clause the Company shall (and it shall be a condition of the grant and registration of each of the mineral claims referred to in subclauses (1) and (2) of this clause) pay to the State by way of royalty for iron ore mined from the iron ore areas—

- (a) ninepence (9d.) a ton for low grade ore; and
- (b) one shilling and sixpence (1/6d.) a ton for ore of a higher grade than low grade ore.

(4) The royalties payable under subclause (3) of this clause are based upon the rates of iron ore royalties payable or agreed to be paid by steel manufacturers in Western Australia at the date of this Agreement and shall be increased or decreased according to any and every subsequent variation of such rates as may be mutually agreed between the State and the Company or determined in default of agreement by arbitration as hereinafter provided.

(5) In the months of March June September and December in each year the Company will furnish to the Minister for Mines a return of all iron ore mined by the Company from the iron ore areas during the period of three (3) months ending on the preceding last day of the months of February May August and November as the case may be.

(6) The said royalties shall be paid by the Company to the Minister for Mines on behalf of the State not later than two (2) months after the end of each such calendar quarterly period.

(7) The State will ensure that no discriminatory charge is made against the Company or its permitted assigns in respect of the mineral claims.

(8) Subject to clause 25 hereof relating to delays if by the 31st December 1967 the Company has not mined from the iron ore areas and processed at the factory at least five hundred thousand (500,000) tons of iron ore in the preceding twelve (12) months the State may by notice in writing to the Company cancel and determine the mineral claims and the rights and interests of the Company to in and in respect of the iron ore areas and the wharf site.

(9) If during any three consecutive financial years after the year ending the 30th of June 1968 the Company fails to mine from the iron ore areas and to process at the factory at least an average of five hundred thousand (500,000) tons of iron ore per year the State may give notice in writing to the Company of its intention to cancel this Agreement and the rights of the Company to in and in respect of the mineral claims the iron ore areas and the wharf site: Provided that in calculating such average due allowance shall be made for any tonnages lost through any delay to which this Agreement is made subject by the provisions of clause 25 hereof.

6. The Company will not during the currency of this Agreement export from Australia any iron ore won from the iron ore areas other than processed iron ore without the consent of the State in writing from time to time.

Restriction  
on export of  
iron ore  
other than  
processed  
iron ore.

7. As soon as conveniently may be after the notice date the Company shall call tenders for harbour development in accordance with the plans and methods referred to in clause 4 hereof except as modified by mutual agreement between the State and the Company and the Company will enter into a contract for that development and give to the State a copy of such contract. The Company will at its own cost diligently proceed with and complete such development and throughout the currency of this Agreement will maintain all improvements erected or constructed by it on the wharf site in good repair and condition.

Development  
at the Wharf  
Site.

8. (1) As soon as possible after the notice date the State and the Company shall execute in a form reasonably required by the State and the Company a tenancy or other agreement relating to a license from the State to the Company to occupy and use free of rental or license fee such portions of the wharf site as shall be indicated in the plan referred to in subclause (2) of clause 4 hereof and in accordance with the rights of occupancy indicated therein and accepted by the State.

Tenancy of  
Wharf site.

(2) Throughout the currency and subject to the provisions of the tenancy or other agreement the Company will use and operate its wharf as a private jetty. Any structure or installation erected by the Company on the wharf site or projecting into the adjoining ocean save and except plant equipment and removeable buildings shall at all times belong to and be the property of the State. Within six (6) months after the end or sooner determination of the tenancy the Company may (except insofar as the State and the Company may otherwise in writing mutually agree and subject to subclause (3) of this clause) remove and

carry away from the wharf site the said plant equipment and removeable buildings and shall fill in consolidate and level off all holes and excavations thereby resulting failing which the State may fill in consolidate and level off the holes and excavations thereby resulting or cause all the same to be done and the Company shall on demand made by the State pay to the State the amount of the costs and expenses so incurred and the plant equipment and removeable buildings not removed by the Company as aforesaid shall become the property of the State.

(3) In the event of the Company deciding to remove the said plant equipment and removeable buildings it shall not do so without first notifying the State in writing of such its decision and thereby granting to the State the option exerciseable within three (3) months of the service of such notice to purchase at valuation *in situ* the said plant equipment and removeable buildings or any of them. Such valuation shall be made by such competent valuer as the parties may appoint or failing agreement as to such appointment then by two competent valuers one to be appointed by each party or by an umpire appointed by such valuers should they fail to agree.

Company to  
establish  
factory.

9. (1) The Company will prior to the 31st day of December 1964 construct and establish on the works site at an estimated capital cost of not less than five million five hundred thousand pounds (£5,500,000) a factory designed and having a capacity to produce not less than two hundred and fifty thousand (250,000) tons of processed iron ore per year from the iron ore areas.

(2) The Company will prior to the 31st day of December 1966 construct and establish on the works site or extend the factory already existing thereon an additional or extended factory designed and having a capacity to produce (together with the then existing factory) not less than five hundred thousand (500,000) tons of processed iron ore per year from the iron ore areas at a cost which (inclusive of the cost incurred under subclause (1) of this clause the cost of all necessary ancillary plant and equipment and the cost of the wharf structure and buildings plant and equipment on the wharf site) will be not less than ten million pounds (£10,000,000).

(3) If however the Company should demonstrate to the satisfaction of the State that by using a more suitable method than is at present believed to be available the Company will be able to establish more cheaply than indicated in the preceding relevant subclause of this clause a factory or extended factory capable of producing satis-

factory processed iron ore of not less than the annual tonnage referred to in such relevant subclause such modern method may with the consent of the State in writing (which consent shall not be unreasonably withheld) be employed in the construction and establishment of the factory or extended factory as the case may be in substitution for the rotary kiln method envisaged at the date of this Agreement.

(4) In connection with the construction and establishment of the factory the Company will investigate the availability in the said State of labour and suitable local materials and equipment and will utilise them to the maximum extent reasonably practicable.

(5) The Company without accepting any obligation in the matter nevertheless acknowledges its intention and desire at some future time to enlarge the production capacity of the factory to one million (1,000,000) tons per annum of processed iron ore.

10. (1) As soon as possible after the notice date the State shall make available to the Company on a freehold basis free of cost—

Land for  
works site  
and other  
industries

(a) as the works site Crown land comprising (subject to survey) a total of eight hundred and sixty-seven (867) acres or thereabouts (less any land required by the State before the notice date for road purposes) and being—

(i) the balance of the land within Sussex Locations 2977 2978 2979 and 2980 comprising 672 acres or thereabouts and shewn coloured red on the said Plan marked "A";  
and

(ii) portion of Class "A" Reserve A 25373 (National Park) comprising 195 acres or thereabouts and lying directly between the northern boundaries of the said Sussex Locations and forty (40) feet from high water mark of the southern bank of the Scott River as generally indicated (subject to survey) hachured red on the said Plan marked "A"

together with easements as referred to in clause 16(2) hereof; and

(b) for other industrial purposes fifty (50) acres or thereabouts of Crown or other land in reasonably close proximity to Augusta and Flinders Bay.

(2) The Company acknowledges to the State that the lands referred to in subclause (1) of this clause may be dedicated and made available to the Company under and subject to the provisions of the Industrial Development (Resumption of Land) Act, 1945 and in such case the Minister will if so required by the Company but subject to the Company's compliance with its obligations hereunder—

- (a) consent under section 14 of the said Act to any mortgage of the said lands which may be necessary to the Company's financial arrangements for the purposes of this Agreement; and
- (b) as soon as the Company has qualified for the exemption referred to in subsection (4) of the said section grant such exemption.

(3) The State shall ensure that both the areas of land mentioned in subclause (1) of this clause are zoned as industrial areas.

(4) The Company agrees to carry on at all times its operations in accordance with the generally accepted standards of comparable industries and so as to avoid to every reasonable extent the creation of any nuisance.

Choice of  
transport  
and access  
to fuel  
supplies.

11. (1) The State will not prevent the Company from exercising its choice as to the means of transport used by the Company for the transport of goods between the works site and the wharf site.

(2) In the event of the Company deciding to use char from Collie at the works site the State will arrange for the issue by the State Transport Board in favour of the Company of any necessary road transport permit for the purposes of this Agreement subject however to the payment by the Company of fees not being greater than the normal fees from time to time payable elsewhere in the State or alternatively the State will provide rail transport at competitive rates.

(3) In the event of the Company deciding not to use char from Collie for the purposes of some or all of its operations under this Agreement the State will after reasonable notice in writing from the Company ensure that the Company will be able to obtain from State Forest and Crown Lands within a radius of fifty (50) miles of the works site and as close to the works site as possible such supplies of firewood as an alternative fuel to char, as it is within the capacity of the said forest areas to supply up to one million (1,000,000) tons per year at a royalty of such amount

per ton as shall be mutually agreed between the State and the Company not exceeding one shilling (1/-) based on the rate ruling in the said State at the date of this Agreement for firewood for char-coal production which rate shall be increased or decreased proportionately with any and every subsequent variation of such rate and any dispute arising under this subclause shall be determined by arbitration as hereinafter provided. The Company however shall draw supplies of firewood from private property to the fullest extent possible.

(4) Nothing in this clause shall entitle the Company to cut or obtain and use any timber of milling quality or which may be utilised for the purpose of poles or piles or paper pulp or fibreboard and the Company shall cut or obtain and use such timber only as the Conservator of Forests for the State may from time to time designate as firewood.

12. (1) Within six (6) months of the request in writing of the Company made after the notice date but subject to the Company having on site the necessary plant and having commenced actively to wire such plant the State will provide at the boundary of the works site and at the boundary of the wharf site electricity for construction purposes in such quantities and under such conditions as shall be mutually agreed AND subject to the Company giving to the State reasonable notice in writing of its requirements will otherwise while the Company holds the mineral claims in respect of the iron ore areas supply and maintain a sufficient supply of electric power to the Company on the works site and on the wharf site in such manner and quantities as the Company may reasonably from time to time require and at a cost in accordance with the industrial schedule rates of the State Electricity Commission of Western Australia from time to time prevailing in the Metropolitan Area or at such special rates as may be negotiated from time to time by the Company with the said Commission. If the Company shall at any time install on the work site or wharf site plant from which electricity is available for use in the operations of the Company thereon then notwithstanding the provisions of any other Act such electricity may be so used PROVIDED HOWEVER that if after the said Commission has constructed its mains and is ready and willing to supply power to the Company in accordance with the provisions of this clause the Commission so notifies the Company in writing the Company will not thereafter generate or use its own power for its operations hereunder or any of them without the consent in writing of the Commission first had and obtained and then subject to such conditions (if any) as the Commission may impose.

Electricity.



(2) Electric power supplied to the Company by the said Commission shall have a frequency of fifty (50) cycles and shall be supplied at voltages from time to time agreed upon by the Company and the said Commission.

**Road Access.**

13. Forthwith after the notice date the State will commence and subject to the progressive performance by the Company of its obligations hereunder will continue until completion to construct between not more than three groups of claims in the iron ore areas each comprising at least fifteen (15) claims and the works site and between the works site and the wharf site a road or roads to a standard adequate to carry the traffic required for the construction of the factory and harbour works hereinbefore referred to and for the transport of iron ore and processed iron ore pursuant to this Agreement. Such road from the works site to the wharf site shall be sited along the most reasonably direct route and shall if necessary cross the Blackwood River near the mouth thereof by a bridge as the Commissioner for Main Roads shall determine and thereafter the State shall ensure that sufficient funds are available for maintaining all roads the subject of this clause in a trafficable condition.

**Housing at  
Augusta.**

14. (1) The State will if so required by the Company after the notice date and subject to reasonable notice in writing ensure that sufficient housing is made available to meet the Company's requirements for its married employees within or near the townsite of Augusta up to one hundred and sixty (160) houses of a design to be determined by the State. The State may provide additional houses for the said purpose if the Company shows that additional houses are necessary.

(2) The Company accepts responsibility for—

- (a) the provision of its housing requirements for senior executive employees of the Company;
- (b) the housing (whether in hostels or otherwise) of employees who are not married; and
- (c) the housing of the Company's caretakers on the works site;

but the State will after the notice date provide for the purposes mentioned in paragraphs (a) and (b) of this subclause on a freehold basis free of charge not more than twenty (20) blocks of reasonable area of Crown or other land within or near the townsite of Augusta as the Company may show to be required for such purposes.

(3) As soon as any such house which is to be provided by the State becomes available the State shall cause it to be let to the Company which shall take the same at a rental calculated to recoup the State its capital outlay over a period of thirty (30) years and upon terms which shall include provision that the Company will be responsible at its own cost for the payment of all rates assessed in respect of the land upon which the house is erected and for the maintenance and repair of the house from the commencement of the tenancy and for insurance thereof against the usual risks and otherwise upon such terms and conditions as may be agreed between the State and the Company. The period of letting of each such house shall be not less than thirty (30) years with provision for renewals for periods of not less than five (5) years and subject to adjustment of rentals as may be mutually agreed between the State and the Company.

(4) The Company shall be responsible to the State for the management and control of each such house as is mentioned in subclause (1) of this clause and for the sub-letting of the same only to employees of the Company except with the permission in writing of the State which permission will not be unreasonably withheld.

(5) It shall be an express provision of any letting by the State to the Company that at the expiration or sooner determination of the tenancy of any house the Company shall as soon as possible place the same and the yards fences and outbuildings if any in proper order and condition in accordance with the provisions of the relative tenancy agreement.

(6) In relation to houses leased to the Company under this clause the Company shall not be prevented or constrained by any Act of the Parliament of the said State now or hereafter to be passed or by any other means from giving notice terminating the tenancy of any occupant who fails to abide by or observe the terms or conditions of his tenancy or shall cease to be employed by the Company or that in such circumstances the Company shall be so prevented or constrained from taking proceedings to obtain vacant possession of such premises.

(7) Notwithstanding the preceding subclauses of this clause the Company agrees with the State that it will use its best endeavours itself to arrange finance whereby the Company will be enabled to undertake the erection and ownership of some or all of the housing required by the Company for the purposes of subclause (1) of this clause. If and when the Company arranges the said finance the Company will give to the State notice in writing accordingly

and will include in the notice the number and kind of houses that the Company will build for its married employees. The State as soon as practicable after its receipt of that notice will make available to the Company on a freehold basis free of charge Crown or other land not exceeding fifty (50) acres in area or total area suitable for the erection by the Company of the houses referred to in the Company's notice and having regard to the number of houses then already made available by the State under the said subclause. To the extent to which the State so provides Crown or other land pursuant to the notice from the Company the State shall thereupon be relieved of its undischarged obligations remaining under that subclause. The Company however expressly agrees with the State that the Company will build suitable houses on the land so provided by the State to the extent mentioned in the Company's notice.

Effluent.

15. The Company agrees with the State that the Company will dispose of all effluent waste materials and liquids from its operations under this Agreement in a manner satisfactory to the State and to the local authority or local authorities concerned and will comply with all laws for the time being in force in the said State in regard thereto.

Water.

16. (1) The Company acknowledges that it is of the opinion that the whole of its water requirements (both salt and potable) for the purposes of its operations under this Agreement can be met from the Scott River and from underground sources and the Company agrees with the State that the Company will at its own risk and expense but subject to and in accordance with the requirements from time to time of the appropriate authorities of the Government and local authorities in the said State provide and construct all works pipes plant equipment and things as may be necessary to fulfil the Company's water requirements for the purposes of this Agreement.

(2) The State will from time to time grant to the Company easements over and in respect of so much of the land adjoining the southern bank of the Scott River as lies directly between that bank and the works site for the purpose of underground laying and necessary maintenance and replacement of pipelines for a supply by the Company of water from the Scott River to the factory but the route or routes to be followed by the pipes and the method and conditions of laying and maintenance shall be such as may be mutually agreed between the State and the Company.

1961.]

*Iron Ore (Scott River)  
Agreement.*

[No. 35.]

17. The State shall ensure that taxes or other charges or levies imposed by the State on the cartage of goods by road or by rail shall not discriminate against the Company.

Taxes and charges.

18. The State agrees that having regard to the particular nature of the industry proposed to be established by the Company under this Agreement and subject to the performance by the Company of its obligations hereunder the State will not while the mineral claims in respect of the iron ore areas remain held by the Company resume or suffer or permit to be resumed by any State instrumentality or by any local or other authority of the said State any portion of the works site or any portion of the wharf site the resumption of which would impede the Company's loading activities thereon nor will the State create or grant or permit or suffer to be created or granted by any instrumentality or authority of the said State as aforesaid any road right of way or easement of any nature or kind whatsoever over or in respect of the works site without the consent in writing of the Company first had and obtained which consent shall not be arbitrarily or unreasonably withheld.

No acquisition of Company's works.

19. The State agrees that if so requested by the Company and so far as its powers and administrative arrangements permit it will endeavour to assist the Company to obtain adequate and suitable labour for its operations under this Agreement including assistance towards obtaining suitable immigrants.

Labour.

20. The State will not at any time by legislation regulation order or administrative action under any legislation of the said State as to prices prevent processed iron ore produced by the Company under this Agreement from being sold at prices which will allow the Company to provide for such reasonable depreciation reserves and return on the capital employed in the production of the processed iron ore as are determined by the Company.

Prices.

21. (1) The Company with the consent in writing of the State shall have the right to assign or dispose of all or part of its rights and obligations under this Agreement or any interest herein or to assign all or part of the mineral claims in respect of the iron ore areas 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.

(2) When under the provisions of subclause (1) of this clause any interest of the Company is disposed of or assigned to a company being a holding or subsidiary company (as defined in section 130 of the Companies Act 1943) of the Company the State will not levy or exact any State stamp duties in respect of that disposal or assignment if effected for the purposes of re-organisation and prior to the 31st December, 1965.

Rating.

22. Notwithstanding the provisions of any Act or anything done or purporting to be done under any Act the valuation of the works site shall for rating purposes be or be deemed to be on the unimproved value and shall not in any way be subject to any discriminatory rate: Provided however that nothing in this clause shall apply to any portion of the works site which shall be occupied as a permanent residence or upon which a permanent residence shall be erected.

Delegation  
to third  
parties.

23. Without affecting the liability of the parties under the provisions of this Agreement either the State or the Company shall have the right from time to time to entrust to third parties the carrying out of any portion of the operations which it is authorised or obliged to carry out under this Agreement.

Variation.

24. Any obligation or right under the provisions of or any plan referred to in this Agreement may from time to time be added to varied or substituted by agreement in writing between the parties or between the State and the permitted assigns of the Company to the intent that the Company or its permitted assigns may by such agreement be permitted to vary or modify the nature of its operations by the inclusion of or substitution of additional or other processes and to enlarge the nature of its operations by the making or processing of additional products or of by-products.

Delays.

25. 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 washaways strikes lock-outs stoppages restraint of labour or other similar acts (whether partial or general) shortage of labour or essential materials reasonable failure to secure contractors delays of contractors riots civil commotion factors which could not reasonably have been foreseen and delays due to overall economic conditions in Australia or

1961.]

*Iron Ore (Scott River)  
Agreement.*

[No. 35.]

any other country from which the finance for a substantial portion of the Company's obligations under this Agreement is to be provided or to which a substantial proportion of the processed iron ore is intended by the Company to be sold and of which country or countries the Company shall have given notice in writing to the State prior to the notice date or to available prices for the Company's products falling below profitable level.

26. This Agreement shall be interpreted according to the laws for the time being in force in the said State. State Law to apply.

27. 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 any party thereunder or as to any matter to be agreed upon between any two or more of the parties in terms of this Agreement shall in default of agreement between the parties concerned 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.

28. Any notice consent or other writing authorised or required by this Agreement shall be deemed to have been duly given or sent by the State if signed by the Minister or by any senior officer of the Civil Service of the said State acting by direction of the Minister and forwarded by prepaid post to the Company at its registered office in the said State or at the works site and by the Company if signed on behalf of the Company by the Managing Director General Manager Manager Secretary or Attorney of the Company and forwarded by prepaid post to the said 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.

29. The Company shall indemnify and keep indemnified the State against all actions claims costs and demands arising out of or in connection with the construction maintenance or use by the Company of any wharf structure or installation constructed or erected on the wharf site. Indemnity.

30. In consideration of the State entering into this Agreement and of the covenants agreements conditions and provisoes on the part of the State herein contained the Guarantor covenants with and guarantees to the State that Guarantee.

the Company shall duly perform all the covenants agreements and conditions on its part contained in the within Agreement to be performed up to the notice date or such earlier date on which the parties hereto shall under the provisions of clause 4(4) hereof be released from all obligations hereunder to be performed after the notice date: PROVIDED that any time or indulgence granted or allowed by the State to the Company shall not prejudice or affect the liability of the Guarantor under this clause.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first hereinbefore written.

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

C. W. Court

Minister for Industrial  
Development

THE COMMON SEAL of MINERAL  
MINING AND EXPORTS (W.A.) PTY.  
LTD. was hereunto affixed in accord- }  
ance with its Articles of Association in }  
the presence of— }

C.S

W. P. Heine

Director

N. Fernie

Director

W. F. Pearson

Secretary

THE COMMON SEAL OF HEINE  
BROTHERS (AUSTRALASIA) PTY.  
LIMITED was hereunto affixed in }  
accordance with its Articles of Asso- }  
ciation in the presence of— }

C.S.

W. P. Heine

Director

G. Silver

Director