

URANIUM (YEELIRRIE) AGREEMENT.

No. 110 of 1978.

AN ACT to ratify an Agreement between the State of Western Australia and Western Mining Corporation Limited with respect to the mining and treatment of certain uranium ore reserves.

[Assented to 12th December, 1978.]

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 *Uranium* Short title.
(Yeelirrie) Agreement Act, 1978.

Interpreta-
tion.

2. In this Act—

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

“the Corporation” has the same meaning as it has in the Agreement.

Ratification
of the
Agreement.

3. The Agreement is hereby ratified and its implementation authorised.

By-laws.

4. The Governor may, on the recommendation of the Corporation, make, alter and repeal by-laws, in accordance with and for the purposes referred to in clause 23 of the Agreement, and the by-laws—

- (a) shall be published in the *Gazette*;
- (b) shall take effect and have the force of law from the date they are so published or from a later date fixed by the order making the by-laws;
- (c) may prescribe penalties not exceeding one hundred dollars for a breach of any of the by-laws;
- (d) are not subject to section 36 of the Interpretation Act, 1918,

but shall be laid before each House of Parliament within the six sitting days of such House next following the publication of the by-laws in the *Gazette*.

SCHEDULE.

s.2.

THIS AGREEMENT made this first day of November 1978 BETWEEN THE HONOURABLE SIR CHARLES WALTER MICHAEL COURT, O.B.E., M.L.A., Premier of the State of Western Australia, acting for and on behalf of the said State and its instrumentalities from time to time (hereinafter called "the State") of the one part and WESTERN MINING CORPORATION LIMITED a company duly incorporated in the State of Victoria and having its registered office in that State at 459 Collins Street, Melbourne and having its principal office in the State of Western Australia at 191 Great Eastern Highway, Belmont (hereinafter referred to as "the Corporation" which term shall where the context so admits or requires extend to and include the Corporation its successors and assigns or such of them who for the time being are entitled to the benefit of, or who are required to fulfil the obligations of the Corporation under this Agreement), of the other part.

WHEREAS:

- (a) The Corporation has established the existence of an ore body containing in excess of 20 million tonnes of commercial grade uranium ore.
- (b) The Corporation intends to establish a metallurgical research plant at Kalgoorlie at a cost in excess of \$7 million and under a programme estimated to cost approximately \$6 million to test such ore.
- (c) The Corporation is currently investigating the economic feasibility of constructing a uranium and vanadium treatment plant at Yeelirrie with a capacity to treat 1.21 million tonnes of ore per year to produce uranium oxide (yellow-cake) and vanadium oxide (red-cake) for export through a port or ports in Western Australia.
- (d) The Corporation intends to provide facilities and services necessary for the accommodation health safety and welfare of its workforce and to take adequate measures to safeguard the public and the environment in its operation under this Agreement.
- (e) The Corporation has in respect of both the proposed metallurgical research plant and the uranium vanadium treatment plant submitted environmental review and management programmes to the State for consideration.
- (f) The Corporation is currently negotiating with Esso Exploration and Production Australia Inc., a company duly incorporated in the State of Delaware in the United States of America and having its principal office in Australia at 127 Kent Street, Sydney and Urangesellschaft Australia Pty. Limited a company duly incorporated in Victoria and having its registered office at 608 St. Kilda Road,

Melbourne for the joint development with a wholly owned subsidiary of Western Mining Corporation Limited (to be incorporated in Western Australia) of the project referred to in this Agreement.

NOW THIS AGREEMENT WITNESSETH:

1. In this Agreement subject to the context—

“advise”, “apply”, “approve”, “approval”, “consent”, “certify”, “direct”, “inform”, “notify”, “request” or “require” means advise, apply, approve, approval, consent, certify, direct, inform, notify, request or require in writing as the case may be;

“Agnew minesite” means the minesite referred to in the agreement ratified by the Nickel (Agnew) Agreement Act, 1974;

“associated company” means—

(a) any company or corporation having a paid up capital of not less than \$2 000 000 notified by the Corporation to the Minister which is incorporated or formed within the United Kingdom, the United States of America, Australia, the Federal Republic of Germany or such other country as the Minister may approve and which—

(i) is promoted by the Corporation (or by a wholly owned subsidiary of the Corporation having a paid up capital of not less than \$2 000 000) for all or any of the purposes of this Agreement and in which the Corporation or such wholly owned subsidiary of the Corporation, or some other company acceptable to the Minister has not less than a 25% interest or some lesser interest acceptable to the Minister; or

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

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

(b) any company or corporation approved by the Minister;

“Clause” means a clause of this Agreement;

“commencement date” means the date on which the Corporation gives to the Minister the notice mentioned in subclause (1) of Clause 4;

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

“Land Act” means the Land Act, 1933;

“mineral claim” means a mineral claim granted pursuant to regulations made under the Mining Act or any mining right (other than the mineral lease granted pursuant to this Agreement) granted in substitution therefor under any amendment to the Mining Act or any Act passed in substitution therefor or in lieu thereof and the regulations for the time being in force thereunder;

“mineral lease” means the mineral lease referred to in Clause 21 and includes any renewal thereof and according to the requirements of the context shall describe the area of land demised as well as the instrument by which it is demised;

“Mining Act” means the Mining Act, 1904;

“mining areas” means the areas bordered red (hereinafter called “the red areas”) on the plan marked “A” (initialled by or on behalf of the parties hereto for the purposes of identification);

“Minister” means the Minister in the Government of the State for the time being responsible (under whatsoever title) for the administration of the ratifying Act and pending the passing of the Act means the Minister for the time being designated in a notice from the State to the Corporation and includes the successors in office of the Minister;

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

“month” means calendar month;

“notice” means notice in writing;

“ore” means ore containing uranium and/or vanadium from the mineral lease;

- “person” or “persons” includes bodies corporate;
- “private road” means a road (not being a public road) which is either constructed by the Corporation in accordance with its proposals as approved by the Minister hereunder or agreed by the parties to be a private road for the purposes of this Agreement;
- “process water” means water used in the treatment plant;
- “public road” means a road as defined by the Road Traffic Act, 1974;
- “Public Works Act” means the Public Works Act, 1902;
- “Railways Commission” means the Western Australian Government Railways Commission established pursuant to the Government Railways Act, 1904;
- “ratifying Act” means the Act to ratify this Agreement and referred to in Clause 3;
- “red-cake” means a vanadium oxide product obtained from the treatment of ore;
- “said State” means the State of Western Australia;
- “State Energy Commission” means the State Energy Commission of Western Australia established pursuant to the State Energy Commission Act, 1945;
- “this Agreement” “hereof” and “hereunder” refers to this Agreement whether in its original form or as from time to time added to varied or amended;
- “town” means the town to be developed by the Corporation as the principal housing area for its workforce with the approval of the State and may include an existing town;
- “townsite” means the site on which the town is to be situated;
- “treatment plant” means a plant for treating ore to produce yellow-cake and associated by-products and red-cake;
- “yellow-cake” means a uranium oxide product obtained from the treatment of ore.

Interpreta-
tion.

2. In this Agreement—

- (a) monetary references are references to Australian currency unless otherwise specifically expressed;
- (b) power given under any clause other than Clause 37 to extend any period or date shall be without prejudice to the power of the Minister under Clause 37:

- (c) marginal notes do not affect the interpretation or construction; and
- (d) reference to an Act unless otherwise specifically expressed includes the amendments to that Act for the time being in force and also any Act passed in substitution therefor or in lieu thereof and the regulations for the time being in force thereunder.

3. The State shall—

Initial
obligations
of the
State.

- (a) introduce and sponsor a Bill in the Parliament of Western Australia to ratify this Agreement and endeavour to secure its passage as an Act prior to the 31st December, 1978; and
- (b) to the extent reasonably necessary for the purposes of this Agreement allow the Corporation to enter upon Crown lands (including, if applicable, land the subject of a pastoral lease).

4. (1) The provisions of this Agreement other than Clauses 1, 2, 3 and this Clause shall not come into operation until—

Commence-
ment and
Operation.

- (a) the Bill referred to in Clause 3 has been passed by the Parliament of Western Australia and comes into operation as an Act; and
- (b) the Corporation has given the Minister notice that it desires to proceed with the objects of this Agreement.

(2) When this Agreement comes into operation in the manner provided in subclause (1) of this Clause all the provisions of this Agreement shall operate and take effect notwithstanding the provisions of any Act or law.

(3) If before 31st December, 1979 (or such later date as the Minister may at the request of the Corporation approve) the notice referred to in subclause (1) of this Clause is not given, this Agreement will then cease and determine and neither of the parties will have any claim against the other of them with respect to any matter or thing arising out of, done, performed or omitted to be done or performed under this Agreement.

5. (1) The State shall on the commencement date create a temporary reserve over all the Crown land within the red areas on the said plan marked "A".

Creation
of temporary
reserve

(2) As soon as the temporary reserve referred to under subclause (1) of this Clause has been created, the Corporation shall apply for and the State shall grant to it for a period terminating on the date the Corporation surrenders to the State the balance of its blue mineral claims referred to in paragraph (c) of subclause (7) of Clause 21 or the

sooner determination of this Agreement, rights of occupancy for the purposes of this Agreement in respect of such land on such terms and conditions as the Minister for Mines may determine.

(3) The provisions of the Mining Act shall be deemed to be modified to permit the creation of the temporary reserve under subclause (1) of this Clause and the grant of the rights of occupancy under subclause (2) of this Clause.

Initial
obligations
of the
Corporation.

6. (1) The Corporation shall continue its field and office engineering and metallurgical processing studies and market and finance studies and other matters necessary to enable it to finalise and to submit to the Minister the detailed proposals and other matters referred to in subclauses (1) and (4) of Clause 8.

(2) The Corporation shall keep the State fully informed at least quarterly as to the progress and results of its operations under subclause (1) of this Clause. The first quarterly report shall be lodged during the month of April, 1979 and shall be in respect of the quarter ending on the 31st day of March, 1979 and thereafter the quarterly reports shall be in respect of the quarter ending on the last day of the month preceding the month in which they are lodged.

(3) The Corporation shall co-operate with the State and consult with the representatives or officers of the State regarding matters referred to in subclause (1) of this Clause and any other relevant studies in relation to that subclause that the Minister may wish to undertake.

Metallurgical
research
plant

7. (1) The Corporation may with the prior approval of the State construct a metallurgical research plant at Kalgoorlie to test ore and to have such plant in operation by 30th June, 1982.

Leases
licences
and ease-
ments.

(2) For the purposes of the construction and operation of the metallurgical research plant referred to in subclause (1) of this Clause, the State shall, on application by the Corporation, grant to the Corporation or arrange to have the appropriate authority or other interested instrumentality of the State grant, for such periods and on such terms and conditions (including renewal rights) as shall be reasonable having regard to the requirements of the Corporation—

- (a) a special lease under the Land Act of land at a site to be agreed for the said plant;
- (b) a pipeline easement for water over a route to be agreed from Addis Street Kalgoorlie to the said plant;
- (c) a powerline easement over a route to be agreed to connect with the Corporation's existing Great Boulder-Scotia powerline and the said plant;

- (d) a tailings licence under the Mining Act for disposal of tailings from the said plant by burial;
- (e) a licence under the Transport Commission Act, 1966 to transport by road ore and water from the Yeelirrie region to the said plant;
- (f) a licence under the Rights in Water and Irrigation Act, 1914 to draw water from underground sources in the Yeelirrie region for transport to the said plant for experimental purposes.

8. (1) On or before the 31st December, 1982 (or thereafter within such extended time as the Minister may allow as hereinafter provided) and subject to the provisions of this Agreement the Corporation shall submit to the Minister (having due regard where applicable to the environmental review and management programmes previously submitted by the Corporation and the State's responses thereto) to the fullest extent reasonably practicable its detailed proposals (which proposals shall include plans where practicable and specifications where reasonably required by the Minister) for a mining and treatment project with a capacity to treat 1.21 million tonnes of ore per year or such other tonnage as the Minister may approve and the transport and shipment through a port or ports within the said State of the products of the treatment plant and for making provision for the necessary work force and associated population required to enable the Corporation to mine ore and to process it at the treatment plant and including the location, area, lay-out, design, quantities, materials and time programme for the commencement and completion of construction or the provision (as the case may be) of each of the following matters; namely—

Corporation
to submit
Proposals.

- (a) the mining and treatment of ore including the disposal of tailings;
- (b) roads;
- (c) railways;
- (d) facilities at ports in the said State for the purposes of this Agreement;
- (e) housing and township requirements (including site and lay-out) and including social, civic and engineering services;
- (f) water supply;
- (g) power generation and distribution;
- (h) any leases, licences or other tenures of land required from the State;

- (i) any other works, services or facilities desired by the Corporation;
- (j) airport;
- (k) measures for the protection of aboriginal and historic sites;
- (l) safety measures, including radiometric measures, for the workforce and associated population and for the transport storage and shipping of the products of the treatment plant;
- (m) use of local professional services, labour and materials; and
- (n) an environmental management programme as to measures to be taken in respect of the Corporation's operations under this Agreement for the protection and management of the environment.

Order of
Proposals.

(2) The proposals may with the approval of the Minister and shall if so required by the State be submitted separately and in any order as to the matter or matters mentioned in one or more of paragraphs (a) to (n) of subclause (1) of this Clause.

Use of
existing
infra-
structure.

(3) The proposals relating to any of the matters mentioned in subclause (1) of this Clause may with the approval of the Minister and that of any third parties concerned instead of providing for the construction of new facilities of the kind therein mentioned provide for the use by the Corporation upon reasonable terms and conditions of any existing facilities of such kind.

Marketing
and financial
arrange-
ments.

(4) At the time when the Corporation submits the said proposals it shall furnish to the reasonable satisfaction of the State evidence of—

- (a) the Corporation's ability to profitably sell the products of the treatment plant or a substantial proportion thereof in accordance with the said proposals;
- (b) the availability of finance necessary for the fulfilment of the operations to which the said proposals refer; and
- (c) the readiness of the Corporation to embark upon and proceed to carry out the operations referred to in the said proposals.

Extension
of time for
financing
and
marketing.

(5) If the Corporation for any reason desires an extension of time beyond the 31st December, 1982 within which to comply with the requirements of subclause (4) of this Clause it may make a request therefor to the Minister not earlier than the 1st October, 1982 or not later than the 30th November, 1982 and with such request shall supply the

Minister with details of its endeavours to comply with those requirements. If the Minister is satisfied that such endeavours are reasonable in the circumstances and that the Corporation has otherwise duly complied with its obligations hereunder the Minister shall grant an extension of such time for a period of 12 months.

9. (1) On receipt of the said proposals the Minister shall—
- (a) approve of the said proposals either wholly or in part without qualification or reservation; or
 - (b) defer consideration of or decision upon the same until such time as the Corporation submits a further proposal or proposals in respect of some other of the matters mentioned in subclause (1) of Clause 8 not covered by the said proposals; or
 - (c) require as a condition precedent to the giving of his approval to the said proposals that the Corporation makes such alteration thereto or complies with such conditions in respect thereto as he (having regard to the circumstances including the overall development of and the use by others as well as the Corporation of all or any of the facilities proposed to be provided) thinks reasonable and in such a case the Minister shall disclose his reasons for such conditions.
- (2) The Minister shall within 2 months after receipt of the said proposals give notice to the Corporation of his decision in respect to the same.
- (3) If the decision of the Minister is as mentioned in either of paragraphs (b) or (c) of subclause (1) of this Clause the Minister shall afford the Corporation full opportunity to consult with him and should it so desire to submit new or revised proposals either generally or in respect to some particular matter.
- (4) If the decision of the Minister is as mentioned in paragraph (c) of subclause (1) of this Clause and the Corporation considers that any condition precedent is unreasonable the Corporation within 2 months after receipt of the notice mentioned in subclause (2) of this Clause may elect to refer to arbitration in the manner hereinafter provided the question of the reasonableness of the condition precedent.
- (5) An award made on an arbitration pursuant to subclause (4) of this Clause shall have force and effect as follows—
- (a) if by the award the dispute is decided against the Corporation then unless the Corporation within 3 months after delivery of the award

Consideration of Proposals.

Advice of Minister's decision.

Consultation with Minister.

Minister's decision subject to arbitration.

Arbitration Award.

gives notice to the Minister of its acceptance of the award this Agreement shall on the expiration of that period of 3 months cease and determine; or

- (b) if by the award the dispute is decided in favour of the Corporation the decision shall take effect as a notice by the Minister that he is so satisfied with and approves the matter or matters the subject of the arbitration.

Effect of
non-approval
of Proposals.

(6) Notwithstanding that under subclause (1) of this Clause any detailed proposals of the Corporation are approved by the Minister or determined by arbitration award, unless each and every such proposal and the other matters referred to in subclause (4) of Clause 8 are so approved or determined by the 31st December, 1984 or by such extended date if any as the Corporation shall be granted pursuant to the provisions of this Agreement then the Minister may give to the Corporation 12 months notice of intention to determine this Agreement and unless before the expiration of the said 12 months period all the detailed proposals and matters are so approved or determined this Agreement shall cease and determine subject however to the provisions of Clause 39.

Implementa-
tion of
Proposals.

10. The Corporation shall implement the approved proposals in accordance with the terms thereof and have the treatment plant in operation not later than 4 years after the date the Corporation's proposals are approved pursuant to Clause 9.

Additional
Proposals.

11. If the Corporation at any time during the continuance of this Agreement desires to modify expand or otherwise vary its activities substantially beyond those specified in any approved proposals it shall give notice of such desire to the Minister and within 2 months thereafter shall submit to the Minister detailed proposals in respect of all matters covered by such notice and such of the other matters mentioned in paragraphs (a) to (n) of subclause (1) of Clause 8 as the Minister may require. The provisions of Clauses 8 and 9 where applicable shall *mutatis mutandis* apply to detailed proposals submitted pursuant to this Clause.

Additional
Proposals
for the
protection
and manage-
ment of the
environment.

12. (1) The Corporation shall, in respect of the matters referred to in paragraph (n) of subclause (1) of Clause 8 and which are the subject of approved proposals under this Agreement, carry out a continuous programme of investigation and research including monitoring and the study of sample areas to ascertain the effectiveness of the measures it is taking pursuant to its approved proposals for the protection and management of the environment.

(2) The Corporation shall during the currency of this Agreement at yearly intervals commencing from the date when the Corporation's proposals are approved submit an

interim report to the Minister concerning investigations and research carried out pursuant to subclause (1) of this Clause and at 3 yearly intervals commencing from such date submit a detailed report to the Minister on the result of the investigations and research during the previous 3 years.

(3) The Minister may within 2 months of the receipt of the detailed report pursuant to subclause (2) of this Clause notify the Corporation that he requires additional detailed proposals to be submitted in respect of all or any of the matters the subject of the detailed report.

(4) The Corporation shall within 2 months of the receipt of a notice given pursuant to subclause (3) of this Clause submit to the Minister additional detailed proposals as required and the provisions of Clause 9 (other than subclause (5)) where applicable shall *mutatis mutandis* apply in respect of such proposals.

(5) The Corporation shall implement the proposals when approved or determined by arbitration in accordance with the terms thereof.

13. (1) Notwithstanding any other provision of this Agreement, until by or under an Act of the Parliament of the State provision is made with respect to the matters contained in the codes described in this subclause the Corporation shall observe those codes and any amendments thereof or any codes substituted therefor—

Compliance
with Codes.

“Code of Practice on Radiation Protection in the Mining and Milling of Radioactive Ores, 1975” compiled by the Commonwealth Department of Health and published in 1977 by the Australian Government Publishing Service (International Standard Book Number ISBN 0-642-02994-6)

“Regulations for the Safe Transport of Radioactive Materials, 1973 Revised Edition” published by the International Atomic Energy Agency, Vienna, 1973 (Publishers Code STI/PUB/323)

Part 1: Code of Practice contained in pages 1 to 11 of “Management of Wastes from the Mining and Milling of Uranium and Thorium Ores” published by the International Atomic Energy Agency, Vienna 1976 (International Standard Book Number ISBN 92-0-123276-4).

(2) When by or under an Act of the Parliament of the State provision is made in respect of a matter contained in a code described in subclause (1) of this Clause the Corporation shall comply with that provision.

Use of
local pro-
fessional
services,
labour and
materials.

14. (1) The Corporation shall for the purposes of this Agreement as far as it is reasonable and economically practicable—

- (a) use the services of engineers, surveyors, architects and other professional consultants resident and available within the said State;
- (b) use labour available within the said State;
- (c) when calling for tenders and letting contracts for works materials plant equipment and supplies ensure that Western Australian suppliers manufacturers and contractors are given reasonable opportunity to tender or quote; and
- (d) give proper consideration and where possible preference to Western Australian suppliers manufacturers and contractors when letting contracts or placing orders for works materials plant equipment and supplies where price quality delivery and service are equal to or better than that obtainable elsewhere.

(2) The Corporation shall from time to time during the currency of this Agreement when requested by the Minister submit a report concerning its implementation of the provisions of subclause (1) of this Clause.

Water
Corpora-
tion's
water re-
quirements.

15. (1) The State and the Corporation shall agree upon the amount of the Corporation's annual average daily water requirement for its purposes hereunder comprising potable water, process water and saline water (which amount or such other amounts as shall from time to time be agreed between the parties to be reasonable are hereinafter called "the Corporation's daily water requirements").

Search in
mining areas.

(2) The Corporation shall at its cost and in collaboration with the State continue to search for underground water within the mining areas. Where appropriate the Corporation shall employ and retain experienced groundwater consultants. The Corporation shall furnish to the Minister details of the results of its investigations and copies of the reports of such consultants as they become available.

Search
outside
mining
areas.

(3) If in the opinion of the Minister, the details and reports of the consultants pursuant to subclause (2) of this Clause indicate that any source of underground water in the mining areas is likely to be inadequate or unsuitable to supply the Corporation's daily water requirements the parties hereto shall collaborate and agree on a programme which shall be carried out by and at the cost of the Corporation to search for water inside and outside the mining areas. The State may at its discretion require the Corporation to extend such water search to provide a quantity of water greater than that required to supply the Corporation's daily water requirements, but in that event, the cost

of such search shall be shared by the parties hereto in such a manner as may be agreed to be fair in all the circumstances.

(4) If the investigations referred to in subclauses (2) and (3) of this Clause prove to the satisfaction of the Minister the availability of any suitable underground water source in or near the mining areas which can continue to be drawn on by the Corporation without seriously affecting the water level in that water source beneath the mining areas or adjacent areas or the availability of water in the adjacent areas the State shall grant to the Corporation a licence to develop and draw from that source without cost, the Corporation's daily water requirements on such terms and conditions as are necessary to ensure good water resource management as the Minister may from time to time require and during the continuance of this Agreement grant renewals of any such licence PROVIDED HOWEVER that should that source prove hydrologically inadequate to meet the Corporation's daily water requirements, the State may on at least 6 months prior notice to the Corporation (or on at least 48 hours prior notice if in the opinion of the Minister an emergency situation exists) limit the amount of water which may be taken from that source at any one time or from time to time to the maximum which that source is hydrologically capable of meeting as aforesaid.

Grant of
licence.

(5) The Corporation shall provide at its cost or with finance arranged by it and construct to standards and in accordance with designs approved by the State in accordance with the relevant approved proposal all necessary bores valves pipelines meters tanks equipment and appurtenances necessary to draw transport use and dispose of water drawn from sources licensed to the Corporation under this Clause.

Development
of water
sources.

(6) Should the State at any time pursuant to the proviso to subclause (4) of this Clause limit the amount of water to be taken from any water source or if otherwise the Corporation's daily water requirements cannot be met from any water source on a continuous basis the State shall with all reasonable expedition and in conjunction with and upon the request of the Corporation search for new or additional underground water sources with a view to restoring or ensuring the full quantity of the Corporation's daily water requirements. The Corporation shall pay to the State a fair and reasonable proportion of the cost of investigating and developing such new and additional water sources as agreed between the Corporation and the State.

Alternative
water
source.

(7) The State shall use its best endeavours to supply the Corporation with sufficient water (subject to availability of supply from other sources and to prior commitments if any to third parties) to meet that portion of the Corpora-

State's
water supply
obligation.

tion's daily water requirements not obtainable from the water sources referred to in subclause (4) of this Clause pending the establishment of new and additional water sources pursuant to subclause (6) of this Clause on such terms and conditions as the Minister may determine after consultation with the Corporation.

Investigation
of surface
water.

(8) In the event of water supplies from available underground sources proving insufficient to meet the Corporation's daily water requirements the Corporation shall notwithstanding the provisions of subclause (4) of this Clause collaborate with the State in an investigation of surface water catchments and storage dams. The Corporation shall if it proposes to utilise such surface water, water catchments and storage dams pay to the State a sum or sums to be agreed towards the cost of such investigation and towards the cost of constructing any water storage dam or dams and reticulation facilities required.

State's
acquisition
of water
facilities.

(9) If during the currency of any licence granted under the provisions of this Clause the Minister is of the opinion that it would be desirable for water conservation purposes or water management purposes that sources of water licensed to the Corporation be controlled and operated by the State as part of a regional water supply scheme the Minister may on giving 6 months prior notice to the Corporation of his intention revoke that licence and acquire the Corporation's water supply facilities for a monetary consideration to be determined by the Minister. Immediately from the revocation of that licence the State shall, subject only to the continued hydrological availability of water from such sources, commence and thereafter continue to supply water to an amount and at a rate required by the Corporation being the amount and rate to which the Corporation was entitled under that revoked licence and the proviso to subclause (4) of this Clause and the provisions of subclause (6) of this Clause shall in like manner apply to this subclause.

Enlarged
water
capacity.

(10) The State, after first having due regard to the Corporation's daily water requirements and to the hydrological adequacy of existing water sources, may in its discretion develop all or any of the surface and/or underground water resources referred to in this Clause or construct any works in connection therewith to a greater capacity than that required to supply the Corporation's daily water requirements but in that event the Corporation shall pay to the State a share of the cost of the system as so enlarged as may be agreed between the parties to be fair in all the circumstances.

Third
party use.

(11) The State may after first having due regard to the Corporation's daily water requirements and to the hydrological adequacy of the applicable water source, upon not less than 3 months prior notice to the Corporation

specifying the identity of the third party including where applicable the State and the estimated maximum daily and total quantity of water to be drawn by that third party and the period over which such drawing is to occur, grant to a third party rights to draw water or itself draw water from that water source PROVIDED HOWEVER that—

- (a) where the Corporation has paid (in whole or in part) any moneys in respect of the investigation development and utilisation of that water source the State shall require as a condition of the grant that where the third party is or will be a substantial drawer of water from that water source within 5 years of the commencement date the third party (but not the State) shall reimburse to the Corporation prior to the third party exercising its rights to draw water, a proportion of such moneys as the Minister determines is fair and reasonable; and
- (b) where the Corporation draws water from that water source the State shall ensure that it is a condition of the grant to third parties that in the event that the capacity of that water source is reduced, such reduction shall be first applied to the third parties and thereafter if further reduction is necessary the State's and the Corporation's requirements shall be reduced in such proportion as may be agreed.

(12) The Corporation shall pay to the State for water supplied by the State pursuant to subclauses (8) and (9) of this Clause a fair price to be agreed between the parties hereto having regard to the actual cost of operating and maintaining the supply and provision for replacement of the water supply facilities. Notwithstanding the foregoing provisions of this subclause, in respect of water supplied by the State to the Corporation as aforesaid for domestic purposes the Corporation shall pay to the State therefor charges as levied from time to time pursuant to the provisions of the Country Areas Water Supply Act, 1947.

Payment for water.

(13) The Corporation shall to the extent that it is practical and economical design construct and operate all plant required under this Clause so as to ensure the most efficient use of the water supply including the use of brackish or saline water.

Design of plant.

(14) The State shall ensure that no rights to mine minerals petroleum or other substances are granted over the area of any water source from which the Corporation is drawing water or from time to time have the right to draw water hereunder unless the Minister reasonably determines that such grant is not likely to unduly prejudice or to interfere with the operations of the Corporation here-

State to restrict adverse grants.

under and is not likely to render the water source incapable of supplying the Corporation's daily water requirements on a continuous basis.

Charges for
supply of
water to
third
parties.

(15) The Corporation may supply water to third parties including the State at a charge to be approved by the Minister after consultation with the Corporation. The Corporation shall have all the powers and authorities with respect to such water as are determined by the Minister which may include all or any of the powers of a water board under the Water Boards Act, 1904 and, with the consent of the Minister for Local Government, a local authority under the Local Government Act, 1960.

Rights in
Water and
Irrigation
Act.

(16) Any reference in the foregoing provisions of this Clause to a licence is a reference to a licence under the Rights in Water and Irrigation Act, 1914 and the provisions of that Act relating to water rights and licences shall except where inconsistent with the provisions of this Agreement apply to any water source developed for the Corporation's purposes under this Agreement.

Roads.

16. Subject to the provisions of Clause 18—

(1) The Corporation shall—

Private
roads.

- (a) be responsible for the provision of finance for and the construction and maintenance of all private roads which shall be used in its operations hereunder;
- (b) at its cost make such provision (including the erection of physical barriers) as shall ensure that all persons and vehicles (other than those engaged upon the Corporation's operations and its invitees and licencees) are excluded from use of any such private roads; and
- (c) at any place where such private roads are constructed by the Corporation as to cross any railways or public roads provide adequate grade separation or such other reasonable protection as may be required by the Commissioner of Main Roads or Railways Commission as the case may be.

Public
roads
to be
constructed
by the
State.

(2) If required, as a result of the operations of the parties to the Agreement ratified by the Nickel (Agnew) Agreement Act, 1974 and the Corporation's operations hereunder pursuant to approved proposals the State shall construct or cause to be constructed suitable new public roads in accordance with the requirements of the Commissioner of Main Roads as follows—

- (a) an unsealed road from Leonora extending to a point in the vicinity of the Yakabindie Homestead (in this subclause called "the

Leonora-Yakabindie road"). That part of the Leonora-Yakabindie road from Leonora to the turn-off to the Agnew minesite (in this sub-clause called "the turn-off") shall be sealed by the State to a width of not less than 7.4 metres and the Corporation shall pay to the State at the times and in the manner required by the State one sixth of the cost of the construction (including investigation survey and design) and of the sealing thereof. The State shall use its best endeavours to complete the construction and sealing of such part of the Leonora-Yakabindie road from Leonora to the turn-off prior to the date that the treatment plant comes into operation;

- (b) a sealed road connecting the turn-off with the townsite. The State shall use its best endeavours to complete the construction and sealing of such road to a width of not less than 3.7 metres prior to the date that the treatment plant comes into operation. The Corporation shall pay to the State at the times and in the manner required by the State one half of the cost of the construction (including investigation survey and design) and sealing of such road;

PROVIDED THAT if the roads referred to in paragraphs (a) and (b) of this sub-clause are not required for the purposes of the nickel agreement referred to in this subclause then the parties hereto shall share equally the cost of the construction, and sealing of such road to a width of not less than 3.7 metres. The State shall use its best endeavours to complete the construction and sealing of such road prior to the date that the treatment plant comes into operation.

- (c) an unsealed road on a route to be determined by the Commissioner of Main Roads after consultation with the Corporation connecting the townsite with Mount Magnet and passing in the vicinity of Sandstone. Such road shall be constructed to a standard similar to the existing Leonora-Wiluna Road. The State shall use its best endeavours to complete the construction of that portion of such road

between the townsite and the junction of such road with the existing road system in the vicinity of Sandstone within 18 months of the date of the approved proposals and the balance of such road within 2 years of such date.

The Commissioner of Main Roads and the Corporation shall confer with a view to minimizing the periods of time for such construction.

The Corporation shall pay to the State at the times and in the manner required by the State one half of the cost of the construction (including investigation survey and design) of such road.

Maintenance
of public
roads.

(3) The State shall maintain or cause to be maintained public roads over which it has control (and which may be used by the Corporation) to a standard similar to comparable public roads maintained by the State. In the event that the Corporation's road haulage operations require the use of a public road which is inadequate for the purpose, or results in excessive damage or deterioration of any public road (other than fair wear and tear) the Corporation shall pay to the State the whole or part of the total cost of any upgrading required or of making good the damage or deterioration as may be reasonably required by the Commissioner of Main Roads.

Liability.

(4) The parties hereto further covenant and agree with each other that—

(a) for the purposes of determining whether and the extent to which—

(i) the Corporation is liable to any person or body corporate (other than the State); or

(ii) an action is maintainable by any such person or body corporate

in respect of the death or injury of any person or damage to any property arising out of the use of any of the roads for the maintenance of which the Corporation is responsible hereunder and for no other purpose the Corporation shall be deemed to be a municipality and the said roads shall be deemed to be streets under the care control and management of the Corporation; and

(b) for the purposes of this Clause the terms "municipality" "street" and "care control

and management" shall have the meanings which they respectively have in the Local Government Act, 1960.

17. Subject to the provisions of Clause 18—

Transport
Railway.

(1) Subject to the by-laws made under the Government Railways Act, 1904 (insofar as those by-laws are not inconsistent with this Agreement) and subject to the provisions of this Clause the Corporation shall in accordance with its approved proposals consign and the State shall cause the Railways Commission to transport by rail—

- (a) from the port of Esperance to the railhead at Leonora all fuel oil and caustic soda in bulk; and
- (b) to the railhead at Leonora, insofar as practicable all other bulk commodities required for the Corporation's operations hereunder and provided such commodities are suitable for carriage in general purpose wagons.

(2) The State shall use its best endeavours to complete the upgrading of the existing railway line between the railhead at Leonora and Kalgoorlie at its cost by not later than 3 months before the date the treatment plant comes into operation to achieve a 20.5 tonne axle load capacity to enable the Railways Commission to transport not less than 53,000 tonnes of caustic soda and 71,000 tonnes of fuel oil per annum.

Upgrading.

(3) The Corporation shall at Leonora and Esperance in respect of its operations if required by the Railways Commission pay or arrange finance for the provision (in accordance with plans and specifications approved by the Railways Commission after consultation with the Corporation) and maintenance of such sidings, shunting loops, spurs and other connections as are required solely for its operations hereunder and the provision and maintenance of loading and unloading facilities sufficient to meet train operating requirements and terminal equipment (including weighing devices and communication systems), together with a staff adequate to ensure the proper operation of all such loading and unloading facilities and terminal equipment.

Other
Facilities.

(4) The Corporation shall provide or cause to be provided sufficient wagons (including 10% spares) to a design and specification approved by the Railways Commission to carry all caustic soda and fuel oil from the port of Esperance to Leonora and necessary replacements therefor.

Rolling
Stock.

Provision
and Main-
tenance.

(5) Subject to the provisions of subclauses (3) and (4) of this Clause the Railways Commission shall at its own cost provide, maintain and service all railways, locomotives, brakevans and wagons necessary and suitable for the purposes of this Agreement.

Notice of
anticipated
tonneages.

(6) The Corporation shall provide to the satisfaction of the Railways Commission adequate notice in advance of its requirements (including anticipated tonneages in each year) as to the use of the railway to enable the Railways Commission to meet those requirements and shall thereafter give not less than 18 months prior notice of any substantial change in those requirements. In particular the Corporation shall agree with the Railways Commission the pattern of working including weekly and monthly despatches and the hours of working.

(7) All commodities transported by the Railways Commission pursuant to this Clause shall be carried subject to the by-laws made under the Government Railways Act, 1904 (insofar as those by-laws are not inconsistent with this Agreement) and to the provisions of this Clause and as though accepted for carriage at the owner's risk pursuant to general condition 2 (b) contained in the Schedule to by-law 55 as in force at the date hereof.

Freight
rates.

(8) The Corporation shall pay to the State freight in respect of all commodities specified in the First Schedule hereto carried by the Railways Commission pursuant to this Agreement at the appropriate freight rates and in the manner and subject to the conditions set out in that Schedule.

Leonora
interchange.

(9) The Corporation shall as required collaborate with the State in the planning of a road-rail interchange at Leonora.

Transport
of products
by road.

(10) The Corporation shall transport its products by road (or such other means as the Minister may approve) from the treatment plant to the port of Fremantle (or to such other port or ports as the Minister may approve) and for this purpose the Commissioner of Transport shall issue licences for road carriage upon request by the Corporation and upon payment of the licence fees prescribed by him under the Transport Commission Act, 1966.

Alternative
routes.

18. (1) Notwithstanding the provisions of subclause (2) of Clause 16 and subclauses (1), (3) and (4) of Clause 17 the Corporation may, after consultation with the Railways Commission prior to the submission of proposals pursuant to Clause 8, request the Minister to permit the Corporation to transport its requirements of—

- (a) caustic soda and fuel oil in bulk by road from Geraldton to the treatment plant; and
- (b) insofar as practicable all other bulk commodities by rail from Kewdale to the railhead at Mullewa and thence by road to the treatment plant

subject to the conditions set out in subclause (5) of this Clause.

(2) If the Minister is satisfied that, on a comparison of the Corporation's obligations under subclause (2) of Clause 16 and subclauses (1), (3) and (4) of Clause 17 (or any modification thereof proposed by the Railways Commission in consultation with the Corporation under subclause (1) of this Clause) with its obligations under subclause (5) of this Clause (and having regard to the provisions of Clause 19), the obligations of the Corporation under the said subclause (5) might be undertaken by the Corporation more economically to the Corporation, then the Minister shall grant the Corporation's request.

Decision of
Minister.

(3) The Minister shall within 2 months after receipt of the Corporation's request advise the Corporation of his decision.

(4) If the Corporation disagree with the Minister's decision the Corporation may refer the matter to arbitration and the award made on any such arbitration shall be binding on the parties hereto.

Arbitration.

(5) The conditions applicable to the alternative routes referred to in subclause (1) of this Clause are as follows—

- (a) Subject to the by-laws made under the Government Railways Act, 1904 (insofar as those by-laws are not inconsistent with this Agreement) and subject to the provisions of this Clause the Corporation shall in accordance with its approved proposals consign, and the State shall cause the Railways Commission to transport by rail from Kewdale to the railhead at Mullewa insofar as practicable all bulk commodities (but excluding fuel oil and caustic soda in bulk) required for the Corporation's operations hereunder and provided such commodities are suitable for carriage in general purpose wagons.
- (b) The Corporation shall at Mullewa in respect of its operations if required by the Railways Commission pay or arrange finance for the provision (in accordance with plans and specifications approved by the Railways Commission after consultation with the Corporation) and maintenance of such sidings, shunting

Other
facilities.

loops, spurs and other connections as are required solely for its operations hereunder and the provision and maintenance of loading and unloading facilities sufficient to meet train operating requirements and terminal equipment (including weighing devices and communication systems), together with a staff adequate to ensure the proper operation of all such loading and unloading facilities and terminal equipment.

Transport
by road.

- (c) The Corporation shall transport its requirements of caustic soda and fuel oil in bulk by road from Geraldton to the treatment plant and for this purpose the Commissioner of Transport shall issue licences for road carriage upon request by the Corporation and upon payment of the licence fees prescribed by him under the Transport Commission Act, 1966.

Public
roads to
be con-
structed
by the State.

- (d) The State shall construct or cause to be constructed new public roads suitable for the Corporation's operations hereunder in accordance with the requirements of the Commissioner of Main Roads as follows—

(i) a sealed road connecting the townsite with Mount Magnet by the shortest practicable route having regard to the provision of access to Sandstone. The State shall use its best endeavours to complete the construction and sealing of such road to a width of not less than 3.7 metres within 3 years of the date of the approved proposals. The Corporation shall pay to the State at the times and in the manner required by the State three quarters of the cost of the construction (including investigation survey and design) and sealing of such road; and

(ii) an unsealed road on a route to be determined by the Commissioner of Main Roads after consultation with the Corporation from the townsite to a point on the Leonora-Yakabindie road being the turn-off to the Agnew minesite. The Corporation shall pay to the State at the times and in the manner required by the State one half of the cost of the construction (including investigation survey and design) thereof. The State shall use its best endeavours to complete the construc-

tion of such road prior to the date that the treatment plant comes into operation.

(6) The Corporation shall if it proceeds pursuant to subclause (5) of this Clause collaborate as required with the State in the planning of a road-rail interchange at Mullewa.

Mullewa
interchange.

(7) The Corporation shall if it proceeds pursuant to subclause (5) of this Clause comply with the provisions of subclauses (1), (3) and (4) of Clause 16 and subclauses (6) (7) (8) and (10) of Clause 17.

Operation
of Clauses
16 and 17.

19. (1) The Corporation shall—

Port.

(a) ship in its requirements of fuel oil and caustic soda through the ports of Esperance or Geraldton or such other port or ports as the Minister may approve; and

(b) ship out its products from the treatment plant through the port of Fremantle or such other port or ports as the Minister may approve

and for the purposes of this clause shall provide or cause to be provided at no cost to the State all such facilities as are necessary.

(2) Notwithstanding subclause (1) of this Clause, the Corporation may negotiate with third parties already operating at the port of Esperance or Geraldton or such other port or ports as the Minister may approve with a view to sharing at no cost to the State port facilities already provided by others.

(3) The Corporation shall pay to the appropriate Port Authority all relevant charges properly and lawfully levied by that authority from time to time.

20. (1) For the purposes of facilitating integration of electricity generation and transmission facilities in areas where the Corporation operates, the Corporation shall purchase electricity if available from the State Energy Commission or, negotiate with the State Energy Commission for the payment by the Corporation of an equitable contribution towards the augmentation of the facilities of the State Energy Commission to enable it to supply electricity to the Corporation. Electricity supplied to the Corporation pursuant to this subclause shall be at the standard tariff applicable from time to time.

Electricity.
Purchase of
Electricity.

(2) In the event of the Corporation demonstrating to the satisfaction of the Minister that the provisions of subclause (1) of this Clause would be unduly prejudicial to its operations, or if the State Energy Commission is unable to provide supply, the Corporation may—

Electricity
Generation.

(a) in accordance with its approved proposals hereunder and subject to the provisions of the

Electricity Act and the approval and requirements of the State Energy Commission, install and operate without cost to the State, at an appropriate location equipment to generate electricity of sufficient capacity for its operations hereunder;

- (b) transmit power within the mining areas and from the mining areas to the town or elsewhere subject to the provisions of the Electricity Act and the approval and requirements of the State Energy Commission; and
- (c) subject to the provisions of the Electricity Act and the requirements of the State Energy Commission sell power transmitted pursuant to paragraph (b) of this subclause to third parties within the mining areas and to third parties elsewhere.

(3) In the event that the Corporation is unable to procure easements or other rights over land required for the purposes of subclause (2) of this Clause on reasonable terms the State shall assist the Corporation to such extent as may be reasonably necessary to enable it to procure the said easements or other rights over land.

Acquisition
of facilities.

(4) Notwithstanding the provisions of the State Energy Commission Act the State may at any time give to the Corporation 12 months notice of its intention to acquire and may thereafter acquire the Corporation's electricity facilities or any part thereof up to the first point of voltage breakdown or such other appropriate point as may be agreed, at a price to be agreed between the parties and the Corporation shall take all such steps as may be necessary to effect the acquisitions. The State undertakes that in such event the Corporation shall for its purposes hereunder have such priority on the power generated and transmitted by such electricity facilities so acquired as is agreed between the State and the Corporation at the time of the said acquisition and the State undertakes subject only to its inability to supply power for any of the reasons set forth in Clause 36 to supply the Corporation with power for its purposes hereunder up to the normal continuous full load capacity (after allowing for standby plant) of the electricity facilities so acquired and that in the event of such inability to supply power occurring the State shall take all possible steps to restore such supply regardless of the time or day when such inability arises and may call upon the Corporation to provide employees for that purpose at the State's expense.

Charges for
Electricity.

(5) In the event of the State acquiring the Corporation's electricity facilities the Corporation shall pay to the State Energy Commission the cost of all electricity supplied to the Corporation by the State Energy Commission at a

rate equal to the standard tariff from time to time applying to the State Energy Commission's system. In the event that the Corporation's cost of operating the electricity facilities (including *inter alia* appropriate capital charges) at the time of the said acquisition is less than the standard tariff from time to time applying, then the State Energy Commission and the Corporation shall negotiate such reduction in tariff from time to time as will ensure that the cost of electricity to the Corporation is no more than the cost it would have paid had it continued to operate such electricity facilities. The State Energy Commission's rate for electricity supplied determined as aforesaid shall apply only in respect of an amount of electricity equal to the continuous full load capability (after allowing for standby plant) of the electricity facilities so acquired and the Corporation shall pay for all electricity supplied to it by the State Energy Commission in excess of such amount at the State Energy Commission's standard tariff applicable from time to time. Should the Corporation desire to expand its operations hereunder and for that purpose require power beyond the continuous full load capacity of the electricity facilities so acquired the Corporation shall give to the State 30 months' notice of its additional power requirements and the State shall thereupon cause the State Energy Commission to negotiate with the Corporation the terms and conditions under which the additional generating capacity required to meet the needs of such expansion may be implemented.

(6) Should the Corporation's relevant approved proposal provide for the State Energy Commission to reticulate electricity to houses occupied by the Corporation's workforce and by any other persons connected directly with the Corporation's operations whether employees or not and to commercial establishments directly connected with such operations, the Corporation shall sell to the State Energy Commission in bulk electricity in sufficient quantities to meet the needs of such workforce persons and establishments at a price equal to the Corporation's actual cost of generating and transmitting such electricity including, *inter alia*, appropriate capital charges.

Bulk supply
to State.

(7) If the State Energy Commission desires to purchase power for its own use and the Corporation has the ability to supply such power, the Corporation shall use its best endeavours to supply under such terms and conditions to be negotiated between the State Energy Commission and the Corporation, and the Corporation shall in that event be empowered to supply such power.

21. (1) On application made by the Corporation, not later than 3 months after all its proposals hereunder have been approved and the Corporation has complied with the provisions of subclause (4) of Clause 8, for a mineral lease in part or parts over that part of the mining areas being more

Mineral
Lease.

particularly all the area hatched yellow (hereinafter called "the yellow area") on the said plan marked "A" the State shall upon the surrender by the Corporation of all mineral claims held by it at the date hereof in the yellow area cause to be granted to the Corporation at the rental specified from time to time in the Mining Act a mineral lease of such land so applied for (notwithstanding that the survey in respect thereof has not been completed but subject to such corrections to accord with the survey when completed at the Corporation's expense) such mineral lease to be granted under and, except as otherwise provided in this Agreement, subject to the Mining Act but in the form of the Second Schedule hereto and in respect of the minerals set out therein and subject to such of the conditions of the surrendered mineral claims as the Minister for Mines determines and such other conditions as the Minister for Mines may reasonably require from time to time for the purpose of reducing or making good injury to the surface of the land in the mineral lease or injury to anything on or below the surface of that land.

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

Labour
conditions.

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

Other
Mining
Tenements.

(4) The State shall not during the currency of this Agreement register any claim or grant any lease or other mining tenement under the Mining Act or otherwise by which any person other than the Corporation or an associated company will obtain under the laws relating to mining or otherwise any rights to mine or take the natural substances (other than petroleum as defined in the Petroleum Act, 1967) within the mineral lease and so long as the Temporary Reserve created pursuant to Clause 5 remains in force, within that Temporary Reserve and within the areas of any blue mineral claims or surrendered blue mineral claims (as defined in sub-clause (7) of this Clause) which are not included in the mineral lease.

(5) Subject to compliance with the requirements of any Act, Regulation or By-Law from time to time in force the Corporation may for the purposes of this Agreement remove stone sand, clay or gravel from the mineral lease.

Right to
remove
sand, etc.

(6) Notwithstanding the provisions of this Clause the Corporation may with the consent of the Minister for Mines from time to time (with abatement of future rent in respect to the area surrendered but without any abatement of the rent already paid or any rent which has become due and has been paid in advance) surrender to the State all or any portion or portions (of reasonable size and shape) of the mineral lease.

Surrender
of part of
Mineral
Lease.

(7) In respect of mineral claims which the Corporation holds over the areas bordered blue on the said plan marked "A" (in this Clause called "blue mineral claims") at the date application is made for a mineral lease pursuant to subclause (1) of this Clause (in this Clause called "the application date")—

Mineral
claims in
the blue
areas.

(a) The State shall ensure that subject to compliance with its obligations under this Agreement the Corporation shall not be required to comply with the labour conditions imposed by the Mining Act.

Exemption
from labour
conditions.

(b) The Corporation shall continue to carry out a programme of exploration in respect of the blue mineral claims and report on the results of such exploration to the Minister for Mines at yearly intervals after the application date.

Exploration
of the blue
areas.

(c) The Corporation may surrender all or any of the blue mineral claims during a period of 5 years following the date the treatment plant comes into operation on any anniversary of the application date, and at the end of such period shall surrender all other blue mineral claims held by it.

Surrender
of blue
mineral
claims.

(8) The Corporation shall have the right in respect of blue mineral claims surrendered, at the respective times of surrender referred to in paragraph (c) of subclause (7) of this Clause to apply for and have included in the mineral lease such of the areas of those surrendered blue mineral claims as the Corporation elects.

Incorporation
of blue
mineral
claims
in the
mineral
lease.

(9) At any times the Corporation applies pursuant to subclause (8) of this Clause, to have included in the mineral lease the areas of surrendered blue mineral claims, the parties may agreed to also include in the mineral lease such of the red areas as are necessary for the Corporation's operations hereunder.

Incorporation
of red areas
in the
mineral
lease.

(10) Any land included in the mineral lease pursuant to subclauses (8) and (9) of this Clause shall be upon and subject to the same terms, covenants and conditions as

apply to the mineral lease (with such apportionment of rents as is necessary) and shall be deemed to be included in the mineral lease as and from the date of surrender of the applicable blue mineral claim notwithstanding that the survey of such additional land has not been completed (but subject to correction to accord with the survey when made at the Corporation's expense).

(11) The provisions of subclauses (7) (8) (9) and (10) of this Clause shall take effect notwithstanding the provisions of the Mining Act.

Lands
Town.

22. (1) For the purposes of the Corporation's operations and associated works at the town the State shall grant to the Corporation for residential agricultural professional business commercial and industrial purposes and the provision of communal or other facilities at the townsite a special lease or special leases under the provisions of the Land Act or occupancy rights on terms and conditions to be determined by the Minister for Lands of the said State for an area or areas of land in the townsite in accordance with the Corporation's proposals as finally approved. Such lease or leases or occupancy rights as the case may be shall be for a term expiring 21 years from the date of such grant at a rental of 1 peppercorn per annum. The Corporation may at any time after the declaration of the townsite under Section 10 of the Land Act, and during the currency of such lease or leases or occupancy rights purchase for the sum of \$10 per lot the fee simple of any townsite lot on which buildings or structures have been erected the cost of which is not less than \$15 000 for each such lot or, in the case of dwelling houses when averaged over the lot being purchased, not less than \$10 000 for each thousand square metres of such lot and on and subject to such terms and conditions not inconsistent with this Agreement as the Minister for Lands considers applicable in the circumstances and including a right for the State at any time and from time to time to exclude from such lease or leases or occupancy rights or to resume without compensation any part or parts of such land on which no buildings or structure has been erected as the State may require for public purposes.

Leases
licences
easements
and rights
of way.

(2) The State shall in accordance with the Corporation's approved proposals grant to the Corporation or arrange to have the appropriate authority or other interested instrumentality of the State grant for such periods and on such terms and conditions (including renewal rights) as shall be reasonable having regard to the requirements of the Corporation leases and where applicable licences easements and rights of way for all or any of the purposes of the Corporation's operations hereunder.

- (3) (a) The State shall upon the Corporation surrendering Yeelirrie Station Pastoral Lease No. 3114/620 cause to be granted to the Corporation a special lease under the Land Act of the area bordered green on the said plan marked "A" for the purpose of creating a buffer zone for the Corporation's operations hereunder for such periods and on such terms and conditions (including renewal rights) as shall be reasonable having regard to the requirements of the Corporation. Special
lease Buffer
Zone.
- (b) The State shall at the request of the Corporation from time to time cause to be added to the special lease referred to in paragraph (a) of this subclause so much of—
- (i) the area bordered dotted green on the said plan marked "A";
 - (ii) the area of any surrendered blue mineral claims (as defined in subclause 7 of Clause 21) which are not included in the mineral lease; and
 - (iii) the area of the expired Temporary Reserve created pursuant to Clause 5;
- as shall be necessary for its operations hereunder.
- (c) The State shall at the Corporation's expense resume such land as may be necessary for the grant of the special lease or any extension of the area thereof under this subclause.
- (d) Notwithstanding the provisions of the Land Act and the Mining Act, the land contained in the lease granted under paragraph (a) of this subclause shall be deemed to be Crown land for the purposes of the Mining Act.
- (4) For the purpose of this Agreement in respect of any land sold or leased to the Corporation by the State the Land Act shall be deemed to be modified by— Modification
of Land Act.
- (a) the substitution for subsection (2) of section 45A of the following subsection—

“(2) Upon the Governor signifying approval pursuant to subsection (1) of this section in respect of any such land the same may subject to this section be sold or leased;”
 - (b) the deletion of the proviso to section 116;
 - (c) the deletion of section 135;
 - (d) the deletion of section 143;

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

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

Sale of
Land Act.

(5) Notwithstanding the provisions of the Sale of Land Act, 1970 the Corporation shall, subject to the prior consent of the Minister, have the right after the declaration of the townsite under section 10 of the Land Act, and during the currency of any lease or leases or occupancy rights granted to it under subclause (1) of this Clause to enter into an agreement to sell at a price to be approved by the Minister any lot the subject of such lease or leases or occupancy rights on condition that the purchaser erects on such lot within 2 years from the date of such agreement, buildings or structures the cost of which is not less than \$15 000 for each such lot or in the case of dwelling houses when averaged over the lot being purchased not less than \$10 000 for each thousand square metres of such lot.

Townsite
and town
development.

23. (1) (a) Should the approved proposals provide for the establishment of a new town the Corporation shall at its cost or with finance arranged by it and in accordance with the approved proposals—

- (i) provide at the townsite such housing accommodation services and works (including sewerage reticulation and treatment works water supply works and main drainage works and also social cultural and civic facilities) as may be necessary in order to provide for the needs of persons (and the dependants of those persons) connected directly with the Corporation's

operations under this Agreement, whether or not such persons are employed by the Corporation;

- (ii) provide at the townsite all necessary public roads and buildings required for educational, hospital, medical, police, recreation, fire and other services;
 - (iii) provide all equipment required for the operation and proper functioning of the services and works referred to in subparagraphs (i) and (ii) of this paragraph;
 - (iv) service maintain and where necessary repair and renovate the housing accommodation services roads and works mentioned in subparagraphs (i) and (ii) of this paragraph;
 - (v) (subject to and in accordance with by-laws from time to time to be made and altered by the Corporation which include provisions for fair and reasonable prices rentals or charges or if no such by-laws are made or in force then at such prices rentals or charges and upon and subject to such terms and conditions as are fair and reasonable) ensure that the said housing accommodation services and works are at all times readily available to persons requiring the same being employees licencees or agents of the Corporation or persons engaged in providing a legitimate and normal service to or for the Corporation or its employees licencees or agents including the dependants of such persons; and
 - (vi) ensure that the roads buildings and other works mentioned in subparagraph (ii) of this paragraph and the equipment mentioned in subparagraph (iii) of this paragraph are readily available free of charge to the State.
- (b) Nothing contained in paragraph (a) of this subclause shall be construed as placing on the Corporation an obligation to provide and pay for personnel required to operate the educational hospital medical or police services mentioned in that paragraph.

Limitation
of the
Corpora-
tion's
obligations.

Equipment.

(2) The Corporation shall at its cost or with finance arranged by it equip all the buildings mentioned in paragraph (a) of subclause (1) of this Clause to the extent and of a standard at least equal to that normally adopted by the State in similar types of buildings used for similar purposes in comparable townsites.

**Staff
Housing.**

(3) The Corporation shall at its cost or with finance arranged by it provide adequate housing accommodation for married and single staff directly connected with the educational hospital medical and police services mentioned in subparagraph (i) and (ii) of paragraph (a) of subclause (1) of this Clause.

**Existing
Towns.**

(4) If the approved proposals provide for the assimilation into any existing town of the whole or part of the Corporation's workforce (including their dependants) and any other persons (including their dependants) connected directly with the Corporation's operations (whether employees of the Corporation or not) whereby the normal population of such existing town is significantly increased then the Corporation to the extent necessary to provide for the needs of the said increase in population of such existing town shall bear the cost of the provision at that existing town of the matters mentioned in subparagraphs (i) (ii) and (iii) of paragraph (a) of subclause (1) of this Clause. The said additional housing services works and equipment may be provided by the State or by another party under an agreement with the State and in either case shall be to the extent and of a standard at least equal to that normally adopted by the State in similar types of buildings used for similar purposes in comparable towns. The Corporation shall pay to the State or such other party such proportion of the cost of such additional housing services works and equipment as is fair and reasonable having regard to the extent of the said increase in the population of such existing town.

**State
Services.**

(5) Should the approved proposals place an obligation on the State to provide for any of the matters mentioned in subparagraphs (i) (ii) and (iii) of paragraph (a) of subclause (1) of this Clause or require the State to procure and accept the responsibility of the provision of any services and facilities the State shall provide or procure the provision of the same but (unless the approved proposals otherwise provide) subject to the following conditions namely—

- (a) that the State is satisfied that the need to provide such services and facilities results from or is reasonably attributable to the Corporation's operations under this Agreement; and
- (b) the Corporation agrees to bear the capital cost involved and thereafter to pay reasonable charges for the maintenance and operation of

the said services or facilities other than the operation charges in respect of education hospital medical and police services.

(6) Notwithstanding the provisions of this Clause the State shall during the currency of this Agreement continue to investigate ways of assisting the Corporation in providing the services and facilities required to be provided by the Corporation pursuant to this Clause.

Assistance
with infra-
structure.

(7) Unless and until the townsite concerned is declared a townsite pursuant to section 10 of the Land Act, or otherwise with the consent of the Minister, the Governor in Executive Council may upon the recommendation of the Corporation make alter and repeal by-laws for the purpose of enabling the Corporation to fulfil its obligations under this Clause upon terms and subject to conditions (including terms and conditions as to user charging and limitation of the liability of the Corporation) consistent with the provisions hereof. If at any time it appears that any by-law made hereunder has as a result of altered circumstances become unreasonable or inapplicable then the Corporation shall recommend to the Governor that he makes such alteration or repeal thereof as the State may reasonably require or (in the event of there being any dispute as to the reasonableness of such requirement) as may be decided by arbitration as herein provided.

By-laws.

24. (1) The Corporation may subject to such conditions as the State may from time to time approve at its cost or with finance arranged by it construct and operate sewerage facilities at the town and charge for such services. The Corporation shall have all such powers and authorities with respect to such facilities as are determined by the Minister which may include, with the consent of the Minister for Local Government, all or any of the powers of a local authority under the Local Government Act, 1960.

Sewerage
Facilities.

(2) If at any time the Minister is of the opinion that it would be desirable that the sewerage facilities operated by the Corporation under subclause (1) of this Clause be controlled and operated by the State, the Minister may (after first affording the Corporation a reasonable opportunity to consult with him) on giving 6 months prior notice to the Corporation of his intention, acquire the Corporation's sewerage facilities for a monetary consideration to be determined by the Minister. Thereafter in respect of sewerage facilities operated by or on behalf of the State within the town rates and charges as levied from time to time pursuant to the provisions of the Country Towns Sewerage Act, 1948 shall apply.

Royalties
Uranium
Oxide.

25. (1) Having regard to the circumstances relating to the project the subject of this Agreement, the parties hereto agree that the Corporation shall, for a period of 7 years after the date the treatment plant comes into operation, pay to the State in respect of uranium oxide (being U_3O_8 for the purpose of this Clause) produced from the mineral lease and shipped or sold by it a royalty at the rate of 3.5% of the f.o.b. value (computed at the rate of exchange prevailing on date of receipt by the Corporation of the purchase price in respect of uranium oxide shipped or sold hereunder).

f.o.b.
value.

(2) For the purpose of this Clause the expression "f.o.b. value" means the gross sales price for uranium oxide produced from the mineral lease (whether sold as such or converted outside Australia to uranium hexafluoride) the subject of any shipment or sale which is payable by the purchaser thereof to the Corporation or an associated company, less all export duties and export taxes payable on or in respect of such uranium oxide and less all costs and charges properly incurred and payable on or in respect of such uranium oxide by the Corporation or an associated company to the State or a third party from the time when the uranium oxide is placed on ship to the time when the uranium oxide or the uranium hexafluoride is delivered and accepted by the purchaser, there being included in such costs and charges—

- (a) directly related discounts and commissions;
- (b) ocean freight;
- (c) marine insurance;
- (d) costs of compliance with international safe-guard requirements;
- (e) port and handling charges at port of discharge;
- (f) in the case of uranium oxide shipped but not sold the cost whether payable to a third party or not (including the cost of capital) to the Corporation of retaining ownership of the uranium oxide from the point of export from Australia until the same is delivered to and accepted by the purchaser. For the purposes of this paragraph "the cost of capital" shall be deemed to be interest on that capital during the period referred to in this paragraph calculated at the maximum bank interest rate for trading bank overdrafts with limits of less than \$100 000 as published in the Reserve Bank of Australia Statistical Bulletin as applying at the date of shipment from Australia;
- (g) costs of delivery (including warehousing costs) from port of discharge to the purchaser;
- (h) weighing, sampling, assaying, inspection and representation costs incurred on discharge or delivery;

- (i) shipping agency charges;
- (j) import taxes payable in the country of the port of discharge;
- (k) demurrage incurred after loading and at port of discharge;
- (l) the cost of conversion from uranium oxide to uranium hexafluoride, where applicable, including the converters' service charge; and
- (m) such other costs and charges as the parties (having regard *inter alia* to such matters as the parties to and the *bona fide* nature of the transaction as the result of which the cost or charge was incurred) shall agree to include or failing agreement as fixed by arbitration as hereinafter provided.

For the purposes of this definition the expression "export duties and export taxes" shall refer to taxes rates or charges payable by the Corporation to any Government or Government agency or instrumentality in Australia directly relating to the export of uranium oxide.

(3) The Minister may from time to time after consultation with the Corporation in respect of either the f.o.b. value or any of the costs or charges mentioned in items (a) to (m) (inclusive) in subclause (2) of this Clause incurred in relation to any particular shipment or sale notify the Corporation that he does not regard the f.o.b. value as calculated by the Corporation as being a true and proper value calculated on an arms length basis or a cost or charge as being properly incurred (having regard *inter alia* to the terms and conditions of the relevant sale agreement and all the circumstances prevailing at the time the relevant sale price was agreed between the Corporation and the purchaser and any reduction in the f.o.b. value as a result of prepayment arrangements), and in that event the Minister shall determine the f.o.b. value and/or treat the charge (as the case may be) as not being properly incurred.

Determina-
tion by
Minister.

(4) Should the Corporation disagree with the Minister's decision under subclause (3) of this Clause it may refer the matter in question to arbitration as hereinafter provided but unless and until it is otherwise determined the f.o.b. value as set by the Minister shall be used as the basis for the calculation of royalty under subclause (1) of this Clause. If by the award on arbitration the dispute is determined in favour of the Corporation the State shall refund to the Corporation any royalty overpaid by the Corporation (with interest if the award so provides).

Arbitration.

**Review of
Royalty
Rates.**

(5) The rate of royalty payable pursuant to subclause (1) and the method of determining it pursuant to subclauses (2) (3) and (4) of this Clause shall be reviewed and fixed by the Minister after consultation with the Corporation, 7 years after the date the treatment plant comes into operation and thereafter as at the last day of each succeeding period of 5 years.

**Other
Minerals.**

(6) The Corporation shall pay to the State in respect of all minerals other than uranium oxide produced from the mineral lease and shipped or sold by it royalties at the rates from time to time prescribed under or pursuant to the provisions of the Mining Act.

**Payment of
Royalties.**

(7) The Corporation shall during the continuance of this Agreement within 14 days after the following quarter days (in this subclause referred to as "the due date") namely the last days of March June September and December in each year (commencing with the quarter day next following the date the treatment plant comes into operation) furnish to the Minister a return showing the quantity of all minerals on which royalty is payable hereunder and shipped or sold during the quarter immediately preceding the due date of the return and shall not later than two months after such due date pay to the Minister the amount of royalty payable hereunder calculated on the basis of the invoices or provisional invoices (as the case may be) rendered by the Corporation to the purchaser (which invoices the Corporation shall render without delay and simultaneously shall furnish copies thereof to the Minister) and shall from time to time when the f.o.b. value realised in respect of the shipments has been ascertained in the next following appropriate return and payment, make (in the return and by cash) all such necessary adjustments and give to the Minister full details thereof.

**Inspection of
Records.**

(8) The Corporation shall permit the Minister or his nominee at all reasonable times to inspect the books of account and records of the Corporation relative to the Corporation's operations hereunder and to any shipment or sale of uranium oxide including sales contracts and to take copies or extracts therefrom. For the purpose of determining the f.o.b. value payable in respect of any shipment or sale of uranium oxide hereunder the Corporation shall take reasonable steps (either by the certificate of a competent independent party acceptable to the Minister or otherwise to the Minister's satisfaction) to satisfy the State as to the correctness of all relevant weights assays and analyses and shall give due regard to any objection or representation made by the Minister or his nominee as to any particular weight assay or analysis that may affect the amount of royalty payable hereunder. The information obtained by the Minister or his nominee as a result of any such inspection shall be used only for the purposes of verifying

the amount of royalty payable by the Corporation and for no other purpose and shall not be disclosed by the State the Minister or his nominee to any other party for any other purpose.

26. The Corporation undertakes from time to time to review with the Minister the desirability of investigating the technical and economic feasibility of further processing within the said State uranium oxide from the mineral lease. Further processing.

27. Without in any way derogating from the rights or remedies of the Corporation in respect of a breach of this Agreement if the Parliament of the State should at any time enact legislation which modifies the rights or increases the obligations of the Corporation under the ratifying Act or under this Agreement the Corporation shall have the right to terminate this Agreement by notice to the State PROVIDED THAT where the modification or increase is capable of remedy within the next succeeding period of 12 months the notice shall not take effect until the State has been given the opportunity to remedy the modification or increase within that period and has failed to do so. Derogating legislation.

28. The State shall ensure that the mineral lease and any lands the subject of any Crown grant lease licence or easement granted to the Corporation under this Agreement and all freehold and leasehold land occupied by the Corporation in accordance with proposals approved hereunder shall be and remain zoned for use or otherwise protected during the currency of this Agreement so that the operations of the Corporation hereunder may be undertaken and carried out thereon without any interference or interruption by the State by any State agency or instrumentality or by any local or other authority of the State on the ground that such operations are contrary to any zoning by-law regulation or order. Zoning.

29. The State shall ensure that notwithstanding the provisions of any Act or anything done or purported to be done under any Act the valuation of all lands (whether of a freehold or leasehold nature or the subject of any mining tenement) the subject of this Agreement (except as to any part upon which a permanent residence shall be erected or which is occupied in connection with that residence and except as to any part upon which there stands any improvements that are used in connection with a commercial undertaking not directly related to the production of yellow-cake and red-cake under this Agreement) shall for rating purposes under the Local Government Act, 1960 be deemed Rating.

to be on the unimproved value thereof and no such lands shall be subject to any discriminatory rate, PROVIDED THAT nothing in this Clause shall prevent the Corporation making the election provided for by Section 533B of the Local Government Act, 1960.

No discrim-
inatory rates.

30. Except as provided by this Agreement the State shall not impose or permit or suffer any instrumentality of the said State or any local or other authority to impose discriminatory taxes, rates or charges of any nature whatever on or in respect of the income, titles, property or other assets, products, materials or services used or produced by or through the operations of the Corporation hereunder and the State shall not take or permit any such instrumentality or any local or other authority to take any other discriminatory action that would deprive the Corporation of any rights granted or intended to be granted to it under this Agreement.

No
resumption.

31. The State agrees that subject to the performance by the Corporation of its obligations hereunder the State shall not resume or suffer or permit to be resumed by an instrumentality or by any local or other authority of the said State any portion of the land the subject of any lease mentioned in Clause 22 the resumption of which would materially impede the Corporation's works and activities thereon or any portion of the mineral lease whereon any of the Corporation's works are situate in accordance with proposals approved hereunder the resumption of which would materially impede the Corporation's mining or other activities thereon nor shall the State create or grant or permit or suffer to be created or granted by an instrumentality or authority of the said State any road right of way or easement of any nature or kind whatsoever over or in respect of the land comprised in the said leases whereon any of the Corporation's works are situate in accordance with proposals approved hereunder without the consent of the Corporation first had and obtained which consent the Corporation agrees it shall not arbitrarily or unreasonably withhold.

Resumption
for the
purposes
of this
Agreement.

32. The State may as and for a public work under the Public Works Act, 1902, resume any land required for the purposes of this Agreement and notwithstanding any other provisions of that Act may sell lease grant licences easements and rights-of-way or otherwise dispose of such land to the Corporation and the provisions of subsections (2) to (7) inclusive of section 17 and section 17A of that Act shall not apply to or in respect of that land or the resumption thereof. The Corporation shall pay to the State on demand

the costs of and incidental to any land resumed at the request of and on behalf of the Corporation pursuant to this Clause.

33. (1) Subject to the provisions of this Clause the Corporation may at any time— Assignment.

(a) assign mortgage charge sublet or dispose of to an associated company as of right or to any other company or person with the consent of the Minister the whole or any part of the rights of the Corporation hereunder (including its rights to or as the holder of any lease licence easement grant or other title) and of the obligations of the Corporation hereunder; and

(b) appoint as of right an associated company or with the consent of the Minister any other company or person to exercise all or any of the powers functions and authorities that are or may be conferred on the Corporation hereunder;

subject however in the case of an assignment subletting or disposition to the assignee sublessee donee or the appointee (as the case may be) executing in favour of the State (unless the Minister otherwise determines) a deed of covenant in a form to be approved by the Minister to comply with observe and perform the provisions hereof on the part of the Corporation to be complied with observed or performed in regard to the matter or matters the subject of such assignment subletting disposition or appointment.

(2) Notwithstanding anything contained in or anything done under or pursuant to subclause (1) of this Clause the Corporation shall at all times during the currency of this Agreement be and remain liable for the due and punctual performance and observance of all the covenants and agreements on its part contained herein and in any lease licence easement grant or other title the subject of an assignment mortgage subletting or disposition or appointment under subclause (1) of this Clause PROVIDED THAT the Minister may agree to release the Corporation from such liability where he considers such release will not be contrary to the interests of the State.

(3) Notwithstanding the provisions of subclause (2) of this Clause in the event that the Minister approves assignments from Western Mining Corporation Limited whereby an associated company of Western Mining Corporation Limited incorporated in Western Australia, Esso Exploration and Production Australia Inc. and Urangesellschaft Aus-

tralia Pty. Limited become jointly and severally liable to perform and observe the provisions of this Agreement, the Minister shall release Western Mining Corporation Limited from its obligations under this Agreement.

(4) Notwithstanding the provisions of the Mining Act, the Transfer of Land Act, 1893 and the Land Act insofar as the same or any of them may apply:

- (a) no assignment mortgage charge sublease or disposition made or given pursuant to this Clause over the mineral lease or any other lease, sublease, licence, reserve or tenement granted hereunder or pursuant hereto by the Corporation or any assignee sublessee disponent or appointee who has executed and is for the time bound by deed of covenant made pursuant to this Clause; and
- (b) no transfer assignment mortgage or sublease made or given in exercise of any power of sale contained in any such mortgage or charge;

shall require any approval or consent (other than such consent as may be necessary under this Clause) and no equitable mortgage or charge shall be rendered ineffectual by the absence of any approval or consent (otherwise than required by this Clause) or because the same is not registered under the provisions of the Mining Act.

Substituted
securities.

34. Where the Corporation whether before or after the execution of this Agreement executes and has registered in the Department of Mines a mortgage over a mineral claim in the mining areas, and the land the subject of that mineral claim, on the surrender of such claim, becomes incorporated in the mineral lease, then provided the consent of the mortgagee is first obtained the mineral lease shall notwithstanding the provisions of the Mining Act be deemed to be the subject of such mortgage as if the mineral lease had been referred to in the mortgage. A memorandum of any such mortgages shall thereupon by force of this Agreement be endorsed on the mineral lease in the order in which they appeared registered against any such mineral claim at the time of its surrender and shall be noted in the appropriate registers of the Department of Mines by the Principal Registrar who shall also endorse on the original and duplicate copies of such mortgages the fact of their having been registered as an encumbrance against the mineral lease.

Variation.

35. (1) The parties hereto may from time to time by agreement in writing add to substitute for cancel or vary all or any of the provisions of this Agreement or of any lease licence easement or right granted hereunder or pursuant

hereto for the purpose of more efficiently or satisfactorily implementing or facilitating any of the objects of this Agreement.

(2) The Minister shall cause any agreement made pursuant to subclause (1) of this Clause in respect of any addition substitution cancellation or variation of the provisions of this Agreement to be laid on the Table of each House of Parliament within 12 sitting days next following its execution.

(3) Either House may, within 12 sitting days of that House after the agreement has been laid before it pass a resolution disallowing the agreement, but if after the last day on which the agreement might have been disallowed neither House has passed such a resolution the agreement shall have effect from and after that last day.

36. This Agreement is deemed to be made subject to any delays in the performance of the obligations hereunder and to the temporary suspension of the continuing obligations hereunder that may be caused by or arise from circumstances beyond the power and control of the party responsible for the performance of those obligations including without limiting the generality of the foregoing delays or any such temporary suspension as aforesaid caused by or arising from Act of God force majeure earthquakes floods storms tempest washaways fire (unless caused by the actual fault or privity of the party responsible for such performance) act of war act of public enemies riots civil commotions strikes lockouts stoppages restraint of labour or other similar acts (whether partial or general) acts or omissions of the Commonwealth or any duly constituted authority shortages of labour or essential materials reasonable failure to secure contractors delays of contractors and inability profitably to sell products of the treatment plant or factors due to overall world economic conditions or factors due to action taken by or on behalf of any government or governmental authority (other than the State or any authority of the State) or factors that could not reasonably have been foreseen PROVIDED ALWAYS that the party whose performance of obligations is affected by any of the said causes shall promptly give notice to the other party of the event or events and shall use its best endeavours to minimise the effect of such causes as soon as possible after the occurrence.

Force
majeure.

37. Notwithstanding any provision of this Agreement the Minister may at the request of the Corporation from time to time extend or further extend any period or vary or further vary any date referred to in this Agreement for

Power to
extend
periods.

such period or to such later date as the Minister thinks fit whether or not the period to be extended has expired or the date to be varied has passed.

Determina-
tion of
Agreement.

38. (1) In any of the following events namely if the Corporation makes default which the State considers material in the due performance or observance of any of the covenants or obligations to the State herein or in any lease, sublease, licence or other title or document granted or assigned under this Agreement on its part to be performed or observed or if the Corporation abandons or repudiates its operations under this Agreement and such default is not remedied or such operations resumed within a period of 180 days after notice as provided in subclause (2) of this Clause is given by the State (or—if the alleged default abandonment or repudiation is contested by the Corporation and within 60 days after such notice is submitted by the Corporation to arbitration—within a reasonable time fixed by the arbitration award but not less than 90 days after the making of the arbitration award where the question is decided against the Corporation the arbitrator finding that there was a *bona fide* dispute and that the Corporation had not been dilatory in pursuing the arbitration) or if the Corporation goes into liquidation (other than a voluntary liquidation for the purpose of reconstruction) then and in any of such events the State may by notice to the Corporation determine this Agreement and the rights of the Corporation hereunder and under any lease licence easement or right granted hereunder or pursuant hereto shall thereupon determine.

(2) The notice to be given by the State in terms of subclause (1) of this Clause shall specify the nature of the default or other ground so entitling the State to exercise such right of determination and where appropriate and known to the State the party or parties responsible therefor and shall be given to the Corporation and such assignees mortgagees chargees and disponees for the time being of the Corporation's said rights to or in favour of whom or by whom an assignment mortgage charge or disposition has been effected in terms of Clause 33 whose name and address for service of notice has previously been notified to the State by the Corporation or any such assignee mortgagee chargee or disponee.

(3) The abandonment or repudiation by or liquidation of the Corporation referred to in subclause (1) of this Clause means the abandonment or repudiation by or the liquidation of all of them the Corporation and all assignees and appointees who have executed and are for the time being bound by a deed of covenant in favour of the State as provided in Clause 33.

(4) If the default referred to in subclause (1) of this Clause shall not have been remedied after such notice or within the time fixed by the arbitration award as aforesaid the State instead of determining this Agreement as aforesaid because of such default may itself remedy such default or cause the same to be remedied (for which purpose the State by agents workmen or otherwise shall have full power to enter upon lands occupied by the Corporation and to make use of all plant machinery equipment and installations thereon) and the costs and expenses incurred by the State in remedying or causing to be remedied such default shall be a debt payable by the Corporation to the State on demand.

39. (1) Upon the cessation or determination of this Agreement:

Effect of
cessation
and deter-
mination of
Agreement.

- (a) except as otherwise agreed by the Minister the rights of the Corporation and those of any assignee or mortgagee of the Corporation under this Agreement or under the mineral lease or any other lease, licence, easement or right granted hereunder or pursuant hereto and all the right title and interest of the Corporation and of any such assignee or mortgagee in and to any Crown land wherever situated granted to the Corporation or to such assignee for any other of the purposes of this Agreement shall thereupon cease and determine, but without prejudice to the liability of either of the parties in respect of any antecedent breach or default under this Agreement or in respect of any indemnity given hereunder; and
- (b) the Corporation shall forthwith pay to the State all moneys that may then have been payable or accrued due hereunder; and
- (c) except as provided in this Clause or otherwise provided in this Agreement neither of the parties shall have any claim against the other of them in respect to any matter or thing contained in or arising out of this Agreement.

(2) Subject to the provisions of subclause (3) of this Clause upon the cessation or determination of this Agreement all buildings erections and other improvements erected on any Crown Land then occupied by the Corporation or any associated company or assignee of the Corporation under the mineral lease or any other lease, licence, easement, right or grant made hereunder for the purpose hereof shall become and remain the absolute property of the State without the payment of any compensation or consideration

to the Corporation or any other party and freed and discharged from all mortgages and other encumbrances and the Corporation shall do and execute all such deeds documents and other acts matters and things (including surrenders) as the State may reasonably require to give effect to the provisions of this subclause.

(3) In the event of the Corporation immediately prior to the cessation or determination of this Agreement or subsequently thereto desiring to remove any of its fixed or movable plant and equipment from any part of the Crown land occupied by it at the date of such cessation or determination the Corporation shall give to the State notice of such desire and thereby shall grant to the State the right or option exercisable within three months thereafter to purchase *in situ* the said fixed or movable plant and equipment or any part thereof at a fair valuation to be agreed between the parties or failing agreement determined by Arbitration hereunder.

Provision
of finance.

40. Where under any provision of this Agreement the Corporation is liable to make payments to the State the Corporation may, subject to the prior consent of the Minister, in lieu of such payments otherwise provide finance or cause finance to be provided to an equal amount to the particular liability in such manner as may be determined by the Minister.

Environ-
mental
protection.

41. Nothing in this Agreement shall be construed to exempt the Corporation from compliance with any requirement in connection with the protection of the environment arising out of or incidental to the operations of the Corporation hereunder that may be made by the State or any State agency or instrumentality or any local or other authority or statutory body of the State pursuant to any Act for the time being in force.

Indemnity.

42. The Corporation shall indemnify and keep indemnified the State and its servants agents and contractors in respect of all actions suits claims demands or costs of third parties arising out of or in connection with any work carried out by the Corporation pursuant to this Agreement or relating to its operations hereunder or arising out of or in connection with the construction maintenance or use by the Corporation or its servants agents contractors or assignees of the Corporation's works or services the subject of this Agreement or the plant apparatus or equipment installed in connection therewith.

Subcon-
tracting.

43. The State shall ensure that without affecting the liabilities of the parties under 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 hereunder.

44. (1) The Corporation shall from time to time make application to the Commonwealth or to the Commonwealth constituted agency, authority or instrumentality concerned for the grant to it of any licence or consent under the laws of the Commonwealth necessary to enable or permit the Corporation to enter into this Agreement and to perform any of its obligations hereunder.

Commonwealth
licences and
consents.

(2) On request by the Corporation the State shall make representations to the Commonwealth or to the Commonwealth constituted agency authority or instrumentality concerned for the grant to the Corporation of any licence or consent mentioned in subclause (1) of this Clause.

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

Stamp duty
exemption.

- (a) this Agreement;
- (b) any instrument executed by the State pursuant to this Agreement granting to or in favour of the Corporation or any permitted assignee of the Corporation any lease licence easement or right granted or demised hereunder or pursuant hereto;
- (c) any assignment sublease or disposition (other than by way of mortgage or charge) and any appointment to or in favour of the Corporation or an associated company or any permitted assignee of any interest right obligation power function or authority made pursuant to the provisions of this Agreement; and
- (d) any transfer of any shares held by Western Mining Corporation Limited in an associated company holding an interest in this Agreement to another associated company of Western Mining Corporation Limited.

(2) Notwithstanding the provisions of paragraph (c) of subclause (1) of this Clause the State may exempt from not more than 75% of the stamp duty which but for the operation of this Clause would or might be chargeable on any mortgage debenture covenant or other security to secure the payment or repayment of any money advanced (whether by way of prepayment or otherwise) by any person who has contracted to purchase from the Corporation or an associated company any of its products hereunder, if the State under hand of the Treasurer so determines.

(3) This clause shall not apply to any instrument or other document executed or made more than 7 years from the date hereof.

(4) If prior to the commencement date stamp duty has been assessed and paid on any instrument or other document referred to in subclauses (1) or (2) of this Clause the State shall after the commencement date on demand refund the relevant amount of stamp duty to the person who paid the same.

Arbitration.

46. (1) Any dispute or difference between the parties arising out of or in connection with this Agreement the construction of this Agreement or as to the rights duties or liabilities of either party hereunder or as to any matter to be agreed upon between the parties under this Agreement shall in default of agreement between the parties and in the absence of any provision in this Agreement to the contrary be referred to the arbitration of two arbitrators one to be appointed by each party, the arbitrators to appoint their umpire before proceeding in the reference, and every such arbitration shall be conducted in accordance with the provisions of the Arbitration Act, 1895.

(2) Except where proposals are pursuant to the provisions of this Agreement referred to arbitration, the provisions of this Clause shall not apply to any case where the State the Minister or any other Minister in the Government of the said State is by this Agreement given either expressly or impliedly a discretionary power.

(3) The arbitrators or umpire (as the case may be) of any submission to arbitration hereunder are hereby empowered upon the application of either of the parties to grant in the name of the Minister any interim extension of any period or variation of any date referred to herein which having regard to the circumstances may reasonably be required in order to preserve the rights of that party or of the parties hereunder and an award may in the name of the Minister grant any further extension or variation for that purpose.

Notices.

47. Any notice consent or other writing authorised by or required by this Agreement to be given or sent shall be deemed to have been duly given or sent by the State if signed by the Minister or by any senior officer of the Public Service of the State acting by the direction of the Minister and forwarded by prepaid post to the Corporation at its principal office for the time being in the State and by the Corporation if signed on its behalf by a director manager or secretary of the Corporation or by any person or persons authorised by the Corporation in that behalf or by its solicitors (which solicitors have been notified to the State from time to time) and forwarded by prepaid post to the Minister any such notice consent or writing shall be deemed to have been duly given or sent (unless the contrary be shown) on the day on which it would be delivered in the ordinary course of post.

48. The Corporation shall during the currency of this Agreement consult with and keep the State fully informed on a confidential basis concerning any action that the Corporation proposes to take with any third party (including the Commonwealth or any Commonwealth constituted agency authority instrumentality or other body) which might significantly affect the overall interest of the State under this Agreement.

Consulta-
tion.

49. This Agreement shall be interpreted according to the law for the time being in force in the said State.

Applicable
law.

FIRST SCHEDULE.

1A. (i) The rate for caustic soda and fuel oil carried on unit trains (as defined in paragraph 5 of this Schedule) operating between agreed loading sites at the port of Esperance and agreed unloading sites at the railhead at Leonora shall be in accordance with the following table.

Tonnes per annum	Rate in cents per tonne kilometre for total annual tonnage
Up to 75 000 tonnes	3.0
Over 75 000 tonnes and up to 100 000 tonnes	2.75
Over 100 000 tonnes	2.5

(ii) The rate per tonne kilometre for all other bulk commodities carried in general purpose wagons on trains from Kewdale to Leonora shall be 4 cents.

(iii) The minimum freight payable under this paragraph in respect of caustic soda and fuel oil in any year commencing on July 1 subsequent to the date the treatment plant comes into operation shall, subject to the provisions of paragraph 3 of this Schedule, be 3.0 cents x 50 000 x actual distance in kilometres between the said agreed loading and unloading sites.

B. The rate per tonne kilometre for all bulk commodities (other than caustic soda and fuel oil) carried in general purpose wagons on trains from Kewdale to Mullewa shall be 4 cents.

2. The freight rates set out in paragraph 1 of this Schedule are subject to the following additional conditions:

(i) Trains shall operate up to a maximum of six days per week, commencing 0001 hours Monday and ceasing 2400 hours on Saturday. The Railways Commission shall arrange a

train operating pattern between Monday and Saturday as agreed pursuant to subclause (6) of Clause 17. The train operating pattern shall be based as far as is practicable on the utilisation of the maximum number of wagons possible per train and the least number of trains per week required to meet the haulage programme of the Corporation and such trains shall be tabled at times convenient to the operational requirements of the Railways Commission.

(ii) Sunday working shall only be undertaken with approval of the Railways Commission and the Corporation shall meet the additional costs involved. Should industrial conditions preclude regular operations on Saturdays the Railways Commission reserves the right to review the freight rates in order to take this change into account.

(iii) The Corporation shall ensure that all wagons are loaded within the authorised axle load capacity and shall be subject to such minimum load per wagon and per train as may be defined by the Railways Commission.

(iv) The rate of freight set out in Paragraph 1 A(1) of this Schedule has been calculated on the basis of:

(a) The total turnround time at terminals being:

at port of Esperance, 180 minutes
at Leonora railhead, 120 minutes
If such times are not regularly adhered to by the Corporation the Railways Commission reserves the right to review the freight rate in order to take these changes into account.

(b) 52 working weeks (each of six days and excluding Sundays) per annum less two weeks for contingencies (including all gazetted public holidays) and if through no fault of the Railways Commission these yearly working programmes are not adhered to the Railways Commission reserves the right to review the freight rate in order to take these changes into account.

- (c) On wagons being loaded to defined capacities and shall be subject to the minimum load per wagon being not less than:

Caustic Soda, 52.5 tonnes per wagon

Fuel Oil, 56.5 tonnes per wagon
and where less is carried in any wagon, freight shall be charged as though the minimum load was carried.

- (v) Freight charges shall be paid by monthly payments in the month following the month of haulage except that freight payable pursuant to paragraph 1 A(iii) of this Schedule which can only be calculated at the end of a year shall be payable within 30 days of demand.

PROVIDED THAT if as a result of any review pursuant to subparagraphs (ii) and (iv) of this paragraph the Corporation does not agree to the new freight rate the matter shall be referred to arbitration under Clause 46 of the Agreement.

3. The rates of freight set out in this Schedule are based on costs prevailing at September 26, 1978 and shall be adjusted half yearly on the first days of January and July with the new rates becoming effective on and from those dates in accordance with the following formula:

$$F1 = F + \left[.6F \left\{ .80 \left\{ \frac{HR1 - HR}{HR} \right\} + .05 \left\{ \frac{D1 - D}{D} \right\} + .15 \left\{ \frac{SR1 - SR}{SR} \right\} \right\} \right]$$

WHERE—

- (i) F1 = the new freight rate.
(ii) F = the applicable freight rate which would be payable under paragraph 1 of this Schedule as at September 26 1978.
(iii) HR = the average hourly rate payable as at September 26 1978.
(iv) HR1 = the average hourly rate payable as at the date of adjustment.
(v) D = the list price (duty free) of bulk distillate sold to commercial users in Perth by BP Australia Limited as at September 26 1978.
(vi) D1 = the list price (duty free) of bulk distillate sold to commercial users in Perth by BP Australia Limited as at the date of adjustment.

- (vii) SR = the price of heavy steel rails per tonne c.i.f. Port of Fremantle as ascertained from price schedule covering despatches from Broken Hill Proprietary Company Limited as at September 26 1978.
- (viii) SR1 = the price of heavy steel rails per tonne c.i.f. Port of Fremantle ascertained as aforementioned as at the date of adjustment.

The rates applicable on September 26 1978 are:

	Hourly Rates
	Cents
1st Class Driver	504.00
1st Class Guard	448.75
Trackman	393.00
	<hr/>
Total	1 345.75
	<hr/>
Average hourly rate	448.58
Price of distillate per litre	14.21c
Price of heavy steel rails per tonne c.i.f. Port of Fremantle	\$273.00

PROVIDED ALWAYS that if at any time there is a change in—

- (a) the average hourly rate by the operation of any award or other wage determination; or
- (b) the list price (duty free) of distillate in Perth;
or
- (c) the price of heavy steel rails per tonne c.i.f. Port of Fremantle,

and such change is effective from a date prior to the last date of adjustment a new freight rate or freight rates as the case may be shall be calculated and shall apply from the date of adjustment next following the date from which any change as aforesaid is effective and such new freight rate or freight rates shall be substituted for the freight rate that would have applied but for the application of the provisions of this paragraph. Any additional freight payable as a result may be included in a subsequent monthly account.

Adjustments made in accordance with this formula shall be expressed in a figure of dollars per tonne and calculated to four decimal places of a dollar and in doing so the fifth decimal place shall also be calculated so that if the fifth decimal place is .5 or above the fourth decimal place shall be increased by one.

The formula referred to above (other than factor F) shall be subject to review by either the Corporation or the Railways Commission on September 26 1988 and thereafter at five yearly intervals and also if at any time for any reason information needed for ascertaining any of the factors HR1, D1 or SR1 is no longer available. In the event of the parties failing to reach agreement the matter shall be referred to arbitration under Clause 46 of the Agreement.

4. Caustic soda and fuel oil carried on other than unit trains in accordance with this Agreement and all commodities other than the bulk commodities referred to in paragraph 1 A(ii) and 1 B of this Schedule shall, unless otherwise determined by the Railways Commission, be carried at gazetted rates.

5. For the purposes of this Schedule "unit train" means a trainload operated by the Railways Commission and conveying only caustic soda and/or fuel oil in bulk in wagons provided by the Corporation and in accordance with approved proposals pursuant to this Agreement.

THE SECOND SCHEDULE
WESTERN AUSTRALIA
MINING ACT, 1904

URANIUM (YEELIRRIE) AGREEMENT ACT, 1978
MINERAL LEASE

Lease No. East Murchison Goldfield

ELIZABETH THE SECOND by the Grace of God, Queen of Australia and Her Other Realms and Territories, Head of the Commonwealth:

TO ALL TO WHOM THESE PRESENTS shall come GREETINGS:

KNOW YE that WHEREAS by section 48 of the Mining Act, 1904, power is given to the Governor of our State of Western Australia, in the Commonwealth of Australia, to grant leases of land for the purposes of mining thereon for any mineral other than gold upon the terms and conditions set forth in the said Act AND WHEREAS by an Agreement made between the State of Western Australia and WESTERN MINING CORPORATION LIMITED a company duly incorporated in the State of Victoria and having its registered office in that State at 459 Collins Street, Melbourne and having its principal office in the State of Western Australia at 191 Great Eastern Highway, Belmont (hereinafter called "the Corporation" which expression includes the successors and permitted assigns of the Corporation) which Agreement (hereinafter referred to as "the Agreement") was ratified by the Uranium (Yeelirrie) Agreement Act, 1978 the State agreed to grant

to the Corporation on application made by the Corporation a mineral lease under and, except as otherwise provided by the Agreement, subject to the Mining Act, 1904 AND WHEREAS the Corporation has now made application for a mineral lease of the land hereinafter described for the purpose of mining thereon for uranium and vanadium.

NOW WE in consideration of the rents and royalties reserved by the Agreement and in consideration of the other covenants in this lease and in the Agreement to be observed by the Corporation DO BY THESE PRESENTS GRANT AND DEMISE UNTO THE CORPORATION subject to the provisions of the Agreement ALL THOSE pieces and parcels of land situated in the East Murchison Gold Field containing approximately

hectares (subject to such corrections as may be necessary to accord with the survey when made) and particularly described and delineated on the plan in the Schedule hereto and all those mines, veins, seams, lodes and deposits of uranium and vanadium in, on, or under the said land (hereinafter called "the said mines") together with the rights, liberties, easements, advantages and appurtenances thereto belonging or appertaining to a lessee of a mineral lease under the Mining Act, 1904, including all amendments thereof for the time being in force and all regulations made thereunder for the time being in force (which Act and regulations are hereinafter referred to as "the Mining Act") or to which the Corporation is entitled under the Agreement, excepting and reserving out of this demise all such portions of the said land as are now lawfully occupied (other than for pastoral or timber purposes) by persons other than the lessee, or any portion thereof which is now used for any public works or building whatsoever AND PROVIDED THAT mining on reserves created under the Land Act (other than for timber or mining) shall be confined to a depth of below fifteen (15) metres from the natural surface of the land TO HOLD the said land and the said mines and all and singular the premises hereby demised for the term of twenty one (21) years from the

day of

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with the right to renew the same from time to time for further periods each of twenty one (21) years as provided in but subject to the terms covenants and conditions set out in the Agreement and to the Mining Act (as modified by the Agreement) YIELDING and paying therefor the rents and royalties as provided for in the Agreement AND WE do hereby declare that this lease is subject to the condition that the Corporation shall observe perform and carry out the provisions of the Mines Regulation Act, 1946, and all amendments thereof for the time being in force and the regulations for the time being in force made thereunder the provisions of the Mining Act (as modified by the Agreement) insofar as the same affect or have application to

this lease or any renewal thereof and any Act of the Parliament of the State (or regulations made thereunder) making provision for the protection of the health and safety of the people of the State and of the environment insofar as the same affects or has application to the Corporation's operations under the Agreement.

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

AND PROVIDED FURTHER that all petroleum and other minerals (apart from uranium and vanadium) on or below the surface of the demised land are reserved to Her Majesty or any person claiming under her and that subject to the terms of the Agreement any person lawfully authorised in that behalf may have access to the demised land for the purpose of searching for and obtaining petroleum or minerals (other than those aforesaid) in any part of the land under the provisions of the Mining Act or the Petroleum Act, 1967.

IN WITNESS WHEREOF we have caused our Minister for Mines to affix his seal and set his hand hereto at Perth in our said State of Western Australia and the Common Seal of the Corporation was hereunto affixed by authority of the Board of Directors.

Dated the _____ day of _____ 19 .

THE SCHEDULE ABOVE REFERRED TO (plan of lease).

IN WITNESS WHEREOF this Agreement has been executed by or on behalf of the parties hereto the day and year first hereinbefore mentioned.

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

ANDREW MENSAROS.
Minister for Industrial
Development.

The Common Seal of WESTERN
MINING CORPORATION } (C.S.)
LIMITED was hereunto affixed
in the presence of—

A. H. PARBO.
Director.

S. K. LARSEN.
Secretary.