New South Wales.

ANNO QUARTO DECIMO

GEORGII VI REGIS.

* *

Act No. 12, 1950.

An Act to ratify a certain Agreement made between The Broken Hill Proprietary Company Limited of the one part and His Most Gracious Majesty King George VI of the other part with respect to the sale to such Company of certain lands at or near Newcastle on certain terms and conditions and with respect to the granting to such Company of the right to obtain leases of certain adjoining lands; to provide for the carrying into effect of the said Agreement; to repeal the Newcastle Iron and Steel Works Act, 1912; to amend the Crown Lands Consolidation Act, 1913, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 29th April, 1950.]

Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification Act, 1950."

Definitions.

2. In this Act, unless the context or subject matter otherwise indicates or requires—

"Commissioner" means The Commissioner for Railways incorporated by the Transport (Division of Functions) Act, 1932, or other the corporation controlling the Government Railways of New South Wales.

"Company" means The Broken Hill Proprietary Company Limited.

"The said Agreement" means the Agreement, a copy of which is set out in the Schedule to this Act.

Ratification of Agreement.

3. (1) The said Agreement is hereby ratified and may be carried into effect notwithstanding the provisions of any other Act.

(2) All acts, matters and things for or with respect to which provision is made in the said Agreement, or which, by the said Agreement, are agreed, directed, authorised or permitted to be made, done or executed by or on behalf of His Majesty or the Governor or the Minister or the Minister for Public Works or the Maritime Services Board of New South Wales or the Registrar-General or the Commissioner are hereby sanctioned, authorised and confirmed.

Enforcement of provision for drainage from Throsby Creek.

4. Upon the issue of the Crown Grants of the lands described in the First, Second and Third Parts of the First Schedule to the said Agreement, the covenants and conditions therein that the Company, its successors and assigns will at all times and to the satisfaction of the Minister

Minister provide for the maintenance and proper discharge into Newcastle Harbour of the drainage from Throsby Creek through or over the lands described in the First, Second and Third Parts of such First Schedule shall bind such lands and every part thereof into whosesoever hands the same may come and bind all persons interested therein and the Registrar-General may make such endorsements upon any Crown Grant or certificate of title comprising such lands or any part thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof.

Resumption of certain land.

5. (1) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule to the said Agreement the Governor shall appropriate and resume the land described in the Fourth Part of the First Schedule to the said Agreement by Gazette notification under Division 1 of Part V of the Public Works Act, 1912, as amended by subsequent Acts.

(2) For the purposes of the Public Works Act, 1912, as amended by subsequent Acts, such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act, as so amended, and the Commissioner shall be the constructing authority in respect thereof.

(3) Such appropriation and resumption shall not acquire the mines or deposits of coal, ironstone, kerosene shale, limestone, slate or other minerals under the land so appropriated and resumed.

(4) The Registrar-General shall without further survey issue to the Commissioner after the said appropriation and resumption a new certificate of title under the Real Property Act, 1900, comprising the land described in the Fourth Part of the First Schedule to the said Agreement, and shall make all such cancellations, alterations and entries of and in the register book, certificates of title or otherwise as he may think desirable in consequence thereof and of such resumption and appropriation.

6.

Revocation of part of a certain resumption.

6. As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule to the said Agreement the Minister shall publish in the Gazette a notice revoking the notification of appropriation and resumption by the Railway Commissioners of New South Wales published in the Gazette of the twenty-fifth day of June, one thousand nine hundred and twenty, under the Public Works Act, 1912 (referred to in subclause (e) of clause eighteen of the said Agreement), so far as concerns such parts of the land thereby appropriated and resumed as are within the lands described in the Sixth Part of the First Schedule to the said Agreement, and those parts of such lands shall upon the publication in the Gazette of the said notice by the Minister be thereby vested in His Majesty, His Heirs and Successors. Further survey shall not be required before the publication of such notice.

Resumption for road.

7. (1) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule to the said Agreement, the Governor shall appropriate and resume the land described in the Second Schedule to the said Agreement by Gazette notification under Division 1 of Part V of the Public Works Act, 1912, as amended by subsequent Acts, for the purpose of a public road.

(2) For the purposes of the Public Works Act, 1912, as amended by subsequent Acts, such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act, as so amended, and the Minister for Public Works shall be the constructing authority in respect thereof.

(3) Sections ninety-seven and one hundred and thirty-eight of the Public Works Act, 1912, as amended by subsequent Acts, shall not apply in respect of the said appropriation and resumption.

(4) The constructing authority shall, notwithstanding the provisions of section eighty-one of the Public Works Act, 1912, as amended by subsequent Acts (but subject

subject to the following provisions of this section), by notice in the Gazette dedicate the land so appropriated and resumed as a public road, and upon such dedication the provisions of the Local Government Act, 1919, as amended by subsequent Acts, with respect to public roads, shall subject to subsections five and six of this section, apply thereto accordingly: Provided that such dedication shall not affect the carrying out of subclause (d) of clause nineteen and clauses twenty-one and twenty-six of the said Agreement.

(5) Notwithstanding anything contained in subsection four of this section, the Minister for Public Works and the Commissioner respectively may relocate (with any poles, pipes, wires, fittings, structures, equipment, appurtenances, and appliances considered necessary) in, on, under or above the land described in the Second Schedule to the said Agreement all or any electricity transmission lines and cables removed from any land described in any part of the First Schedule to the said Agreement and the Minister for Public Works and the Commissioner and their respective successors and assigns may use the said electricity transmission lines and cables (with the poles, pipes, wires, fittings, structures, equipment, appurtenances and appliances) for the conveyance of electricity and maintain, repair, add to and renew the same.

(6) Notwithstanding anything contained in subsection four of this section, railway sidings and works may be laid or retained in, across and upon the land described in the Second Schedule to the said Agreement in the positions specified in subclause (i) of clause twenty-six of the said Agreement.

(7) In the event of the Company failing to carry out its obligations under subclause (i) of clause twenty-six of the said Agreement to maintain, repair and renew the railway sidings and works that are laid and retained in, across and upon the land described in the Second Schedule to the said Agreement the Commissioner may, without prejudice to any other remedy which His Majesty may

may have by reason of such default of the Company, do all acts and things as the Commissioner may think necessary to remedy the default of the Company and the Company shall on demand pay to the Commissioner all costs and expenses incurred by the Commissioner in so doing and the same shall be recoverable by him from the Company in any court of competent jurisdiction. A certificate of the Secretary for Railways or the person acting as such for the time being of the amount of the costs and expenses so incurred by the Commissioner shall be prima facie evidence thereof.

To protect easements for electricity transmission.

8. The provisions of clause twenty-four of the said Agreement and all or any easements and rights granted by the Company in pursuance of such clause shall bind the lands described in the First Schedule to the said Agreement and also the lands comprised in certificates of title, volume 4,605, folio 90, and volume 5,004, folio 177, and every part of such lands into whosesoever hands the same may come and shall bind all persons interested therein, and the Registrar-General may make such endorsements on any Crown Grant or certificate of title comprising such lands or any parts thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof or of the granting of any such easement or rights.

Restrictions on use of certain lands for shipping of coal.

9. (1) Upon the issue of the Crown Grants of the lands described in the First, Second, Third, Fifth, Sixth and Seventh Parts of the First Schedule to the said Agreement, the provisions to the effect of subclause (a) of clause twenty-seven of the said Agreement included in such Crown Grants shall be deemed to be covenants by the Company for itself, its successors and assigns with His Majesty, His Heirs and Successors and such provisions shall bind the said lands described in the First, Second, Third, Fifth, Sixth and Seventh Parts of the First Schedule to the said Agreement and every part thereof into whosesoever hands the same may come, and bind all persons interested therein, and the Registrar-General may make such endorsements upon any Crown Grant

Grant or certificate of title comprising such lands or any part thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof.

(2) Upon acceptance by the Company of a Memorandum of Transfer in its favour of the land described in the Fourth Part of the First Schedule to the said Agreement containing covenants on the part of the Company, its successors and assigns in accordance with the provisions of subclause (c) of clause twenty-seven of the said Agreement such covenants shall bind such land and every part thereof into whosesoever hands the same may come and bind all persons interested therein, and the Registrar-General may make such endorsements upon any Crown Grant or certificate of title comprising such land or any part thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof.

Determination of rental by local land board.

10. (1) The local land board constituted under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, shall have jurisdiction to determine the rental under subclause (f) of clause twenty-eight of the said Agreement.

(2) For the purpose of the said board determining such rental, such board and the chairman and members thereof shall respectively have the same powers as when acting under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, for the purpose of the said board determining rentals thereunder.

(3) An appeal by either party may be made to the Land and Valuation Court from the determination by the said board of such rental by filing within a period of twenty-eight days from the date of the determination appealed against notice of the appeal in the office of the Registrar of the Land and Valuation Court, and by serving within such period notice of the appeal on the other party to the determination. An appeal on behalf

of

of His Majesty against any such determination may be made by the Minister or by the Under Secretary for Lands on the Minister's behalf.

(4) For the purpose of dealing with any and every such appeal the Land and Valuation Court and the Judge thereof shall have the same powers as when dealing with appeals from local land boards under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

Provisions of Harbour and Tonnage Rates Act, 1920-1935, to apply.

11. The Harbour and Tonnage Rates Act, 1920-1935, and any Act amending or replacing the same and the regulations from time to time in force thereunder but in so far only as such Acts and regulations relate to the imposition, collection and payment of tonnage rates and berthing charges shall apply to and in respect of every wharf (which term for the purposes of this section shall include any structure, landing place or facility where cargo may be loaded or discharged or where vessels may be berthed) now or hereafter erected, constructed or provided upon the lands described in the First Schedule to the said Agreement or upon lands adjoining or adjacent thereto as if the same were a public wharf and accordingly tonnage rates and berthing charges in accordance with the said Acts and regulations shall be payable in respect of all vessels berthing at any such wharf subject only to the following exceptions, such exceptions being applicable only to vessels whilst berthed thereat:—

(i) Any vessel carrying, loading or discharging only cargo the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital shall be exempt from the payment of such tonnage rates and berthing charges.

(ii) Any vessel carrying, loading or discharging cargo part only of which is the property of the Company and/or any other company or companies in which the Company holds at least one-third of the share capital shall be granted a rebate of such tonnage rates and berthing charges

charges to the extent of the ratio which the part of the cargo which is the property of the Company and/or any other company or companies in which the Company holds at least one-third of the share capital bears to the whole of such cargo.

(iii) Any vessel the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital berthing for a purpose other than the loading or discharging of cargo shall be exempt from the payment of such tonnage rates and berthing charges.

Certain obligations of the Government of the State and the Company to cease.

12. Upon the completion of the sale to the Company under the said Agreement of the lands described in the First Schedule to the said Agreement—

(a) the obligation of the Company under the Newcastle Iron and Steel Works Act, 1912, to pay interest at the rate of five per centum per annum on the sum of twenty-nine thousand two hundred and fifty-five pounds fourteen shillings being the cost of dredging the swinging basin and lower berth and of reclamations all of which were carried out prior to the thirty-first day of January, one thousand nine hundred and fifteen, shall cease. Any necessary apportionment of the interest paid or payable by the Company shall be made and adjusted on such completion;

(b) the lease granted to the Company under section four of the Newcastle Iron and Steel Works Act, 1912, and the rights and obligations of the Company and of the Government of the said State under such lease and under clauses two, three and seven of the Agreement set out in the Schedule to that Act shall cease and determine.

Repeal of Act No. 55, 1912.

13. (1) This section shall commence upon the date of completion of the sale to the Company of the lands described in the First Schedule to the said Agreement.

(2)

(2) (a) The Newcastle Iron and Steel Works Act, 1912, is hereby repealed.

(b) The repeal of such Act shall not affect the previous operation thereof or, save as provided in this Act or the said Agreement, operate to deprive the Company of any property, right or interest acquired by the Company under the Act so repealed.

(c) Nothing contained in this subsection shall limit any saving in the Interpretation Act of 1897.

(3) As soon as practicable after the date of completion of the sale to the Company of the lands described in the First Schedule to the said Agreement the Minister shall publish in the Gazette a notice specifying such date.

Certain persons may sue and be sued by the Company.

14. It shall not be an objection to the Commissioner, the Minister for Public Works and the Maritime Services Board of New South Wales, or any of them suing the Company and being sued by the Company under the said Agreement that the Commissioner, the Minister for Public Works and the Maritime Services Board of New South Wales are not parties to the said Agreement.

SCHEDULE.

Sec. 3.

THIS AGREEMENT made the twenty-seventh day of March One thousand nine hundred and fifty BETWEEN—THE BROKEN HILL PROPRIETARY COMPANY LIMITED a corporation incorporated under the laws of the State of Victoria and carrying on business in the State of New South Wales (hereinafter called "the Company") of the one part and HIS MOST GRACIOUS MAJESTY KING GEORGE VI of the other part WHEREAS the Company is desirous of acquiring the lands described in the First Schedule hereto and the right to lease certain lands below high water mark fronting such lands described in the First Schedule hereto

hereto for the purposes of the Company and with the object of expanding its industrial operations in the said State of New South Wales NOW IT IS HEREBY AGREED as follows:—

1. In this Agreement unless the context otherwise requires the singular includes the plural and vice versa and the following expressions shall have the meanings set opposite thereto respectively:

"Commissioner" means the Commissioner for Railways incorporated by the Transport (Division of Functions) Act, 1932, or other the corporation controlling the Government Railways of New South Wales;

"Gazette" means New South Wales Government Gazette;

"Minister" means the Minister for Lands of the State of New South Wales and his successors in office;

"Minister for Public Works" means the Minister for Public Works of the State of New South Wales and his successors in office;

"Month" means calendar month;

"High Water Mark" means the mean high water mark of the right bank of the South Channel of the Hunter River as defined by Mr. Surveyor R. A. Allen in his Survey completed on 24th May 1949 of Portion 2936 Parish of Newcastle County of Northumberland and shown on plan catalogued N.7785.2111R. at the Department of Lands, Sydney.

2. (a) Subject to the provisions hereinafter contained His Majesty hereby agrees to sell to the Company and the Company agrees to buy the lands described in the First Schedule hereto at and for the price of One hundred thousand pounds (£100,000).

(b) The Company shall pay the said price in full to the Minister in Sydney free of exchange on completion of such sale and purchase of the lands described in the First Schedule hereto.

3. (a) The land described in the First Part of the First Schedule hereto is Crown Lands as to part thereof subject to the Lease for fifty years from the sixth day of December One thousand nine hundred and twelve vested in the Company by the Newcastle Iron and Steel Works Act, 1912 and the Agreement scheduled thereto and as to the remainder thereof comprises a closed road added to the said Lease by notice in the Gazette of the fourth day of March One thousand nine hundred and twenty seven, page 1302.

(b) The land described in the Second Part of the First Schedule hereto is Crown Lands formerly forming part of Special Lease No. 11 of 1949 granted to the Company under the Crown Lands Consolidation Act, 1913 as amended. This Special Lease expired on the 31st day of December 1948 and the lands comprised therein are now occupied by the Company under a Permissive Occupancy granted to the Company.

(c)

(c) The lands described in the Third Part of the First Schedule hereto are Crown Lands formerly comprised in Crebert Street Extended a public road, as to 13 perches being Crown Lands dedicated for public road under the Crown Lands Consolidation Act, 1913 as amended by Gazette of the 16th day of January 1931, page 266 and the remainder having been resumed (without any limitation as to depth) and dedicated for public road by Gazette of the 14th day of February 1930, page 672, but all these dedications were limited to the surface and 25 feet below the surface. Crebert Street Extended was closed as to part by Notice published in the Gazette of the 4th day of July 1941, page 2438 and as to a further part by Notice published in the Gazette of the 19th day of May 1944 page 895.

(d) As to the lands described in the Fourth Part of the First Schedule hereto—

(i) part thereof is comprised in Certificate of Title registered Volume 1795 Folio 95 issued to the Railway Commissioners of New South Wales subject to the notifications endorsed thereon including that of the exceptions and reservations unto the Caledonian Coal Company Limited its successors and assigns of the mines and minerals beneath the land with full and free liberty and power to carry on mining operations beneath such land or any part thereof which shall not interfere with the safety of the railway which the Commissioners proposed to construct upon the said land or with the traffic upon such railway, it being expressly agreed and declared that the Commissioners shall have no further right to the soil beneath the surface of the said land than shall be requisite for the support of the said railway and for the formation and repair of the same and except as hereinafter otherwise expressly provided the land is hereby agreed to be sold subject to such exceptions and reservations so far as the same are existing at the date of this Agreement, and

(ii) part thereof is comprised in Certificate of Title registered Volume 3797 Folio 42 also issued to the Railway Commissioners for New South Wales, and

(iii) part thereof is comprised in the Notification of Resumption by the Chief Commissioner for Railways and Tramways for New South Wales published in the Gazette of the 19th day of November 1913, page 6901, under the Public Works Act, 1912 (in lieu of the like Notification published in the Gazette of the 12th day of November, 1913, page 6750) by which no mines or deposits of coal, ironstone, kerosene shale, limestone, slate or other minerals under such area were acquired and the same are excepted from this sale, and

(iv) part thereof is comprised in the Indenture of Conveyance dated the 24th day of December 1919 No. 93 Book 1174 made between Caledonian Collieries Limited of the one part

and

and the Railway Commissioners for New South Wales of the other part which conveyed only all mines and minerals (if any) in and under the land comprised in such Conveyance which the said Company might be empowered to convey, and nothing herein shall affect the preceding paragraph (iii). and

(v) part thereof is comprised in Conveyance dated the 22nd day of February 1907 from the Caledonian Coal Company Limited to the Railway Commissioners of New South Wales registered No. 207 Book 827 which excepts and reserves unto the said Company the mines and minerals beneath the said lands with full and free liberty and power to carry on any mining operations beneath the said lands or any part thereof which shall not interfere with the safety of the railway which the Commissioners proposed to construct upon the said land or with the traffic upon such railway, it being expressly agreed and declared that the Commissioners shall have no further right to the soil beneath the surface of the said lands than shall be requisite for the support of the said railway and for the formation and repair of the same and (except as otherwise hereinafter expressly provided) the same are also excepted from this sale and (except as aforesaid) this sale is also subject to the rights to use railways and other rights reserved to the Waratah Coal Company Limited (In Liquidation) by the Conveyance by that Company to the Caledonian Coal Company Limited dated the 1st day of July 1896 registered No. 901 Book 580 so far as the same are existing at the date of this Agreement.

(e) The lands described in the Fifth Part of the First Schedule hereto are Crown lands.

(f) As to the lands described in the Sixth Part of the First Schedule hereto part thereof is comprised within the Notification of Resumption by the Railway Commissioners of New South Wales published in the Gazette on the 25th day of June 1920, page 3587, under the Public Works Act, 1912 by which no mines or deposits of coal, ironstone, kerosene shale, limestone, slate or other minerals under such area were acquired and the same are excepted from this sale. The remainder of such lands is Crown lands.

(g) The land described in the Seventh Part of the First Schedule hereto is Crown lands comprising the land the subject of Special Purchase Application No. 38/20 Newcastle by the Company.

4. (a) Certain information as to the title to the lands comprised in the First Schedule hereto is referred to in this Agreement and the Company shall not require or be entitled to be furnished with any further particulars as to the title of His Majesty or the Minister or the Commissioner to any of such lands or with any abstract of the title to any of such lands or any evidence whatsoever of the title to

any

any of such lands save and except that each of them the Minister and the Commissioner will produce to the Company the deeds and documents that may be in his possession and that relate to such lands.

(b) No objection or requisition whatsoever shall be made by the Company to or in respect of the title to any of the said lands and no objection whatever shall be taken by the Company to the power of His Majesty and the Minister and the Commissioner to sell and assure as provided by this Agreement the said lands described in the First Schedule hereto.

5. All the said lands are sold by His Majesty and/or the Minister and the Commissioner to the Company subject to the existing tenancies easements encroachments licenses and occupancies and all such lands are sold subject to the reservations exceptions and conditions contained in the Crown Grants under which any of the lands were originally or are now held. The Company shall not raise any objection or make any claim in respect of any encroachments by or on any part or parts of the lands described in the First Schedule whether revealed by any present or future survey or otherwise.

6. There shall be excepted out of and from the lands described in the First Schedule hereto and excluded from the said sale and the assurances to the Company:

(a) All telegraph lines within the meaning of the Post and Telegraph Act, 1901-1934 of the Commonwealth constructed or laid upon in under or over such lands.

(b) The electric cables and electricity transmission lines constructed or laid upon in under or over the lands described in the First Schedule hereto by any Municipal or other local authority or by any body supplying electricity and all poles pipes wires fittings appurtenances equipment and appliances connected therewith.

(c) The electric cables and electricity transmission lines the property of His Majesty or the Minister for Public Works or the Commissioner constructed or laid upon in under or over the lands described in the First Schedule hereto and all poles pipes wires fittings equipment appurtenances and appliances connected therewith.

7. The said sale of the lands described in the First Schedule hereto is also subject to, and the Crown Grants to the Company of the lands described in the First, Second and Third Parts of such Schedule shall contain covenants and conditions that the Company its successors and assigns will at all times and to the satisfaction of the Minister provide for the maintenance and proper discharge into Newcastle Harbour of the drainage from Throsby Creek through or over the lands described in the First, Second and Third Parts of the First Schedule hereto. The Act ratifying this Agreement shall contain provisions

provisions to the effect that such covenants and conditions shall bind the lands described in the First, Second and Third Parts of the First Schedule hereto and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements upon any Crown Grant or Certificate of Title comprising such lands or any part thereof and such other entries in the Register Book as he may think desirable in consequence thereof.

8. The completion of the purchase by the Company of the lands described in the First Schedule hereto and payment of the purchase moneys therefor shall take place at the office of the State Crown Solicitor on a date which shall be two months from the date of commencement of this Agreement. If from any cause whatever other than the non-completion caused by the default of the Minister or the Commissioner the purchase money shall not be paid on that date the Company agrees with His Majesty His Heirs and Successors to pay to the Minister interest thereon at the rate of five pounds (£5) per centum per annum computed from that date until the day of actual payment.

9. His Majesty and the Commissioner shall be entitled to the rents and profits to the date of completion and shall pay and bear all rates taxes assessments and outgoings to that date in respect of the lands comprised in the First Schedule hereto other than the rates taxes assessments and outgoings payable by the Company under or by reason of its occupancies or interest in any of such lands prior to the date of completion from which date the Company shall be entitled to such rents and profits and shall pay or bear all rates taxes assessments and outgoings in respect of the lands comprised in the First Schedule hereto. Any necessary apportionments shall be made and adjusted on completion. Nothing in this clause shall relieve the Company of any liability under or by reason of its occupancy or interest in any of the said lands at or prior to the date of completion.

10. No error or misdescription of the lands sold shall annul the sale of the lands described in the First Schedule hereto but compensation (if demanded in writing before completion but not otherwise and if as regards the Company it is otherwise entitled thereto under this Agreement) shall be made to or given by the Company as the case may be and should the parties be unable to agree between themselves as to the amount thereof such amount shall be settled by two arbitrators one to be appointed by the Minister and the other by the Company in accordance with the provisions of the Arbitration Act, 1902.

11. All objections and requisitions (if any) which under this Agreement the Company shall be entitled to make shall be made and delivered to the Crown Solicitor of the State of New South Wales within

within twenty-one days from the date of commencement of this Agreement and all objections and requisitions not so made shall be deemed to be waived.

12. If His Majesty His Heirs or Successors shall be unable or unwilling to comply with or remove any objection or requisition which the Company shall be entitled to make under this Agreement the Minister shall whether he or the Commissioner or His Majesty His Heirs or Successors has or has not attempted to remove or comply with such objection or requisition and notwithstanding any negotiations or litigation whatsoever in respect thereof be at liberty to rescind this Agreement and in no case shall His Majesty or His Heirs or Successors or the Minister or the Commissioner be liable for any damages costs charges expenses and losses whatsoever incurred by the Company in and about this Agreement AND IT IS HEREBY DECLARED that seven days' notice of the intention of the Minister to rescind this Agreement shall be deemed reasonable notice of such intention under Section 56 of the Conveyancing Acts, 1919-1943.

13. His Majesty His Heirs and Successors the Minister and/or the Commissioner shall not be called upon or bound to pay any proportion of the costs of any dividing fence or fences.

14. All notices and documents hereunder may be served as mentioned in Section 170 of the Conveyancing Acts, 1919-1943.

15. Clauses 2 to 6 inclusive of the conditions of sale contained in Schedule III of the Conveyancing Acts, 1919-1943 shall not apply to this Agreement except insofar as the same or any part thereof are incorporated herein.

16. Such of the provisions and conditions of this Agreement as require or prescribe any act or thing to be done or not to be done by the Company shall in addition to being read and construed as conditions of this Agreement be also read and construed as Agreements whereby the Company covenants with His Majesty His Heirs and Successors to observe and perform the said provisions and conditions.

17. If the Company shall omit to fulfil observe or perform the provisions of this Agreement other than Clauses 28 and 30 hereof on the part of the Company to be fulfilled observed or performed the Minister may by notice in writing served on the Company call upon the Company to rectify the default complained of within a reasonable time (to be stated in the notice) after the service of such notice and if the Company shall fail after service of the said notice upon it to rectify the said default within such reasonable time the Minister may by notice in writing served on the Company determine this Agreement but without prejudice to any claim which His Majesty His Heirs and Successors the Commissioner the Minister for Public Works and the Maritime Services Board of New South Wales or any one

one or more of them may have against the Company in respect of any breach of the provisions of this Agreement on the part of the Company to be fulfilled observed and performed.

18. (a) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto (and after the publication of the Notice by the Minister referred to in subclause (e) of this clause) a Crown Grant or Crown Grants shall be issued to the Company for the assurance to it of the lands respectively described in the First Part the Second Part the Third Part the Fifth Part the Sixth Part and the Seventh Part of the First Schedule hereto.

(b) Every Crown Grant so to be issued to the Company shall contain a reservation of all minerals in the lands assured by the Grant and shall contain such other reservations and exceptions as are usually inserted by the Crown in Crown Grants issued for Special Purchases under Section 66 of the Crown Lands Consolidation Act, 1913, as amended and for the purposes aforesaid the term "minerals" shall have the same meaning as it has in the said Act.

(c) Every Crown Grant so to be issued to the Company as aforesaid shall be limited to the surface of the land comprised in such Crown Grant and to a depth of 400 feet below such surface and shall contain a proviso in or to the effect that mining operations may have been and may be carried on upon and in the land below the land thereby granted and the lands adjoining the land thereby granted and the land below the same and metals and minerals may have been and may be removed therefrom and that the Crown Grant is made upon and subject to the condition that the Company and its assigns shall not be entitled to make or prosecute any claim for damages or take any proceedings either by way of injunction or otherwise against His Majesty His Heirs or Successors or the Government of the State of New South Wales or any lessee or lessees under any Mining Act or Acts of the said State of New South Wales or his or their executors administrators or assigns for or in respect of any damage or loss occasioned by the letting down subsidence or lateral movement of the land thereby granted or otherwise howsoever by reason of the following acts and matters that is to say by reason of His Majesty His Heirs or Successors or the Government of the said State of New South Wales or any person on His Their or Its behalf or any Lessee or Lessees as aforesaid or his or their executors administrators or assigns having worked or then or thereafter working any mines or having carried on or then or thereafter carrying on mining operations or having searched for worked won or removed or then or thereafter searching for working winning or removing any metals or minerals under in or from the land below the land thereby granted or on in under or from any other lands situated laterally to the land thereby granted and the land below the same and whether on or below the surface of such other lands AND THAT His Majesty doth thereby expressly reserve unto His Majesty

His

His Heirs and Successors the liberty and authority by reason of the acts and matters aforesaid or in the course thereof for His Majesty His Heirs and Successors and the Government of the said State of New South Wales and any person on His Their or Its behalf and any Lessee or Lessees as aforesaid and His or their executors administrators and assigns to from time to time let down without payment of any compensation whatsoever any part of the land thereby granted and/or of the surface thereof.

(d) As soon as practicable after completion of the sale to the Company of the lands described in the First Schedule hereto the Governor shall appropriate and resume the land described in the Fourth Part of the First Schedule hereto by Gazette notification under Division 1 of Part V of the Public Works Act, 1912 as amended and for the purposes of such Act such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act and the Commissioner shall be the Constructing Authority in respect thereof and the Act ratifying this Agreement may provide accordingly and after such appropriation and resumption the Commissioner shall transfer the land acquired to the Company. The said appropriation and resumption shall not acquire the mines or deposits of coal ironstone kerosene shale limestone slate or other minerals under the land and nothing herein shall require the Commissioner to assure to the Company any mines or minerals under the land not belonging to him immediately prior to the said appropriation and resumption. The Act ratifying this Agreement shall contain provisions to the effect that the Registrar-General is to issue to the Commissioner after the said appropriation and resumption a new Certificate of Title under the Real Property Act, 1900, comprising the land described in the Fourth Part of the First Schedule hereto and that the Registrar-General shall make all such cancellations alterations and entries of and in the Register Book Certificates of Title and otherwise as he may think desirable in consequence thereof.

(e) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto the Minister shall publish in the Gazette a notice revoking the aforesaid appropriation and resumption by the Railway Commissioners of New South Wales published in the Government Gazette of the 25th day of June 1920 so far as concerns such parts of the land thereby appropriated and resumed as are within the lands described in the Sixth Part of the First Schedule hereto and the Act ratifying this Agreement shall provide for the publication of such notice and for those parts of such lands upon the publication in the Gazette of the said Notice by the Minister to be thereby vested in His Majesty the King His Heirs and Successors.

(f)

(f) The Company shall not be entitled to any assurance from the Minister the Commissioner or the Crown with respect to any part of the land comprised in the First Schedule hereto except as is provided by this clause.

(g) The Company shall pay to the Minister on demand the cost of all surveys and plans with respect to the lands described in the First and Second Schedules hereto made in connection with this Agreement and the Company agrees to pay to the Minister in respect of every Crown Grant to be issued to it under this clause (and prior to the issue of such Grant) a deed fee of the amount in like case usually payable on a Crown Grant for land specially purchased under Section 66 of the Crown Lands Consolidation Act, 1913 as amended.

19. (a) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto the Governor shall appropriate and resume the land described in the Second Schedule hereto by Gazette notification under Division 1 of Part V of the Public Works Act, 1912, as amended, for the purpose of a public road and for the purposes of the said Act such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act and the Minister for Public Works shall be the Constructing Authority in respect thereof and the Act ratifying this Agreement shall provide accordingly.

(b) The Act ratifying this Agreement shall contain provisions to the effect that sections 138 and 97 of the Public Works Act, 1912, as amended, shall not apply in respect of the said appropriation and resumption.

(c) After the land described in the Second Schedule hereto has been appropriated and resumed as aforesaid the Constructing Authority shall notwithstanding the provisions of section 81 of the Public Works Act, 1912, by Notice in the Gazette dedicate such land as a public road and thereupon the provisions of the Local Government Act, 1919, as amended, with respect to public roads, shall apply thereto accordingly but nothing herein is to affect the operation of subclause (d) of clause 23 and subclause (i) of clause 26 hereof and the Act ratifying this Agreement shall contain provisions to the effect of this subclause.

(d) Notwithstanding the appropriation and resumption as aforesaid of the land described in the Second Schedule hereto the Company shall be permitted to demolish and remove at any time from the land described in the Second Schedule hereto such part of the building known as the "U.S.N. Store" owned by the Company as encroaches upon the land described in the Second Schedule hereto and the Company hereby covenants with His Majesty His Heirs and Successors that the Company shall make no claim for compensation by reason of the appropriation or resumption as aforesaid of that

part

part of the land described in the Second Schedule hereto upon which any part of the "U.S.N. Store" is erected and that the Company shall if as and when requested in writing by the Minister or the Council of the City of Newcastle carry out at its own cost and expense the work of the demolition and removal of such portion of the "U.S.N. Store" as encroaches upon the land described in the Second Schedule hereto and such work shall be carried out to the satisfaction of the Minister. Until such time as the Company has been requested by the Minister or the Council of the City of Newcastle to demolish and remove the encroaching portion of the "U.S.N. Store" the Company shall be under no obligation to remove the same even though the land described in the Second Schedule hereto may have been dedicated as a public road.

(e) The work of the demolition and removal of the encroaching portion of the "U.S.N. Store" as aforesaid shall be carried out within such time or times and at such rate as the Minister shall determine and in the event of the Company failing to carry out and complete such work in accordance with the provisions of this subclause the Minister may without prejudice to any other remedy of His Majesty by reason of such default of the Company do all acts and things as the Minister may think necessary to remedy by the default of the Company and the Company shall on demand by the Minister pay to His Majesty His Heirs and Successors all costs and expenses incurred by the Minister in so doing and the same shall be recoverable from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof.

20. The Company shall pay to the Minister for Public Works at the time of completion of the sale of the lands described in the First Schedule hereto in addition to the purchase moneys then payable in respect of the said lands the sum of Two hundred and eighty pounds (£280) being the value of the four dolphins existing adjacent to the said lands and the said dolphins shall thereupon become the property of the Company but without prejudice to the powers and duties with respect thereto of the authority controlling the Port of Newcastle.

21. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall at its own expense at the date of commencement of this Agreement resume the construction of and thereafter continuously proceed with the construction in accordance in all respects with the approval of the Minister of a road over a width of not less than eighteen feet at levels and alignment approved of by the Minister throughout along and within the land described in the Second Schedule hereto the remainder of the said road to be constructed and completed to the same standard and specification

specification as the part of the said road already constructed together with road drainage and culverts as required by the Minister and together with drainage facilities to the satisfaction of the Minister on and along the southern side at such a level and in such a manner that suitable drainage shall be available thereto from the railway lands to the south of the said land SO THAT at the expiration of one year from the date of commencement of this Agreement or of such further period (if any) as may be allowed by the Minister in writing, the Company shall have at its own cost completed the full and proper construction as aforesaid of the whole of the said road and the Company covenants with His Majesty His Heirs and Successors to construct at its own cost the said road within the said period of one year or further period (if any) allowed in writing by the Minister in accordance in all respects with the foregoing provisions of this clause.

(b) The Company shall at its own expense maintain the said road (including the road drainage and the said drainage facilities) in good order and condition and to the satisfaction of the Minister for and during the period of one year after the Company has completed the construction of the said road in accordance with subclause (a) of this clause.

(c) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall at its own expense commence at the date of this Agreement and thereafter continuously proceed with the construction in accordance in all respects with the approval of the Commissioner of a substantial retaining wall for the purposes of retaining the railway embankment under the conditions which shall exist at the date of commencement of this Agreement in the approximate position shown between the points marked "X" and "Y" on the Plan annexed hereto and marked "C" SO THAT at the expiration of one year from the date of the commencement of this Agreement or such further period (if any) as may be allowed by the Commissioner in writing the Company shall have at its own cost completed the full and proper construction as aforesaid of the said retaining wall and the Company covenants with His Majesty His Heirs and Successors to construct at its own cost the said retaining wall within the said period of one year or further period (if any) allowed in writing by the Commissioner in accordance in all respects with the foregoing provisions of this subclause and at its own expense from time to time and at all times to maintain the said retaining wall in good order and condition to the satisfaction of the Commissioner.

(d) In the event of the Company failing to comply with any of the foregoing provisions of this clause, the Minister or the Commissioner may, without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister or the Commissioner may think necessary to remedy the default of the Company and the Company shall on demand

demand by the Minister or the Commissioner pay to His Majesty His Heirs and Successors all costs and expenses incurred by the Minister or Commissioner in so doing and the same shall be recoverable by His Majesty His Heirs and Successors from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the Secretary for Railways or the person acting in either of such offices for the time being of the amount of such costs and expenses incurred by the Minister or the Commissioner shall be prima facie evidence thereof.

(e) The Company for itself and its assigns hereby covenants with the Minister that it will from time to time and at all times hereafter indemnify and keep indemnified His Majesty His Heirs and Successors and the Commissioner his successors and assigns and the Government of the said State of New South Wales from and against all actions claims and demands which may at any time be brought or made against His Majesty His Heirs and Successors or the Commissioner his successors or assigns or the Government of the said State of New South Wales by or for any person body firm or corporation whomsoever in respect of any loss of life or of any injury to person or property or of any loss or damage occasioned by or arising out of or by reason or as a result of any act or thing done or omitted to be done by the Company its successors or assigns or its or their employees agents workmen servants or licensees in or in connection with the construction or maintenance of the retaining wall referred to in subclause (c) of this Clause.

22. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall at its own expense commence at the date notified to it in that behalf by the Minister on or after the date of completion of the sale to the Company of the lands described in the First Schedule hereto and thereafter continuously proceed with the construction and erection of a substantial fence to the approval in all respects of the Minister on and along the lines forming the western and north-western boundaries of the lands described in the Third and Fourth Parts of the First Schedule and the south-eastern and south-western boundaries of the lands described in the Fourth Third Sixth and Fifth Parts of the First Schedule hereby agreed to be sold to the Company commencing at Selwyn Street and thence southerly and southwesterly along that street to the southernmost point of the land described in the Fourth Part of such Schedule and thence continuously proceeding to the waters of the Hunter River so that at the expiration of six months from the date so notified by the Minister the Company shall have at its own cost completed the full and proper construction and erection as aforesaid of the said fence and the Company covenants with His Majesty His Heirs and Successors to construct and erect at its own cost the said fence within the said period of six months in accordance in all respects with the foregoing provisions of this clause.

(b)

(b) In the event of the Company failing to comply with any of the foregoing provisions of this Clause the Minister may, without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand by the Minister pay to His Majesty His Heirs and Successors all costs and expenses incurred by the Minister in so doing and the same shall be recoverable from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof.

23. (a) Each of them the Minister for Public Works and the Commissioner may as and when he desires to do so carry out such re-locating of all or any electricity transmission lines and cables (together with any poles pipes structures wires fittings equipment appurtenances and appliances connected therewith) the property of His Majesty or the Minister for Public Works or the Commissioner now in or on the land described in any part of the First Schedule hereto as the Minister for Public Works or the Commissioner may (subject to clause 24) consider necessary and proper.

(b) Each of them the Minister for Public Works and the Commissioner may at any time remove from the land described in any part of the First Schedule all or any electricity transmission lines and cables the property of His Majesty or the Minister for Public Works or the Commissioner and all or any poles pipes wires fittings equipment appurtenances and appliances connected therewith.

(c) The Company covenants with His Majesty His Heirs and Successors to pay to the Minister for Public Works or the Commissioner as the case may be on demand the costs and expenses incurred by the Minister for Public Works or the Commissioner in exercising the powers conferred on the Minister for Public Works or the Commissioner by subclause (a) or subclause (b) of this clause in every case where the re-locating or the removal of any electricity line or cable has been carried out at the request of the Company and the same shall be recoverable from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Public Works, in the case of the Minister for Public Works or the Secretary for Railways in the case of the Commissioner or the person acting in either of such offices for the time being of the amount of such costs and expenses incurred by the Minister for Public Works or the Commissioner shall be prima facie evidence thereof.

(d) The Act ratifying this Agreement shall contain provisions to the effect that the Minister for Public Works and the Commissioner respectively may re-locate (with any poles pipes wires fittings structures

structures equipment appurtenances and appliances considered necessary) in on under or above the land described in the Second Schedule hereto all or any electricity transmission lines and cables removed from any land described in any part of the First Schedule hereto notwithstanding the dedication of the land described in the Second Schedule hereto as a public road and that the Minister for Public Works and the Commissioner and their respective successors and assigns may use the same for the conveyance of electricity and may maintain repair add to and renew the same.

24. The Company hereby agrees to grant to the Minister for Public Works and other Ministers of the Crown in right of the State of New South Wales and the Commissioner and other statutory authorities representing the Crown in right of the State of New South Wales and the Hunter District Water Board and the Postmaster General or any of them or their respective successors and assigns on request or requests without compensation easements and rights with respect to the erection, construction, laying, operation and maintenance—FIRSTLY of all such electricity transmission lines and cables, telephone lines and cables and water pipes and mains the property of His Majesty, the Minister for Public Works or other Minister of the Crown as aforesaid or the Commissioner or other statutory authority representing the Crown as aforesaid or the Hunter District Water Board or the Postmaster General as are now upon in under or over the lands described in any part of the First Schedule hereto and SECONDLY of all such additional or substituted electricity transmission lines and cables, telephone lines and cables and water pipes and mains for the purpose of enabling such utilities to be made available for the development of the Islands in the Hunter River and other areas as the Minister for Public Works and other Ministers of the Crown as aforesaid the Commissioner and other statutory authorities representing the Crown as aforesaid and the Hunter District Water Board and the Postmaster General or any of them or their respective successors and assigns may (whether the electricity lines and cables, telephone lines and cables and water pipes and mains firstly mentioned have or have not been removed) at any time hereafter desire to erect construct or lay upon in under or over the lands described in the First Schedule hereto or the lands comprised in Certificates of Title Volume 4605 Folio 90 and Volume 5004 Folio 177 standing in the name of the Company or any part or parts thereof along routes determined by the Minister for Public Works or other Ministers of the Crown as aforesaid or the Commissioner or other statutory authorities representing the Crown as aforesaid or the Hunter District Water Board or the Postmaster General or their respective successors and assigns but not so as to interfere unreasonably with the Company's operations and all or any such easements or rights shall if the Minister for Public Works or other Minister of the Crown as aforesaid or the Commissioner or other statutory authority representing the Crown

as

as aforesaid or the Hunter District Water Board or the Postmaster General or any of their respective successors and assigns require be so granted in a form on the lines of that set out in the Third Schedule hereto.

The power of the Minister for Public Works and other Ministers of the Crown as aforesaid and the Commissioner and other statutory authorities representing the Crown as aforesaid and the Hunter District Water Board and the Postmaster General or any of them or their respective successors to assign the said easements and rights hereinbefore referred to in this clause includes power to assign from time to time to any person or corporation (including the Crown) the whole or any part or parts of any of the said easements or rights.

In this clause the term "Postmaster General" shall mean the Postmaster General of the Commonwealth of Australia or other the proper authority of the Commonwealth for the time being controlling the provision and maintenance of public telephonic and/or telegraphic services.

The Act ratifying this Agreement shall contain provisions to the following effect namely, that the provisions of this clause shall bind the lands described in the First Schedule hereto and also the lands comprised in the said Certificates of Title Volume 4605 Folio 90 and Volume 5004 Folio 177 and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements on any Crown Grant or Certificate of Title comprising such lands or any parts thereof and such other entries in the Register Book as he may think desirable in consequence thereof.

25. In contemplation of the execution of this Agreement and for the purposes thereof the Crown has carried out the removal of the thirty-ton crane (which was controlled by the Minister for Public Works) from its previous position adjacent to the southernmost corner of the land described in the Fifth Part of the First Schedule hereto to its present situation at the southern end of the Dyke Newcastle and the re-erection at that situation of a thirty-ton crane (comprising parts of the crane previously referred to and a boiler and other parts obtained from Walsh Island and elsewhere) together with the construction of railway sidings and other works in connection with the said crane at the southern end of the Dyke and also together with all such further structures facilities and foundations required so as to make that crane ready for use in all respects at its present situation by land and water AND the Company hereby covenants with His Majesty His Heirs and Successors that the Company will on the completion of the sale to the Company under this Agreement of the lands described in the First Schedule hereto pay to the Minister for Public Works the sum of Six hundred and sixty-eight pounds twelve shillings and five pence (£668. 12. 5.) on account of the costs and expenses incurred by His Majesty in the removal

of

of the crane first referred to in this Clause and the re-erection of the crane secondly referred to in this Clause together with the construction of railway sidings and works as aforesaid and together with the structures facilities and foundations as hereinbefore referred to.

26. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall if as and when requested in writing by the Commissioner carry out at its own cost and expense (or at the option of the Commissioner pay to the Commissioner the costs and expenses incurred by him in carrying out) all the following works that is to say the erection and construction of railway works and sidings in the approximate positions shown on the Plan annexed hereto and marked "C" by short heavy broken black lines so as to provide to the satisfaction of the Commissioner railway connection between the Morandoo Sidings near Selwyn Street adjacent to the lands described in the Fourth Part of the First Schedule hereto and the Commissioner's railway lines lying to the south of the land described in the Second Schedule hereto (and referred to on the said Plan as "proposed new roadway") and including a single line of railway approximately 28 chains in length and railway sidings works and connections considered necessary by the Commissioner for the purpose of re-locating and/or providing railway connection between the Morandoo Sidings near Selwyn Street and the Steel Works entrance. The railway works to be erected and constructed under this paragraph shall include the removal (and the making good of any damage thereby caused) to the satisfaction of the Commissioner of the railway sidings and works shown approximately by broken parallel lines on the western part of the said Plan and lying in or upon the said land described in the Second Schedule hereto and in or upon the land adjoining that land on the south.

Should any of the work towards the erection and construction of the railway works and sidings referred to in this subclause (a) be carried out by the Commissioner before the date of the commencement of this Agreement the Company shall pay to the Commissioner the costs and expenses incurred by the Commissioner in the carrying out of such work.

(b) The whole of the work to be erected constructed and provided as aforesaid is to be carried out and completed in proper and workmanlike manner in accordance in all respects with specifications and plans to be prepared by the Commissioner and all such work shall be carried out to the satisfaction of the Commissioner.

(c) The Company shall pay to the Commissioner on demand by the Commissioner the costs and expenses incurred by him in preparing the plans and specifications as mentioned in subclause (b) of this clause.

(d) Any request by the Commissioner to the Company under subclause (a) of this clause may be made with respect to the whole or any part or parts of the work which that subclause provides is to be carried out and the option conferred on the Commissioner by that subclause may be exercised as to the whole or any part or parts of such work.

(e) Until the whole of the work which subclause (a) of this clause provides is to be carried out is carried out and completed in accordance with subclause (b) of this clause (but subject to the carrying out of that work) the Commissioner and all other persons shall be entitled to continue to use the present railway lines and works notwithstanding the completion of the said sale to the Company.

(f) The costs and expenses incurred by the Commissioner in carrying out such of the work provided by subclause (a) of this clause to be carried out as shall be carried out by the Commissioner shall be paid by the Company to the Commissioner on demand and a certificate of the Secretary for Railways or the person acting as such for the time being of the amount of such costs and expenses incurred by the Commissioner shall be prima facie evidence thereof.

(g) Such of the work provided by subclause (a) of this clause to be carried out as is to be carried out by the Company shall be carried out within such time or times and at such rate as the Commissioner shall determine.

(h) In the event of the Company failing to carry out and complete in accordance with this clause any of the work provided by subclause (a) of this clause to be carried out which is to be carried out by the Company the Commissioner may without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Commissioner may think necessary to remedy the default of the Company and the Company shall on demand pay to the Commissioner all costs and expenses incurred by the Commissioner in so doing and the same shall be recoverable by him from the Company in a Court of competent jurisdiction and a certificate of the Secretary for Railways or the person acting as such for the time being of the amount of such costs and expenses incurred by the Commissioner shall be prima facie evidence thereof.

(i) In connection with the railway works and sidings to be erected and constructed under subclause (a) of this clause (and notwithstanding the dedication for public road of the land described in the Second Schedule hereto) railway sidings and works will be laid and retained in across and upon the said land described in the Second Schedule hereto in the position approximately indicated by short heavy broken black lines on the western part of the said Plan marked "C" and the existing railway sidings and works will be retained in across and upon such land in the position approximately indicated

indicated by black hatching and the letters "A-B" on the said part of such Plan. Each of them the Company and the Commissioner may at any time or times use for the conveyance (by locomotives other mechanical power rolling stock and otherwise) of goods live-stock persons and things the railway sidings and works that are laid and retained as aforesaid in across and upon the said land described in the Second Schedule hereto and the existing railway sidings and works that are retained as aforesaid in across and upon such land. The Company (notwithstanding the said dedication for public road) will at all times maintain repair and renew so as to keep in good order and condition the said railway sidings and works that are laid and retained in across and upon the said land described in the Second Schedule hereto and the pavement of the roadway between the rails and for the space of eighteen inches on either side of the rails comprised in such sidings and works and the said existing railway sidings and works that are retained in across and upon such land and the pavement of the roadway between the rails and for the space of eighteen inches on either side of the rails comprised in such sidings and works.

The Act ratifying this Agreement shall contain provisions for railway sidings and works being laid and/or retained in across and upon the land described in the Second Schedule hereto as mentioned in this subclause and for the enforcement of the Company's obligations to maintain repair and renew as aforesaid.

27. (a) The Company for itself and its successors and assigns hereby covenants with His Majesty His Heirs and Successors that the Company its successors and assigns will not at any time without the written consent of the Governor of the State of New South Wales use or permit or suffer to be used the lands described in the First Schedule hereto or any part thereof for or in any manner in connection with the shipment of any coal, other than coal shipped at the wharves cranes and other facilities for shipment at Newcastle of the Commissioner or the Maritime Services Board of New South Wales and other than coal shipped in a ship, the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital, for the purpose of bunkering that ship and other than coal mined or owned by the Company and shipped by it for the sole purpose of being used and consumed by the Company or any other company in which the Company holds at least one-third of the share capital in the industrial undertakings of the Company or of any such company in which the Company holds at least one-third of the share capital.

(b) Provisions to the effect of subclause (a) of this clause shall be included in the Crown Grants of the lands described in the First, Second, Third, Fifth, Sixth and Seventh Parts of the First Schedule hereto and (without limiting the foregoing) the Act ratifying this Agreement shall provide that such provisions of the said

said Crown Grants shall be deemed to be covenants by the Company for itself its successors and assigns with His Majesty His Heirs and Successors and that such provisions shall bind the said lands and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements upon any Crown Grant or Certificate of Title comprising such lands or any part thereof and such other entries in the Register Book as he may think desirable in consequence thereof.

(c) The Company shall in the Transfer of the land described in the Fourth Part of the First Schedule hereto to be executed in the Company's favour by the Commissioner enter into such covenants to bind not only the Company but also the Company's sequels in title and the land described in the Fourth Part of the First Schedule hereto in such form as shall in the opinion of the Commissioner be necessary to give full effect to the provisions of subclause (a) of this clause in so far as they relate to such land and the Act ratifying this Agreement shall provide that the covenants contained in such Transfer shall bind the land described in the Fourth Part of the First Schedule hereto and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements upon any Crown Grant or Certificate of Title comprising such land or any part thereof or such other entries in the Register Book as he may think desirable in consequence thereof.

28. (a) As from the date of commencement of this Agreement there shall be granted to the Company as lessee those parts of the bed of the Hunter River fronting the lands described in the First Schedule hereto upon which wharves or other structures the property of the Company have been erected or constructed for the term of ninety-nine years and at the yearly rental of Two hundred and fifty pounds (£250) or such other amount as may be determined on reappraisement as provided by subclause (f) of this Clause, and as soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto there shall be issued to the Company a lease of the said parts of the bed of the Hunter River.

(b) Subject to the provisions hereinafter appearing the Company shall have the exclusive right from time to time and at all times during the said period of ninety-nine years to construct and erect wharves and other facilities for loading or unloading goods and other structures upon any and every part of the bed of the Hunter River fronting the lands described in the First Schedule hereto but only to such distance outwards from high water mark as may be approved in each case by the Minister. Upon completion of any wharf or other structure constructed by the Company under the provisions of this subclause the Company shall be entitled to receive

receive for the balance then unexpired of the said period of ninety-nine years a lease of the part of the bed of the Hunter River upon which such wharf or other structure has been constructed and the Company shall not be called upon to pay in respect of any such lease any rental in addition to the rental of Two hundred and fifty pounds (£250) referred to in the preceding subclause.

(c) All wharves facilities and other structures to be erected and constructed by the Company under the preceding sub-clause shall be erected and constructed by the Company at its own cost and expense and the work of erecting and constructing the same shall be carried out and completed in a proper and workmanlike manner and in accordance in all respects with specifications and plans previously approved of in writing by the Minister and all such work shall be carried out to the satisfaction of the Minister. The plans and specifications referred to in this subclause shall be furnished by the Company to the Minister at the cost and expense of the Company.

(d) Every lease to be issued to the Company in accordance with the provisions of subclause (a) or subclause (b) of this clause shall be limited to the surface of the land thereby leased and to a depth of 400 feet below such surface and shall include conditions in or to the effect of the conditions set out in the Fourth Schedule hereto.

(e) The Company shall pay to the Minister on demand the cost of all surveys and plans made in connection with any lease granted to the Company in accordance with the provisions of subclause (a) or subclause (b) of this clause or in connection with any wharf facility or other structure erected or proposed to be erected by the Company in accordance with the provisions of subclause (b) of this clause.

(f) The said rental of Two hundred and fifty pounds (£250) shall be liable to re-appraisement at the expiration of each period of twenty-five years during the said period of ninety-nine years and in every such case the re-appraised rental shall be such sum as is determined by the Local Land Board constituted under the Crown Lands Consolidation Act, 1913, as amended, or on appeal therefrom by the Land and Valuation Court.

The Act ratifying this Agreement shall provide—

(i) That for the purpose of the Local Land Board determining the rental under this subclause such Board and the Chairman and Members thereof shall respectively have the same powers as when acting under the Crown Lands Consolidation Act, 1913, as amended, for the purpose of the said Board determining rentals thereunder: and

(ii) That any appeal to the Land and Valuation Court from the determination by the Local Land Board of rental under this subclause shall be made within twenty eight days of the date of the determination by filing within such period notice

notice of the appeal in the office of the Registrar of the Land and Valuation Court and by serving within the same period notice of the appeal on the other party to the determination: and

(iii) That for the purpose of dealing with any and every such appeal the Land and Valuation Court and the Judge thereof shall have the same powers as when dealing with appeals from Local Land Boards under the Crown Lands Consolidation Act, 1913, as amended.

(g) The Company shall for and during the said period of ninety-nine years at its own cost and expense carry out all work which shall be necessary to protect and maintain from erosion and to the satisfaction of the Minister such parts of the lands above high water mark comprised in the First Schedule hereto as adjoin or are adjacent to the Hunter River and such work shall be carried out by the Company at and within such time or times and at such rate as the Minister shall determine.

(h) In the event of the Company failing to carry out and complete in accordance with this clause any of the work provided by the preceding subclause to be carried out by the Company the Minister may without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand pay to the Minister all costs and expenses incurred by the Minister in so doing and the same shall be recoverable by him from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof and neither His Majesty nor the Minister shall incur any liability towards the Company by reason of any damage whatsoever done to or upon the lands comprised in any lease granted to the Company in accordance with the provisions of subclause (a) or subclause (b) of this clause or any wharf facility or structure thereon or to or upon any adjoining or adjacent lands above high water mark in the performance by the Minister, his employees, agents, workmen, servants or licensees of any act or thing permitted to be done by the Minister under the provisions of this subclause.

(i) The Minister on behalf of His Majesty agrees with the Company that His Majesty will not at any time during the said period of ninety-nine years grant to any person without the consent of the Company any right of occupancy of or any right to erect or construct or place any structure upon in or over the bed of the Hunter River adjoining or adjacent to the lands described in the First Schedule hereto which would interfere unreasonably with the exercise by the Company of any of the rights granted to the

Company

Company under the provisions of this Clause AND in any case shall not grant any such right closer to high water mark than the line generally 45 feet distant therefrom shown on the Plan annexed hereto and marked "C."

29. (a) The Company hereby agrees with His Majesty and the Act ratifying this Agreement shall contain provisions to the effect that the Harbour and Tonnage Rates Act, 1920-1935, and any Act amending or replacing the same and the regulations from time to time in force thereunder but insofar only as such Acts and regulations relate to the imposition collection and payment of tonnage rates and berthing charges shall apply to and in respect of every wharf (which term for the purposes of this clause shall include any structure landing place or facility where cargo may be loaded or discharged or where vessels may be berthed) now or hereafter erected constructed or provided upon the lands described in the First Schedule hereto or upon lands adjoining or adjacent thereto as if the same were a public wharf and that accordingly tonnage rates and berthing charges in accordance with the said Act and Regulations will be payable in respect of all vessels berthing at any such wharf subject to the following exceptions such exceptions being applicable only to vessels whilst berthed thereat:—

(i) Any vessel carrying, loading or discharging only cargo the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital shall be exempt from the payment of such tonnage rates and berthing charges.

(ii) Any vessel carrying, loading or discharging cargo part only of which is the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital shall be granted a rebate of such tonnage rates and berthing charges to the extent of the ratio which the part of the cargo which is the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital bears to the whole of such cargo.

(iii) Any vessel the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital berthing for a purpose other than the loading or discharging of cargo shall be exempt from the payment of such tonnage rates and berthing charges.

(b) The Company shall keep or cause to be kept in proper books true and complete records of all such matters in relation to all vessels berthing at any wharf now or hereafter constructed erected or provided upon adjoining or adjacent to the lands described in the First Schedule hereto as may be necessary to enable the Maritime Services Board of New South Wales or other proper authority to determine

determine the tonnage rates and berthing charges payable in respect of such vessels in accordance with subclause (a) of this Clause and the Act ratifying this Agreement, and the Company shall allow and provide every reasonable facility for the Maritime Services Board of New South Wales or other proper authority and any person authorised by such Board or authority at all reasonable times to inspect and make copies of or extracts from such records AND the Company shall at such times as are required by such Board or authority during the period of ninety-nine years referred to in Clause 28 hereof furnish to such Board or other authority all such particulars as such Board or authority may deem necessary for the purpose of enabling such Board or authority to ascertain and determine the tonnage rates and berthing charges payable in respect of all vessels berthing at any wharf now or hereafter constructed erected or provided upon adjoining or adjacent to the lands described in the First Schedule hereto.

30. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall pay to the Minister for Public Works the costs and expenses incurred by him in carrying out all the following work that is to say:

(i) Such dredging as may from time to time be required by the Company within a distance of 60 feet from the face of all berths, wharves and landing places now or at any time hereafter constructed erected or provided upon adjoining or adjacent to the lands described in the First Schedule hereto.

(ii) All such dredging and other work as may be necessary to carry out the construction of a channel upstream from the swinging basin and to such dimensions as may be required from time to time by the Company.

(iii) All such dredging and other work as may be necessary to carry out any extension of the swinging basin which may be required by the Company.

(b) Notwithstanding the covenant hereinbefore contained on the part of the Company to pay to the Minister for Public Works the costs and expenses incurred by him in carrying out the work referred to in subclause (a) of this Clause the Company shall be permitted to carry out itself and at its own expense all or any of the work referred to in paragraph (i) of subclause (a) of this Clause subject to the approval of the Minister for Public Works in writing being first obtained and upon such conditions as may be determined by the Minister for Public Works.

(c) The costs and expenses incurred by the Minister for Public Works in carrying out the work provided by subclause (a) of this Clause shall be paid by the Company to the Minister for Public Works on demand and a certificate of the Under Secretary, Department of Public Works, or the person acting as such for the time being

being of the amount of such costs and expenses incurred by the Minister for Public Works shall be prima facie evidence thereof.

(d) The Minister for Public Works or the Government of the said State of New South Wales will during the said period of ninety-nine years referred to in Clause 28 hereof at the cost of His Majesty—

(i) maintain a channel from the Pacific Ocean to the swinging basin and the swinging basin and all extensions thereto carried out under the provisions of paragraph (iii) of subclause (a) of this Clause at a depth which in the opinion of the Minister for Public Works is reasonable having regard to the normal requirements of the shipping in the Port of Newcastle,

(ii) maintain any channel constructed under the provisions of paragraph (ii) of subclause (a) of this Clause to the dimensions to which such work has been carried out at the expense of the Company provided however that in the opinion of the Minister for Public Works the maintenance of such channel to such dimensions is reasonable having regard to the normal requirements of shipping at the Company's berths and the requirements elsewhere in the Port of Newcastle.

(e) The liability of the Minister for Public Works or the Government of the said State of New South Wales to carry out dredging operations under this Clause shall be governed by the availability of dredging equipment at any particular time having regard to the necessity to use such dredging equipment elsewhere in the Port of Newcastle.

31. (a) The Company shall pay to the Minister for Public Works at the time of completion of the sale of the lands described in the First Schedule hereto in addition to the purchase moneys then payable in respect of the said lands the sum of Eight thousand seven hundred and ninety-seven pounds nineteen shillings and one penny (£8,797. 19. 1.) being the balance of cost to His Majesty of the initial dredging for the swinging basin extension which was carried out mainly in 1947.

(b) On the completion of the sale of the lands described in the First Schedule hereto the obligation of the Company under the provisions of the Newcastle Iron and Steel Works Act, 1912, to pay interest at the rate of 5% per annum on the sum of Twenty nine thousand two hundred and fifty five pounds fourteen shillings (£29,255. 14. 0.) being the cost of dredging the swinging basin and lower berth and of reclamations all of which were carried out prior to the 31st day of January 1915, shall cease and the Act ratifying this Agreement shall provide accordingly. Any necessary apportionment of the interest paid or payable by the Company shall be made and adjusted on completion.

(c) On the completion of the sale of the lands described in the First Schedule hereto the obligation of the Company to pay to the Minister for Public Works the sum of Four hundred and seventy-three pounds ten shillings and sixpence (£473. 10. 6.) per annum for the cost of the maintenance of the swinging basin extension which was carried out mainly in 1947 shall cease and any necessary apportionment of the moneys paid or payable by the Company shall be made and adjusted upon completion.

32. On the completion of the sale to the Company under this Agreement of the lands described in the First Schedule hereto the Lease granted to the Company by Section 4 of the Newcastle Iron and Steel Works Act, 1912, and the Agreement set out in the Schedule to that Act and the rights and obligations of the Company thereunder shall cease and determine and the Act ratifying this Agreement shall provide for the repeal of the Newcastle Iron and Steel Works Act, 1912. Any necessary apportionment of rental paid or payable by the Company in respect of this Lease shall be made and adjusted on completion.

33. On the completion of the sale to the Company under this Agreement of the lands described in the First Schedule hereto the Permissive Occupancy granted to the Company in respect of the lands formerly comprised in Special Lease No. 11 of 1919 Newcastle granted to the Company shall cease and determine and any necessary apportionment of rental paid or payable by the Company in respect of the Permissive Occupancy shall be made and adjusted on completion.

34. Nothing in this Agreement contained shall affect in any way the liability of the Company or any other person to pay harbour rates in accordance with the provisions of the Harbour and Tonnage Rates Act, 1920-1935, and any Act amending or replacing the same and the regulations from time to time in force thereunder.

35. (a) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by or on behalf of the Minister or His Majesty His Heirs or Successors shall be deemed to have been duly given if signed by the Under Secretary, Department of Lands, or the person acting as such for the time being.

(b) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by the Commissioner shall be deemed to have been duly given if signed by the Secretary for Railways or the person acting as such for the time being.

(c) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by the Minister for Public Works shall be deemed to have been duly given if signed by the Under Secretary, Department of Public Works, or the person acting as such for the time being.

(d)

(d) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by the Maritime Services Board of New South Wales shall be deemed to have been duly given if signed by the Secretary to the Board or by the Harbour Master at Newcastle or by the person for the time being acting in either of such offices.

36. This Agreement is subject to ratification by the Parliament of the State of New South Wales and shall come into effect when so ratified and the expression "the date of commencement of this Agreement" means the date of commencement of the Act which ratifies it PROVIDED that if this Agreement is not ratified by the said Parliament before the thirtieth day of April 1950 it shall become null and void.

37. As between the Commissioner and His Majesty the part of the said price of One hundred thousand pounds (£100,000) to be paid by the Company to the Minister on the completion of the sale of the lands described in the First Schedule hereto which the Commissioner shall be entitled to receive from the Minister shall be the sum of Five thousand eight hundred and fifty pounds (£5,850) (being the part of such price attributable to the estates and interests held by the Commissioner in the lands described in the First and Second Schedules hereto). Any such payment to the Commissioner shall be subject to his giving such indemnity to the Minister against claims by any person in respect of any part of the land described in the Second Schedule hereto or any interest therein as the Minister and the Commissioner may agree upon or in default as determined by the Governor.

IN WITNESS whereof the parties hereto have executed this Agreement the day and year first above written.

FIRST SCHEDULE TO AGREEMENT.

First Part.

ALL THAT piece or parcel of land containing by admeasurement 34 acres 1 rood be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2936 COMMENCING on the original high water mark of the right bank of the South Channel of the Hunter River at the South Eastern corner of portion 349 of 14 acres 21½ perches and bounded thence on the West by the Eastern boundary of portion 349 bearing North 21 minutes West 227 feet 8½ inches on the North East by lines dividing this land from the area of 2 acres 1 rood 14 perches described in the Seventh Part hereof bearing South 66 degrees 6 minutes East

1,055 feet 11 inches thence south 63 degrees 21 minutes East 280 feet 11½ inches and thence by lines dividing it from portion 2,937 of 5 acres 3 perches bearing South 40 degrees 1 minute 30 seconds West 2 feet 11½ inches South 51 degrees 14 minutes 30 seconds East 704 feet 11¾ inches South 37 degrees 9 minutes 30 seconds West 11 feet 10½ inches South 51 degrees 10 minutes 30 seconds East 682 feet 4½ inches and thence South 33 degrees 30 minutes 30 seconds East 766 feet 11 inches on the South East by a line dividing it from the area of 9 acres 32 perches described in the Second Part hereof bearing South 50 degrees 33 minutes West 1,051 feet 7½ inches and thence by lines dividing it from the area of 3 acres 2 roods 24 perches described in the Third Part hereof bearing South 54 degrees 13 minutes 30 seconds West 97 feet 4¼ inches and thence by 51 feet 5¾ inches of the arc of a circle of 380 feet radius the centre of which lies North Westerly of a chord bearing South 65 degrees 5 minutes 20 seconds West 51 feet 5 inches to the original high water mark of the right bank of Throsby Creek again on the West and generally on the North West by that original high water mark of Throsby Creek Northerly and thence generally North Easterly to its junction with the original high watermark of the right bank of the South Channel of the Hunter River aforesaid and on the South West by the lastmentioned original high water mark North Westerly to the point of commencement.

SECOND PART.

ALL THAT piece or parcel of land containing by admeasurement 9 acres 32 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on a South Western boundary of portion 2,937 of 5 acres 3 perches at the Easternmost corner of the area of 34 acres 1 rood described in the First Part hereof and bounded thence on the North West by a line dividing this land from that 34 acres 1 rood bearing South 50 degrees 33 minutes West 1,051 feet 7½ inches on the South by a Northern boundary of the area of 3 acres 2 roods 24 perches described in the Third Part hereof bearing South 89 degrees 47 minutes 30 seconds East 1,167 feet 4 inches and on the North East by lines dividing it from portion 2,937 aforesaid bearing North 26 degrees 34 minutes 30 seconds West 610 feet 9 inches and thence North 33 degrees 30 minutes 30 seconds West 158 feet to the point of commencement.

THIRD PART.

ALL THAT piece or parcel of land containing by admeasurement 3 acres 2 roods 24 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of

of Portion 2,936 COMMENCING on a South Western boundary of portion 2,937 of 5 acres 3 perches at the South Eastern corner of the area of 9 acres 32 perches described in the Second Part hereof and bounded thence on the North by the Southern boundary of that 9 acres 32 perches bearing North 89 degrees 47 minutes 30 seconds West 1,167 feet 4 inches on the North West by lines dividing this land from the area of 34 acres 1 rood described in the First Part hereof bearing South 54 degrees 13 minutes 30 seconds West 97 feet 4¼ inches and thence by 51 feet 5¾ inches of the arc of a circle of 380 feet radius the centre of which lies North Westerly of a chord bearing South 65 degrees 5 minutes 20 seconds West 51 feet 5 inches and thence by a line dividing it from the Northernmost part of a measured portion of part of 24 acres being the residue of portion 156 being 140 feet 10¼ inches of the arc of a circle of 380 feet radius the centre of which lies North Westerly of a chord bearing South 79 degrees 35 minutes 20 seconds West 140 feet and one half of an inch again on the North by the Southern boundary of that part of the residue of portion 156 bearing North 89 degrees 47 minutes 30 seconds West 1,521 feet 6 inches to Selwyn Street on the West and again on the North West by Selwyn Street bearing South 4 minutes East 32 feet and thence South 6 degrees 18 minutes West 34 feet 2¼ inches on the South by the Northern boundary of the area of 2 acres 3 roods 3 perches described in the Fourth Part hereof bearing South 89 degrees 47 minutes 30 seconds East 1,303 feet 11 inches on the South East by a line dividing it from the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto bearing North 82 degrees 22 minutes 50 seconds East 462 feet 10¼ inches and thence by the North Western boundary of the area of 2 roods 14 perches described in the Sixth Part hereof bearing North 50 degrees 12 minutes 30 seconds East 105 feet 5¾ inches again on the South by the Northern boundary of that 2 roods 14 perches and a Northern boundary of the area of 2 acres 1 rood 33 perches described in the Fifth Part hereof in all bearing South 89 degrees 47 minutes 30 seconds East 1,123 feet 1¾ inches and on the North East by a line dividing it from portion 2,937 aforesaid bearing North 15 degrees 17 minutes 45 seconds West 41 feet 6 inches to the point of commencement.

FOURTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 acres 3 roods 3 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on the South Eastern side of Selwyn Street at the South Western corner of the area of 3 acres 2 roods 24 perches described in the Third Part hereof and bounded thence on the North West by Selwyn Street bearing South 6 degrees 18 minutes West 105 feet 8¾ inches and thence by Selwyn Street being

being 110 feet 2 inches of the arc of a circle of 520 feet 1 inch radius the centre of which lies North Westerly of a chord bearing South 39 degrees 23 minutes 30 seconds West 109 feet 11¼ inches on the South East by a line dividing this land from the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto bearing North 82 degrees 22 minutes 50 seconds East 1,397 feet 7½ inches and on the North by a Southern boundary of the aforesaid 3 acres 2 roods 24 perches bearing North 89 degrees 47 minutes 30 seconds West 1,303 feet 11 inches to the point of commencement.

FIFTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 acres 1 rood 33 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on a South Western boundary of portion 2,937 of 5 acres 3 perches at the most Easterly South Eastern corner of the area of 3 acres 2 roods 24 perches described in the Third Part hereof and bounded thence on the North by part of a Southern boundary of that 3 acres 2 roods 24 perches bearing North 89 degrees 47 minutes 30 seconds West 304 feet 7 inches on the West by the Eastern boundary of the area of 2 roods 14 perches described in the Sixth Part hereof bearing South 12 minutes 30 seconds West 64 feet 10 inches again on the North by a Southern boundary of that 2 roods 14 perches bearing North 89 degrees 47 minutes 30 seconds West 77 feet 6 inches on the South West by lines dividing this land from the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto being 71 feet 3 inches of the arc of a circle of 726 feet radius the centre of which lies South Westerly of a chord bearing South 64 degrees 26 minutes East 70 feet 3¾ inches thence by a line bearing South 46 degrees 29 minutes 30 seconds East 253 feet 7 inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing South 70 degrees 22 minutes East 46 feet 11¼ inches thence by 96 feet 8 inches of the arc of a circle of 58 feet radius the centre of which lies South Westerly of a chord bearing South 46 degrees 29 minutes 30 seconds East 85 feet 10½ inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing South 22 degrees 37 minutes East 46 feet 11¼ inches and thence by a line bearing South 41 degrees 6 minutes 30 seconds East 210 feet 2¼ inches on the South East by a North Western boundary of the aforesaid 5 acres 1 rood 30 perches bearing North 74 degrees 49 minutes East 20 feet 1 inch and on the North East by a South Western boundary of portion 2,937 aforesaid bearing North 15 degrees 11 minutes West 561 feet 5 inches to the point of commencement.

Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification.

SIXTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 roods 14 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on a North Eastern boundary of the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto at the most Westerly North Western corner of the area of 2 acres 1 rood 33 perches described in the Fifth part hereof and bounded thence on the South by a Northern boundary of that 2 acres 1 rood 33 perches bearing South 89 degrees 47 minutes 30 seconds East 77 feet 6 inches on the East by a Western boundary of that 2 acres, 1 rood 33 perches bearing North 12 minutes 30 seconds East 64 feet 10 inches on the North by part of a Southern boundary of the area of 3 acres 2 roods 24 perches described in the Third Part hereof bearing North 89 degrees 47 minutes 30 seconds West 818 feet 6¾ inches on the North West by a South Eastern boundary of that 3 acres 2 roods 24 perches bearing South 50 degrees 12 minutes 30 seconds West 105 feet 5¾ inches on the South East by a line dividing this land from the aforesaid 5 acres 1 rood 30 perches bearing North 82 degrees 22 minutes 50 seconds East 432 feet and one quarter of an inch and on the South West by a line dividing it from that 5 acres 30 perches being 402 feet 11¾ inches of the arc of a circle of 726 feet radius the centre of which lies South Westerly of a chord bearing South 81 degrees 43 minutes East 397 feet 10 inches to the point of commencement.

SEVENTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 acres 1 rood 14 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on the high water mark of the right bank of the South Channel of the Hunter River at the Eastern corner of Portion 2,872 of 3 acres 26 perches and bounded thence on the North West by the South Eastern boundary of portion 2,872 bearing South 23 degrees 54 minutes West 90 feet on the South West by lines dividing this land from the area of 34 acres 1 rood described in the First Part hereof bearing South 66 degrees 6 minutes East 1,055 feet 11 inches and thence South 63 degrees 21 minutes East 280 feet 11½ inches and on the North East by lines dividing this land from portion 2,937 of 5 acres 3 perches bearing North 51 degrees 14 minutes 30 seconds West 403 feet 6¾ inches and thence North 66 degrees 6 minutes West 946 feet 6 inches to the point of commencement.

SECOND

Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification.

SECOND SCHEDULE TO AGREEMENT.

ALL THAT piece or parcel of land containing by admeasurement 5 acres 1 rood 30 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington COMMENCING at the Easternmost corner of portion 2,936 of 55 acres 1 rood and bounded thence on the North West by a South Eastern boundary of portion 2,936 bearing South 74 degrees 49 minutes West 20 feet 1 inch on the North East by lines dividing this land from portion 2,936 bearing North 41 degrees 6 minutes 30 seconds West 210 feet 2¼ inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing North 22 degrees 37 minutes West 46 feet 11¼ inches thence by 96 feet 8 inches of the arc of a circle of 58 feet radius the centre of which lies South Westerly of a chord bearing North 46 degrees 29 minutes 30 seconds West 85 feet 10½ inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing North 70 degrees 22 minutes West 46 feet 11¼ inches thence by a line bearing North 46 degrees 29 minutes 30 seconds West 253 feet 7 inches and thence by 474 feet 2¾ inches of the arc of a circle of 726 feet radius the centre of which lies South Westerly of a chord bearing North 78 degrees 54 minutes 30 seconds West 465 feet 10 inches on the North West by a South Eastern boundary of portion 2,936 bearing South 82 degrees 22 minutes 50 seconds West 2,292 feet 6 inches to Selwyn Street and thence by Selwyn Street being 134 feet 3¾ inches of the arc of a circle of 520 feet 1 inch radius the centre of which lies North Westerly of a chord bearing South 52 degrees 51 minutes 30 seconds West 133 feet 11¼ inches on the South East by a line bearing North 82 degrees 22 minutes 50 seconds East 2409 feet 1¼ inches on the South West by a line being 423 feet 5 inches of the arc of a circle of 660 feet radius the centre of which lies South Westerly of a chord bearing South 79 degrees 14 minutes 30 seconds East 416 feet 2½ inches and thence by lines bearing South 46 degrees 29 minutes 30 seconds East 414 feet thence South 41 degrees 6 minutes 30 seconds East 374 feet 4 inches and again on the North East by lines bearing North 12 degrees 33 minutes 30 seconds West 138 feet 1¼ inches and thence North 15 degrees 11 minutes West 41 feet 4 inches to the point of commencement.

THIRD

THIRD SCHEDULE TO AGREEMENT.

FORM OF EASEMENT.

THE BROKEN HILL PROPRIETARY COMPANY LIMITED a corporation carrying on business in the State of New South Wales (herein called Transferor) being registered as the proprietor of an estate in fee simple in the land hereafter described subject however to such encumbrances liens and interests as are notified hereunder in consideration of Ten shillings, the receipt whereof is hereby acknowledged, paid to the Transferor by

[1] (herein called Transferee) doth hereby transfer grant and confirm unto the Transferee {his / its} successors and assigns full and free right and liberty for the transferee {his / its} successors and assigns at all times hereafter to use and maintain for the purpose of

the transmission of electrical energy the electricity / transmission lines and cables / communication the telephone lines and cables / the passage or conveyance of water the lines of pipes [2]

(if any) (together with poles pipes structures wires fittings equipment appliances and appurtenances connected therewith) at present constructed erected installed and laid upon in under and over all that piece of land situate in the Parish of Newcastle County of Northumberland being that part of the land comprised in

Crown Grant / Certificate of Title Registered Volume Folio

shown on the Plan annexed hereto and marked "A" and also for the purpose aforesaid to construct erect instal lay use and maintain upon in under and over the said land along routes determined by the Transferee {his / its} successors or assigns but not so as to interfere unreasonably with the Company's operations any one or more

electricity transmission lines and cables / telephone lines and cables / lines of pipes [3]

(together with poles pipes structures wires fittings equipment appliances and appurtenances connected therewith) in substitution for or in duplication of or in addition to the aforesaid

electricity transmission lines and cables / telephone lines and cables / lines of pipes [2]

now upon in under and over the said land and also from time to time to inspect the condition of and amend and repair all or any of the said

electricity transmission lines and cables / telephone lines and cables / lines of pipes [3]

poles

poles pipes structures wires fittings equipment appliances and appurtenances (now and hereafter upon in under and over the said land) and for the purposes aforesaid or any of them at all reasonable times to enter upon go return pass and repass through along and over the said land with or without servants workmen and other persons horses carts waggons motors materials and any vehicles and appliances and to make all necessary excavations in or under the said land provided always and it is hereby agreed and declared that in the event of the transferee {his / its} successors or assigns ceasing at any time hereafter to use any of the said

electricity transmission lines and cables
telephone lines and cables
lines of pipes

[2]

poles pipes structures wires fittings equipment appliances or appurtenances for the purpose aforesaid {he / it} or they may remove the same from the said land, making good any damage occasioned by such removal.

[1] Insert name of Minister or Authority to whom easement is to be granted.
[2] Delete unnecessary words according to nature of Easement to be granted.

FOURTH SCHEDULE TO AGREEMENT.

Lease Conditions.

(1) The Company shall at all times at its own cost and expense and to the satisfaction of the Minister maintain repair and renew so as to keep in good order and condition all wharves facilities and other structures now or hereafter constructed erected or provided upon the land leased, unless the Minister shall agree in writing to the demolition and removal of any such wharf facility or other structure, in which case the Company shall at its own cost and expense demolish and remove such wharf facility or other structure and such work shall be carried out to the satisfaction of the Minister.

(2) Upon the expiration of the lease or upon the sooner determination thereof for any reason whatsoever the Company shall if as and when requested in writing by the Minister carry out at its own cost and expense the work of the demolition and removal of such wharves facilities and other structures upon the land hereby leased as the Minister may require and such work shall be carried out to the satisfaction of the Minister.

(3) The lease shall not confer any right to purchase the land.

(4) The land leased shall be used only for the purposes for which it is granted.

(5)

(5) The Company shall pay all rates taxes charges assessments and outgoings upon or in respect of the land leased or the Company's operations thereon during the currency of the lease.

(6) The Company shall not assign sublet or part with the possession of the land leased or any part thereof without the consent in writing of the Minister.

(7) The Company shall at all times at its own cost and expense and to the satisfaction of the Minister keep all wharves facilities and other structures now or hereafter constructed erected or provided upon the land leased in good sanitary condition and free from rats and mice and the right is reserved to terminate the lease should the Minister be of the opinion that the public health is endangered thereby or that any nuisance is committed.

(8) The right of ingress egress and regress in over and out of the land leased and any wharves facilities or other structures constructed erected or provided thereon is reserved to the Minister or any person or persons authorised by him in that behalf.

(9) Any necessary public service may be constructed or laid on the land leased without charge and either above or below the surface after giving to the Company one month's notice in writing of the intention to construct or lay any such public service.

(10) The Company shall not at any time without the written consent of the Governor of the State of New South Wales use or permit or suffer to be used the land leased or any part thereof or any wharf facility or other structure now or hereafter constructed erected or provided thereon for or in any manner in connection with the shipment of any coal, other than coal shipped at the wharves cranes and other facilities for shipment at Newcastle of the Commissioner or the Maritime Services Board of New South Wales or other the Authority controlling the Port of Newcastle and other than coal shipped in a ship, the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital, for the purpose of bunkering that ship and other than coal mined or owned by the Company and shipped by it for the sole purpose of being used and consumed by the Company or any other company in which the Company holds at least one-third of the share capital in the industrial undertakings of the Company or of any such company in which the Company holds at least one-third of the share capital.

(11) In the event of the Company failing to carry out and complete any of the work provided by conditions (1) (2) and (7) of the lease to be carried out by the Company the Minister may without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand pay to the Minister all costs and expenses incurred by the Minister in so doing and the same shall be recoverable

by

by him from the Company in a Court of competent jurisdiction and a Certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof and neither His Majesty nor the Minister shall incur any liability towards the Company by reason of any damage whatsoever done to or upon the land leased or any wharf facility or structure thereon or to or upon any adjoining or adjacent lands above high water mark in the performance by the Minister, his employees, agents, workmen, servants or licensees of any act or thing permitted to be done by the Minister under the provisions of this condition.

(12) The work provided by conditions (1) (2) and (7) of the lease to be carried out by the Company shall be carried out at and within such time or times and at such rate as the Minister shall determine.

(13) It is expressly declared that mining operations may have been and may be carried on upon and in the land below the land hereby leased and the lands adjoining the land hereby leased and the land below the same and metals and minerals may have been and may be removed therefrom and that these presents are made upon and subject to the condition that the Company and its assigns shall not be entitled to make or prosecute any claim for damages or take any proceedings either by way of injunction or otherwise against His Majesty His Heirs or Successors or the Government of the State of New South Wales or any lessee or lessees under any Mining Act or Acts of the said State or his or their executors administrators or assigns for or in respect of any damage or loss occasioned by the letting down subsidence or lateral movement of the land hereby leased or otherwise howsoever by reason of the following acts and matters that is to say by reason of His Majesty His Heirs or Successors or the Government of the said State or any person on His Their or Its behalf or any Lessee or Lessees as aforesaid or his or their executors administrators or assigns having worked or now or hereafter working any mines or having carried on or now or hereafter carrying on mining operations or having searched for worked won or removed or now or hereafter searching for working winning or removing any metals or minerals under in or from the land below the land hereby leased or on in under or from any other lands situated laterally to the land hereby leased and the land below the same and whether on or below the surface of such other lands. AND there is hereby expressly reserved unto His Majesty His Heirs and Successors the liberty and authority by reason of the acts and matters aforesaid or in the course thereof for His Majesty His Heirs and Successors and the Government of the said State and any person on His Their or Its behalf and any Lessee or Lessees as aforesaid and his or their executors administrators and assigns to from time to time let down without payment of any compensation whatsoever any part of the land hereby leased and/or of the surface thereof.

(14)

(14) A breach of any of the conditions of the lease shall render the lease liable to forfeiture. Such forfeiture may be effected by publication in the Gazette of a notice signed by the Minister declaring the lease to be forfeited. Provided however that no such notice shall be published in the Gazette unless the Minister has first served upon the Company a notice in or to the effect of the form set out in the Sixth Schedule to the Conveyancing Acts, 1919-1943 specifying the particular breach complained of and if the breach is capable of remedy requiring the Company to remedy it and in case the Minister claims compensation in money requiring the Company to pay such compensation and the Company has failed within a reasonable time to remedy the breach if remediable or to pay reasonable compensation to the satisfaction of the Minister where compensation in money is required.

THE COMMON SEAL OF THE BROKEN HILL PROPRIETARY COMPANY LIMITED was hereunto affixed by the Authority of its Board of Directors in the presence of LEONARD DARLING and COLIN YORK SYME two of such Directors and of REGINALD GEORGE NEWTON, Secretary.

L.S.

L. DARLING, C. Y. SYME } Directors.

R. G. NEWTON, Secretary.

SIGNED SEALED AND DELIVERED by WILLIAM FRANCIS SHEAHAN the Minister for Lands of the State of New South Wales for and on behalf of His Majesty the King in the presence of:

A. R. JONES, J.P.

W. SHEAHAN.

By Authority:
ALFRED HENRY PETTIFER, Government Printer, Sydney, 1950.
[1*s.* 6*d.*]

C

PLAN

Showing lands to be acquired by the Broken Hill Proprietary Company Limited and proposed new roadway.

PARISH OF NEWCASTLE. COUNTY OF NORTHUMBERLAND.

CITY OF NEWCASTLE

Scale

FEET 100 50 0 100 200 300 400 500 600 700 FEET

North

H. W. M.
2872
Old 3a Or 26p
H.W.M.
349
14a Or 21½p
ORIGINAL H.W.M.
2937
(N. 7786 2111 R.)
HIGH
7
2936
(N. 7785 2111 R.)
Original High Water Mark of South Channel Hunter River
HUNTER RIVER SOUTH CHANNEL
SWINGING BASIN
WATER
1
CHANNEL TO PACIFIC OCEAN
Original High Water Mark Throsby Ck.
55ac 1r 0p
2
5ac 0r 3p. MARK
Residue of 156
Pt 24 ac
Street
3
6
ROADWAY
6
3
U.S.N. STORE
5
4
PROPOSED NEW (Second Schedule)
5ac 1r 30p
X
Y
B
A
Selwyn
TOWN OF CARRINGTON
H.W.M.

NOTES

Land to be purchased (por 2936 of 55a 1r) ..... shown thus
Land comprised in por 2937 of 5a Or 3p (below High Water Mark) ..... do.
Proposed New Roadway (5a 1r 30p., Second Schedule) ..... do.

(1) 34a. 1r. 0p. First Part of First Schedule
(2) 9a. 0r. 32p. Second do do
(3) 3a. 2r. 24p. Third do do
(4) 2a. 3r. 3p. Fourth do do
(5) 2a. 1r. 33p. Fifth do do
(6) 0a 2r 14p Sixth do do
(7) 2a 1r 14p Seventh do do

Railway Works and Sidings to be erected and constructed shown thus ----------
Railway Works and Sidings to be removed do ==========
Existing Railway Works and Sidings to be retained on land described in Second Schedule (Proposed New Roadway) shown by black hatching and lettered "A B."
Retaining Wall to be constructed between the points marked "X" and "Y"

Drawn & Printed at the Department of Lands, Sydney, N.S.W. 58-1483

I certify that this PUBLIC BILL, *which originated in the* LEGISLATIVE ASSEMBLY, *has finally passed the* LEGISLATIVE COUNCIL *and the* LEGISLATIVE ASSEMBLY *of* NEW SOUTH WALES.

H. ROBBINS,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 26 *April,* 1950.

New South Wales.

ANNO QUARTO DECIMO

GEORGII VI REGIS.

* *

Act No: 12, 1950:

An Act to ratify a certain Agreement made between The Broken Hill Proprietary Company Limited of the one part and His Most Gracious Majesty King George VI of the other part with respect to the sale to such Company of certain lands at or near Newcastle on certain terms and conditions and with respect to the granting to such Company of the right to obtain leases of certain adjoining lands; to provide for the carrying into effect of the said Agreement; to repeal the Newcastle Iron and Steel Works Act, 1912; to amend the Crown Lands Consolidation Act, 1913, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 29th April, 1950.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. BOOTH,
Chairman of Committees of the Legislative Assembly.

Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification Act, 1950."

Definitions.

2. In this Act, unless the context or subject matter otherwise indicates or requires—

"Commissioner" means The Commissioner for Railways incorporated by the Transport (Division of Functions) Act, 1932, or other the corporation controlling the Government Railways of New South Wales.

"Company" means The Broken Hill Proprietary Company Limited.

"The said Agreement" means the Agreement, a copy of which is set out in the Schedule to this Act.

Ratification of Agreement.

3. (1) The said Agreement is hereby ratified and may be carried into effect notwithstanding the provisions of any other Act.

(2) All acts, matters and things for or with respect to which provision is made in the said Agreement, or which, by the said Agreement, are agreed, directed, authorised or permitted to be made, done or executed by or on behalf of His Majesty or the Governor or the Minister or the Minister for Public Works or the Maritime Services Board of New South Wales or the Registrar-General or the Commissioner are hereby sanctioned, authorised and confirmed.

Enforcement of provision for drainage from Throsby Creek.

4. Upon the issue of the Crown Grants of the lands described in the First, Second and Third Parts of the First Schedule to the said Agreement, the covenants and conditions therein that the Company, its successors and assigns will at all times and to the satisfaction of the Minister

Minister provide for the maintenance and proper discharge into Newcastle Harbour of the drainage from Throsby Creek through or over the lands described in the First, Second and Third Parts of such First Schedule shall bind such lands and every part thereof into whosesoever hands the same may come and bind all persons interested therein and the Registrar-General may make such endorsements upon any Crown Grant or certificate of title comprising such lands or any part thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof.

Resumption of certain land.

5. (1) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule to the said Agreement the Governor shall appropriate and resume the land described in the Fourth Part of the First Schedule to the said Agreement by Gazette notification under Division 1 of Part V of the Public Works Act, 1912, as amended by subsequent Acts.

(2) For the purposes of the Public Works Act, 1912, as amended by subsequent Acts, such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act, as so amended, and the Commissioner shall be the constructing authority in respect thereof.

(3) Such appropriation and resumption shall not acquire the mines or deposits of coal, ironstone, kerosene shale, limestone, slate or other minerals under the land so appropriated and resumed.

(4) The Registrar-General shall without further survey issue to the Commissioner after the said appropriation and resumption a new certificate of title under the Real Property Act, 1900, comprising the land described in the Fourth Part of the First Schedule to the said Agreement, and shall make all such cancellations, alterations and entries of and in the register book, certificates of title or otherwise as he may think desirable in consequence thereof and of such resumption and appropriation.

Revocation of part of a certain resumption.

6. As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule to the said Agreement the Minister shall publish in the Gazette a notice revoking the notification of appropriation and resumption by the Railway Commissioners of New South Wales published in the Gazette of the twenty-fifth day of June, one thousand nine hundred and twenty, under the Public Works Act, 1912 (referred to in subclause (e) of clause eighteen of the said Agreement), so far as concerns such parts of the land thereby appropriated and resumed as are within the lands described in the Sixth Part of the First Schedule to the said Agreement, and those parts of such lands shall upon the publication in the Gazette of the said notice by the Minister be thereby vested in His Majesty, His Heirs and Successors. Further survey shall not be required before the publication of such notice.

Resumption for road.

7. (1) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule to the said Agreement, the Governor shall appropriate and resume the land described in the Second Schedule to the said Agreement by Gazette notification under Division 1 of Part V of the Public Works Act, 1912, as amended by subsequent Acts, for the purpose of a public road.

(2) For the purposes of the Public Works Act, 1912, as amended by subsequent Acts, such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act, as so amended, and the Minister for Public Works shall be the constructing authority in respect thereof.

(3) Sections ninety-seven and one hundred and thirty-eight of the Public Works Act, 1912, as amended by subsequent Acts, shall not apply in respect of the said appropriation and resumption.

(4) The constructing authority shall, notwithstanding the provisions of section eighty-one of the Public Works Act, 1912, as amended by subsequent Acts (but subject

subject to the following provisions of this section), by notice in the Gazette dedicate the land so appropriated and resumed as a public road, and upon such dedication the provisions of the Local Government Act, 1919, as amended by subsequent Acts, with respect to public roads, shall subject to subsections five and six of this section, apply thereto accordingly: Provided that such dedication shall not affect the carrying out of subclause (d) of clause nineteen and clauses twenty-one and twenty-six of the said Agreement.

(5) Notwithstanding anything contained in subsection four of this section, the Minister for Public Works and the Commissioner respectively may relocate (with any poles, pipes, wires, fittings, structures, equipment, appurtenances, and appliances considered necessary) in, on, under or above the land described in the Second Schedule to the said Agreement all or any electricity transmission lines and cables removed from any land described in any part of the First Schedule to the said Agreement and the Minister for Public Works and the Commissioner and their respective successors and assigns may use the said electricity transmission lines and cables (with the poles, pipes, wires, fittings, structures, equipment, appurtenances and appliances) for the conveyance of electricity and maintain, repair, add to and renew the same.

(6) Notwithstanding anything contained in subsection four of this section, railway sidings and works may be laid or retained in, across and upon the land described in the Second Schedule to the said Agreement in the positions specified in subclause (i) of clause twenty-six of the said Agreement.

(7) In the event of the Company failing to carry out its obligations under subclause (i) of clause twenty-six of the said Agreement to maintain, repair and renew the railway sidings and works that are laid and retained in, across and upon the land described in the Second Schedule to the said Agreement the Commissioner may, without prejudice to any other remedy which His Majesty may

may have by reason of such default of the Company, do all acts and things as the Commissioner may think necessary to remedy the default of the Company and the Company shall on demand pay to the Commissioner all costs and expenses incurred by the Commissioner in so doing and the same shall be recoverable by him from the Company in any court of competent jurisdiction. A certificate of the Secretary for Railways or the person acting as such for the time being of the amount of the costs and expenses so incurred by the Commissioner shall be prima facie evidence thereof.

To protect easements for electricity transmission.

8. The provisions of clause twenty-four of the said Agreement and all or any easements and rights granted by the Company in pursuance of such clause shall bind the lands described in the First Schedule to the said Agreement and also the lands comprised in certificates of title, volume 4,605, folio 90, and volume 5,004, folio 177, and every part of such lands into whosesoever hands the same may come and shall bind all persons interested therein, and the Registrar-General may make such endorsements on any Crown Grant or certificate of title comprising such lands or any parts thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof or of the granting of any such easement or rights.

Restrictions on use of certain lands for shipping of coal.

9. (1) Upon the issue of the Crown Grants of the lands described in the First, Second, Third, Fifth, Sixth and Seventh Parts of the First Schedule to the said Agreement, the provisions to the effect of subclause (a) of clause twenty-seven of the said Agreement included in such Crown Grants shall be deemed to be covenants by the Company for itself, its successors and assigns with His Majesty, His Heirs and Successors and such provisions shall bind the said lands described in the First, Second, Third, Fifth, Sixth and Seventh Parts of the First Schedule to the said Agreement and every part thereof into whosesoever hands the same may come, and bind all persons interested therein, and the Registrar-General may make such endorsements upon any Crown Grant

Grant or certificate of title comprising such lands or any part thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof.

(2) Upon acceptance by the Company of a Memorandum of Transfer in its favour of the land described in the Fourth Part of the First Schedule to the said Agreement containing covenants on the part of the Company, its successors and assigns in accordance with the provisions of subclause (c) of clause twenty-seven of the said Agreement such covenants shall bind such land and every part thereof into whosesoever hands the same may come and bind all persons interested therein, and the Registrar-General may make such endorsements upon any Crown Grant or certificate of title comprising such land or any part thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof.

Determination of rental by local land board.

10. (1) The local land board constituted under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, shall have jurisdiction to determine the rental under subclause (f) of clause twenty-eight of the said Agreement.

(2) For the purpose of the said board determining such rental, such board and the chairman and members thereof shall respectively have the same powers as when acting under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, for the purpose of the said board determining rentals thereunder.

(3) An appeal by either party may be made to the Land and Valuation Court from the determination by the said board of such rental by filing within a period of twenty-eight days from the date of the determination appealed against notice of the appeal in the office of the Registrar of the Land and Valuation Court, and by serving within such period notice of the appeal on the other party to the determination. An appeal on behalf of

of His Majesty against any such determination may be made by the Minister or by the Under Secretary for Lands on the Minister's behalf.

(4) For the purpose of dealing with any and every such appeal the Land and Valuation Court and the Judge thereof shall have the same powers as when dealing with appeals from local land boards under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

Provisions of Harbour and Tonnage Rates Act, 1920-1935, to apply.

11. The Harbour and Tonnage Rates Act, 1920-1935, and any Act amending or replacing the same and the regulations from time to time in force thereunder but in so far only as such Acts and regulations relate to the imposition, collection and payment of tonnage rates and berthing charges shall apply to and in respect of every wharf (which term for the purposes of this section shall include any structure, landing place or facility where cargo may be loaded or discharged or where vessels may be berthed) now or hereafter erected, constructed or provided upon the lands described in the First Schedule to the said Agreement or upon lands adjoining or adjacent thereto as if the same were a public wharf and accordingly tonnage rates and berthing charges in accordance with the said Acts and regulations shall be payable in respect of all vessels berthing at any such wharf subject only to the following exceptions, such exceptions being applicable only to vessels whilst berthed thereat:—

(i) Any vessel carrying, loading or discharging only cargo the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital shall be exempt from the payment of such tonnage rates and berthing charges.

(ii) Any vessel carrying, loading or discharging cargo part only of which is the property of the Company and/or any other company or companies in which the Company holds at least one-third of the share capital shall be granted a rebate of such tonnage rates and berthing charges

charges to the extent of the ratio which the part of the cargo which is the property of the Company and/or any other company or companies in which the Company holds at least one-third of the share capital bears to the whole of such cargo.

(iii) Any vessel the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital berthing for a purpose other than the loading or discharging of cargo shall be exempt from the payment of such tonnage rates and berthing charges.

Certain obligations of the Government of the State and the Company to cease.

12. Upon the completion of the sale to the Company under the said Agreement of the lands described in the First Schedule to the said Agreement—

(a) the obligation of the Company under the Newcastle Iron and Steel Works Act, 1912, to pay interest at the rate of five per centum per annum on the sum of twenty-nine thousand two hundred and fifty-five pounds fourteen shillings being the cost of dredging the swinging basin and lower berth and of reclamations all of which were carried out prior to the thirty-first day of January, one thousand nine hundred and fifteen, shall cease. Any necessary apportionment of the interest paid or payable by the Company shall be made and adjusted on such completion;

(b) the lease granted to the Company under section four of the Newcastle Iron and Steel Works Act, 1912, and the rights and obligations of the Company and of the Government of the said State under such lease and under clauses two, three and seven of the Agreement set out in the Schedule to that Act shall cease and determine.

Repeal of Act No. 55, 1912.

13. (1) This section shall commence upon the date of completion of the sale to the Company of the lands described in the First Schedule to the said Agreement.

(2)

(2) (a) The Newcastle Iron and Steel Works Act, 1912, is hereby repealed.

(b) The repeal of such Act shall not affect the previous operation thereof or, save as provided in this Act or the said Agreement, operate to deprive the Company of any property, right or interest acquired by the Company under the Act so repealed.

(c) Nothing contained in this subsection shall limit any saving in the Interpretation Act of 1897.

(3) As soon as practicable after the date of completion of the sale to the Company of the lands described in the First Schedule to the said Agreement the Minister shall publish in the Gazette a notice specifying such date.

Certain persons may sue and be sued by the Company.

14. It shall not be an objection to the Commissioner, the Minister for Public Works and the Maritime Services Board of New South Wales, or any of them suing the Company and being sued by the Company under the said Agreement that the Commissioner, the Minister for Public Works and the Maritime Services Board of New South Wales are not parties to the said Agreement.

SCHEDULE.

Sec. 3.

THIS AGREEMENT made the twenty-seventh day of March One thousand nine hundred and fifty BETWEEN—THE BROKEN HILL PROPRIETARY COMPANY LIMITED a corporation incorporated under the laws of the State of Victoria and carrying on business in the State of New South Wales (hereinafter called "the Company") of the one part and HIS MOST GRACIOUS MAJESTY KING GEORGE VI of the other part WHEREAS the Company is desirous of acquiring the lands described in the First Schedule hereto and the right to lease certain lands below high water mark fronting such lands described in the First Schedule hereto

hereto for the purposes of the Company and with the object of expanding its industrial operations in the said State of New South Wales NOW IT IS HEREBY AGREED as follows:—

1. In this Agreement unless the context otherwise requires the singular includes the plural and vice versa and the following expressions shall have the meanings set opposite thereto respectively:

"Commissioner" means the Commissioner for Railways incorporated by the Transport (Division of Functions) Act, 1932, or other the corporation controlling the Government Railways of New South Wales;

"Gazette" means New South Wales Government Gazette;

"Minister" means the Minister for Lands of the State of New South Wales and his successors in office;

"Minister for Public Works" means the Minister for Public Works of the State of New South Wales and his successors in office;

"Month" means calendar month;

"High Water Mark" means the mean high water mark of the right bank of the South Channel of the Hunter River as defined by Mr. Surveyor R. A. Allen in his Survey completed on 24th May 1949 of Portion 2936 Parish of Newcastle County of Northumberland and shown on plan catalogued N.7785.2111R. at the Department of Lands, Sydney.

2. (a) Subject to the provisions hereinafter contained His Majesty hereby agrees to sell to the Company and the Company agrees to buy the lands described in the First Schedule hereto at and for the price of One hundred thousand pounds (£100,000).

(b) The Company shall pay the said price in full to the Minister in Sydney free of exchange on completion of such sale and purchase of the lands described in the First Schedule hereto.

3. (a) The land described in the First Part of the First Schedule hereto is Crown Lands as to part thereof subject to the Lease for fifty years from the sixth day of December One thousand nine hundred and twelve vested in the Company by the Newcastle Iron and Steel Works Act, 1912 and the Agreement scheduled thereto and as to the remainder thereof comprises a closed road added to the said Lease by notice in the Gazette of the fourth day of March One thousand nine hundred and twenty seven, page 1302.

(b) The land described in the Second Part of the First Schedule hereto is Crown Lands formerly forming part of Special Lease No. 11 of 1919 granted to the Company under the Crown Lands Consolidation Act, 1913 as amended. This Special Lease expired on the 31st day of December 1948 and the lands comprised therein are now occupied by the Company under a Permissive Occupancy granted to the Company.

(c) The lands described in the Third Part of the First Schedule hereto are Crown Lands formerly comprised in Crebert Street Extended a public road, as to 13 perches being Crown Lands dedicated for public road under the Crown Lands Consolidation Act, 1913 as amended by Gazette of the 16th day of January 1931, page 266 and the remainder having been resumed (without any limitation as to depth) and dedicated for public road by Gazette of the 14th day of February 1930, page 672, but all these dedications were limited to the surface and 25 feet below the surface. Crebert Street Extended was closed as to part by Notice published in the Gazette of the 4th day of July 1941, page 2438 and as to a further part by Notice published in the Gazette of the 19th day of May 1944 page 895.

(d) As to the lands described in the Fourth Part of the First Schedule hereto—

(i) part thereof is comprised in Certificate of Title registered Volume 1795 Folio 95 issued to the Railway Commissioners of New South Wales subject to the notifications endorsed thereon including that of the exceptions and reservations unto the Caledonian Coal Company Limited its successors and assigns of the mines and minerals beneath the land with full and free liberty and power to carry on mining operations beneath such land or any part thereof which shall not interfere with the safety of the railway which the Commissioners proposed to construct upon the said land or with the traffic upon such railway, it being expressly agreed and declared that the Commissioners shall have no further right to the soil beneath the surface of the said land than shall be requisite for the support of the said railway and for the formation and repair of the same and except as hereinafter otherwise expressly provided the land is hereby agreed to be sold subject to such exceptions and reservations so far as the same are existing at the date of this Agreement, and

(ii) part thereof is comprised in Certificate of Title registered Volume 3797 Folio 42 also issued to the Railway Commissioners for New South Wales, and

(iii) part thereof is comprised in the Notification of Resumption by the Chief Commissioner for Railways and Tramways for New South Wales published in the Gazette of the 19th day of November 1913, page 6901, under the Public Works Act, 1912 (in lieu of the like Notification published in the Gazette of the 12th day of November, 1913, page 6750) by which no mines or deposits of coal, ironstone, kerosene shale, limestone, slate or other minerals under such area were acquired and the same are excepted from this sale, and

(iv) part thereof is comprised in the Indenture of Conveyance dated the 24th day of December 1919 No. 93 Book 1174 made between Caledonian Collieries Limited of the one part

and

and the Railway Commissioners for New South Wales of the other part which conveyed only all mines and minerals (if any) in and under the land comprised in such Conveyance which the said Company might be empowered to convey, and nothing herein shall affect the preceding paragraph (iii), and

(v) part thereof is comprised in Conveyance dated the 22nd day of February 1907 from the Caledonian Coal Company Limited to the Railway Commissioners of New South Wales registered No. 207 Book 827 which excepts and reserves unto the said Company the mines and minerals beneath the said lands with full and free liberty and power to carry on any mining operations beneath the said lands or any part thereof which shall not interfere with the safety of the railway which the Commissioners proposed to construct upon the said land or with the traffic upon such railway, it being expressly agreed and declared that the Commissioners shall have no further right to the soil beneath the surface of the said lands than shall be requisite for the support of the said railway and for the formation and repair of the same and (except as otherwise hereinafter expressly provided) the same are also excepted from this sale and (except as aforesaid) this sale is also subject to the rights to use railways and other rights reserved to the Waratah Coal Company Limited (In Liquidation) by the Conveyance by that Company to the Caledonian Coal Company Limited dated the 1st day of July 1896 registered No. 901 Book 580 so far as the same are existing at the date of this Agreement.

(e) The lands described in the Fifth Part of the First Schedule hereto are Crown lands.

(f) As to the lands described in the Sixth Part of the First Schedule hereto part thereof is comprised within the Notification of Resumption by the Railway Commissioners of New South Wales published in the Gazette on the 25th day of June 1920, page 3587, under the Public Works Act, 1912 by which no mines or deposits of coal, ironstone, kerosene shale, limestone, slate or other minerals under such area were acquired and the same are excepted from this sale. The remainder of such lands is Crown lands.

(g) The land described in the Seventh Part of the First Schedule hereto is Crown lands comprising the land the subject of Special Purchase Application No. 38/20 Newcastle by the Company.

4. (a) Certain information as to the title to the lands comprised in the First Schedule hereto is referred to in this Agreement and the Company shall not require or be entitled to be furnished with any further particulars as to the title of His Majesty or the Minister or the Commissioner to any of such lands or with any abstract of the title to any of such lands or any evidence whatsoever of the title to

any

any of such lands save and except that each of them the Minister and the Commissioner will produce to the Company the deeds and documents that may be in his possession and that relate to such lands.

(b) No objection or requisition whatsoever shall be made by the Company to or in respect of the title to any of the said lands and no objection whatever shall be taken by the Company to the power of His Majesty and the Minister and the Commissioner to sell and assure as provided by this Agreement the said lands described in the First Schedule hereto.

5. All the said lands are sold by His Majesty and/or the Minister and the Commissioner to the Company subject to the existing tenancies easements encroachments licenses and occupancies and all such lands are sold subject to the reservations exceptions and conditions contained in the Crown Grants under which any of the lands were originally or are now held. The Company shall not raise any objection or make any claim in respect of any encroachments by or on any part or parts of the lands described in the First Schedule whether revealed by any present or future survey or otherwise.

6. There shall be excepted out of and from the lands described in the First Schedule hereto and excluded from the said sale and the assurances to the Company:

(a) All telegraph lines within the meaning of the Post and Telegraph Act, 1901-1934 of the Commonwealth constructed or laid upon in under or over such lands.

(b) The electric cables and electricity transmission lines constructed or laid upon in under or over the lands described in the First Schedule hereto by any Municipal or other local authority or by any body supplying electricity and all poles pipes wires fittings appurtenances equipment and appliances connected therewith.

(c) The electric cables and electricity transmission lines the property of His Majesty or the Minister for Public Works or the Commissioner constructed or laid upon in under or over the lands described in the First Schedule hereto and all poles pipes wires fittings equipment appurtenances and appliances connected therewith.

7. The said sale of the lands described in the First Schedule hereto is also subject to, and the Crown Grants to the Company of the lands described in the First, Second and Third Parts of such Schedule shall contain covenants and conditions that the Company its successors and assigns will at all times and to the satisfaction of the Minister provide for the maintenance and proper discharge into Newcastle Harbour of the drainage from Throsby Creek through or over the lands described in the First, Second and Third Parts of the First Schedule hereto. The Act ratifying this Agreement shall contain

provisions

provisions to the effect that such covenants and conditions shall bind the lands described in the First, Second and Third Parts of the First Schedule hereto and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements upon any Crown Grant or Certificate of Title comprising such lands or any part thereof and such other entries in the Register Book as he may think desirable in consequence thereof.

8. The completion of the purchase by the Company of the lands described in the First Schedule hereto and payment of the purchase moneys therefor shall take place at the office of the State Crown Solicitor on a date which shall be two months from the date of commencement of this Agreement. If from any cause whatever other than the non-completion caused by the default of the Minister or the Commissioner the purchase money shall not be paid on that date the Company agrees with His Majesty His Heirs and Successors to pay to the Minister interest thereon at the rate of five pounds (£5) per centum per annum computed from that date until the day of actual payment.

9. His Majesty and the Commissioner shall be entitled to the rents and profits to the date of completion and shall pay and bear all rates taxes assessments and outgoings to that date in respect of the lands comprised in the First Schedule hereto other than the rates taxes assessments and outgoings payable by the Company under or by reason of its occupancies or interest in any of such lands prior to the date of completion from which date the Company shall be entitled to such rents and profits and shall pay or bear all rates taxes assessments and outgoings in respect of the lands comprised in the First Schedule hereto. Any necessary apportionments shall be made and adjusted on completion. Nothing in this clause shall relieve the Company of any liability under or by reason of its occupancy or interest in any of the said lands at or prior to the date of completion.

10. No error or misdescription of the lands sold shall annul the sale of the lands described in the First Schedule hereto but compensation (if demanded in writing before completion but not otherwise and if as regards the Company it is otherwise entitled thereto under this Agreement) shall be made to or given by the Company as the case may be and should the parties be unable to agree between themselves as to the amount thereof such amount shall be settled by two arbitrators one to be appointed by the Minister and the other by the Company in accordance with the provisions of the Arbitration Act, 1902.

11. All objections and requisitions (if any) which under this Agreement the Company shall be entitled to make shall be made and delivered to the Crown Solicitor of the State of New South Wales within

within twenty-one days from the date of commencement of this Agreement and all objections and requisitions not so made shall be deemed to be waived.

12. If His Majesty His Heirs or Successors shall be unable or unwilling to comply with or remove any objection or requisition which the Company shall be entitled to make under this Agreement the Minister shall whether he or the Commissioner or His Majesty His Heirs or Successors has or has not attempted to remove or comply with such objection or requisition and notwithstanding any negotiations or litigation whatsoever in respect thereof be at liberty to rescind this Agreement and in no case shall His Majesty or His Heirs or Successors or the Minister or the Commissioner be liable for any damages costs charges expenses and losses whatsoever incurred by the Company in and about this Agreement AND IT IS HEREBY DECLARED that seven days' notice of the intention of the Minister to rescind this Agreement shall be deemed reasonable notice of such intention under Section 56 of the Conveyancing Acts, 1919-1943.

13. His Majesty His Heirs and Successors the Minister and/or the Commissioner shall not be called upon or bound to pay any proportion of the costs of any dividing fence or fences.

14. All notices and documents hereunder may be served as mentioned in Section 170 of the Conveyancing Acts, 1919-1943.

15. Clauses 2 to 6 inclusive of the conditions of sale contained in Schedule III of the Conveyancing Acts, 1919-1943 shall not apply to this Agreement except insofar as the same or any part thereof are incorporated herein.

16. Such of the provisions and conditions of this Agreement as require or prescribe any act or thing to be done or not to be done by the Company shall in addition to being read and construed as conditions of this Agreement be also read and construed as Agreements whereby the Company covenants with His Majesty His Heirs and Successors to observe and perform the said provisions and conditions.

17. If the Company shall omit to fulfil observe or perform the provisions of this Agreement other than Clauses 28 and 30 hereof on the part of the Company to be fulfilled observed or performed the Minister may by notice in writing served on the Company call upon the Company to rectify the default complained of within a reasonable time (to be stated in the notice) after the service of such notice and if the Company shall fail after service of the said notice upon it to rectify the said default within such reasonable time the Minister may by notice in writing served on the Company determine this Agreement but without prejudice to any claim which His Majesty His Heirs and Successors the Commissioner the Minister for Public Works and the Maritime Services Board of New South Wales or any

one

one or more of them may have against the Company in respect of any breach of the provisions of this Agreement on the part of the Company to be fulfilled observed and performed.

18. (a) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto (and after the publication of the Notice by the Minister referred to in subclause (e) of this clause) a Crown Grant or Crown Grants shall be issued to the Company for the assurance to it of the lands respectively described in the First Part the Second Part the Third Part the Fifth Part the Sixth Part and the Seventh Part of the First Schedule hereto.

(b) Every Crown Grant so to be issued to the Company shall contain a reservation of all minerals in the lands assured by the Grant and shall contain such other reservations and exceptions as are usually inserted by the Crown in Crown Grants issued for Special Purchases under Section 66 of the Crown Lands Consolidation Act, 1913, as amended and for the purposes aforesaid the term "minerals" shall have the same meaning as it has in the said Act.

(c) Every Crown Grant so to be issued to the Company as aforesaid shall be limited to the surface of the land comprised in such Crown Grant and to a depth of 400 feet below such surface and shall contain a proviso in or to the effect that mining operations may have been and may be carried on upon and in the land below the land thereby granted and the lands adjoining the land thereby granted and the land below the same and metals and minerals may have been and may be removed therefrom and that the Crown Grant is made upon and subject to the condition that the Company and its assigns shall not be entitled to make or prosecute any claim for damages or take any proceedings either by way of injunction or otherwise against His Majesty His Heirs or Successors or the Government of the State of New South Wales or any lessee or lessees under any Mining Act or Acts of the said State of New South Wales or his or their executors administrators or assigns for or in respect of any damage or loss occasioned by the letting down subsidence or lateral movement of the land thereby granted or otherwise howsoever by reason of the following acts and matters that is to say by reason of His Majesty His Heirs or Successors or the Government of the said State of New South Wales or any person on His Their or Its behalf or any Lessee or Lessees as aforesaid or his or their executors administrators or assigns having worked or then or thereafter working any mines or having carried on or then or thereafter carrying on mining operations or having searched for worked won or removed or then or thereafter searching for working winning or removing any metals or minerals under in or from the land below the land thereby granted or on in under or from any other lands situated laterally to the land thereby granted and the land below the same and whether on or below the surface of such other lands AND THAT His Majesty doth thereby expressly reserve unto His Majesty

His

His Heirs and Successors the liberty and authority by reason of the acts and matters aforesaid or in the course thereof for His Majesty His Heirs and Successors and the Government of the said State of New South Wales and any person on His Their or Its behalf and any Lessee or Lessees as aforesaid and His or their executors administrators and assigns to from time to time let down without payment of any compensation whatsoever any part of the land thereby granted and/or of the surface thereof.

(d) As soon as practicable after completion of the sale to the Company of the lands described in the First Schedule hereto the Governor shall appropriate and resume the land described in the Fourth Part of the First Schedule hereto by Gazette notification under Division 1 of Part V of the Public Works Act, 1912 as amended and for the purposes of such Act such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act and the Commissioner shall be the Constructing Authority in respect thereof and the Act ratifying this Agreement may provide accordingly and after such appropriation and resumption the Commissioner shall transfer the land acquired to the Company. The said appropriation and resumption shall not acquire the mines or deposits of coal ironstone kerosene shale limestone slate or other minerals under the land and nothing herein shall require the Commissioner to assure to the Company any mines or minerals under the land not belonging to him immediately prior to the said appropriation and resumption. The Act ratifying this Agreement shall contain provisions to the effect that the Registrar-General is to issue to the Commissioner after the said appropriation and resumption a new Certificate of Title under the Real Property Act, 1900, comprising the land described in the Fourth Part of the First Schedule hereto and that the Registrar-General shall make all such cancellations alterations and entries of and in the Register Book Certificates of Title and otherwise as he may think desirable in consequence thereof.

(e) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto the Minister shall publish in the Gazette a notice revoking the aforesaid appropriation and resumption by the Railway Commissioners of New South Wales published in the Government Gazette of the 25th day of June 1920 so far as concerns such parts of the land thereby appropriated and resumed as are within the lands described in the Sixth Part of the First Schedule hereto and the Act ratifying this Agreement shall provide for the publication of such notice and for those parts of such lands upon the publication in the Gazette of the said Notice by the Minister to be thereby vested in His Majesty the King His Heirs and Successors.

(f) The Company shall not be entitled to any assurance from the Minister the Commissioner or the Crown with respect to any part of the land comprised in the First Schedule hereto except as is provided by this clause.

(g) The Company shall pay to the Minister on demand the cost of all surveys and plans with respect to the lands described in the First and Second Schedules hereto made in connection with this Agreement and the Company agrees to pay to the Minister in respect of every Crown Grant to be issued to it under this clause (and prior to the issue of such Grant) a deed fee of the amount in like case usually payable on a Crown Grant for land specially purchased under Section 66 of the Crown Lands Consolidation Act, 1913 as amended.

19. (a) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto the Governor shall appropriate and resume the land described in the Second Schedule hereto by Gazette notification under Division 1 of Part V of the Public Works Act, 1912, as amended, for the purpose of a public road and for the purposes of the said Act such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act and the Minister for Public Works shall be the Constructing Authority in respect thereof and the Act ratifying this Agreement shall provide accordingly.

(b) The Act ratifying this Agreement shall contain provisions to the effect that sections 138 and 97 of the Public Works Act, 1912, as amended, shall not apply in respect of the said appropriation and resumption.

(c) After the land described in the Second Schedule hereto has been appropriated and resumed as aforesaid the Constructing Authority shall notwithstanding the provisions of section 81 of the Public Works Act, 1912, by Notice in the Gazette dedicate such land as a public road and thereupon the provisions of the Local Government Act, 1919, as amended, with respect to public roads, shall apply thereto accordingly but nothing herein is to affect the operation of subclause (d) of clause 23 and subclause (i) of clause 26 hereof and the Act ratifying this Agreement shall contain provisions to the effect of this subclause.

(d) Notwithstanding the appropriation and resumption as aforesaid of the land described in the Second Schedule hereto the Company shall be permitted to demolish and remove at any time from the land described in the Second Schedule hereto such part of the building known as the "U.S.N. Store" owned by the Company as encroaches upon the land described in the Second Schedule hereto and the Company hereby covenants with His Majesty His Heirs and Successors that the Company shall make no claim for compensation by reason of the appropriation or resumption as aforesaid of that part

part of the land described in the Second Schedule hereto upon which any part of the "U.S.N. Store" is erected and that the Company shall if as and when requested in writing by the Minister or the Council of the City of Newcastle carry out at its own cost and expense the work of the demolition and removal of such portion of the "U.S.N. Store" as encroaches upon the land described in the Second Schedule hereto and such work shall be carried out to the satisfaction of the Minister. Until such time as the Company has been requested by the Minister or the Council of the City of Newcastle to demolish and remove the encroaching portion of the "U.S.N. Store" the Company shall be under no obligation to remove the same even though the land described in the Second Schedule hereto may have been dedicated as a public road.

(e) The work of the demolition and removal of the encroaching portion of the "U.S.N. Store" as aforesaid shall be carried out within such time or times and at such rate as the Minister shall determine and in the event of the Company failing to carry out and complete such work in accordance with the provisions of this subclause the Minister may without prejudice to any other remedy of His Majesty by reason of such default of the Company do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand by the Minister pay to His Majesty His Heirs and Successors all costs and expenses incurred by the Minister in so doing and the same shall be recoverable from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof.

20. The Company shall pay to the Minister for Public Works at the time of completion of the sale of the lands described in the First Schedule hereto in addition to the purchase moneys then payable in respect of the said lands the sum of Two hundred and eighty pounds (£280) being the value of the four dolphins existing adjacent to the said lands and the said dolphins shall thereupon become the property of the Company but without prejudice to the powers and duties with respect thereto of the authority controlling the Port of Newcastle.

21. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall at its own expense at the date of commencement of this Agreement resume the construction of and thereafter continuously proceed with the construction in accordance in all respects with the approval of the Minister of a road over a width of not less than eighteen feet at levels and alignment approved of by the Minister throughout along and within the land described in the Second Schedule hereto the remainder of the said road to be constructed and completed to the same standard and specification

specification as the part of the said road already constructed together with road drainage and culverts as required by the Minister and together with drainage facilities to the satisfaction of the Minister on and along the southern side at such a level and in such a manner that suitable drainage shall be available thereto from the railway lands to the south of the said land SO THAT at the expiration of one year from the date of commencement of this Agreement or of such further period (if any) as may be allowed by the Minister in writing, the Company shall have at its own cost completed the full and proper construction as aforesaid of the whole of the said road and the Company covenants with His Majesty His Heirs and Successors to construct at its own cost the said road within the said period of one year or further period (if any) allowed in writing by the Minister in accordance in all respects with the foregoing provisions of this clause.

(b) The Company shall at its own expense maintain the said road (including the road drainage and the said drainage facilities) in good order and condition and to the satisfaction of the Minister for and during the period of one year after the Company has completed the construction of the said road in accordance with subclause (a) of this clause.

(c) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall at its own expense commence at the date of this Agreement and thereafter continuously proceed with the construction in accordance in all respects with the approval of the Commissioner of a substantial retaining wall for the purposes of retaining the railway embankment under the conditions which shall exist at the date of commencement of this Agreement in the approximate position shown between the points marked "X" and "Y" on the Plan annexed hereto and marked "C" SO THAT at the expiration of one year from the date of the commencement of this Agreement or such further period (if any) as may be allowed by the Commissioner in writing the Company shall have at its own cost completed the full and proper construction as aforesaid of the said retaining wall and the Company covenants with His Majesty His Heirs and Successors to construct at its own cost the said retaining wall within the said period of one year or further period (if any) allowed in writing by the Commissioner in accordance in all respects with the foregoing provisions of this subclause and at its own expense from time to time and at all times to maintain the said retaining wall in good order and condition to the satisfaction of the Commissioner.

(d) In the event of the Company failing to comply with any of the foregoing provisions of this clause, the Minister or the Commissioner may, without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister or the Commissioner may think necessary to remedy the default of the Company and the Company shall on demand

demand by the Minister or the Commissioner pay to His Majesty His Heirs and Successors all costs and expenses incurred by the Minister or Commissioner in so doing and the same shall be recoverable by His Majesty His Heirs and Successors from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the Secretary for Railways or the person acting in either of such offices for the time being of the amount of such costs and expenses incurred by the Minister or the Commissioner shall be prima facie evidence thereof.

(e) The Company for itself and its assigns hereby covenants with the Minister that it will from time to time and at all times hereafter indemnify and keep indemnified His Majesty His Heirs and Successors and the Commissioner his successors and assigns and the Government of the said State of New South Wales from and against all actions claims and demands which may at any time be brought or made against His Majesty His Heirs and Successors or the Commissioner his successors or assigns or the Government of the said State of New South Wales by or for any person body firm or corporation whomsoever in respect of any loss of life or of any injury to person or property or of any loss or damage occasioned by or arising out of or by reason or as a result of any act or thing done or omitted to be done by the Company its successors or assigns or its or their employees agents workmen servants or licensees in or in connection with the construction or maintenance of the retaining wall referred to in subclause (c) of this Clause.

22. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall at its own expense commence at the date notified to it in that behalf by the Minister on or after the date of completion of the sale to the Company of the lands described in the First Schedule hereto and thereafter continuously proceed with the construction and erection of a substantial fence to the approval in all respects of the Minister on and along the lines forming the western and north-western boundaries of the lands described in the Third and Fourth Parts of the First Schedule and the south-eastern and south-western boundaries of the lands described in the Fourth Third Sixth and Fifth Parts of the First Schedule hereby agreed to be sold to the Company commencing at Selwyn Street and thence southerly and southwesterly along that street to the southernmost point of the land described in the Fourth Part of such Schedule and thence continuously proceeding to the waters of the Hunter River so that at the expiration of six months from the date so notified by the Minister the Company shall have at its own cost completed the full and proper construction and erection as aforesaid of the said fence and the Company covenants with His Majesty His Heirs and Successors to construct and erect at its own cost the said fence within the said period of six months in accordance in all respects with the foregoing provisions of this clause.

(b) In the event of the Company failing to comply with any of the foregoing provisions of this Clause the Minister may, without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand by the Minister pay to His Majesty His Heirs and Successors all costs and expenses incurred by the Minister in so doing and the same shall be recoverable from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof.

23. (a) Each of them the Minister for Public Works and the Commissioner may as and when he desires to do so carry out such re-locating of all or any electricity transmission lines and cables (together with any poles pipes structures wires fittings equipment appurtenances and appliances connected therewith) the property of His Majesty or the Minister for Public Works or the Commissioner now in or on the land described in any part of the First Schedule hereto as the Minister for Public Works or the Commissioner may (subject to clause 24) consider necessary and proper.

(b) Each of them the Minister for Public Works and the Commissioner may at any time remove from the land described in any part of the First Schedule all or any electricity transmission lines and cables the property of His Majesty or the Minister for Public Works or the Commissioner and all or any poles pipes wires fittings equipment appurtenances and appliances connected therewith.

(c) The Company covenants with His Majesty His Heirs and Successors to pay to the Minister for Public Works or the Commissioner as the case may be on demand the costs and expenses incurred by the Minister for Public Works or the Commissioner in exercising the powers conferred on the Minister for Public Works or the Commissioner by subclause (a) or subclause (b) of this clause in every case where the re-locating or the removal of any electricity line or cable has been carried out at the request of the Company and the same shall be recoverable from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Public Works, in the case of the Minister for Public Works or the Secretary for Railways in the case of the Commissioner or the person acting in either of such offices for the time being of the amount of such costs and expenses incurred by the Minister for Public Works or the Commissioner shall be prima facie evidence thereof.

(d) The Act ratifying this Agreement shall contain provisions to the effect that the Minister for Public Works and the Commissioner respectively may re-locate (with any poles pipes wires fittings structures

structures equipment appurtenances and appliances considered necessary) in on under or above the land described in the Second Schedule hereto all or any electricity transmission lines and cables removed from any land described in any part of the First Schedule hereto notwithstanding the dedication of the land described in the Second Schedule hereto as a public road and that the Minister for Public Works and the Commissioner and their respective successors and assigns may use the same for the conveyance of electricity and may maintain repair add to and renew the same.

24. The Company hereby agrees to grant to the Minister for Public Works and other Ministers of the Crown in right of the State of New South Wales and the Commissioner and other statutory authorities representing the Crown in right of the State of New South Wales and the Hunter District Water Board and the Postmaster General or any of them or their respective successors and assigns on request or requests without compensation easements and rights with respect to the erection, construction, laying, operation and maintenance—FIRSTLY of all such electricity transmission lines and cables, telephone lines and cables and water pipes and mains the property of His Majesty, the Minister for Public Works or other Minister of the Crown as aforesaid or the Commissioner or other statutory authority representing the Crown as aforesaid or the Hunter District Water Board or the Postmaster General as are now upon in under or over the lands described in any part of the First Schedule hereto and SECONDLY of all such additional or substituted electricity transmission lines and cables, telephone lines and cables and water pipes and mains for the purpose of enabling such utilities to be made available for the development of the Islands in the Hunter River and other areas as the Minister for Public Works and other Ministers of the Crown as aforesaid the Commissioner and other statutory authorities representing the Crown as aforesaid and the Hunter District Water Board and the Postmaster General or any of them or their respective successors and assigns may (whether the electricity lines and cables, telephone lines and cables and water pipes and mains firstly mentioned have or have not been removed) at any time hereafter desire to erect construct or lay upon in under or over the lands described in the First Schedule hereto or the lands comprised in Certificates of Title Volume 4605 Folio 90 and Volume 5004 Folio 177 standing in the name of the Company or any part or parts thereof along routes determined by the Minister for Public Works or other Ministers of the Crown as aforesaid or the Commissioner or other statutory authorities representing the Crown as aforesaid or the Hunter District Water Board or the Postmaster General or their respective successors and assigns but not so as to interfere unreasonably with the Company's operations and all or any such easements or rights shall if the Minister for Public Works or other Minister of the Crown as aforesaid or the Commissioner or other statutory authority representing the Crown

as

as aforesaid or the Hunter District Water Board or the Postmaster General or any of their respective successors and assigns require be so granted in a form on the lines of that set out in the Third Schedule hereto.

The power of the Minister for Public Works and other Ministers of the Crown as aforesaid and the Commissioner and other statutory authorities representing the Crown as aforesaid and the Hunter District Water Board and the Postmaster General or any of them or their respective successors to assign the said easements and rights hereinbefore referred to in this clause includes power to assign from time to time to any person or corporation (including the Crown) the whole or any part or parts of any of the said easements or rights.

In this clause the term "Postmaster General" shall mean the Postmaster General of the Commonwealth of Australia or other the proper authority of the Commonwealth for the time being controlling the provision and maintenance of public telephonic and/or telegraphic services.

The Act ratifying this Agreement shall contain provisions to the following effect namely, that the provisions of this clause shall bind the lands described in the First Schedule hereto and also the lands comprised in the said Certificates of Title Volume 4605 Folio 90 and Volume 5004 Folio 177 and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements on any Crown Grant or Certificate of Title comprising such lands or any parts thereof and such other entries in the Register Book as he may think desirable in consequence thereof.

25. In contemplation of the execution of this Agreement and for the purposes thereof the Crown has carried out the removal of the thirty-ton crane (which was controlled by the Minister for Public Works) from its previous position adjacent to the southernmost corner of the land described in the Fifth Part of the First Schedule hereto to its present situation at the southern end of the Dyke Newcastle and the re-erection at that situation of a thirty-ton crane (comprising parts of the crane previously referred to and a boiler and other parts obtained from Walsh Island and elsewhere) together with the construction of railway sidings and other works in connection with the said crane at the southern end of the Dyke and also together with all such further structures facilities and foundations required so as to make that crane ready for use in all respects at its present situation by land and water AND the Company hereby covenants with His Majesty His Heirs and Successors that the Company will on the completion of the sale to the Company under this Agreement of the lands described in the First Schedule hereto pay to the Minister for Public Works the sum of Six hundred and sixty-eight pounds twelve shillings and five pence (£668. 12. 5.) on account of the costs and expenses incurred by His Majesty in the removal

of

of the crane first referred to in this Clause and the re-erection of the crane secondly referred to in this Clause together with the construction of railway sidings and works as aforesaid and together with the structures facilities and foundations as hereinbefore referred to.

26. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall if as and when requested in writing by the Commissioner carry out at its own cost and expense (or at the option of the Commissioner pay to the Commissioner the costs and expenses incurred by him in carrying out) all the following works that is to say the erection and construction of railway works and sidings in the approximate positions shown on the Plan annexed hereto and marked "C" by short heavy broken black lines so as to provide to the satisfaction of the Commissioner railway connection between the Morandoo Sidings near Selwyn Street adjacent to the lands described in the Fourth Part of the First Schedule hereto and the Commissioner's railway lines lying to the south of the land described in the Second Schedule hereto (and referred to on the said Plan as "proposed new roadway") and including a single line of railway approximately 28 chains in length and railway sidings works and connections considered necessary by the Commissioner for the purpose of re-locating and/or providing railway connection between the Morandoo Sidings near Selwyn Street and the Steel Works entrance. The railway works to be erected and constructed under this paragraph shall include the removal (and the making good of any damage thereby caused) to the satisfaction of the Commissioner of the railway sidings and works shown approximately by broken parallel lines on the western part of the said Plan and lying in or upon the said land described in the Second Schedule hereto and in or upon the land adjoining that land on the south.

Should any of the work towards the erection and construction of the railway works and sidings referred to in this subclause (a) be carried out by the Commissioner before the date of the commencement of this Agreement the Company shall pay to the Commissioner the costs and expenses incurred by the Commissioner in the carrying out of such work.

(b) The whole of the work to be erected constructed and provided as aforesaid is to be carried out and completed in proper and workmanlike manner in accordance in all respects with specifications and plans to be prepared by the Commissioner and all such work shall be carried out to the satisfaction of the Commissioner.

(c) The Company shall pay to the Commissioner on demand by the Commissioner the costs and expenses incurred by him in preparing the plans and specifications as mentioned in subclause (b) of this clause.

(d) Any request by the Commissioner to the Company under subclause (a) of this clause may be made with respect to the whole or any part or parts of the work which that subclause provides is to be carried out and the option conferred on the Commissioner by that subclause may be exercised as to the whole or any part or parts of such work.

(e) Until the whole of the work which subclause (a) of this clause provides is to be carried out is carried out and completed in accordance with subclause (b) of this clause (but subject to the carrying out of that work) the Commissioner and all other persons shall be entitled to continue to use the present railway lines and works notwithstanding the completion of the said sale to the Company.

(f) The costs and expenses incurred by the Commissioner in carrying out such of the work provided by subclause (a) of this clause to be carried out as shall be carried out by the Commissioner shall be paid by the Company to the Commissioner on demand and a certificate of the Secretary for Railways or the person acting as such for the time being of the amount of such costs and expenses incurred by the Commissioner shall be prima facie evidence thereof.

(g) Such of the work provided by subclause (a) of this clause to be carried out as is to be carried out by the Company shall be carried out within such time or times and at such rate as the Commissioner shall determine.

(h) In the event of the Company failing to carry out and complete in accordance with this clause any of the work provided by subclause (a) of this clause to be carried out which is to be carried out by the Company the Commissioner may without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Commissioner may think necessary to remedy the default of the Company and the Company shall on demand pay to the Commissioner all costs and expenses incurred by the Commissioner in so doing and the same shall be recoverable by him from the Company in a Court of competent jurisdiction and a certificate of the Secretary for Railways or the person acting as such for the time being of the amount of such costs and expenses incurred by the Commissioner shall be prima facie evidence thereof.

(i) In connection with the railway works and sidings to be erected and constructed under subclause (a) of this clause (and notwithstanding the dedication for public road of the land described in the Second Schedule hereto) railway sidings and works will be laid and retained in across and upon the said land described in the Second Schedule hereto in the position approximately indicated by short heavy broken black lines on the western part of the said Plan marked "C" and the existing railway sidings and works will be retained in across and upon such land in the position approximately indicated

indicated by black hatching and the letters "A-B" on the said part of such Plan. Each of them the Company and the Commissioner may at any time or times use for the conveyance (by locomotives other mechanical power rolling stock and otherwise) of goods live-stock persons and things the railway sidings and works that are laid and retained as aforesaid in across and upon the said land described in the Second Schedule hereto and the existing railway sidings and works that are retained as aforesaid in across and upon such land. The Company (notwithstanding the said dedication for public road) will at all times maintain repair and renew so as to keep in good order and condition the said railway sidings and works that are laid and retained in across and upon the said land described in the Second Schedule hereto and the pavement of the roadway between the rails and for the space of eighteen inches on either side of the rails comprised in such sidings and works and the said existing railway sidings and works that are retained in across and upon such land and the pavement of the roadway between the rails and for the space of eighteen inches on either side of the rails comprised in such sidings and works.

The Act ratifying this Agreement shall contain provisions for railway sidings and works being laid and/or retained in across and upon the land described in the Second Schedule hereto as mentioned in this subclause and for the enforcement of the Company's obligations to maintain repair and renew as aforesaid.

27. (a) The Company for itself and its successors and assigns hereby covenants with His Majesty His Heirs and Successors that the Company its successors and assigns will not at any time without the written consent of the Governor of the State of New South Wales use or permit or suffer to be used the lands described in the First Schedule hereto or any part thereof for or in any manner in connection with the shipment of any coal, other than coal shipped at the wharves cranes and other facilities for shipment at Newcastle of the Commissioner or the Maritime Services Board of New South Wales and other than coal shipped in a ship, the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital, for the purpose of bunkering that ship and other than coal mined or owned by the Company and shipped by it for the sole purpose of being used and consumed by the Company or any other company in which the Company holds at least one-third of the share capital in the industrial undertakings of the Company or of any such company in which the Company holds at least one-third of the share capital.

(b) Provisions to the effect of subclause (a) of this clause shall be included in the Crown Grants of the lands described in the First, Second, Third, Fifth, Sixth and Seventh Parts of the First Schedule hereto and (without limiting the foregoing) the Act ratifying this Agreement shall provide that such provisions of the said

said Crown Grants shall be deemed to be covenants by the Company for itself its successors and assigns with His Majesty His Heirs and Successors and that such provisions shall bind the said lands and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements upon any Crown Grant or Certificate of Title comprising such lands or any part thereof and such other entries in the Register Book as he may think desirable in consequence thereof.

(c) The Company shall in the Transfer of the land described in the Fourth Part of the First Schedule hereto to be executed in the Company's favour by the Commissioner enter into such covenants to bind not only the Company but also the Company's sequels in title and the land described in the Fourth Part of the First Schedule hereto in such form as shall in the opinion of the Commissioner be necessary to give full effect to the provisions of subclause (a) of this clause in so far as they relate to such land and the Act ratifying this Agreement shall provide that the covenants contained in such Transfer shall bind the land described in the Fourth Part of the First Schedule hereto and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements upon any Crown Grant or Certificate of Title comprising such land or any part thereof or such other entries in the Register Book as he may think desirable in consequence thereof.

28. (a) As from the date of commencement of this Agreement there shall be granted to the Company as lessee those parts of the bed of the Hunter River fronting the lands described in the First Schedule hereto upon which wharves or other structures the property of the Company have been erected or constructed for the term of ninety-nine years and at the yearly rental of Two hundred and fifty pounds (£250) or such other amount as may be determined on reappraisement as provided by subclause (f) of this Clause, and as soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto there shall be issued to the Company a lease of the said parts of the bed of the Hunter River.

(b) Subject to the provisions hereinafter appearing the Company shall have the exclusive right from time to time and at all times during the said period of ninety-nine years to construct and erect wharves and other facilities for loading or unloading goods and other structures upon any and every part of the bed of the Hunter River fronting the lands described in the First Schedule hereto but only to such distance outwards from high water mark as may be approved in each case by the Minister. Upon completion of any wharf or other structure constructed by the Company under the provisions of this subclause the Company shall be entitled to receive

receive for the balance then unexpired of the said period of ninety-nine years a lease of the part of the bed of the Hunter River upon which such wharf or other structure has been constructed and the Company shall not be called upon to pay in respect of any such lease any rental in addition to the rental of Two hundred and fifty pounds (£250) referred to in the preceding subclause.

(c) All wharves facilities and other structures to be erected and constructed by the Company under the preceding sub-clause shall be erected and constructed by the Company at its own cost and expense and the work of erecting and constructing the same shall be carried out and completed in a proper and workmanlike manner and in accordance in all respects with specifications and plans previously approved of in writing by the Minister and all such work shall be carried out to the satisfaction of the Minister. The plans and specifications referred to in this subclause shall be furnished by the Company to the Minister at the cost and expense of the Company.

(d) Every lease to be issued to the Company in accordance with the provisions of subclause (a) or subclause (b) of this clause shall be limited to the surface of the land thereby leased and to a depth of 400 feet below such surface and shall include conditions in or to the effect of the conditions set out in the Fourth Schedule hereto.

(e) The Company shall pay to the Minister on demand the cost of all surveys and plans made in connection with any lease granted to the Company in accordance with the provisions of subclause (a) or subclause (b) of this clause or in connection with any wharf facility or other structure erected or proposed to be erected by the Company in accordance with the provisions of subclause (b) of this clause.

(f) The said rental of Two hundred and fifty pounds (£250) shall be liable to re-appraisement at the expiration of each period of twenty-five years during the said period of ninety-nine years and in every such case the re-appraised rental shall be such sum as is determined by the Local Land Board constituted under the Crown Lands Consolidation Act, 1913, as amended, or on appeal therefrom by the Land and Valuation Court.

The Act ratifying this Agreement shall provide—

(i) That for the purpose of the Local Land Board determining the rental under this subclause such Board and the Chairman and Members thereof shall respectively have the same powers as when acting under the Crown Lands Consolidation Act, 1913, as amended, for the purpose of the said Board determining rentals thereunder: and

(ii) That any appeal to the Land and Valuation Court from the determination by the Local Land Board of rental under this subclause shall be made within twenty eight days of the date of the determination by filing within such period notice

notice of the appeal in the office of the Registrar of the Land and Valuation Court and by serving within the same period notice of the appeal on the other party to the determination: and

(iii) That for the purpose of dealing with any and every such appeal the Land and Valuation Court and the Judge thereof shall have the same powers as when dealing with appeals from Local Land Boards under the Crown Lands Consolidation Act, 1913, as amended.

(g) The Company shall for and during the said period of ninety-nine years at its own cost and expense carry out all work which shall be necessary to protect and maintain from erosion and to the satisfaction of the Minister such parts of the lands above high water mark comprised in the First Schedule hereto as adjoin or are adjacent to the Hunter River and such work shall be carried out by the Company at and within such time or times and at such rate as the Minister shall determine.

(h) In the event of the Company failing to carry out and complete in accordance with this clause any of the work provided by the preceding subclause to be carried out by the Company the Minister may without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand pay to the Minister all costs and expenses incurred by the Minister in so doing and the same shall be recoverable by him from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof and neither His Majesty nor the Minister shall incur any liability towards the Company by reason of any damage whatsoever done to or upon the lands comprised in any lease granted to the Company in accordance with the provisions of subclause (a) or subclause (b) of this clause or any wharf facility or structure thereon or to or upon any adjoining or adjacent lands above high water mark in the performance by the Minister, his employees, agents, workmen, servants or licensees of any act or thing permitted to be done by the Minister under the provisions of this subclause.

(i) The Minister on behalf of His Majesty agrees with the Company that His Majesty will not at any time during the said period of ninety-nine years grant to any person without the consent of the Company any right of occupancy of or any right to erect or construct or place any structure upon in or over the bed of the Hunter River adjoining or adjacent to the lands described in the First Schedule hereto which would interfere unreasonably with the exercise by the Company of any of the rights granted to the

Company

Company under the provisions of this Clause AND in any case shall not grant any such right closer to high water mark than the line generally 45 feet distant therefrom shown on the Plan annexed hereto and marked "C."

29. (a) The Company hereby agrees with His Majesty and the Act ratifying this Agreement shall contain provisions to the effect that the Harbour and Tonnage Rates Act, 1920-1935, and any Act amending or replacing the same and the regulations from time to time in force thereunder but insofar only as such Acts and regulations relate to the imposition collection and payment of tonnage rates and berthing charges shall apply to and in respect of every wharf (which term for the purposes of this clause shall include any structure landing place or facility where cargo may be loaded or discharged or where vessels may be berthed) now or hereafter erected constructed or provided upon the lands described in the First Schedule hereto or upon lands adjoining or adjacent thereto as if the same were a public wharf and that accordingly tonnage rates and berthing charges in accordance with the said Act and Regulations will be payable in respect of all vessels berthing at any such wharf subject to the following exceptions such exceptions being applicable only to vessels whilst berthed thereat:—

(i) Any vessel carrying, loading or discharging only cargo the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital shall be exempt from the payment of such tonnage rates and berthing charges.

(ii) Any vessel carrying, loading or discharging cargo part only of which is the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital shall be granted a rebate of such tonnage rates and berthing charges to the extent of the ratio which the part of the cargo which is the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital bears to the whole of such cargo.

(iii) Any vessel the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital berthing for a purpose other than the loading or discharging of cargo shall be exempt from the payment of such tonnage rates and berthing charges.

(b) The Company shall keep or cause to be kept in proper books true and complete records of all such matters in relation to all vessels berthing at any wharf now or hereafter constructed erected or provided upon adjoining or adjacent to the lands described in the First Schedule hereto as may be necessary to enable the Maritime Services Board of New South Wales or other proper authority to determine

determine the tonnage rates and berthing charges payable in respect of such vessels in accordance with subclause (a) of this Clause and the Act ratifying this Agreement, and the Company shall allow and provide every reasonable facility for the Maritime Services Board of New South Wales or other proper authority and any person authorised by such Board or authority at all reasonable times to inspect and make copies of or extracts from such records AND the Company shall at such times as are required by such Board or authority during the period of ninety-nine years referred to in Clause 28 hereof furnish to such Board or other authority all such particulars as such Board or authority may deem necessary for the purpose of enabling such Board or authority to ascertain and determine the tonnage rates and berthing charges payable in respect of all vessels berthing at any wharf now or hereafter constructed erected or provided upon adjoining or adjacent to the lands described in the First Schedule hereto.

30. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall pay to the Minister for Public Works the costs and expenses incurred by him in carrying out all the following work that is to say:

(i) Such dredging as may from time to time be required by the Company within a distance of 60 feet from the face of all berths, wharves and landing places now or at any time hereafter constructed erected or provided upon adjoining or adjacent to the lands described in the First Schedule hereto.

(ii) All such dredging and other work as may be necessary to carry out the construction of a channel upstream from the swinging basin and to such dimensions as may be required from time to time by the Company.

(iii) All such dredging and other work as may be necessary to carry out any extension of the swinging basin which may be required by the Company.

(b) Notwithstanding the covenant hereinbefore contained on the part of the Company to pay to the Minister for Public Works the costs and expenses incurred by him in carrying out the work referred to in subclause (a) of this Clause the Company shall be permitted to carry out itself and at its own expense all or any of the work referred to in paragraph (i) of subclause (a) of this Clause subject to the approval of the Minister for Public Works in writing being first obtained and upon such conditions as may be determined by the Minister for Public Works.

(c) The costs and expenses incurred by the Minister for Public Works in carrying out the work provided by subclause (a) of this Clause shall be paid by the Company to the Minister for Public Works on demand and a certificate of the Under Secretary, Department of Public Works, or the person acting as such for the time being

being of the amount of such costs and expenses incurred by the Minister for Public Works shall be prima facie evidence thereof.

(d) The Minister for Public Works or the Government of the said State of New South Wales will during the said period of ninety-nine years referred to in Clause 28 hereof at the cost of His Majesty—

(i) maintain a channel from the Pacific Ocean to the swinging basin and the swinging basin and all extensions thereto carried out under the provisions of paragraph (iii) of subclause (a) of this Clause at a depth which in the opinion of the Minister for Public Works is reasonable having regard to the normal requirements of the shipping in the Port of Newcastle,

(ii) maintain any channel constructed under the provisions of paragraph (ii) of subclause (a) of this Clause to the dimensions to which such work has been carried out at the expense of the Company provided however that in the opinion of the Minister for Public Works the maintenance of such channel to such dimensions is reasonable having regard to the normal requirements of shipping at the Company's berths and the requirements elsewhere in the Port of Newcastle.

(e) The liability of the Minister for Public Works or the Government of the said State of New South Wales to carry out dredging operations under this Clause shall be governed by the availability of dredging equipment at any particular time having regard to the necessity to use such dredging equipment elsewhere in the Port of Newcastle.

31. (a) The Company shall pay to the Minister for Public Works at the time of completion of the sale of the lands described in the First Schedule hereto in addition to the purchase moneys then payable in respect of the said lands the sum of Eight thousand seven hundred and ninety-seven pounds nineteen shillings and one penny (£8,797. 19. 1.) being the balance of cost to His Majesty of the initial dredging for the swinging basin extension which was carried out mainly in 1947.

(b) On the completion of the sale of the lands described in the First Schedule hereto the obligation of the Company under the provisions of the Newcastle Iron and Steel Works Act, 1912, to pay interest at the rate of 5% per annum on the sum of Twenty nine thousand two hundred and fifty five pounds fourteen shillings (£29,255. 14. 0.) being the cost of dredging the swinging basin and lower berth and of reclamations all of which were carried out prior to the 31st day of January 1915, shall cease and the Act ratifying this Agreement shall provide accordingly. Any necessary apportionment of the interest paid or payable by the Company shall be made and adjusted on completion.

(c) On the completion of the sale of the lands described in the First Schedule hereto the obligation of the Company to pay to the Minister for Public Works the sum of Four hundred and seventy-three pounds ten shillings and sixpence (£473. 10. 6.) per annum for the cost of the maintenance of the swinging basin extension which was carried out mainly in 1947 shall cease and any necessary apportionment of the moneys paid or payable by the Company shall be made and adjusted upon completion.

32. On the completion of the sale to the Company under this Agreement of the lands described in the First Schedule hereto the Lease granted to the Company by Section 4 of the Newcastle Iron and Steel Works Act, 1912, and the Agreement set out in the Schedule to that Act and the rights and obligations of the Company thereunder shall cease and determine and the Act ratifying this Agreement shall provide for the repeal of the Newcastle Iron and Steel Works Act, 1912. Any necessary apportionment of rental paid or payable by the Company in respect of this Lease shall be made and adjusted on completion.

33. On the completion of the sale to the Company under this Agreement of the lands described in the First Schedule hereto the Permissive Occupancy granted to the Company in respect of the lands formerly comprised in Special Lease No. 11 of 1919 Newcastle granted to the Company shall cease and determine and any necessary apportionment of rental paid or payable by the Company in respect of the Permissive Occupancy shall be made and adjusted on completion.

34. Nothing in this Agreement contained shall affect in any way the liability of the Company or any other person to pay harbour rates in accordance with the provisions of the Harbour and Tonnage Rates Act, 1920-1935, and any Act amending or replacing the same and the regulations from time to time in force thereunder.

35. (a) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by or on behalf of the Minister or His Majesty His Heirs or Successors shall be deemed to have been duly given if signed by the Under Secretary, Department of Lands, or the person acting as such for the time being.

(b) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by the Commissioner shall be deemed to have been duly given if signed by the Secretary for Railways or the person acting as such for the time being.

(c) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by the Minister for Public Works shall be deemed to have been duly given if signed by the Under Secretary, Department of Public Works, or the person acting as such for the time being.

(d) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by the Maritime Services Board of New South Wales shall be deemed to have been duly given if signed by the Secretary to the Board or by the Harbour Master at Newcastle or by the person for the time being acting in either of such offices.

36. This Agreement is subject to ratification by the Parliament of the State of New South Wales and shall come into effect when so ratified and the expression "the date of commencement of this Agreement" means the date of commencement of the Act which ratifies it PROVIDED that if this Agreement is not ratified by the said Parliament before the thirtieth day of April 1950 it shall become null and void.

37. As between the Commissioner and His Majesty the part of the said price of One hundred thousand pounds (£100,000) to be paid by the Company to the Minister on the completion of the sale of the lands described in the First Schedule hereto which the Commissioner shall be entitled to receive from the Minister shall be the sum of Five thousand eight hundred and fifty pounds (£5,850) (being the part of such price attributable to the estates and interests held by the Commissioner in the lands described in the First and Second Schedules hereto). Any such payment to the Commissioner shall be subject to his giving such indemnity to the Minister against claims by any person in respect of any part of the land described in the Second Schedule hereto or any interest therein as the Minister and the Commissioner may agree upon or in default as determined by the Governor.

IN WITNESS whereof the parties hereto have executed this Agreement the day and year first above written.

FIRST SCHEDULE TO AGREEMENT.

First Part.

ALL THAT piece or parcel of land containing by admeasurement 34 acres 1 rood be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2936 COMMENCING on the original high water mark of the right bank of the South Channel of the Hunter River at the South Eastern corner of portion 349 of 14 acres 21½ perches and bounded thence on the West by the Eastern boundary of portion 349 bearing North 21 minutes West 227 feet 8½ inches on the North East by lines dividing this land from the area of 2 acres 1 rood 14 perches described in the Seventh Part hereof bearing South 66 degrees 6 minutes East

1,055 feet 11 inches thence south 63 degrees 21 minutes East 280 feet 11½ inches and thence by lines dividing it from portion 2,937 of 5 acres 3 perches bearing South 40 degrees 1 minute 30 seconds West 2 feet 11½ inches South 51 degrees 14 minutes 30 seconds East 704 feet 11¾ inches South 37 degrees 9 minutes 30 seconds West 11 feet 10½ inches South 51 degrees 10 minutes 30 seconds East 682 feet 4½ inches and thence South 33 degrees 30 minutes 30 seconds East 766 feet 11 inches on the South East by a line dividing it from the area of 9 acres 32 perches described in the Second Part hereof bearing South 50 degrees 33 minutes West 1,051 feet 7½ inches and thence by lines dividing it from the area of 3 acres 2 roods 24 perches described in the Third Part hereof bearing South 54 degrees 13 minutes 30 seconds West 97 feet 4¼ inches and thence by 51 feet 5¾ inches of the arc of a circle of 380 feet radius the centre of which lies North Westerly of a chord bearing South 65 degrees 5 minutes 20 seconds West 51 feet 5 inches to the original high water mark of the right bank of Throsby Creek again on the West and generally on the North West by that original high water mark of Throsby Creek Northerly and thence generally North Easterly to its junction with the original high watermark of the right bank of the South Channel of the Hunter River aforesaid and on the South West by the lastmentioned original high water mark North Westerly to the point of commencement.

SECOND PART.

ALL THAT piece or parcel of land containing by admeasurement 9 acres 32 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on a South Western boundary of portion 2,937 of 5 acres 3 perches at the Easternmost corner of the area of 34 acres 1 rood described in the First Part hereof and bounded thence on the North West by a line dividing this land from that 34 acres 1 rood bearing South 50 degrees 33 minutes West 1,051 feet 7½ inches on the South by a Northern boundary of the area of 3 acres 2 roods 24 perches described in the Third Part hereof bearing South 89 degrees 47 minutes 30 seconds East 1,167 feet 4 inches and on the North East by lines dividing it from portion 2,937 aforesaid bearing North 26 degrees 34 minutes 30 seconds West 610 feet 9 inches and thence North 33 degrees 30 minutes 30 seconds West 158 feet to the point of commencement.

THIRD PART.

ALL THAT piece or parcel of land containing by admeasurement 3 acres 2 roods 24 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of

of Portion 2,936 COMMENCING on a South Western boundary of portion 2,937 of 5 acres 3 perches at the South Eastern corner of the area of 9 acres 32 perches described in the Second Part hereof and bounded thence on the North by the Southern boundary of that 9 acres 32 perches bearing North 89 degrees 47 minutes 30 seconds West 1,167 feet 4 inches on the North West by lines dividing this land from the area of 34 acres 1 rood described in the First Part hereof bearing South 54 degrees 13 minutes 30 seconds West 97 feet 4¼ inches and thence by 51 feet 5¾ inches of the arc of a circle of 380 feet radius the centre of which lies North Westerly of a chord bearing South 65 degrees 5 minutes 20 seconds West 51 feet 5 inches and thence by a line dividing it from the Northernmost part of a measured portion of part of 24 acres being the residue of portion 156 being 140 feet 10¼ inches of the arc of a circle of 380 feet radius the centre of which lies North Westerly of a chord bearing South 79 degrees 35 minutes 20 seconds West 140 feet and one half of an inch again on the North by the Southern boundary of that part of the residue of portion 156 bearing North 89 degrees 47 minutes 30 seconds West 1,521 feet 6 inches to Selwyn Street on the West and again on the North West by Selwyn Street bearing South 4 minutes East 32 feet and thence South 6 degrees 18 minutes West 34 feet 2¼ inches on the South by the Northern boundary of the area of 2 acres 3 roods 3 perches described in the Fourth Part hereof bearing South 89 degrees 47 minutes 30 seconds East 1,303 feet 11 inches on the South East by a line dividing it from the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto bearing North 82 degrees 22 minutes 50 seconds East 462 feet 10¼ inches and thence by the North Western boundary of the area of 2 roods 14 perches described in the Sixth Part hereof bearing North 50 degrees 12 minutes 30 seconds East 105 feet 5¾ inches again on the South by the Northern boundary of that 2 roods 14 perches and a Northern boundary of the area of 2 acres 1 rood 33 perches described in the Fifth Part hereof in all bearing South 89 degrees 47 minutes 30 seconds East 1,123 feet 1¾ inches and on the North East by a line dividing it from portion 2,937 aforesaid bearing North 15 degrees 17 minutes 45 seconds West 41 feet 6 inches to the point of commencement.

FOURTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 acres 3 roods 3 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on the South Eastern side of Selwyn Street at the South Western corner of the area of 3 acres 2 roods 24 perches described in the Third Part hereof and bounded thence on the North West by Selwyn Street bearing South 6 degrees 18 minutes West 105 feet 8¾ inches and thence by Selwyn Street being

being 110 feet 2 inches of the arc of a circle of 520 feet 1 inch radius the centre of which lies North Westerly of a chord bearing South 39 degrees 23 minutes 30 seconds West 109 feet 11¼ inches on the South East by a line dividing this land from the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto bearing North 82 degrees 22 minutes 50 seconds East 1,397 feet 7½ inches and on the North by a Southern boundary of the aforesaid 3 acres 2 roods 24 perches bearing North 89 degrees 47 minutes 30 seconds West 1,303 feet 11 inches to the point of commencement.

FIFTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 acres 1 rood 33 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on a South Western boundary of portion 2,937 of 5 acres 3 perches at the most Easterly South Eastern corner of the area of 3 acres 2 roods 24 perches described in the Third Part hereof and bounded thence on the North by part of a Southern boundary of that 3 acres 2 roods 24 perches bearing North 89 degrees 47 minutes 30 seconds West 304 feet 7 inches on the West by the Eastern boundary of the area of 2 roods 14 perches described in the Sixth Part hereof bearing South 12 minutes 30 seconds West 64 feet 10 inches again on the North by a Southern boundary of that 2 roods 14 perches bearing North 89 degrees 47 minutes 30 seconds West 77 feet 6 inches on the South West by lines dividing this land from the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto being 71 feet 3 inches of the arc of a circle of 726 feet radius the centre of which lies South Westerly of a chord bearing South 64 degrees 26 minutes East 70 feet 3¾ inches thence by a line bearing South 46 degrees 29 minutes 30 seconds East 253 feet 7 inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing South 70 degrees 22 minutes East 46 feet 11¼ inches thence by 96 feet 8 inches of the arc of a circle of 58 feet radius the centre of which lies South Westerly of a chord bearing South 46 degrees 29 minutes 30 seconds East 85 feet 10½ inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing South 22 degrees 37 minutes East 46 feet 11¼ inches and thence by a line bearing South 41 degrees 6 minutes 30 seconds East 210 feet 2¼ inches on the South East by a North Western boundary of the aforesaid 5 acres 1 rood 30 perches bearing North 74 degrees 49 minutes East 20 feet 1 inch and on the North East by a South Western boundary of portion 2,937 aforesaid bearing North 15 degrees 11 minutes West 561 feet 5 inches to the point of commencement.

Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification.

SIXTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 roods 14 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on a North Eastern boundary of the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto at the most Westerly North Western corner of the area of 2 acres 1 rood 33 perches described in the Fifth part hereof and bounded thence on the South by a Northern boundary of that 2 acres 1 rood 33 perches bearing South 89 degrees 47 minutes 30 seconds East 77 feet 6 inches on the East by a Western boundary of that 2 acres, 1 rood 33 perches bearing North 12 minutes 30 seconds East 64 feet 10 inches on the North by part of a Southern boundary of the area of 3 acres 2 roods 24 perches described in the Third Part hereof bearing North 89 degrees 47 minutes 30 seconds West 818 feet 6¾ inches on the North West by a South Eastern boundary of that 3 acres 2 roods 24 perches bearing South 50 degrees 12 minutes 30 seconds West 105 feet 5¾ inches on the South East by a line dividing this land from the aforesaid 5 acres 1 rood 30 perches bearing North 82 degrees 22 minutes 50 seconds East 432 feet and one quarter of an inch and on the South West by a line dividing it from that 5 acres 30 perches being 402 feet 11¾ inches of the arc of a circle of 726 feet radius the centre of which lies South Westerly of a chord bearing South 81 degrees 43 minutes East 397 feet 10 inches to the point of commencement.

SEVENTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 acres 1 rood 14 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on the high water mark of the right bank of the South Channel of the Hunter River at the Eastern corner of Portion 2,872 of 3 acres 26 perches and bounded thence on the North West by the South Eastern boundary of portion 2,872 bearing South 23 degrees 54 minutes West 90 feet on the South West by lines dividing this land from the area of 34 acres 1 rood described in the First Part hereof bearing South 66 degrees 6 minutes East 1,055 feet 11 inches and thence South 63 degrees 21 minutes East 280 feet 11½ inches and on the North East by lines dividing this land from portion 2,937 of 5 acres 3 perches bearing North 51 degrees 14 minutes 30 seconds West 403 feet 6¾ inches and thence North 66 degrees 6 minutes West 946 feet 6 inches to the point of commencement.

SECOND

Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification.

SECOND SCHEDULE TO AGREEMENT.

ALL THAT piece or parcel of land containing by admeasurement 5 acres 1 rood 30 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington COMMENCING at the Easternmost corner of portion 2,936 of 55 acres 1 rood and bounded thence on the North West by a South Eastern boundary of portion 2,936 bearing South 74 degrees 49 minutes West 20 feet 1 inch on the North East by lines dividing this land from portion 2,936 bearing North 41 degrees 6 minutes 30 seconds West 210 feet 2¼ inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing North 22 degrees 37 minutes West 46 feet 11¼ inches thence by 96 feet 8 inches of the arc of a circle of 58 feet radius the centre of which lies South Westerly of a chord bearing North 46 degrees 29 minutes 30 seconds West 85 feet 10½ inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing North 70 degrees 22 minutes West 46 feet 11¼ inches thence by a line bearing North 46 degrees 29 minutes 30 seconds West 253 feet 7 inches and thence by 474 feet 2¾ inches of the arc of a circle of 726 feet radius the centre of which lies South Westerly of a chord bearing North 78 degrees 54 minutes 30 seconds West 465 feet 10 inches on the North West by a South Eastern boundary of portion 2,936 bearing South 82 degrees 22 minutes 50 seconds West 2,292 feet 6 inches to Selwyn Street and thence by Selwyn Street being 134 feet 3¾ inches of the arc of a circle of 520 feet 1 inch radius the centre of which lies North Westerly of a chord bearing South 52 degrees 51 minutes 30 seconds West 133 feet 11¼ inches on the South East by a line bearing North 82 degrees 22 minutes 50 seconds East 2409 feet 1¼ inches on the South West by a line being 423 feet 5 inches of the arc of a circle of 660 feet radius the centre of which lies South Westerly of a chord bearing South 79 degrees 14 minutes 30 seconds East 416 feet 2½ inches and thence by lines bearing South 46 degrees 29 minutes 30 seconds East 414 feet thence South 41 degrees 6 minutes 30 seconds East 374 feet 4 inches and again on the North East by lines bearing North 12 degrees 33 minutes 30 seconds West 138 feet 1¼ inches and thence North 15 degrees 11 minutes West 41 feet 4 inches to the point of commencement.

THIRD

THIRD SCHEDULE TO AGREEMENT.

FORM OF EASEMENT.

THE BROKEN HILL PROPRIETARY COMPANY LIMITED a corporation carrying on business in the State of New South Wales (herein called Transferor) being registered as the proprietor of an estate in fee simple in the land hereafter described subject however to such encumbrances liens and interests as are notified hereunder in consideration of Ten shillings, the receipt whereof is hereby acknowledged, paid to the Transferor by

[1] (herein called Transferee) doth hereby transfer grant and confirm unto the Transferee {his / its} successors and assigns full and free right and liberty for the transferee {his / its} successors and assigns at all times hereafter to use and maintain for the purpose of

[2] { the transmission of electrical energy the electricity transmission lines and cables / communication the telephone lines and cables / the passage or conveyance of water the lines of pipes }

(if any) (together with poles pipes structures wires fittings equipment appliances and appurtenances connected therewith) at present constructed erected installed and laid upon in under and over all that piece of land situate in the Parish of Newcastle County of Northumberland being that part of the land comprised in

{ Crown Grant / Certificate of Title } Registered Volume Folio

shown on the Plan annexed hereto and marked "A" and also for the purpose aforesaid to construct erect instal lay use and maintain upon in under and over the said land along routes determined by the Transferee {his / its} successors or assigns but not so as to interfere unreasonably with the Company's operations any one or more

[2] { electricity transmission lines and cables / telephone lines and cables / lines of pipes }

(together with poles pipes structures wires fittings equipment appliances and appurtenances connected therewith) in substitution for or in duplication of or in addition to the aforesaid

[2] { electricity transmission lines and cables / telephone lines and cables / lines of pipes }

now upon in under and over the said land and also from time to time to inspect the condition of and amend and repair all or any of the said

[2] { electricity transmission lines and cables / telephone lines and cables / lines of pipes }

poles

poles pipes structures wires fittings equipment appliances and appurtenances (now and hereafter upon in under and over the said land) and for the purposes aforesaid or any of them at all reasonable times to enter upon go return pass and repass through along and over the said land with or without servants workmen and other persons horses carts waggons motors materials and any vehicles and appliances and to make all necessary excavations in or under the said land provided always and it is hereby agreed and declared that in the event of the transferee {his / its} successors or assigns ceasing at any time hereafter to use any of the said

electricity transmission lines and cables
telephone lines and cables
lines of pipes

[2],

poles pipes structures wires fittings equipment appliances or appurtenances for the purpose aforesaid {he / it} or they may remove the same from the said land, making good any damage occasioned by such removal.

[1] Insert name of Minister or Authority to whom easement is to be granted.
[2] Delete unnecessary words according to nature of Easement to be granted.

FOURTH SCHEDULE TO AGREEMENT.

Lease Conditions.

(1) The Company shall at all times at its own cost and expense and to the satisfaction of the Minister maintain repair and renew so as to keep in good order and condition all wharves facilities and other structures now or hereafter constructed erected or provided upon the land leased, unless the Minister shall agree in writing to the demolition and removal of any such wharf facility or other structure, in which case the Company shall at its own cost and expense demolish and remove such wharf facility or other structure and such work shall be carried out to the satisfaction of the Minister.

(2) Upon the expiration of the lease or upon the sooner determination thereof for any reason whatsoever the Company shall if as and when requested in writing by the Minister carry out at its own cost and expense the work of the demolition and removal of such wharves facilities and other structures upon the land hereby leased as the Minister may require and such work shall be carried out to the satisfaction of the Minister.

(3) The lease shall not confer any right to purchase the land.

(4) The land leased shall be used only for the purposes for which it is granted.

(5) The Company shall pay all rates taxes charges assessments and outgoings upon or in respect of the land leased or the Company's operations thereon during the currency of the lease.

(6) The Company shall not assign sublet or part with the possession of the land leased or any part thereof without the consent in writing of the Minister.

(7) The Company shall at all times at its own cost and expense and to the satisfaction of the Minister keep all wharves facilities and other structures now or hereafter constructed erected or provided upon the land leased in good sanitary condition and free from rats and mice and the right is reserved to terminate the lease should the Minister be of the opinion that the public health is endangered thereby or that any nuisance is committed.

(8) The right of ingress egress and regress in over and out of the land leased and any wharves facilities or other structures constructed erected or provided thereon is reserved to the Minister or any person or persons authorised by him in that behalf.

(9) Any necessary public service may be constructed or laid on the land leased without charge and either above or below the surface after giving to the Company one month's notice in writing of the intention to construct or lay any such public service.

(10) The Company shall not at any time without the written consent of the Governor of the State of New South Wales use or permit or suffer to be used the land leased or any part thereof or any wharf facility or other structure now or hereafter constructed erected or provided thereon for or in any manner in connection with the shipment of any coal, other than coal shipped at the wharves cranes and other facilities for shipment at Newcastle of the Commissioner or the Maritime Services Board of New South Wales or other the Authority controlling the Port of Newcastle and other than coal shipped in a ship, the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital, for the purpose of bunkering that ship and other than coal mined or owned by the Company and shipped by it for the sole purpose of being used and consumed by the Company or any other company in which the Company holds at least one-third of the share capital in the industrial undertakings of the Company or of any such company in which the Company holds at least one-third of the share capital.

(11) In the event of the Company failing to carry out and complete any of the work provided by conditions (1) (2) and (7) of the lease to be carried out by the Company the Minister may without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand pay to the Minister all costs and expenses incurred by the Minister in so doing and the same shall be recoverable

by

by him from the Company in a Court of competent jurisdiction and a Certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof and neither His Majesty nor the Minister shall incur any liability towards the Company by reason of any damage whatsoever done to or upon the land leased or any wharf facility or structure thereon or to or upon any adjoining or adjacent lands above high water mark in the performance by the Minister, his employees, agents, workmen, servants or licensees of any act or thing permitted to be done by the Minister under the provisions of this condition.

(12) The work provided by conditions (1) (2) and (7) of the lease to be carried out by the Company shall be carried out at and within such time or times and at such rate as the Minister shall determine.

(13) It is expressly declared that mining operations may have been and may be carried on upon and in the land below the land hereby leased and the lands adjoining the land hereby leased and the land below the same and metals and minerals may have been and may be removed therefrom and that these presents are made upon and subject to the condition that the Company and its assigns shall not be entitled to make or prosecute any claim for damages or take any proceedings either by way of injunction or otherwise against His Majesty His Heirs or Successors or the Government of the State of New South Wales or any lessee or lessees under any Mining Act or Acts of the said State or his or their executors administrators or assigns for or in respect of any damage or loss occasioned by the letting down subsidence or lateral movement of the land hereby leased or otherwise howsoever by reason of the following acts and matters that is to say by reason of His Majesty His Heirs or Successors or the Government of the said State or any person on His Their or Its behalf or any Lessee or Lessees as aforesaid or his or their executors administrators or assigns having worked or now or hereafter working any mines or having carried on or now or hereafter carrying on mining operations or having searched for worked won or removed or now or hereafter searching for working winning or removing any metals or minerals under in or from the land below the land hereby leased or on in under or from any other lands situated laterally to the land hereby leased and the land below the same and whether on or below the surface of such other lands. AND there is hereby expressly reserved unto His Majesty His Heirs and Successors the liberty and authority by reason of the acts and matters aforesaid or in the course thereof for His Majesty His Heirs and Successors and the Government of the said State and any person on His Their or Its behalf and any Lessee or Lessees as aforesaid and his or their executors administrators and assigns to from time to time let down without payment of any compensation whatsoever any part of the land hereby leased and/or of the surface thereof.

(14) A breach of any of the conditions of the lease shall render the lease liable to forfeiture. Such forfeiture may be effected by publication in the Gazette of a notice signed by the Minister declaring the lease to be forfeited. Provided however that no such notice shall be published in the Gazette unless the Minister has first served upon the Company a notice in or to the effect of the form set out in the Sixth Schedule to the Conveyancing Acts, 1919-1943 specifying the particular breach complained of and if the breach is capable of remedy requiring the Company to remedy it and in case the Minister claims compensation in money requiring the Company to pay such compensation and the Company has failed within a reasonable time to remedy the breach if remediable or to pay reasonable compensation to the satisfaction of the Minister where compensation in money is required.

THE COMMON SEAL OF THE BROKEN HILL PROPRIETARY COMPANY LIMITED was hereunto affixed by the Authority of its Board of Directors in the presence of LEONARD DARLING and COLIN YORK SYME two of such Directors and of REGINALD GEORGE NEWTON, Secretary.

L.S.

L. DARLING, C. Y. SYME } Directors.

R. G. NEWTON, Secretary.

SIGNED SEALED AND DELIVERED by WILLIAM FRANCIS SHEAHAN the Minister for Lands of the State of New South Wales for and on behalf of His Majesty the King in the presence of:

A. R. JONES, J.P.

W. SHEAHAN.

In the name and on behalf of His Majesty I assent to this Act.

J. NORTHCOTT,
Governor.

Government House,
Sydney, 29th April, 1950.

C

PLAN

Showing lands to be acquired by the Broken Hill Proprietary Company Limited and proposed new roadway.

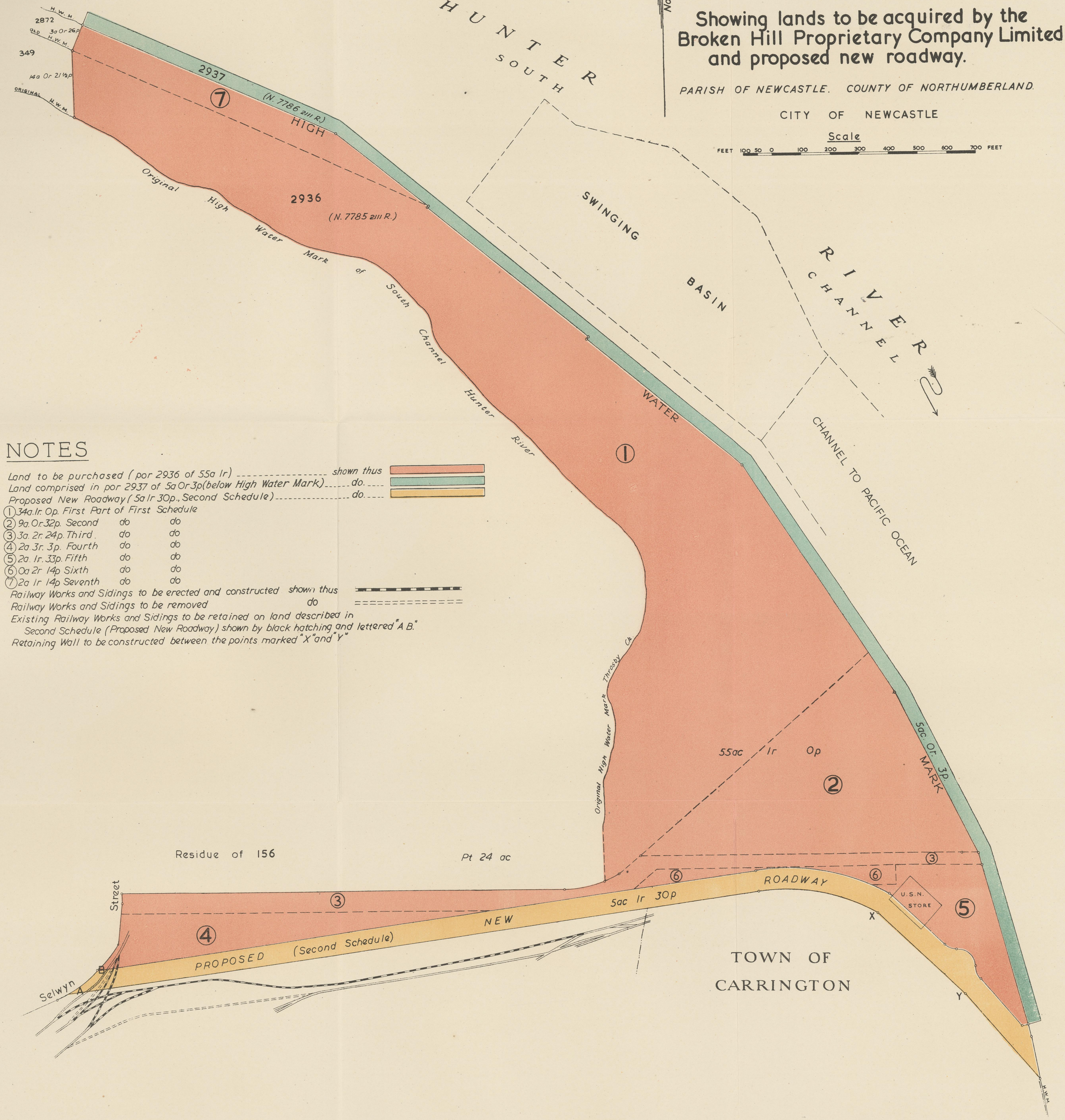
PARISH OF NEWCASTLE. COUNTY OF NORTHUMBERLAND.

CITY OF NEWCASTLE

Scale

FEET 100 50 0 100 200 300 400 500 600 700 FEET

North



NOTES

Land to be purchased (por 2936 of 55a 1r) ..... shown thus
Land comprised in por 2937 of 5a Or 3p (below High Water Mark) ..... do.
Proposed New Roadway (5a 1r 30p., Second Schedule) ..... do.

(1) 34a. 1r. 0p. First Part of First Schedule
(2) 9a. Or. 32p. Second do do
(3) 3a. 2r. 24p. Third. do do
(4) 2a 3r. 3p. Fourth do do
(5) 2a. 1r. 33p. Fifth do do
(6) 0a 2r 14p Sixth do do
(7) 2a 1r 14p Seventh do do

Railway Works and Sidings to be erected and constructed shown thus
Railway Works and Sidings to be removed do
Existing Railway Works and Sidings to be retained on land described in Second Schedule (Proposed New Roadway) shown by black hatching and lettered "A B."
Retaining Wall to be constructed between the points marked "X" and "Y"

Drawn & Printed at the Department of Lands, Sydney, N.S.W. 50-133

BROKEN HILL PROPRIETARY COMPANY LIMITED (STEELWORKS) AGREEMENT RATIFICATION BILL.

Schedule of an amendment referred to in the Legislative Council's Message of 20th April, 1950.

Page 7, clause 9, line 7. *After* "the", where firstly occurring, *insert* **"First"**

35087 500—

This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

H. ROBBINS,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 30 *March,* 1950.

The LEGISLATIVE COUNCIL *has this day agreed to this Bill with an Amendment.*

W. K. CHARLTON,
Clerk of the Parliaments.

Legislative Council Chamber,
Sydney, 20*th April,* 1950.

New South Wales.

ANNO QUARTO DECIMO

GEORGII VI REGIS.

* *

Act No. , 1950.

An Act to ratify a certain Agreement made between The Broken Hill Proprietary Company Limited of the one part and His Most Gracious Majesty King George VI of the other part with respect to the sale to such Company of certain lands at or near Newcastle on certain terms and conditions and with respect to the granting to such Company of the right to obtain leases of certain adjoining lands; to provide for the carrying into effect of the said Agreement; to repeal the Newcastle Iron and Steel Works Act, 1912; to amend the Crown Lands Consolidation Act, 1913, and certain other Acts in certain respects; and for purposes connected therewith.

35087 500—A BE

NOTE.—The word to be *inserted* is printed in **black letter.**

Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification Act, 1950."

Definitions.

2. In this Act, unless the context or subject matter otherwise indicates or requires—

"Commissioner" means The Commissioner for Railways incorporated by the Transport (Division of Functions) Act, 1932, or other the corporation controlling the Government Railways of New South Wales.

"Company" means The Broken Hill Proprietary Company Limited.

"The said Agreement" means the Agreement, a copy of which is set out in the Schedule to this Act.

Ratification of Agreement.

3. (1) The said Agreement is hereby ratified and may be carried into effect notwithstanding the provisions of any other Act.

(2) All acts, matters and things for or with respect to which provision is made in the said Agreement, or which, by the said Agreement, are agreed, directed, authorised or permitted to be made, done or executed by or on behalf of His Majesty or the Governor or the Minister or the Minister for Public Works or the Maritime Services Board of New South Wales or the Registrar-General or the Commissioner are hereby sanctioned, authorised and confirmed.

Enforcement of provision for drainage from Throsby Creek.

4. Upon the issue of the Crown Grants of the lands described in the First, Second and Third Parts of the First Schedule to the said Agreement, the covenants and conditions therein that the Company, its successors and assigns will at all times and to the satisfaction of the Minister

Minister provide for the maintenance and proper discharge into Newcastle Harbour of the drainage from Throsby Creek through or over the lands described in the First, Second and Third Parts of such First Schedule shall bind such lands and every part thereof into whosesoever hands the same may come and bind all persons interested therein and the Registrar-General may make such endorsements upon any Crown Grant or certificate of title comprising such lands or any part thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof.

Resumption of certain land.

5. (1) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule to the said Agreement the Governor shall appropriate and resume the land described in the Fourth Part of the First Schedule to the said Agreement by Gazette notification under Division 1 of Part V of the Public Works Act, 1912, as amended by subsequent Acts.

(2) For the purposes of the Public Works Act, 1912, as amended by subsequent Acts, such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act, as so amended, and the Commissioner shall be the constructing authority in respect thereof.

(3) Such appropriation and resumption shall not acquire the mines or deposits of coal, ironstone, kerosene shale, limestone, slate or other minerals under the land so appropriated and resumed.

(4) The Registrar-General shall without further survey issue to the Commissioner after the said appropriation and resumption a new certificate of title under the Real Property Act, 1900, comprising the land described in the Fourth Part of the First Schedule to the said Agreement, and shall make all such cancellations, alterations and entries of and in the register book, certificates of title or otherwise as he may think desirable in consequence thereof and of such resumption and appropriation.

Revocation of part of a certain resumption.

6. As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule to the said Agreement the Minister shall publish in the Gazette a notice revoking the notification of appropriation and resumption by the Railway Commissioners of New South Wales published in the Gazette of the twenty-fifth day of June, one thousand nine hundred and twenty, under the Public Works Act, 1912 (referred to in subclause (e) of clause eighteen of the said Agreement), so far as concerns such parts of the land thereby appropriated and resumed as are within the lands described in the Sixth Part of the First Schedule to the said Agreement, and those parts of such lands shall upon the publication in the Gazette of the said notice by the Minister be thereby vested in His Majesty, His Heirs and Successors. Further survey shall not be required before the publication of such notice.

Resumption for road.

7. (1) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule to the said Agreement, the Governor shall appropriate and resume the land described in the Second Schedule to the said Agreement by Gazette notification under Division 1 of Part V of the Public Works Act, 1912, as amended by subsequent Acts, for the purpose of a public road.

(2) For the purposes of the Public Works Act, 1912, as amended by subsequent Acts, such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act, as so amended, and the Minister for Public Works shall be the constructing authority in respect thereof.

(3) Sections ninety-seven and one hundred and thirty-eight of the Public Works Act, 1912, as amended by subsequent Acts, shall not apply in respect of the said appropriation and resumption.

(4) The constructing authority shall, notwithstanding the provisions of section eighty-one of the Public Works Act, 1912, as amended by subsequent Acts (but subject

subject to the following provisions of this section), by notice in the Gazette dedicate the land so appropriated and resumed as a public road, and upon such dedication the provisions of the Local Government Act, 1919, as amended by subsequent Acts, with respect to public roads, shall subject to subsections five and six of this section, apply thereto accordingly: Provided that such dedication shall not affect the carrying out of subclause (d) of clause nineteen and clauses twenty-one and twenty-six of the said Agreement.

(5) Notwithstanding anything contained in subsection four of this section, the Minister for Public Works and the Commissioner respectively may relocate (with any poles, pipes, wires, fittings, structures, equipment, appurtenances, and appliances considered necessary) in, on, under or above the land described in the Second Schedule to the said Agreement all or any electricity transmission lines and cables removed from any land described in any part of the First Schedule to the said Agreement and the Minister for Public Works and the Commissioner and their respective successors and assigns may use the said electricity transmission lines and cables (with the poles, pipes, wires, fittings, structures, equipment, appurtenances and appliances) for the conveyance of electricity and maintain, repair, add to and renew the same.

(6) Notwithstanding anything contained in subsection four of this section, railway sidings and works may be laid or retained in, across and upon the land described in the Second Schedule to the said Agreement in the positions specified in subclause (i) of clause twenty-six of the said Agreement.

(7) In the event of the Company failing to carry out its obligations under subclause (i) of clause twenty-six of the said Agreement to maintain, repair and renew the railway sidings and works that are laid and retained in, across and upon the land described in the Second Schedule to the said Agreement the Commissioner may, without prejudice to any other remedy which His Majesty may

may have by reason of such default of the Company, do all acts and things as the Commissioner may think necessary to remedy the default of the Company and the Company shall on demand pay to the Commissioner all costs and expenses incurred by the Commissioner in so doing and the same shall be recoverable by him from the Company in any court of competent jurisdiction. A certificate of the Secretary for Railways or the person acting as such for the time being of the amount of the costs and expenses so incurred by the Commissioner shall be prima facie evidence thereof.

To protect easements for electricity transmission.

8. The provisions of clause twenty-four of the said Agreement and all or any easements and rights granted by the Company in pursuance of such clause shall bind the lands described in the First Schedule to the said Agreement and also the lands comprised in certificates of title, volume 4,605, folio 90, and volume 5,004, folio 177, and every part of such lands into whosesoever hands the same may come and shall bind all persons interested therein, and the Registrar-General may make such endorsements on any Crown Grant or certificate of title comprising such lands or any parts thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof or of the granting of any such easement or rights.

Restrictions on use of certain lands for shipping of coal.

9. (1) Upon the issue of the Crown Grants of the lands described in the First, Second, Third, Fifth, Sixth and Seventh Parts of the First Schedule to the said Agreement, the provisions to the effect of subclause (a) of clause twenty-seven of the said Agreement included in such Crown Grants shall be deemed to be covenants by the Company for itself, its successors and assigns with His Majesty, His Heirs and Successors and such provisions shall bind the said lands described in the First, Second, Third, Fifth, Sixth and Seventh Parts of the First Schedule to the said Agreement and every part thereof into whosesoever hands the same may come, and bind all persons interested therein, and the Registrar-General may make such endorsements upon any Crown Grant

Grant or certificate of title comprising such lands or any part thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof.

(2) Upon acceptance by the Company of a Memorandum of Transfer in its favour of the land described in the Fourth Part of the **First** Schedule to the said Agreement containing covenants on the part of the Company, its successors and assigns in accordance with the provisions of subclause (c) of clause twenty-seven of the said Agreement such covenants shall bind such land and every part thereof into whosesoever hands the same may come and bind all persons interested therein, and the Registrar-General may make such endorsements upon any Crown Grant or certificate of title comprising such land or any part thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof.

Determination of rental by local land board.

10. (1) The local land board constituted under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, shall have jurisdiction to determine the rental under subclause (f) of clause twenty-eight of the said Agreement.

(2) For the purpose of the said board determining such rental, such board and the chairman and members thereof shall respectively have the same powers as when acting under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, for the purpose of the said board determining rentals thereunder.

(3) An appeal by either party may be made to the Land and Valuation Court from the determination by the said board of such rental by filing within a period of twenty-eight days from the date of the determination appealed against notice of the appeal in the office of the Registrar of the Land and Valuation Court, and by serving within such period notice of the appeal on the other party to the determination. An appeal on behalf

of

of His Majesty against any such determination may be made by the Minister or by the Under Secretary for Lands on the Minister's behalf.

(4) For the purpose of dealing with any and every such appeal the Land and Valuation Court and the Judge thereof shall have the same powers as when dealing with appeals from local land boards under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

Provisions of Harbour and Tonnage Rates Act, 1920-1935, to apply.

11. The Harbour and Tonnage Rates Act, 1920-1935, and any Act amending or replacing the same and the regulations from time to time in force thereunder but in so far only as such Acts and regulations relate to the imposition, collection and payment of tonnage rates and berthing charges shall apply to and in respect of every wharf (which term for the purposes of this section shall include any structure, landing place or facility where cargo may be loaded or discharged or where vessels may be berthed) now or hereafter erected, constructed or provided upon the lands described in the First Schedule to the said Agreement or upon lands adjoining or adjacent thereto as if the same were a public wharf and accordingly tonnage rates and berthing charges in accordance with the said Acts and regulations shall be payable in respect of all vessels berthing at any such wharf subject only to the following exceptions, such exceptions being applicable only to vessels whilst berthed thereat:—

(i) Any vessel carrying, loading or discharging only cargo the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital shall be exempt from the payment of such tonnage rates and berthing charges.

(ii) Any vessel carrying, loading or discharging cargo part only of which is the property of the Company and/or any other company or companies in which the Company holds at least one-third of the share capital shall be granted a rebate of such tonnage rates and berthing charges

charges to the extent of the ratio which the part of the cargo which is the property of the Company and/or any other company or companies in which the Company holds at least one-third of the share capital bears to the whole of such cargo.

(iii) Any vessel the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital berthing for a purpose other than the loading or discharging of cargo shall be exempt from the payment of such tonnage rates and berthing charges.

Certain obligations of the Government of the State and the Company to cease.

12. Upon the completion of the sale to the Company under the said Agreement of the lands described in the First Schedule to the said Agreement—

(a) the obligation of the Company under the Newcastle Iron and Steel Works Act, 1912, to pay interest at the rate of five per centum per annum on the sum of twenty-nine thousand two hundred and fifty-five pounds fourteen shillings being the cost of dredging the swinging basin and lower berth and of reclamations all of which were carried out prior to the thirty-first day of January, one thousand nine hundred and fifteen, shall cease. Any necessary apportionment of the interest paid or payable by the Company shall be made and adjusted on such completion,

(b) the lease granted to the Company under section four of the Newcastle Iron and Steel Works Act, 1912, and the rights and obligations of the Company and of the Government of the said State under such lease and under clauses two, three and seven of the Agreement set out in the Schedule to that Act shall cease and determine.

Repeal of Act No. 55, 1912.

13. (1) This section shall commence upon the date of completion of the sale to the Company of the lands described in the First Schedule to the said Agreement.

(2)

(2) (a) The Newcastle Iron and Steel Works Act, 1912, is hereby repealed.

(b) The repeal of such Act shall not affect the previous operation thereof or, save as provided in this Act or the said Agreement, operate to deprive the Company of any property, right or interest acquired by the Company under the Act so repealed.

(c) Nothing contained in this subsection shall limit any saving in the Interpretation Act of 1897.

(3) As soon as practicable after the date of completion of the sale to the Company of the lands described in the First Schedule to the said Agreement the Minister shall publish in the Gazette a notice specifying such date.

Certain persons may sue and be sued by the Company.

14. It shall not be an objection to the Commissioner, the Minister for Public Works and the Maritime Services Board of New South Wales, or any of them suing the Company and being sued by the Company under the said Agreement that the Commissioner, the Minister for Public Works and the Maritime Services Board of New South Wales are not parties to the said Agreement.

SCHEDULE.

Sec. 3.

THIS AGREEMENT made the twenty-seventh day of March One thousand nine hundred and fifty BETWEEN—THE BROKEN HILL PROPRIETARY COMPANY LIMITED a corporation incorporated under the laws of the State of Victoria and carrying on business in the State of New South Wales (hereinafter called "the Company") of the one part and HIS MOST GRACIOUS MAJESTY KING GEORGE VI of the other part WHEREAS the Company is desirous of acquiring the lands described in the First Schedule hereto and the right to lease certain lands below high water mark fronting such lands described in the First Schedule hereto

hereto for the purposes of the Company and with the object of expanding its industrial operations in the said State of New South Wales NOW IT IS HEREBY AGREED as follows:—

1. In this Agreement unless the context otherwise requires the singular includes the plural and vice versa and the following expressions shall have the meanings set opposite thereto respectively:

"Commissioner" means the Commissioner for Railways incorporated by the Transport (Division of Functions) Act, 1932, or other the corporation controlling the Government Railways of New South Wales;

"Gazette" means New South Wales Government Gazette;

"Minister" means the Minister for Lands of the State of New South Wales and his successors in office;

"Minister for Public Works" means the Minister for Public Works of the State of New South Wales and his successors in office;

"Month" means calendar month;

"High Water Mark" means the mean high water mark of the right bank of the South Channel of the Hunter River as defined by Mr. Surveyor R. A. Allen in his Survey completed on 24th May 1949 of Portion 2936 Parish of Newcastle County of Northumberland and shown on plan catalogued N.7785.2111R. at the Department of Lands, Sydney.

2. (a) Subject to the provisions hereinafter contained His Majesty hereby agrees to sell to the Company and the Company agrees to buy the lands described in the First Schedule hereto at and for the price of One hundred thousand pounds (£100,000).

(b) The Company shall pay the said price in full to the Minister in Sydney free of exchange on completion of such sale and purchase of the lands described in the First Schedule hereto.

3. (a) The land described in the First Part of the First Schedule hereto is Crown Lands as to part thereof subject to the Lease for fifty years from the sixth day of December One thousand nine hundred and twelve vested in the Company by the Newcastle Iron and Steel Works Act, 1912 and the Agreement scheduled thereto and as to the remainder thereof comprises a closed road added to the said Lease by notice in the Gazette of the fourth day of March One thousand nine hundred and twenty seven, page 1302.

(b) The land described in the Second Part of the First Schedule hereto is Crown Lands formerly forming part of Special Lease No. 11 of 1919 granted to the Company under the Crown Lands Consolidation Act, 1913 as amended. This Special Lease expired on the 31st day of December 1948 and the lands comprised therein are now occupied by the Company under a Permissive Occupancy granted to the Company.

(c) The lands described in the Third Part of the First Schedule hereto are Crown Lands formerly comprised in Crebert Street Extended a public road, as to 13 perches being Crown Lands dedicated for public road under the Crown Lands Consolidation Act, 1913 as amended by Gazette of the 16th day of January 1931, page 266 and the remainder having been resumed (without any limitation as to depth) and dedicated for public road by Gazette of the 14th day of February 1930, page 672, but all these dedications were limited to the surface and 25 feet below the surface. Crebert Street Extended was closed as to part by Notice published in the Gazette of the 4th day of July 1941, page 2438 and as to a further part by Notice published in the Gazette of the 19th day of May 1944 page 895.

(d) As to the lands described in the Fourth Part of the First Schedule hereto—

(i) part thereof is comprised in Certificate of Title registered Volume 1795 Folio 95 issued to the Railway Commissioners of New South Wales subject to the notifications endorsed thereon including that of the exceptions and reservations unto the Caledonian Coal Company Limited its successors and assigns of the mines and minerals beneath the land with full and free liberty and power to carry on mining operations beneath such land or any part thereof which shall not interfere with the safety of the railway which the Commissioners proposed to construct upon the said land or with the traffic upon such railway, it being expressly agreed and declared that the Commissioners shall have no further right to the soil beneath the surface of the said land than shall be requisite for the support of the said railway and for the formation and repair of the same and except as hereinafter otherwise expressly provided the land is hereby agreed to be sold subject to such exceptions and reservations so far as the same are existing at the date of this Agreement, and

(ii) part thereof is comprised in Certificate of Title registered Volume 3797 Folio 42 also issued to the Railway Commissioners for New South Wales, and

(iii) part thereof is comprised in the Notification of Resumption by the Chief Commissioner for Railways and Tramways for New South Wales published in the Gazette of the 19th day of November 1913, page 6901, under the Public Works Act, 1912 (in lieu of the like Notification published in the Gazette of the 12th day of November, 1913, page 6750) by which no mines or deposits of coal, ironstone, kerosene shale, limestone, slate or other minerals under such area were acquired and the same are excepted from this sale, and

(iv) part thereof is comprised in the Indenture of Conveyance dated the 24th day of December 1919 No. 93 Book 1174 made between Caledonian Collieries Limited of the one part

and

and the Railway Commissioners for New South Wales of the other part which conveyed only all mines and minerals (if any) in and under the land comprised in such Conveyance which the said Company might be empowered to convey, and nothing herein shall affect the preceding paragraph (iii), and

(v) part thereof is comprised in Conveyance dated the 22nd day of February 1907 from the Caledonian Coal Company Limited to the Railway Commissioners of New South Wales registered No. 207 Book 827 which excepts and reserves unto the said Company the mines and minerals beneath the said lands with full and free liberty and power to carry on any mining operations beneath the said lands or any part thereof which shall not interfere with the safety of the railway which the Commissioners proposed to construct upon the said land or with the traffic upon such railway, it being expressly agreed and declared that the Commissioners shall have no further right to the soil beneath the surface of the said lands than shall be requisite for the support of the said railway and for the formation and repair of the same and (except as otherwise hereinafter expressly provided) the same are also excepted from this sale and (except as aforesaid) this sale is also subject to the rights to use railways and other rights reserved to the Waratah Coal Company Limited (In Liquidation) by the Conveyance by that Company to the Caledonian Coal Company Limited dated the 1st day of July 1896 registered No. 901 Book 580 so far as the same are existing at the date of this Agreement.

(e) The lands described in the Fifth Part of the First Schedule hereto are Crown lands.

(f) As to the lands described in the Sixth Part of the First Schedule hereto part thereof is comprised within the Notification of Resumption by the Railway Commissioners of New South Wales published in the Gazette on the 25th day of June 1920, page 3587, under the Public Works Act, 1912 by which no mines or deposits of coal, ironstone, kerosene shale, limestone, slate or other minerals under such area were acquired and the same are excepted from this sale. The remainder of such lands is Crown lands.

(g) The land described in the Seventh Part of the First Schedule hereto is Crown lands comprising the land the subject of Special Purchase Application No. 38/20 Newcastle by the Company.

4. (a) Certain information as to the title to the lands comprised in the First Schedule hereto is referred to in this Agreement and the Company shall not require or be entitled to be furnished with any further particulars as to the title of His Majesty or the Minister or the Commissioner to any of such lands or with any abstract of the title to any of such lands or any evidence whatsoever of the title to

any

any of such lands save and except that each of them the Minister and the Commissioner will produce to the Company the deeds and documents that may be in his possession and that relate to such lands.

(b) No objection or requisition whatsoever shall be made by the Company to or in respect of the title to any of the said lands and no objection whatever shall be taken by the Company to the power of His Majesty and the Minister and the Commissioner to sell and assure as provided by this Agreement the said lands described in the First Schedule hereto.

5. All the said lands are sold by His Majesty and/or the Minister and the Commissioner to the Company subject to the existing tenancies easements encroachments licenses and occupancies and all such lands are sold subject to the reservations exceptions and conditions contained in the Crown Grants under which any of the lands were originally or are now held. The Company shall not raise any objection or make any claim in respect of any encroachments by or on any part or parts of the lands described in the First Schedule whether revealed by any present or future survey or otherwise.

6. There shall be excepted out of and from the lands described in the First Schedule hereto and excluded from the said sale and the assurances to the Company:

(a) All telegraph lines within the meaning of the Post and Telegraph Act, 1901-1934 of the Commonwealth constructed or laid upon in under or over such lands.

(b) The electric cables and electricity transmission lines constructed or laid upon in under or over the lands described in the First Schedule hereto by any Municipal or other local authority or by any body supplying electricity and all poles pipes wires fittings appurtenances equipment and appliances connected therewith.

(c) The electric cables and electricity transmission lines the property of His Majesty or the Minister for Public Works or the Commissioner constructed or laid upon in under or over the lands described in the First Schedule hereto and all poles pipes wires fittings equipment appurtenances and appliances connected therewith.

7. The said sale of the lands described in the First Schedule hereto is also subject to, and the Crown Grants to the Company of the lands described in the First, Second and Third Parts of such Schedule shall contain covenants and conditions that the Company its successors and assigns will at all times and to the satisfaction of the Minister provide for the maintenance and proper discharge into Newcastle Harbour of the drainage from Throsby Creek through or over the lands described in the First, Second and Third Parts of the First Schedule hereto. The Act ratifying this Agreement shall contain

provisions

provisions to the effect that such covenants and conditions shall bind the lands described in the First, Second and Third Parts of the First Schedule hereto and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements upon any Crown Grant or Certificate of Title comprising such lands or any part thereof and such other entries in the Register Book as he may think desirable in consequence thereof.

8. The completion of the purchase by the Company of the lands described in the First Schedule hereto and payment of the purchase moneys therefor shall take place at the office of the State Crown Solicitor on a date which shall be two months from the date of commencement of this Agreement. If from any cause whatever other than the non-completion caused by the default of the Minister or the Commissioner the purchase money shall not be paid on that date the Company agrees with His Majesty His Heirs and Successors to pay to the Minister interest thereon at the rate of five pounds (£5) per centum per annum computed from that date until the day of actual payment.

9. His Majesty and the Commissioner shall be entitled to the rents and profits to the date of completion and shall pay and bear all rates taxes assessments and outgoings to that date in respect of the lands comprised in the First Schedule hereto other than the rates taxes assessments and outgoings payable by the Company under or by reason of its occupancies or interest in any of such lands prior to the date of completion from which date the Company shall be entitled to such rents and profits and shall pay or bear all rates taxes assessments and outgoings in respect of the lands comprised in the First Schedule hereto. Any necessary apportionments shall be made and adjusted on completion. Nothing in this clause shall relieve the Company of any liability under or by reason of its occupancy or interest in any of the said lands at or prior to the date of completion.

10. No error or misdescription of the lands sold shall annul the sale of the lands described in the First Schedule hereto but compensation (if demanded in writing before completion but not otherwise and if as regards the Company it is otherwise entitled thereto under this Agreement) shall be made to or given by the Company as the case may be and should the parties be unable to agree between themselves as to the amount thereof such amount shall be settled by two arbitrators one to be appointed by the Minister and the other by the Company in accordance with the provisions of the Arbitration Act, 1902.

11. All objections and requisitions (if any) which under this Agreement the Company shall be entitled to make shall be made and delivered to the Crown Solicitor of the State of New South Wales within

within twenty-one days from the date of commencement of this Agreement and all objections and requisitions not so made shall be deemed to be waived.

12. If His Majesty His Heirs or Successors shall be unable or unwilling to comply with or remove any objection or requisition which the Company shall be entitled to make under this Agreement the Minister shall whether he or the Commissioner or His Majesty His Heirs or Successors has or has not attempted to remove or comply with such objection or requisition and notwithstanding any negotiations or litigation whatsoever in respect thereof be at liberty to rescind this Agreement and in no case shall His Majesty or His Heirs or Successors or the Minister or the Commissioner be liable for any damages costs charges expenses and losses whatsoever incurred by the Company in and about this Agreement AND IT IS HEREBY DECLARED that seven days' notice of the intention of the Minister to rescind this Agreement shall be deemed reasonable notice of such intention under Section 56 of the Conveyancing Acts, 1919-1943.

13. His Majesty His Heirs and Successors the Minister and/or the Commissioner shall not be called upon or bound to pay any proportion of the costs of any dividing fence or fences.

14. All notices and documents hereunder may be served as mentioned in Section 170 of the Conveyancing Acts, 1919-1943.

15. Clauses 2 to 6 inclusive of the conditions of sale contained in Schedule III of the Conveyancing Acts, 1919-1943 shall not apply to this Agreement except insofar as the same or any part thereof are incorporated herein.

16. Such of the provisions and conditions of this Agreement as require or prescribe any act or thing to be done or not to be done by the Company shall in addition to being read and construed as conditions of this Agreement be also read and construed as Agreements whereby the Company covenants with His Majesty His Heirs and Successors to observe and perform the said provisions and conditions.

17. If the Company shall omit to fulfil observe or perform the provisions of this Agreement other than Clauses 28 and 30 hereof on the part of the Company to be fulfilled observed or performed the Minister may by notice in writing served on the Company call upon the Company to rectify the default complained of within a reasonable time (to be stated in the notice) after the service of such notice and if the Company shall fail after service of the said notice upon it to rectify the said default within such reasonable time the Minister may by notice in writing served on the Company determine this Agreement but without prejudice to any claim which His Majesty His Heirs and Successors the Commissioner the Minister for Public Works and the Maritime Services Board of New South Wales or any

one or more of them may have against the Company in respect of any breach of the provisions of this Agreement on the part of the Company to be fulfilled observed and performed.

18. (a) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto (and after the publication of the Notice by the Minister referred to in subclause (e) of this clause) a Crown Grant or Crown Grants shall be issued to the Company for the assurance to it of the lands respectively described in the First Part the Second Part the Third Part the Fifth Part the Sixth Part and the Seventh Part of the First Schedule hereto.

(b) Every Crown Grant so to be issued to the Company shall contain a reservation of all minerals in the lands assured by the Grant and shall contain such other reservations and exceptions as are usually inserted by the Crown in Crown Grants issued for Special Purchases under Section 66 of the Crown Lands Consolidation Act, 1913, as amended and for the purposes aforesaid the term "minerals" shall have the same meaning as it has in the said Act.

(c) Every Crown Grant so to be issued to the Company as aforesaid shall be limited to the surface of the land comprised in such Crown Grant and to a depth of 400 feet below such surface and shall contain a proviso in or to the effect that mining operations may have been and may be carried on upon and in the land below the land thereby granted and the lands adjoining the land thereby granted and the land below the same and metals and minerals may have been and may be removed therefrom and that the Crown Grant is made upon and subject to the condition that the Company and its assigns shall not be entitled to make or prosecute any claim for damages or take any proceedings either by way of injunction or otherwise against His Majesty His Heirs or Successors or the Government of the State of New South Wales or any lessee or lessees under any Mining Act or Acts of the said State of New South Wales or his or their executors administrators or assigns for or in respect of any damage or loss occasioned by the letting down subsidence or lateral movement of the land thereby granted or otherwise howsoever by reason of the following acts and matters that is to say by reason of His Majesty His Heirs or Successors or the Government of the said State of New South Wales or any person on His Their or Its behalf or any Lessee or Lessees as aforesaid or his or their executors administrators or assigns having worked or then or thereafter working any mines or having carried on or then or thereafter carrying on mining operations or having searched for worked won or removed or then or thereafter searching for working winning or removing any metals or minerals under in or from the land below the land thereby granted or on in under or from any other lands situated laterally to the land thereby granted and the land below the same and whether on or below the surface of such other lands AND THAT His Majesty doth thereby expressly reserve unto His Majesty

His

His Heirs and Successors the liberty and authority by reason of the acts and matters aforesaid or in the course thereof for His Majesty His Heirs and Successors and the Government of the said State of New South Wales and any person on His Their or Its behalf and any Lessee or Lessees as aforesaid and His or their executors administrators and assigns to from time to time let down without payment of any compensation whatsoever any part of the land thereby granted and/or of the surface thereof.

(d) As soon as practicable after completion of the sale to the Company of the lands described in the First Schedule hereto the Governor shall appropriate and resume the land described in the Fourth Part of the First Schedule hereto by Gazette notification under Division 1 of Part V of the Public Works Act, 1912 as amended and for the purposes of such Act such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act and the Commissioner shall be the Constructing Authority in respect thereof and the Act ratifying this Agreement may provide accordingly and after such appropriation and resumption the Commissioner shall transfer the land acquired to the Company. The said appropriation and resumption shall not acquire the mines or deposits of coal ironstone kerosene shale limestone slate or other minerals under the land and nothing herein shall require the Commissioner to assure to the Company any mines or minerals under the land not belonging to him immediately prior to the said appropriation and resumption. The Act ratifying this Agreement shall contain provisions to the effect that the Registrar-General is to issue to the Commissioner after the said appropriation and resumption a new Certificate of Title under the Real Property Act, 1900, comprising the land described in the Fourth Part of the First Schedule hereto and that the Registrar-General shall make all such cancellations alterations and entries of and in the Register Book Certificates of Title and otherwise as he may think desirable in consequence thereof.

(e) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto the Minister shall publish in the Gazette a notice revoking the aforesaid appropriation and resumption by the Railway Commissioners of New South Wales published in the Government Gazette of the 25th day of June 1920 so far as concerns such parts of the land thereby appropriated and resumed as are within the lands described in the Sixth Part of the First Schedule hereto and the Act ratifying this Agreement shall provide for the publication of such notice and for those parts of such lands upon the publication in the Gazette of the said Notice by the Minister to be thereby vested in His Majesty the King His Heirs and Successors.

(f) The Company shall not be entitled to any assurance from the Minister the Commissioner or the Crown with respect to any part of the land comprised in the First Schedule hereto except as is provided by this clause.

(g) The Company shall pay to the Minister on demand the cost of all surveys and plans with respect to the lands described in the First and Second Schedules hereto made in connection with this Agreement and the Company agrees to pay to the Minister in respect of every Crown Grant to be issued to it under this clause (and prior to the issue of such Grant) a deed fee of the amount in like case usually payable on a Crown Grant for land specially purchased under Section 66 of the Crown Lands Consolidation Act, 1913 as amended.

19. (a) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto the Governor shall appropriate and resume the land described in the Second Schedule hereto by Gazette notification under Division 1 of Part V of the Public Works Act, 1912, as amended, for the purpose of a public road and for the purposes of the said Act such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act and the Minister for Public Works shall be the Constructing Authority in respect thereof and the Act ratifying this Agreement shall provide accordingly.

(b) The Act ratifying this Agreement shall contain provisions to the effect that sections 138 and 97 of the Public Works Act, 1912, as amended, shall not apply in respect of the said appropriation and resumption.

(c) After the land described in the Second Schedule hereto has been appropriated and resumed as aforesaid the Constructing Authority shall notwithstanding the provisions of section 81 of the Public Works Act, 1912, by Notice in the Gazette dedicate such land as a public road and thereupon the provisions of the Local Government Act, 1919, as amended, with respect to public roads, shall apply thereto accordingly but nothing herein is to affect the operation of subclause (d) of clause 23 and subclause (i) of clause 26 hereof and the Act ratifying this Agreement shall contain provisions to the effect of this subclause.

(d) Notwithstanding the appropriation and resumption as aforesaid of the land described in the Second Schedule hereto the Company shall be permitted to demolish and remove at any time from the land described in the Second Schedule hereto such part of the building known as the "U.S.N. Store" owned by the Company as encroaches upon the land described in the Second Schedule hereto and the Company hereby covenants with His Majesty His Heirs and Successors that the Company shall make no claim for compensation by reason of the appropriation or resumption as aforesaid of that

part

part of the land described in the Second Schedule hereto upon which any part of the "U.S.N. Store" is erected and that the Company shall if as and when requested in writing by the Minister or the Council of the City of Newcastle carry out at its own cost and expense the work of the demolition and removal of such portion of the "U.S.N. Store" as encroaches upon the land described in the Second Schedule hereto and such work shall be carried out to the satisfaction of the Minister. Until such time as the Company has been requested by the Minister or the Council of the City of Newcastle to demolish and remove the encroaching portion of the "U.S.N. Store" the Company shall be under no obligation to remove the same even though the land described in the Second Schedule hereto may have been dedicated as a public road.

(e) The work of the demolition and removal of the encroaching portion of the "U.S.N. Store" as aforesaid shall be carried out within such time or times and at such rate as the Minister shall determine and in the event of the Company failing to carry out and complete such work in accordance with the provisions of this subclause the Minister may without prejudice to any other remedy of His Majesty by reason of such default of the Company do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand by the Minister pay to His Majesty His Heirs and Successors all costs and expenses incurred by the Minister in so doing and the same shall be recoverable from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof.

20. The Company shall pay to the Minister for Public Works at the time of completion of the sale of the lands described in the First Schedule hereto in addition to the purchase moneys then payable in respect of the said lands the sum of Two hundred and eighty pounds (£280) being the value of the four dolphins existing adjacent to the said lands and the said dolphins shall thereupon become the property of the Company but without prejudice to the powers and duties with respect thereto of the authority controlling the Port of Newcastle.

21. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall at its own expense at the date of commencement of this Agreement resume the construction of and thereafter continuously proceed with the construction in accordance in all respects with the approval of the Minister of a road over a width of not less than eighteen feet at levels and alignment approved of by the Minister throughout along and within the land described in the Second Schedule hereto the remainder of the said road to be constructed and completed to the same standard and specification

specification as the part of the said road already constructed together with road drainage and culverts as required by the Minister and together with drainage facilities to the satisfaction of the Minister on and along the southern side at such a level and in such a manner that suitable drainage shall be available thereto from the railway lands to the south of the said land SO THAT at the expiration of one year from the date of commencement of this Agreement or of such further period (if any) as may be allowed by the Minister in writing, the Company shall have at its own cost completed the full and proper construction as aforesaid of the whole of the said road and the Company covenants with His Majesty His Heirs and Successors to construct at its own cost the said road within the said period of one year or further period (if any) allowed in writing by the Minister in accordance in all respects with the foregoing provisions of this clause.

(b) The Company shall at its own expense maintain the said road (including the road drainage and the said drainage facilities) in good order and condition and to the satisfaction of the Minister for and during the period of one year after the Company has completed the construction of the said road in accordance with subclause (a) of this clause.

(c) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall at its own expense commence at the date of this Agreement and thereafter continuously proceed with the construction in accordance in all respects with the approval of the Commissioner of a substantial retaining wall for the purposes of retaining the railway embankment under the conditions which shall exist at the date of commencement of this Agreement in the approximate position shown between the points marked "X" and "Y" on the Plan annexed hereto and marked "C" SO THAT at the expiration of one year from the date of the commencement of this Agreement or such further period (if any) as may be allowed by the Commissioner in writing the Company shall have at its own cost completed the full and proper construction as aforesaid of the said retaining wall and the Company covenants with His Majesty His Heirs and Successors to construct at its own cost the said retaining wall within the said period of one year or further period (if any) allowed in writing by the Commissioner in accordance in all respects with the foregoing provisions of this subclause and at its own expense from time to time and at all times to maintain the said retaining wall in good order and condition to the satisfaction of the Commissioner.

(d) In the event of the Company failing to comply with any of the foregoing provisions of this clause, the Minister or the Commissioner may, without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister or the Commissioner may think necessary to remedy the default of the Company and the Company shall on demand

demand by the Minister or the Commissioner pay to His Majesty His Heirs and Successors all costs and expenses incurred by the Minister or Commissioner in so doing and the same shall be recoverable by His Majesty His Heirs and Successors from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the Secretary for Railways or the person acting in either of such offices for the time being of the amount of such costs and expenses incurred by the Minister or the Commissioner shall be prima facie evidence thereof.

(e) The Company for itself and its assigns hereby covenants with the Minister that it will from time to time and at all times hereafter indemnify and keep indemnified His Majesty His Heirs and Successors and the Commissioner his successors and assigns and the Government of the said State of New South Wales from and against all actions claims and demands which may at any time be brought or made against His Majesty His Heirs and Successors or the Commissioner his successors or assigns or the Government of the said State of New South Wales by or for any person body firm or corporation whomsoever in respect of any loss of life or of any injury to person or property or of any loss or damage occasioned by or arising out of or by reason or as a result of any act or thing done or omitted to be done by the Company its successors or assigns or its or their employees agents workmen servants or licensees in or in connection with the construction or maintenance of the retaining wall referred to in subclause (c) of this Clause.

22. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall at its own expense commence at the date notified to it in that behalf by the Minister on or after the date of completion of the sale to the Company of the lands described in the First Schedule hereto and thereafter continuously proceed with the construction and erection of a substantial fence to the approval in all respects of the Minister on and along the lines forming the western and north-western boundaries of the lands described in the Third and Fourth Parts of the First Schedule and the south-eastern and south-western boundaries of the lands described in the Fourth Third Sixth and Fifth Parts of the First Schedule hereby agreed to be sold to the Company commencing at Selwyn Street and thence southerly and southwesterly along that street to the southernmost point of the land described in the Fourth Part of such Schedule and thence continuously proceeding to the waters of the Hunter River so that at the expiration of six months from the date so notified by the Minister the Company shall have at its own cost completed the full and proper construction and erection as aforesaid of the said fence and the Company covenants with His Majesty His Heirs and Successors to construct and erect at its own cost the said fence within the said period of six months in accordance in all respects with the foregoing provisions of this clause.

(b)

(b) In the event of the Company failing to comply with any of the foregoing provisions of this Clause the Minister may, without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand by the Minister pay to His Majesty His Heirs and Successors all costs and expenses incurred by the Minister in so doing and the same shall be recoverable from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof.

23. (a) Each of them the Minister for Public Works and the Commissioner may as and when he desires to do so carry out such re-locating of all or any electricity transmission lines and cables (together with any poles pipes structures wires fittings equipment appurtenances and appliances connected therewith) the property of His Majesty or the Minister for Public Works or the Commissioner now in or on the land described in any part of the First Schedule hereto as the Minister for Public Works or the Commissioner may (subject to clause 24) consider necessary and proper.

(b) Each of them the Minister for Public Works and the Commissioner may at any time remove from the land described in any part of the First Schedule all or any electricity transmission lines and cables the property of His Majesty or the Minister for Public Works or the Commissioner and all or any poles pipes wires fittings equipment appurtenances and appliances connected therewith.

(c) The Company covenants with His Majesty His Heirs and Successors to pay to the Minister for Public Works or the Commissioner as the case may be on demand the costs and expenses incurred by the Minister for Public Works or the Commissioner in exercising the powers conferred on the Minister for Public Works or the Commissioner by subclause (a) or subclause (b) of this clause in every case where the re-locating or the removal of any electricity line or cable has been carried out at the request of the Company and the same shall be recoverable from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Public Works, in the case of the Minister for Public Works or the Secretary for Railways in the case of the Commissioner or the person acting in either of such offices for the time being of the amount of such costs and expenses incurred by the Minister for Public Works or the Commissioner shall be prima facie evidence thereof.

(d) The Act ratifying this Agreement shall contain provisions to the effect that the Minister for Public Works and the Commissioner respectively may re-locate (with any poles pipes wires fittings structures

structures equipment appurtenances and appliances considered necessary) in on under or above the land described in the Second Schedule hereto all or any electricity transmission lines and cables removed from any land described in any part of the First Schedule hereto notwithstanding the dedication of the land described in the Second Schedule hereto as a public road and that the Minister for Public Works and the Commissioner and their respective successors and assigns may use the same for the conveyance of electricity and may maintain repair add to and renew the same.

24. The Company hereby agrees to grant to the Minister for Public Works and other Ministers of the Crown in right of the State of New South Wales and the Commissioner and other statutory authorities representing the Crown in right of the State of New South Wales and the Hunter District Water Board and the Postmaster General or any of them or their respective successors and assigns on request or requests without compensation easements and rights with respect to the erection, construction, laying, operation and maintenance—FIRSTLY of all such electricity transmission lines and cables, telephone lines and cables and water pipes and mains the property of His Majesty, the Minister for Public Works or other Minister of the Crown as aforesaid or the Commissioner or other statutory authority representing the Crown as aforesaid or the Hunter District Water Board or the Postmaster General as are now upon in under or over the lands described in any part of the First Schedule hereto and SECONDLY of all such additional or substituted electricity transmission lines and cables, telephone lines and cables and water pipes and mains for the purpose of enabling such utilities to be made available for the development of the Islands in the Hunter River and other areas as the Minister for Public Works and other Ministers of the Crown as aforesaid the Commissioner and other statutory authorities representing the Crown as aforesaid and the Hunter District Water Board and the Postmaster General or any of them or their respective successors and assigns may (whether the electricity lines and cables, telephone lines and cables and water pipes and mains firstly mentioned have or have not been removed) at any time hereafter desire to erect construct or lay upon in under or over the lands described in the First Schedule hereto or the lands comprised in Certificates of Title Volume 4605 Folio 90 and Volume 5004 Folio 177 standing in the name of the Company or any part or parts thereof along routes determined by the Minister for Public Works or other Ministers of the Crown as aforesaid or the Commissioner or other statutory authorities representing the Crown as aforesaid or the Hunter District Water Board or the Postmaster General or their respective successors and assigns but not so as to interfere unreasonably with the Company's operations and all or any such easements or rights shall if the Minister for Public Works or other Minister of the Crown as aforesaid or the Commissioner or other statutory authority representing the Crown

as

as aforesaid or the Hunter District Water Board or the Postmaster General or any of their respective successors and assigns require be so granted in a form on the lines of that set out in the Third Schedule hereto.

The power of the Minister for Public Works and other Ministers of the Crown as aforesaid and the Commissioner and other statutory authorities representing the Crown as aforesaid and the Hunter District Water Board and the Postmaster General or any of them or their respective successors to assign the said easements and rights hereinbefore referred to in this clause includes power to assign from time to time to any person or corporation (including the Crown) the whole or any part or parts of any of the said easements or rights.

In this clause the term "Postmaster General" shall mean the Postmaster General of the Commonwealth of Australia or other the proper authority of the Commonwealth for the time being controlling the provision and maintenance of public telephonic and/or telegraphic services.

The Act ratifying this Agreement shall contain provisions to the following effect namely, that the provisions of this clause shall bind the lands described in the First Schedule hereto and also the lands comprised in the said Certificates of Title Volume 4605 Folio 90 and Volume 5004 Folio 177 and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements on any Crown Grant or Certificate of Title comprising such lands or any parts thereof and such other entries in the Register Book as he may think desirable in consequence thereof.

25. In contemplation of the execution of this Agreement and for the purposes thereof the Crown has carried out the removal of the thirty-ton crane (which was controlled by the Minister for Public Works) from its previous position adjacent to the southernmost corner of the land described in the Fifth Part of the First Schedule hereto to its present situation at the southern end of the Dyke Newcastle and the re-erection at that situation of a thirty-ton crane (comprising parts of the crane previously referred to and a boiler and other parts obtained from Walsh Island and elsewhere) together with the construction of railway sidings and other works in connection with the said crane at the southern end of the Dyke and also together with all such further structures facilities and foundations required so as to make that crane ready for use in all respects at its present situation by land and water AND the Company hereby covenants with His Majesty His Heirs and Successors that the Company will on the completion of the sale to the Company under this Agreement of the lands described in the First Schedule hereto pay to the Minister for Public Works the sum of Six hundred and sixty-eight pounds twelve shillings and five pence (£668. 12. 5.) on account of the costs and expenses incurred by His Majesty in the removal

of

of the crane first referred to in this Clause and the re-erection of the crane secondly referred to in this Clause together with the construction of railway sidings and works as aforesaid and together with the structures facilities and foundations as hereinbefore referred to.

26. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall if as and when requested in writing by the Commissioner carry out at its own cost and expense (or at the option of the Commissioner pay to the Commissioner the costs and expenses incurred by him in carrying out) all the following works that is to say the erection and construction of railway works and sidings in the approximate positions shown on the Plan annexed hereto and marked "C" by short heavy broken black lines so as to provide to the satisfaction of the Commissioner railway connection between the Morandoo Sidings near Selwyn Street adjacent to the lands described in the Fourth Part of the First Schedule hereto and the Commissioner's railway lines lying to the south of the land described in the Second Schedule hereto (and referred to on the said Plan as "proposed new roadway") and including a single line of railway approximately 28 chains in length and railway sidings works and connections considered necessary by the Commissioner for the purpose of re-locating and/or providing railway connection between the Morandoo Sidings near Selwyn Street and the Steel Works entrance. The railway works to be erected and constructed under this paragraph shall include the removal (and the making good of any damage thereby caused) to the satisfaction of the Commissioner of the railway sidings and works shown approximately by broken parallel lines on the western part of the said Plan and lying in or upon the said land described in the Second Schedule hereto and in or upon the land adjoining that land on the south.

Should any of the work towards the erection and construction of the railway works and sidings referred to in this subclause (a) be carried out by the Commissioner before the date of the commencement of this Agreement the Company shall pay to the Commissioner the costs and expenses incurred by the Commissioner in the carrying out of such work.

(b) The whole of the work to be erected constructed and provided as aforesaid is to be carried out and completed in proper and workmanlike manner in accordance in all respects with specifications and plans to be prepared by the Commissioner and all such work shall be carried out to the satisfaction of the Commissioner.

(c) The Company shall pay to the Commissioner on demand by the Commissioner the costs and expenses incurred by him in preparing the plans and specifications as mentioned in subclause (b) of this clause.

(d) Any request by the Commissioner to the Company under subclause (a) of this clause may be made with respect to the whole or any part or parts of the work which that subclause provides is to be carried out and the option conferred on the Commissioner by that subclause may be exercised as to the whole or any part or parts of such work.

(e) Until the whole of the work which subclause (a) of this clause provides is to be carried out is carried out and completed in accordance with subclause (b) of this clause (but subject to the carrying out of that work) the Commissioner and all other persons shall be entitled to continue to use the present railway lines and works notwithstanding the completion of the said sale to the Company.

(f) The costs and expenses incurred by the Commissioner in carrying out such of the work provided by subclause (a) of this clause to be carried out as shall be carried out by the Commissioner shall be paid by the Company to the Commissioner on demand and a certificate of the Secretary for Railways or the person acting as such for the time being of the amount of such costs and expenses incurred by the Commissioner shall be prima facie evidence thereof.

(g) Such of the work provided by subclause (a) of this clause to be carried out as is to be carried out by the Company shall be carried out within such time or times and at such rate as the Commissioner shall determine.

(h) In the event of the Company failing to carry out and complete in accordance with this clause any of the work provided by subclause (a) of this clause to be carried out which is to be carried out by the Company the Commissioner may without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Commissioner may think necessary to remedy the default of the Company and the Company shall on demand pay to the Commissioner all costs and expenses incurred by the Commissioner in so doing and the same shall be recoverable by him from the Company in a Court of competent jurisdiction and a certificate of the Secretary for Railways or the person acting as such for the time being of the amount of such costs and expenses incurred by the Commissioner shall be prima facie evidence thereof.

(i) In connection with the railway works and sidings to be erected and constructed under subclause (a) of this clause (and notwithstanding the dedication for public road of the land described in the Second Schedule hereto) railway sidings and works will be laid and retained in across and upon the said land described in the Second Schedule hereto in the position approximately indicated by short heavy broken black lines on the western part of the said Plan marked "C" and the existing railway sidings and works will be retained in across and upon such land in the position approximately indicated

indicated by black hatching and the letters "A-B" on the said part of such Plan. Each of them the Company and the Commissioner may at any time or times use for the conveyance (by locomotives other mechanical power rolling stock and otherwise) of goods live-stock persons and things the railway sidings and works that are laid and retained as aforesaid in across and upon the said land described in the Second Schedule hereto and the existing railway sidings and works that are retained as aforesaid in across and upon such land. The Company (notwithstanding the said dedication for public road) will at all times maintain repair and renew so as to keep in good order and condition the said railway sidings and works that are laid and retained in across and upon the said land described in the Second Schedule hereto and the pavement of the roadway between the rails and for the space of eighteen inches on either side of the rails comprised in such sidings and works and the said existing railway sidings and works that are retained in across and upon such land and the pavement of the roadway between the rails and for the space of eighteen inches on either side of the rails comprised in such sidings and works.

The Act ratifying this Agreement shall contain provisions for railway sidings and works being laid and/or retained in across and upon the land described in the Second Schedule hereto as mentioned in this subclause and for the enforcement of the Company's obligations to maintain repair and renew as aforesaid.

27. (a) The Company for itself and its successors and assigns hereby covenants with His Majesty His Heirs and Successors that the Company its successors and assigns will not at any time without the written consent of the Governor of the State of New South Wales use or permit or suffer to be used the lands described in the First Schedule hereto or any part thereof for or in any manner in connection with the shipment of any coal, other than coal shipped at the wharves cranes and other facilities for shipment at Newcastle of the Commissioner or the Maritime Services Board of New South Wales and other than coal shipped in a ship, the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital, for the purpose of bunkering that ship and other than coal mined or owned by the Company and shipped by it for the sole purpose of being used and consumed by the Company or any other company in which the Company holds at least one-third of the share capital in the industrial undertakings of the Company or of any such company in which the Company holds at least one-third of the share capital.

(b) Provisions to the effect of subclause (a) of this clause shall be included in the Crown Grants of the lands described in the First, Second, Third, Fifth, Sixth and Seventh Parts of the First Schedule hereto and (without limiting the foregoing) the Act ratifying this Agreement shall provide that such provisions of the said

said Crown Grants shall be deemed to be covenants by the Company for itself its successors and assigns with His Majesty His Heirs and Successors and that such provisions shall bind the said lands and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements upon any Crown Grant or Certificate of Title comprising such lands or any part thereof and such other entries in the Register Book as he may think desirable in consequence thereof.

(c) The Company shall in the Transfer of the land described in the Fourth Part of the First Schedule hereto to be executed in the Company's favour by the Commissioner enter into such covenants to bind not only the Company but also the Company's sequels in title and the land described in the Fourth Part of the First Schedule hereto in such form as shall in the opinion of the Commissioner be necessary to give full effect to the provisions of subclause (a) of this clause in so far as they relate to such land and the Act ratifying this Agreement shall provide that the covenants contained in such Transfer shall bind the land described in the Fourth Part of the First Schedule hereto and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements upon any Crown Grant or Certificate of Title comprising such land or any part thereof or such other entries in the Register Book as he may think desirable in consequence thereof.

28. (a) As from the date of commencement of this Agreement there shall be granted to the Company as lessee those parts of the bed of the Hunter River fronting the lands described in the First Schedule hereto upon which wharves or other structures the property of the Company have been erected or constructed for the term of ninety-nine years and at the yearly rental of Two hundred and fifty pounds (£250) or such other amount as may be determined on reappraisement as provided by subclause (f) of this Clause, and as soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto there shall be issued to the Company a lease of the said parts of the bed of the Hunter River.

(b) Subject to the provisions hereinafter appearing the Company shall have the exclusive right from time to time and at all times during the said period of ninety-nine years to construct and erect wharves and other facilities for loading or unloading goods and other structures upon any and every part of the bed of the Hunter River fronting the lands described in the First Schedule hereto but only to such distance outwards from high water mark as may be approved in each case by the Minister. Upon completion of any wharf or other structure constructed by the Company under the provisions of this subclause the Company shall be entitled to receive

receive for the balance then unexpired of the said period of ninety-nine years a lease of the part of the bed of the Hunter River upon which such wharf or other structure has been constructed and the Company shall not be called upon to pay in respect of any such lease any rental in addition to the rental of Two hundred and fifty pounds (£250) referred to in the preceding subclause.

(c) All wharves facilities and other structures to be erected and constructed by the Company under the preceding sub-clause shall be erected and constructed by the Company at its own cost and expense and the work of erecting and constructing the same shall be carried out and completed in a proper and workmanlike manner and in accordance in all respects with specifications and plans previously approved of in writing by the Minister and all such work shall be carried out to the satisfaction of the Minister. The plans and specifications referred to in this subclause shall be furnished by the Company to the Minister at the cost and expense of the Company.

(d) Every lease to be issued to the Company in accordance with the provisions of subclause (a) or subclause (b) of this clause shall be limited to the surface of the land thereby leased and to a depth of 400 feet below such surface and shall include conditions in or to the effect of the conditions set out in the Fourth Schedule hereto.

(e) The Company shall pay to the Minister on demand the cost of all surveys and plans made in connection with any lease granted to the Company in accordance with the provisions of subclause (a) or subclause (b) of this clause or in connection with any wharf facility or other structure erected or proposed to be erected by the Company in accordance with the provisions of subclause (b) of this clause.

(f) The said rental of Two hundred and fifty pounds (£250) shall be liable to re-appraisement at the expiration of each period of twenty-five years during the said period of ninety-nine years and in every such case the re-appraised rental shall be such sum as is determined by the Local Land Board constituted under the Crown Lands Consolidation Act, 1913, as amended, or on appeal therefrom by the Land and Valuation Court.

The Act ratifying this Agreement shall provide—

(i) That for the purpose of the Local Land Board determining the rental under this subclause such Board and the Chairman and Members thereof shall respectively have the same powers as when acting under the Crown Lands Consolidation Act, 1913, as amended, for the purpose of the said Board determining rentals thereunder: and

(ii) That any appeal to the Land and Valuation Court from the determination by the Local Land Board of rental under this subclause shall be made within twenty eight days of the date of the determination by filing within such period notice

notice of the appeal in the office of the Registrar of the Land and Valuation Court and by serving within the same period notice of the appeal on the other party to the determination: and

(iii) That for the purpose of dealing with any and every such appeal the Land and Valuation Court and the Judge thereof shall have the same powers as when dealing with appeals from Local Land Boards under the Crown Lands Consolidation Act, 1913, as amended.

(g) The Company shall for and during the said period of ninety-nine years at its own cost and expense carry out all work which shall be necessary to protect and maintain from erosion and to the satisfaction of the Minister such parts of the lands above high water mark comprised in the First Schedule hereto as adjoin or are adjacent to the Hunter River and such work shall be carried out by the Company at and within such time or times and at such rate as the Minister shall determine.

(h) In the event of the Company failing to carry out and complete in accordance with this clause any of the work provided by the preceding subclause to be carried out by the Company the Minister may without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand pay to the Minister all costs and expenses incurred by the Minister in so doing and the same shall be recoverable by him from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof and neither His Majesty nor the Minister shall incur any liability towards the Company by reason of any damage whatsoever done to or upon the lands comprised in any lease granted to the Company in accordance with the provisions of subclause (a) or subclause (b) of this clause or any wharf facility or structure thereon or to or upon any adjoining or adjacent lands above high water mark in the performance by the Minister, his employees, agents, workmen, servants or licensees of any act or thing permitted to be done by the Minister under the provisions of this subclause.

(i) The Minister on behalf of His Majesty agrees with the Company that His Majesty will not at any time during the said period of ninety-nine years grant to any person without the consent of the Company any right of occupancy of or any right to erect or construct or place any structure upon in or over the bed of the Hunter River adjoining or adjacent to the lands described in the First Schedule hereto which would interfere unreasonably with the exercise by the Company of any of the rights granted to the

Company

Company under the provisions of this Clause AND in any case shall not grant any such right closer to high water mark than the line generally 45 feet distant therefrom shown on the Plan annexed hereto and marked "C."

29. (a) The Company hereby agrees with His Majesty and the Act ratifying this Agreement shall contain provisions to the effect that the Harbour and Tonnage Rates Act, 1920-1935, and any Act amending or replacing the same and the regulations from time to time in force thereunder but insofar only as such Acts and regulations relate to the imposition collection and payment of tonnage rates and berthing charges shall apply to and in respect of every wharf (which term for the purposes of this clause shall include any structure landing place or facility where cargo may be loaded or discharged or where vessels may be berthed) now or hereafter erected constructed or provided upon the lands described in the First Schedule hereto or upon lands adjoining or adjacent thereto as if the same were a public wharf and that accordingly tonnage rates and berthing charges in accordance with the said Act and Regulations will be payable in respect of all vessels berthing at any such wharf subject to the following exceptions such exceptions being applicable only to vessels whilst berthed thereat:—

(i) Any vessel carrying, loading or discharging only cargo the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital shall be exempt from the payment of such tonnage rates and berthing charges.

(ii) Any vessel carrying, loading or discharging cargo part only of which is the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital shall be granted a rebate of such tonnage rates and berthing charges to the extent of the ratio which the part of the cargo which is the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital bears to the whole of such cargo.

(iii) Any vessel the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital berthing for a purpose other than the loading or discharging of cargo shall be exempt from the payment of such tonnage rates and berthing charges.

(b) The Company shall keep or cause to be kept in proper books true and complete records of all such matters in relation to all vessels berthing at any wharf now or hereafter constructed erected or provided upon adjoining or adjacent to the lands described in the First Schedule hereto as may be necessary to enable the Maritime Services Board of New South Wales or other proper authority to determine

determine the tonnage rates and berthing charges payable in respect of such vessels in accordance with subclause (a) of this Clause and the Act ratifying this Agreement, and the Company shall allow and provide every reasonable facility for the Maritime Services Board of New South Wales or other proper authority and any person authorised by such Board or authority at all reasonable times to inspect and make copies of or extracts from such records AND the Company shall at such times as are required by such Board or authority during the period of ninety-nine years referred to in Clause 28 hereof furnish to such Board or other authority all such particulars as such Board or authority may deem necessary for the purpose of enabling such Board or authority to ascertain and determine the tonnage rates and berthing charges payable in respect of all vessels berthing at any wharf now or hereafter constructed erected or provided upon adjoining or adjacent to the lands described in the First Schedule hereto.

30. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall pay to the Minister for Public Works the costs and expenses incurred by him in carrying out all the following work that is to say:

(i) Such dredging as may from time to time be required by the Company within a distance of 60 feet from the face of all berths, wharves and landing places now or at any time hereafter constructed erected or provided upon adjoining or adjacent to the lands described in the First Schedule hereto.

(ii) All such dredging and other work as may be necessary to carry out the construction of a channel upstream from the swinging basin and to such dimensions as may be required from time to time by the Company.

(iii) All such dredging and other work as may be necessary to carry out any extension of the swinging basin which may be required by the Company.

(b) Notwithstanding the covenant hereinbefore contained on the part of the Company to pay to the Minister for Public Works the costs and expenses incurred by him in carrying out the work referred to in subclause (a) of this Clause the Company shall be permitted to carry out itself and at its own expense all or any of the work referred to in paragraph (i) of subclause (a) of this Clause subject to the approval of the Minister for Public Works in writing being first obtained and upon such conditions as may be determined by the Minister for Public Works.

(c) The costs and expenses incurred by the Minister for Public Works in carrying out the work provided by subclause (a) of this Clause shall be paid by the Company to the Minister for Public Works on demand and a certificate of the Under Secretary, Department of Public Works, or the person acting as such for the time being

being of the amount of such costs and expenses incurred by the Minister for Public Works shall be prima facie evidence thereof.

(d) The Minister for Public Works or the Government of the said State of New South Wales will during the said period of ninety-nine years referred to in Clause 28 hereof at the cost of His Majesty—

(i) maintain a channel from the Pacific Ocean to the swinging basin and the swinging basin and all extensions thereto carried out under the provisions of paragraph (iii) of subclause (a) of this Clause at a depth which in the opinion of the Minister for Public Works is reasonable having regard to the normal requirements of the shipping in the Port of Newcastle,

(ii) maintain any channel constructed under the provisions of paragraph (ii) of subclause (a) of this Clause to the dimensions to which such work has been carried out at the expense of the Company provided however that in the opinion of the Minister for Public Works the maintenance of such channel to such dimensions is reasonable having regard to the normal requirements of shipping at the Company's berths and the requirements elsewhere in the Port of Newcastle.

(e) The liability of the Minister for Public Works or the Government of the said State of New South Wales to carry out dredging operations under this Clause shall be governed by the availability of dredging equipment at any particular time having regard to the necessity to use such dredging equipment elsewhere in the Port of Newcastle.

31. (a) The Company shall pay to the Minister for Public Works at the time of completion of the sale of the lands described in the First Schedule hereto in addition to the purchase moneys then payable in respect of the said lands the sum of Eight thousand seven hundred and ninety-seven pounds nineteen shillings and one penny (£8,797. 19. 1.) being the balance of cost to His Majesty of the initial dredging for the swinging basin extension which was carried out mainly in 1947.

(b) On the completion of the sale of the lands described in the First Schedule hereto the obligation of the Company under the provisions of the Newcastle Iron and Steel Works Act, 1912, to pay interest at the rate of 5% per annum on the sum of Twenty nine thousand two hundred and fifty five pounds fourteen shillings (£29,255. 14. 0.) being the cost of dredging the swinging basin and lower berth and of reclamations all of which were carried out prior to the 31st day of January 1915, shall cease and the Act ratifying this Agreement shall provide accordingly. Any necessary apportionment of the interest paid or payable by the Company shall be made and adjusted on completion.

(c)

(c) On the completion of the sale of the lands described in the First Schedule hereto the obligation of the Company to pay to the Minister for Public Works the sum of Four hundred and seventy-three pounds ten shillings and sixpence (£473. 10. 6.) per annum for the cost of the maintenance of the swinging basin extension which was carried out mainly in 1947 shall cease and any necessary apportionment of the moneys paid or payable by the Company shall be made and adjusted upon completion.

32. On the completion of the sale to the Company under this Agreement of the lands described in the First Schedule hereto the Lease granted to the Company by Section 4 of the Newcastle Iron and Steel Works Act, 1912, and the Agreement set out in the Schedule to that Act and the rights and obligations of the Company thereunder shall cease and determine and the Act ratifying this Agreement shall provide for the repeal of the Newcastle Iron and Steel Works Act, 1912. Any necessary apportionment of rental paid or payable by the Company in respect of this Lease shall be made and adjusted on completion.

33. On the completion of the sale to the Company under this Agreement of the lands described in the First Schedule hereto the Permissive Occupancy granted to the Company in respect of the lands formerly comprised in Special Lease No. 11 of 1919 Newcastle granted to the Company shall cease and determine and any necessary apportionment of rental paid or payable by the Company in respect of the Permissive Occupancy shall be made and adjusted on completion.

34. Nothing in this Agreement contained shall affect in any way the liability of the Company or any other person to pay harbour rates in accordance with the provisions of the Harbour and Tonnage Rates Act, 1920-1935, and any Act amending or replacing the same and the regulations from time to time in force thereunder.

35. (a) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by or on behalf of the Minister or His Majesty His Heirs or Successors shall be deemed to have been duly given if signed by the Under Secretary, Department of Lands, or the person acting as such for the time being.

(b) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by the Commissioner shall be deemed to have been duly given if signed by the Secretary for Railways or the person acting as such for the time being.

(c) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by the Minister for Public Works shall be deemed to have been duly given if signed by the Under Secretary, Department of Public Works, or the person acting as such for the time being.

(d) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by the Maritime Services Board of New South Wales shall be deemed to have been duly given if signed by the Secretary to the Board or by the Harbour Master at Newcastle or by the person for the time being acting in either of such offices.

36. This Agreement is subject to ratification by the Parliament of the State of New South Wales and shall come into effect when so ratified and the expression "the date of commencement of this Agreement" means the date of commencement of the Act which ratifies it PROVIDED that if this Agreement is not ratified by the said Parliament before the thirtieth day of April 1950 it shall become null and void.

37. As between the Commissioner and His Majesty the part of the said price of One hundred thousand pounds (£100,000) to be paid by the Company to the Minister on the completion of the sale of the lands described in the First Schedule hereto which the Commissioner shall be entitled to receive from the Minister shall be the sum of Five thousand eight hundred and fifty pounds (£5,850) (being the part of such price attributable to the estates and interests held by the Commissioner in the lands described in the First and Second Schedules hereto). Any such payment to the Commissioner shall be subject to his giving such indemnity to the Minister against claims by any person in respect of any part of the land described in the Second Schedule hereto or any interest therein as the Minister and the Commissioner may agree upon or in default as determined by the Governor.

IN WITNESS whereof the parties hereto have executed this Agreement the day and year first above written.

FIRST SCHEDULE TO AGREEMENT.

First Part.

ALL THAT piece or parcel of land containing by admeasurement 34 acres 1 rood be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2936 COMMENCING on the original high water mark of the right bank of the South Channel of the Hunter River at the South Eastern corner of portion 349 of 14 acres 21½ perches and bounded thence on the West by the Eastern boundary of portion 349 bearing North 21 minutes West 227 feet 8½ inches on the North East by lines dividing this land from the area of 2 acres 1 rood 14 perches described in the Seventh Part hereof bearing South 66 degrees 6 minutes East

1,055 feet 11 inches thence south 63 degrees 21 minutes East 280 feet 11½ inches and thence by lines dividing it from portion 2,937 of 5 acres 3 perches bearing South 40 degrees 1 minute 30 seconds West 2 feet 11½ inches South 51 degrees 14 minutes 30 seconds East 704 feet 11¾ inches South 37 degrees 9 minutes 30 seconds West 11 feet 10½ inches South 51 degrees 10 minutes 30 seconds East 682 feet 4½ inches and thence South 33 degrees 30 minutes 30 seconds East 766 feet 11 inches on the South East by a line dividing it from the area of 9 acres 32 perches described in the Second Part hereof bearing South 50 degrees 33 minutes West 1,051 feet 7½ inches and thence by lines dividing it from the area of 3 acres 2 roods 24 perches described in the Third Part hereof bearing South 54 degrees 13 minutes 30 seconds West 97 feet 4¼ inches and thence by 51 feet 5¾ inches of the arc of a circle of 380 feet radius the centre of which lies North Westerly of a chord bearing South 65 degrees 5 minutes 20 seconds West 51 feet 5 inches to the original high water mark of the right bank of Throsby Creek again on the West and generally on the North West by that original high water mark of Throsby Creek Northerly and thence generally North Easterly to its junction with the original high watermark of the right bank of the South Channel of the Hunter River aforesaid and on the South West by the lastmentioned original high water mark North Westerly to the point of commencement.

SECOND PART.

ALL THAT piece or parcel of land containing by admeasurement 9 acres 32 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on a South Western boundary of portion 2,937 of 5 acres 3 perches at the Easternmost corner of the area of 34 acres 1 rood described in the First Part hereof and bounded thence on the North West by a line dividing this land from that 34 acres 1 rood bearing South 50 degrees 33 minutes West 1,051 feet 7½ inches on the South by a Northern boundary of the area of 3 acres 2 roods 24 perches described in the Third Part hereof bearing South 89 degrees 47 minutes 30 seconds East 1,167 feet 4 inches and on the North East by lines dividing it from portion 2,937 aforesaid bearing North 26 degrees 34 minutes 30 seconds West 610 feet 9 inches and thence North 33 degrees 30 minutes 30 seconds West 158 feet to the point of commencement.

THIRD PART.

ALL THAT piece or parcel of land containing by admeasurement 3 acres 2 roods 24 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part

of

of Portion 2,936 COMMENCING on a South Western boundary of portion 2,937 of 5 acres 3 perches at the South Eastern corner of the area of 9 acres 32 perches described in the Second Part hereof and bounded thence on the North by the Southern boundary of that 9 acres 32 perches bearing North 89 degrees 47 minutes 30 seconds West 1,167 feet 4 inches on the North West by lines dividing this land from the area of 34 acres 1 rood described in the First Part hereof bearing South 54 degrees 13 minutes 30 seconds West 97 feet 4¼ inches and thence by 51 feet 5¾ inches of the arc of a circle of 380 feet radius the centre of which lies North Westerly of a chord bearing South 65 degrees 5 minutes 20 seconds West 51 feet 5 inches and thence by a line dividing it from the Northernmost part of a measured portion of part of 24 acres being the residue of portion 156 being 140 feet 10¼ inches of the arc of a circle of 380 feet radius the centre of which lies North Westerly of a chord bearing South 79 degrees 35 minutes 20 seconds West 140 feet and one half of an inch again on the North by the Southern boundary of that part of the residue of portion 156 bearing North 89 degrees 47 minutes 30 seconds West 1,521 feet 6 inches to Selwyn Street on the West and again on the North West by Selwyn Street bearing South 4 minutes East 32 feet and thence South 6 degrees 18 minutes West 34 feet 2¼ inches on the South by the Northern boundary of the area of 2 acres 3 roods 3 perches described in the Fourth Part hereof bearing South 89 degrees 47 minutes 30 seconds East 1,303 feet 11 inches on the South East by a line dividing it from the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto bearing North 82 degrees 22 minutes 50 seconds East 462 feet 10¼ inches and thence by the North Western boundary of the area of 2 roods 14 perches described in the Sixth Part hereof bearing North 50 degrees 12 minutes 30 seconds East 105 feet 5¾ inches again on the South by the Northern boundary of that 2 roods 14 perches and a Northern boundary of the area of 2 acres 1 rood 33 perches described in the Fifth Part hereof in all bearing South 89 degrees 47 minutes 30 seconds East 1,123 feet 1¾ inches and on the North East by a line dividing it from portion 2,937 aforesaid bearing North 15 degrees 17 minutes 45 seconds West 41 feet 6 inches to the point of commencement.

FOURTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 acres 3 roods 3 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on the South Eastern side of Selwyn Street at the South Western corner of the area of 3 acres 2 roods 24 perches described in the Third Part hereof and bounded thence on the North West by Selwyn Street bearing South 6 degrees 18 minutes West 105 feet 8¾ inches and thence by Selwyn Street

being

being 110 feet 2 inches of the arc of a circle of 520 feet 1 inch radius the centre of which lies North Westerly of a chord bearing South 39 degrees 23 minutes 30 seconds West 109 feet 11¼ inches on the South East by a line dividing this land from the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto bearing North 82 degrees 22 minutes 50 seconds East 1,397 feet 7½ inches and on the North by a Southern boundary of the aforesaid 3 acres 2 roods 24 perches bearing North 89 degrees 47 minutes 30 seconds West 1,303 feet 11 inches to the point of commencement.

FIFTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 acres 1 rood 33 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on a South Western boundary of portion 2,937 of 5 acres 3 perches at the most Easterly South Eastern corner of the area of 3 acres 2 roods 24 perches described in the Third Part hereof and bounded thence on the North by part of a Southern boundary of that 3 acres 2 roods 24 perches bearing North 89 degrees 47 minutes 30 seconds West 304 feet 7 inches on the West by the Eastern boundary of the area of 2 roods 14 perches described in the Sixth Part hereof bearing South 12 minutes 30 seconds West 64 feet 10 inches again on the North by a Southern boundary of that 2 roods 14 perches bearing North 89 degrees 47 minutes 30 seconds West 77 feet 6 inches on the South West by lines dividing this land from the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto being 71 feet 3 inches of the arc of a circle of 726 feet radius the centre of which lies South Westerly of a chord bearing South 64 degrees 26 minutes East 70 feet 3¾ inches thence by a line bearing South 46 degrees 29 minutes 30 seconds East 253 feet 7 inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing South 70 degrees 22 minutes East 46 feet 11¼ inches thence by 96 feet 8 inches of the arc of a circle of 58 feet radius the centre of which lies South Westerly of a chord bearing South 46 degrees 29 minutes 30 seconds East 85 feet 10½ inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing South 22 degrees 37 minutes East 46 feet 11¼ inches and thence by a line bearing South 41 degrees 6 minutes 30 seconds East 210 feet 2¼ inches on the South East by a North Western boundary of the aforesaid 5 acres 1 rood 30 perches bearing North 74 degrees 49 minutes East 20 feet 1 inch and on the North East by a South Western boundary of portion 2,937 aforesaid bearing North 15 degrees 11 minutes West 561 feet 5 inches to the point of commencement.

SIXTH

SIXTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 roods 14 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on a North Eastern boundary of the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto at the most Westerly North Western corner of the area of 2 acres 1 rood 33 perches described in the Fifth part hereof and bounded thence on the South by a Northern boundary of that 2 acres 1 rood 33 perches bearing South 89 degrees 47 minutes 30 seconds East 77 feet 6 inches on the East by a Western boundary of that 2 acres, 1 rood 33 perches bearing North 12 minutes 30 seconds East 64 feet 10 inches on the North by part of a Southern boundary of the area of 3 acres 2 roods 24 perches described in the Third Part hereof bearing North 89 degrees 47 minutes 30 seconds West 818 feet 6¾ inches on the North West by a South Eastern boundary of that 3 acres 2 roods 24 perches bearing South 50 degrees 12 minutes 30 seconds West 105 feet 5¾ inches on the South East by a line dividing this land from the aforesaid 5 acres 1 rood 30 perches bearing North 82 degrees 22 minutes 50 seconds East 432 feet and one quarter of an inch and on the South West by a line dividing it from that 5 acres 30 perches being 402 feet 11¾ inches of the arc of a circle of 726 feet radius the centre of which lies South Westerly of a chord bearing South 81 degrees 43 minutes East 397 feet 10 inches to the point of commencement.

SEVENTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 acres 1 rood 14 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on the high water mark of the right bank of the South Channel of the Hunter River at the Eastern corner of Portion 2,872 of 3 acres 26 perches and bounded thence on the North West by the South Eastern boundary of portion 2,872 bearing South 23 degrees 54 minutes West 90 feet on the South West by lines dividing this land from the area of 34 acres 1 rood described in the First Part hereof bearing South 66 degrees 6 minutes East 1,055 feet 11 inches and thence South 63 degrees 21 minutes East 280 feet 11½ inches and on the North East by lines dividing this land from portion 2,937 of 5 acres 3 perches bearing North 51 degrees 14 minutes 30 seconds West 403 feet 6¾ inches and thence North 66 degrees 6 minutes West 946 feet 6 inches to the point of commencement.

SECOND SCHEDULE TO AGREEMENT.

ALL THAT piece or parcel of land containing by admeasurement 5 acres 1 rood 30 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington COMMENCING at the Easternmost corner of portion 2,936 of 55 acres 1 rood and bounded thence on the North West by a South Eastern boundary of portion 2,936 bearing South 74 degrees 49 minutes West 20 feet 1 inch on the North East by lines dividing this land from portion 2,936 bearing North 41 degrees 6 minutes 30 seconds West 210 feet 2¼ inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing North 22 degrees 37 minutes West 46 feet 11¼ inches thence by 96 feet 8 inches of the arc of a circle of 58 feet radius the centre of which lies South Westerly of a chord bearing North 46 degrees 29 minutes 30 seconds West 85 feet 10½ inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing North 70 degrees 22 minutes West 46 feet 11¼ inches thence by a line bearing North 46 degrees 29 minutes 30 seconds West 253 feet 7 inches and thence by 474 feet 2¾ inches of the arc of a circle of 726 feet radius the centre of which lies South Westerly of a chord bearing North 78 degrees 54 minutes 30 seconds West 465 feet 10 inches on the North West by a South Eastern boundary of portion 2,936 bearing South 82 degrees 22 minutes 50 seconds West 2,292 feet 6 inches to Selwyn Street and thence by Selwyn Street being 134 feet 3¾ inches of the arc of a circle of 520 feet 1 inch radius the centre of which lies North Westerly of a chord bearing South 52 degrees 51 minutes 30 seconds West 133 feet 11¼ inches on the South East by a line bearing North 82 degrees 22 minutes 50 seconds East 2409 feet 1¼ inches on the South West by a line being 423 feet 5 inches of the arc of a circle of 660 feet radius the centre of which lies South Westerly of a chord bearing South 79 degrees 14 minutes 30 seconds East 416 feet 2½ inches and thence by lines bearing South 46 degrees 29 minutes 30 seconds East 414 feet thence South 41 degrees 6 minutes 30 seconds East 374 feet 4 inches and again on the North East by lines bearing North 12 degrees 33 minutes 30 seconds West 138 feet 1¼ inches and thence North 15 degrees 11 minutes West 41 feet 4 inches to the point of commencement.

THIRD SCHEDULE TO AGREEMENT.

Form of Easement.

THE BROKEN HILL PROPRIETARY COMPANY LIMITED a corporation carrying on business in the State of New South Wales (herein called Transferor) being registered as the proprietor of an estate in fee simple in the land hereafter described subject however to such encumbrances liens and interests as are notified hereunder in consideration of Ten shillings, the receipt whereof is hereby acknowledged, paid to the Transferor by

[1] (herein called Transferee) doth hereby transfer grant and confirm unto the Transferee {his / its} successors and assigns full and free right and liberty for the transferee {his / its} successors and assigns at all times hereafter to use and maintain for the purpose of

[1] the transmission of electrical energy the electricity transmission lines and cables / communication the telephone lines and cables / the passage or conveyance of water the lines of pipes

(if any) (together with poles pipes structures wires fittings equipment appliances and appurtenances connected therewith) at present constructed erected installed and laid upon in under and over all that piece of land situate in the Parish of Newcastle County of Northumberland being that part of the land comprised in

Crown Grant / Certificate of Title } Registered Volume Folio

shown on the Plan annexed hereto and marked "A" and also for the purpose aforesaid to construct erect instal lay use and maintain upon in under and over the said land along routes determined by the Transferee {his / its} successors or assigns but not so as to interfere unreasonably with the Company's operations any one or more

[2] electricity transmission lines and cables / telephone lines and cables / lines of pipes

(together with poles pipes structures wires fittings equipment appliances and appurtenances connected therewith) in substitution for or in duplication of or in addition to the aforesaid

[2] electricity transmission lines and cables / telephone lines and cables / lines of pipes

now upon in under and over the said land and also from time to time to inspect the condition of and amend and repair all or any of the said

electricity transmission lines and cables / telephone lines and cables / lines of pipes

poles

poles pipes structures wires fittings equipment appliances and appurtenances (now and hereafter upon in under and over the said land) and for the purposes aforesaid or any of them at all reasonable times to enter upon go return pass and repass through along and over the said land with or without servants workmen and other persons horses carts waggons motors materials and any vehicles and appliances and to make all necessary excavations in or under the said land provided always and it is hereby agreed and declared that in the event of the transferee {his / its} successors or assigns ceasing at any time hereafter to use any of the said

electricity transmission lines and cables
telephone lines and cables
lines of pipes

[2]

poles pipes structures wires fittings equipment appliances or appurtenances for the purpose aforesaid {he / it} or they may remove the same from the said land, making good any damage occasioned by such removal.

[1] Insert name of Minister or Authority to whom easement is to be granted.
[2] Delete unnecessary words according to nature of Easement to be granted.

FOURTH SCHEDULE TO AGREEMENT.

Lease Conditions.

(1) The Company shall at all times at its own cost and expense and to the satisfaction of the Minister maintain repair and renew so as to keep in good order and condition all wharves facilities and other structures now or hereafter constructed erected or provided upon the land leased, unless the Minister shall agree in writing to the demolition and removal of any such wharf facility or other structure, in which case the Company shall at its own cost and expense demolish and remove such wharf facility or other structure and such work shall be carried out to the satisfaction of the Minister.

(2) Upon the expiration of the lease or upon the sooner determination thereof for any reason whatsoever the Company shall if as and when requested in writing by the Minister carry out at its own cost and expense the work of the demolition and removal of such wharves facilities and other structures upon the land hereby leased as the Minister may require and such work shall be carried out to the satisfaction of the Minister.

(3) The lease shall not confer any right to purchase the land.

(4) The land leased shall be used only for the purposes for which it is granted.

(5) The Company shall pay all rates taxes charges assessments and outgoings upon or in respect of the land leased or the Company's operations thereon during the currency of the lease.

(6) The Company shall not assign sublet or part with the possession of the land leased or any part thereof without the consent in writing of the Minister.

(7) The Company shall at all times at its own cost and expense and to the satisfaction of the Minister keep all wharves facilities and other structures now or hereafter constructed erected or provided upon the land leased in good sanitary condition and free from rats and mice and the right is reserved to terminate the lease should the Minister be of the opinion that the public health is endangered thereby or that any nuisance is committed.

(8) The right of ingress egress and regress in over and out of the land leased and any wharves facilities or other structures constructed erected or provided thereon is reserved to the Minister or any person or persons authorised by him in that behalf.

(9) Any necessary public service may be constructed or laid on the land leased without charge and either above or below the surface after giving to the Company one month's notice in writing of the intention to construct or lay any such public service.

(10) The Company shall not at any time without the written consent of the Governor of the State of New South Wales use or permit or suffer to be used the land leased or any part thereof or any wharf facility or other structure now or hereafter constructed erected or provided thereon for or in any manner in connection with the shipment of any coal, other than coal shipped at the wharves cranes and other facilities for shipment at Newcastle of the Commissioner or the Maritime Services Board of New South Wales or other the Authority controlling the Port of Newcastle and other than coal shipped in a ship, the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital, for the purpose of bunkering that ship and other than coal mined or owned by the Company and shipped by it for the sole purpose of being used and consumed by the Company or any other company in which the Company holds at least one-third of the share capital in the industrial undertakings of the Company or of any such company in which the Company holds at least one-third of the share capital.

(11) In the event of the Company failing to carry out and complete any of the work provided by conditions (1) (2) and (7) of the lease to be carried out by the Company the Minister may without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand pay to the Minister all costs and expenses incurred by the Minister in so doing and the same shall be recoverable

by

by him from the Company in a Court of competent jurisdiction and a Certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof and neither His Majesty nor the Minister shall incur any liability towards the Company by reason of any damage whatsoever done to or upon the land leased or any wharf facility or structure thereon or to or upon any adjoining or adjacent lands above high water mark in the performance by the Minister, his employees, agents, workmen, servants or licensees of any act or thing permitted to be done by the Minister under the provisions of this condition.

(12) The work provided by conditions (1) (2) and (7) of the lease to be carried out by the Company shall be carried out at and within such time or times and at such rate as the Minister shall determine.

(13) It is expressly declared that mining operations may have been and may be carried on upon and in the land below the land hereby leased and the lands adjoining the land hereby leased and the land below the same and metals and minerals may have been and may be removed therefrom and that these presents are made upon and subject to the condition that the Company and its assigns shall not be entitled to make or prosecute any claim for damages or take any proceedings either by way of injunction or otherwise against His Majesty His Heirs or Successors or the Government of the State of New South Wales or any lessee or lessees under any Mining Act or Acts of the said State or his or their executors administrators or assigns for or in respect of any damage or loss occasioned by the letting down subsidence or lateral movement of the land hereby leased or otherwise howsoever by reason of the following acts and matters that is to say by reason of His Majesty His Heirs or Successors or the Government of the said State or any person on His Their or Its behalf or any Lessee or Lessees as aforesaid or his or their executors administrators or assigns having worked or now or hereafter working any mines or having carried on or now or hereafter carrying on mining operations or having searched for worked won or removed or now or hereafter searching for working winning or removing any metals or minerals under in or from the land below the land hereby leased or on in under or from any other lands situated laterally to the land hereby leased and the land below the same and whether on or below the surface of such other lands. AND there is hereby expressly reserved unto His Majesty His Heirs and Successors the liberty and authority by reason of the acts and matters aforesaid or in the course thereof for His Majesty His Heirs and Successors and the Government of the said State and any person on His Their or Its behalf and any Lessee or Lessees as aforesaid and his or their executors administrators and assigns to from time to time let down without payment of any compensation whatsoever any part of the land hereby leased and/or of the surface thereof.

(14)

(14) A breach of any of the conditions of the lease shall render the lease liable to forfeiture. Such forfeiture may be effected by publication in the Gazette of a notice signed by the Minister declaring the lease to be forfeited. Provided however that no such notice shall be published in the Gazette unless the Minister has first served upon the Company a notice in or to the effect of the form set out in the Sixth Schedule to the Conveyancing Acts, 1919-1943 specifying the particular breach complained of and if the breach is capable of remedy requiring the Company to remedy it and in case the Minister claims compensation in money requiring the Company to pay such compensation and the Company has failed within a reasonable time to remedy the breach if remediable or to pay reasonable compensation to the satisfaction of the Minister where compensation in money is required.

THE COMMON SEAL OF THE BROKEN HILL PROPRIETARY COMPANY LIMITED was hereunto affixed by the Authority of its Board of Directors in the presence of LEONARD DARLING and COLIN YORK SYME two of such Directors and of REGINALD GEORGE NEWTON, Secretary. L.S.

L. DARLING, C. Y. SYME } Directors.

R. G. NEWTON, Secretary.

SIGNED SEALED AND DELIVERED by WILLIAM FRANCIS SHEAHAN the Minister for Lands of the State of New South Wales for and on behalf of His Majesty the King in the presence of:

A. R. JONES, J.P.

W. SHEAHAN.

Sydney: Alfred Henry Pettifer, Government Printer—1950.

[3s.]

C

PLAN

Showing lands to be acquired by the Broken Hill Proprietary Company Limited and proposed new roadway.

PARISH OF NEWCASTLE. COUNTY OF NORTHUMBERLAND.

CITY OF NEWCASTLE

Scale

FEET 100 50 0 100 200 300 400 500 600 700 FEET

North

HUNTER SOUTH

SWINGING BASIN

RIVER CHANNEL

WATER

CHANNEL TO PACIFIC OCEAN

H.W.M. 2872 OLD H.W.M. 3a Or 26p

349

14a Or 21½p ORIGINAL H.W.M.

2937 (N. 7786 2111 R.) HIGH

⑦

Original High Water Mark of South Channel Hunter River

2936 (N. 7785 2111 R.)

①

Original High Water Mark of Throsby Ck.

55ac Ir Op

②

5ac. Or. 3p. ORIGINAL H.W.M. MARK

Residue of 156

Pt 24 ac

③

⑥

⑥

NEW ROADWAY 5ac Ir 30p

PROPOSED (Second Schedule)

④

Selwyn Street

A

B

X

U.S.N. STORE

⑤

Y

TOWN OF CARRINGTON

H.W.M.

NOTES

Land to be purchased (por 2936 of 55a Ir) ---------- shown thus

Land comprised in por 2937 of 5a Or 3p (below High Water Mark) ------ do.

Proposed New Roadway (5a Ir 30p., Second Schedule) ---------- do.

① 34a. Ir. Op. First Part of First Schedule

② 9a. Or. 32p. Second do do

③ 3a. 2r. 24p. Third do do

④ 2a 3r. 3p. Fourth do do

⑤ 2a. Ir. 33p. Fifth do do

⑥ 0a 2r 14p Sixth do do

⑦ 2a Ir 14p Seventh do do

Railway Works and Sidings to be erected and constructed shown thus

Railway Works and Sidings to be removed do

Existing Railway Works and Sidings to be retained on land described in Second Schedule (Proposed New Roadway) shown by black hatching and lettered "A B."

Retaining Wall to be constructed between the points marked "X" and "Y"

Drawn & Printed at the Department of Lands, Sydney, N.S.W.

This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

H. ROBBINS,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 30 *March,* 1950.

New South Wales.

ANNO QUARTO DECIMO

GEORGII VI REGIS.

* *

Act No. , 1950.

An Act to ratify a certain Agreement made between The Broken Hill Proprietary Company Limited of the one part and His Most Gracious Majesty King George VI of the other part with respect to the sale to such Company of certain lands at or near Newcastle on certain terms and conditions and with respect to the granting to such Company of the right to obtain leases of certain adjoining lands; to provide for the carrying into effect of the said Agreement; to repeal the Newcastle Iron and Steel Works Act, 1912; to amend the Crown Lands Consolidation Act, 1913, and certain other Acts in certain respects; and for purposes connected therewith.

35087 500—A BE

Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification Act, 1950."

Definitions.

2. In this Act, unless the context or subject matter otherwise indicates or requires—

"Commissioner" means The Commissioner for Railways incorporated by the Transport (Division of Functions) Act, 1932, or other the corporation controlling the Government Railways of New South Wales.

"Company" means The Broken Hill Proprietary Company Limited.

"The said Agreement" means the Agreement, a copy of which is set out in the Schedule to this Act.

Ratification of Agreement.

3. (1) The said Agreement is hereby ratified and may be carried into effect notwithstanding the provisions of any other Act.

(2) All acts, matters and things for or with respect to which provision is made in the said Agreement, or which, by the said Agreement, are agreed, directed, authorised or permitted to be made, done or executed by or on behalf of His Majesty or the Governor or the Minister or the Minister for Public Works or the Maritime Services Board of New South Wales or the Registrar-General or the Commissioner are hereby sanctioned, authorised and confirmed.

Enforcement of provision for drainage from Throsby Creek.

4. Upon the issue of the Crown Grants of the lands described in the First, Second and Third Parts of the First Schedule to the said Agreement, the covenants and conditions therein that the Company, its successors and assigns will at all times and to the satisfaction of the Minister

Minister provide for the maintenance and proper discharge into Newcastle Harbour of the drainage from Throsby Creek through or over the lands described in the First, Second and Third Parts of such First Schedule shall bind such lands and every part thereof into whosesoever hands the same may come and bind all persons interested therein and the Registrar-General may make such endorsements upon any Crown Grant or certificate of title comprising such lands or any part thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof.

Resumption of certain land.

5. (1) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule to the said Agreement the Governor shall appropriate and resume the land described in the Fourth Part of the First Schedule to the said Agreement by Gazette notification under Division 1 of Part V of the Public Works Act, 1912, as amended by subsequent Acts.

(2) For the purposes of the Public Works Act, 1912, as amended by subsequent Acts, such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act, as so amended, and the Commissioner shall be the constructing authority in respect thereof.

(3) Such appropriation and resumption shall not acquire the mines or deposits of coal, ironstone, kerosene shale, limestone, slate or other minerals under the land so appropriated and resumed.

(4) The Registrar-General shall without further survey issue to the Commissioner after the said appropriation and resumption a new certificate of title under the Real Property Act, 1900, comprising the land described in the Fourth Part of the First Schedule to the said Agreement, and shall make all such cancellations, alterations and entries of and in the register book, certificates of title or otherwise as he may think desirable in consequence thereof and of such resumption and appropriation.

Revocation of part of a certain resumption.

6. As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule to the said Agreement the Minister shall publish in the Gazette a notice revoking the notification of appropriation and resumption by the Railway Commissioners of New South Wales published in the Gazette of the twenty-fifth day of June, one thousand nine hundred and twenty, under the Public Works Act, 1912 (referred to in subclause (e) of clause eighteen of the said Agreement), so far as concerns such parts of the land thereby appropriated and resumed as are within the lands described in the Sixth Part of the First Schedule to the said Agreement, and those parts of such lands shall upon the publication in the Gazette of the said notice by the Minister be thereby vested in His Majesty, His Heirs and Successors. Further survey shall not be required before the publication of such notice.

Resumption for road.

7. (1) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule to the said Agreement, the Governor shall appropriate and resume the land described in the Second Schedule to the said Agreement by Gazette notification under Division 1 of Part V of the Public Works Act, 1912, as amended by subsequent Acts, for the purpose of a public road.

(2) For the purposes of the Public Works Act, 1912, as amended by subsequent Acts, such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act, as so amended, and the Minister for Public Works shall be the constructing authority in respect thereof.

(3) Sections ninety-seven and one hundred and thirty-eight of the Public Works Act, 1912, as amended by subsequent Acts, shall not apply in respect of the said appropriation and resumption.

(4) The constructing authority shall, notwithstanding the provisions of section eighty-one of the Public Works Act, 1912, as amended by subsequent Acts (but subject

subject to the following provisions of this section), by notice in the Gazette dedicate the land so appropriated and resumed as a public road, and upon such dedication the provisions of the Local Government Act, 1919, as amended by subsequent Acts, with respect to public roads, shall subject to subsections five and six of this section, apply thereto accordingly: Provided that such dedication shall not affect the carrying out of subclause (d) of clause nineteen and clauses twenty-one and twenty-six of the said Agreement.

(5) Notwithstanding anything contained in subsection four of this section, the Minister for Public Works and the Commissioner respectively may relocate (with any poles, pipes, wires, fittings, structures, equipment, appurtenances, and appliances considered necessary) in, on, under or above the land described in the Second Schedule to the said Agreement all or any electricity transmission lines and cables removed from any land described in any part of the First Schedule to the said Agreement and the Minister for Public Works and the Commissioner and their respective successors and assigns may use the said electricity transmission lines and cables (with the poles, pipes, wires, fittings, structures, equipment, appurtenances and appliances) for the conveyance of electricity and maintain, repair, add to and renew the same.

(6) Notwithstanding anything contained in subsection four of this section, railway sidings and works may be laid or retained in, across and upon the land described in the Second Schedule to the said Agreement in the positions specified in subclause (i) of clause twenty-six of the said Agreement.

(7) In the event of the Company failing to carry out its obligations under subclause (i) of clause twenty-six of the said Agreement to maintain, repair and renew the railway sidings and works that are laid and retained in, across and upon the land described in the Second Schedule to the said Agreement the Commissioner may, without prejudice to any other remedy which His Majesty may

may have by reason of such default of the Company, do all acts and things as the Commissioner may think necessary to remedy the default of the Company and the Company shall on demand pay to the Commissioner all costs and expenses incurred by the Commissioner in so doing and the same shall be recoverable by him from the Company in any court of competent jurisdiction. A certificate of the Secretary for Railways or the person acting as such for the time being of the amount of the costs and expenses so incurred by the Commissioner shall be prima facie evidence thereof.

To protect easements for electricity transmission.

8. The provisions of clause twenty-four of the said Agreement and all or any easements and rights granted by the Company in pursuance of such clause shall bind the lands described in the First Schedule to the said Agreement and also the lands comprised in certificates of title, volume 4,605, folio 90, and volume 5,004, folio 177, and every part of such lands into whosesoever hands the same may come and shall bind all persons interested therein, and the Registrar-General may make such endorsements on any Crown Grant or certificate of title comprising such lands or any parts thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof or of the granting of any such easement or rights.

Restrictions on use of certain lands for shipping of coal.

9. (1) Upon the issue of the Crown Grants of the lands described in the First, Second, Third, Fifth, Sixth and Seventh Parts of the First Schedule to the said Agreement, the provisions to the effect of subclause (a) of clause twenty-seven of the said Agreement included in such Crown Grants shall be deemed to be covenants by the Company for itself, its successors and assigns with His Majesty, His Heirs and Successors and such provisions shall bind the said lands described in the First, Second, Third, Fifth, Sixth and Seventh Parts of the First Schedule to the said Agreement and every part thereof into whosesoever hands the same may come, and bind all persons interested therein, and the Registrar-General may make such endorsements upon any Crown Grant

Grant or certificate of title comprising such lands or any part thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof.

(2) Upon acceptance by the Company of a Memorandum of Transfer in its favour of the land described in the Fourth Part of the Schedule to the said Agreement containing covenants on the part of the Company, its successors and assigns in accordance with the provisions of subclause (c) of clause twenty-seven of the said Agreement such covenants shall bind such land and every part thereof into whosesoever hands the same may come and bind all persons interested therein, and the Registrar-General may make such endorsements upon any Crown Grant or certificate of title comprising such land or any part thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof.

Determination of rental by local land board.

10. (1) The local land board constituted under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, shall have jurisdiction to determine the rental under subclause (f) of clause twenty-eight of the said Agreement.

(2) For the purpose of the said board determining such rental, such board and the chairman and members thereof shall respectively have the same powers as when acting under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, for the purpose of the said board determining rentals thereunder.

(3) An appeal by either party may be made to the Land and Valuation Court from the determination by the said board of such rental by filing within a period of twenty-eight days from the date of the determination appealed against notice of the appeal in the office of the Registrar of the Land and Valuation Court, and by serving within such period notice of the appeal on the other party to the determination. An appeal on behalf

of

of His Majesty against any such determination may be made by the Minister or by the Under Secretary for Lands on the Minister's behalf.

(4) For the purpose of dealing with any and every such appeal the Land and Valuation Court and the Judge thereof shall have the same powers as when dealing with appeals from local land boards under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

Provisions of Harbour and Tonnage Rates Act, 1920-1935, to apply.

11. The Harbour and Tonnage Rates Act, 1920-1935, and any Act amending or replacing the same and the regulations from time to time in force thereunder but in so far only as such Acts and regulations relate to the imposition, collection and payment of tonnage rates and berthing charges shall apply to and in respect of every wharf (which term for the purposes of this section shall include any structure, landing place or facility where cargo may be loaded or discharged or where vessels may be berthed) now or hereafter erected, constructed or provided upon the lands described in the First Schedule to the said Agreement or upon lands adjoining or adjacent thereto as if the same were a public wharf and accordingly tonnage rates and berthing charges in accordance with the said Acts and regulations shall be payable in respect of all vessels berthing at any such wharf subject only to the following exceptions, such exceptions being applicable only to vessels whilst berthed thereat:—

(i) Any vessel carrying, loading or discharging only cargo the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital shall be exempt from the payment of such tonnage rates and berthing charges.

(ii) Any vessel carrying, loading or discharging cargo part only of which is the property of the Company and/or any other company or companies in which the Company holds at least one-third of the share capital shall be granted a rebate of such tonnage rates and berthing charges

charges to the extent of the ratio which the part of the cargo which is the property of the Company and/or any other company or companies in which the Company holds at least one-third of the share capital bears to the whole of such cargo.

(iii) Any vessel the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital berthing for a purpose other than the loading or discharging of cargo shall be exempt from the payment of such tonnage rates and berthing charges.

Certain obligations of the Government of the State and the Company to cease.

12. Upon the completion of the sale to the Company under the said Agreement of the lands described in the First Schedule to the said Agreement—

(a) the obligation of the Company under the Newcastle Iron and Steel Works Act, 1912, to pay interest at the rate of five per centum per annum on the sum of twenty-nine thousand two hundred and fifty-five pounds fourteen shillings being the cost of dredging the swinging basin and lower berth and of reclamations all of which were carried out prior to the thirty-first day of January, one thousand nine hundred and fifteen, shall cease. Any necessary apportionment of the interest paid or payable by the Company shall be made and adjusted on such completion;

(b) the lease granted to the Company under section four of the Newcastle Iron and Steel Works Act, 1912, and the rights and obligations of the Company and of the Government of the said State under such lease and under clauses two, three and seven of the Agreement set out in the Schedule to that Act shall cease and determine.

Repeal of Act No. 55, 1912.

13. (1) This section shall commence upon the date of completion of the sale to the Company of the lands described in the First Schedule to the said Agreement.

(2)

(2) (a) The Newcastle Iron and Steel Works Act, 1912, is hereby repealed.

(b) The repeal of such Act shall not affect the previous operation thereof or, save as provided in this Act or the said Agreement, operate to deprive the Company of any property, right or interest acquired by the Company under the Act so repealed.

(c) Nothing contained in this subsection shall limit any saving in the Interpretation Act of 1897.

(3) As soon as practicable after the date of completion of the sale to the Company of the lands described in the First Schedule to the said Agreement the Minister shall publish in the Gazette a notice specifying such date.

Certain persons may sue and be sued by the Company.

14. It shall not be an objection to the Commissioner, the Minister for Public Works and the Maritime Services Board of New South Wales, or any of them suing the Company and being sued by the Company under the said Agreement that the Commissioner, the Minister for Public Works and the Maritime Services Board of New South Wales are not parties to the said Agreement.

SCHEDULE.

Sec. 3.

THIS AGREEMENT made the twenty-seventh day of March One thousand nine hundred and fifty BETWEEN—THE BROKEN HILL PROPRIETARY COMPANY LIMITED a corporation incorporated under the laws of the State of Victoria and carrying on business in the State of New South Wales (hereinafter called "the Company") of the one part and HIS MOST GRACIOUS MAJESTY KING GEORGE VI of the other part WHEREAS the Company is desirous of acquiring the lands described in the First Schedule hereto and the right to lease certain lands below high water mark fronting such lands described in the First Schedule hereto

hereto for the purposes of the Company and with the object of expanding its industrial operations in the said State of New South Wales NOW IT IS HEREBY AGREED as follows:—

1. In this Agreement unless the context otherwise requires the singular includes the plural and vice versa and the following expressions shall have the meanings set opposite thereto respectively:

"Commissioner" means the Commissioner for Railways incorporated by the Transport (Division of Functions) Act, 1932, or other the corporation controlling the Government Railways of New South Wales;

"Gazette" means New South Wales Government Gazette;

"Minister" means the Minister for Lands of the State of New South Wales and his successors in office;

"Minister for Public Works" means the Minister for Public Works of the State of New South Wales and his successors in office;

"Month" means calendar month;

"High Water Mark" means the mean high water mark of the right bank of the South Channel of the Hunter River as defined by Mr. Surveyor R. A. Allen in his Survey completed on 24th May 1949 of Portion 2936 Parish of Newcastle County of Northumberland and shown on plan catalogued N.7785.2111R. at the Department of Lands, Sydney.

2. (a) Subject to the provisions hereinafter contained His Majesty hereby agrees to sell to the Company and the Company agrees to buy the lands described in the First Schedule hereto at and for the price of One hundred thousand pounds (£100,000).

(b) The Company shall pay the said price in full to the Minister in Sydney free of exchange on completion of such sale and purchase of the lands described in the First Schedule hereto.

3. (a) The land described in the First Part of the First Schedule hereto is Crown Lands as to part thereof subject to the Lease for fifty years from the sixth day of December One thousand nine hundred and twelve vested in the Company by the Newcastle Iron and Steel Works Act, 1912 and the Agreement scheduled thereto and as to the remainder thereof comprises a closed road added to the said Lease by notice in the Gazette of the fourth day of March One thousand nine hundred and twenty seven, page 1302.

(b) The land described in the Second Part of the First Schedule hereto is Crown Lands formerly forming part of Special Lease No. 11 of 1919 granted to the Company under the Crown Lands Consolidation Act, 1913 as amended. This Special Lease expired on the 31st day of December 1948 and the lands comprised therein are now occupied by the Company under a Permissive Occupancy granted to the Company.

(c)

(c) The lands described in the Third Part of the First Schedule hereto are Crown Lands formerly comprised in Crebert Street Extended a public road, as to 13 perches being Crown Lands dedicated for public road under the Crown Lands Consolidation Act, 1913 as amended by Gazette of the 16th day of January 1931, page 266 and the remainder having been resumed (without any limitation as to depth) and dedicated for public road by Gazette of the 14th day of February 1930, page 672, but all these dedications were limited to the surface and 25 feet below the surface. Crebert Street Extended was closed as to part by Notice published in the Gazette of the 4th day of July 1941, page 2438 and as to a further part by Notice published in the Gazette of the 19th day of May 1944 page 895.

(d) As to the lands described in the Fourth Part of the First Schedule hereto—

(i) part thereof is comprised in Certificate of Title registered Volume 1795 Folio 95 issued to the Railway Commissioners of New South Wales subject to the notifications endorsed thereon including that of the exceptions and reservations unto the Caledonian Coal Company Limited its successors and assigns of the mines and minerals beneath the land with full and free liberty and power to carry on mining operations beneath such land or any part thereof which shall not interfere with the safety of the railway which the Commissioners proposed to construct upon the said land or with the traffic upon such railway, it being expressly agreed and declared that the Commissioners shall have no further right to the soil beneath the surface of the said land than shall be requisite for the support of the said railway and for the formation and repair of the same and except as hereinafter otherwise expressly provided the land is hereby agreed to be sold subject to such exceptions and reservations so far as the same are existing at the date of this Agreement, and

(ii) part thereof is comprised in Certificate of Title registered Volume 3797 Folio 42 also issued to the Railway Commissioners for New South Wales, and

(iii) part thereof is comprised in the Notification of Resumption by the Chief Commissioner for Railways and Tramways for New South Wales published in the Gazette of the 19th day of November 1913, page 6901, under the Public Works Act, 1912 (in lieu of the like Notification published in the Gazette of the 12th day of November, 1913, page 6750) by which no mines or deposits of coal, ironstone, kerosene shale, limestone, slate or other minerals under such area were acquired and the same are excepted from this sale, and

(iv) part thereof is comprised in the Indenture of Conveyance dated the 24th day of December 1919 No. 93 Book 1174 made between Caledonian Collieries Limited of the one part

and

and the Railway Commissioners for New South Wales of the other part which conveyed only all mines and minerals (if any) in and under the land comprised in such Conveyance which the said Company might be empowered to convey, and nothing herein shall affect the preceding paragraph (iii), and

(v) part thereof is comprised in Conveyance dated the 22nd day of February 1907 from the Caledonian Coal Company Limited to the Railway Commissioners of New South Wales registered No. 207 Book 827 which excepts and reserves unto the said Company the mines and minerals beneath the said lands with full and free liberty and power to carry on any mining operations beneath the said lands or any part thereof which shall not interfere with the safety of the railway which the Commissioners proposed to construct upon the said land or with the traffic upon such railway, it being expressly agreed and declared that the Commissioners shall have no further right to the soil beneath the surface of the said lands than shall be requisite for the support of the said railway and for the formation and repair of the same and (except as otherwise hereinafter expressly provided) the same are also excepted from this sale and (except as aforesaid) this sale is also subject to the rights to use railways and other rights reserved to the Waratah Coal Company Limited (In Liquidation) by the Conveyance by that Company to the Caledonian Coal Company Limited dated the 1st day of July 1896 registered No. 901 Book 580 so far as the same are existing at the date of this Agreement.

(e) The lands described in the Fifth Part of the First Schedule hereto are Crown lands.

(f) As to the lands described in the Sixth Part of the First Schedule hereto part thereof is comprised within the Notification of Resumption by the Railway Commissioners of New South Wales published in the Gazette on the 25th day of June 1920, page 3587, under the Public Works Act, 1912 by which no mines or deposits of coal, ironstone, kerosene shale, limestone, slate or other minerals under such area were acquired and the same are excepted from this sale. The remainder of such lands is Crown lands.

(g) The land described in the Seventh Part of the First Schedule hereto is Crown lands comprising the land the subject of Special Purchase Application No. 38/20 Newcastle by the Company.

4. (a) Certain information as to the title to the lands comprised in the First Schedule hereto is referred to in this Agreement and the Company shall not require or be entitled to be furnished with any further particulars as to the title of His Majesty or the Minister or the Commissioner to any of such lands or with any abstract of the title to any of such lands or any evidence whatsoever of the title to any

any of such lands save and except that each of them the Minister and the Commissioner will produce to the Company the deeds and documents that may be in his possession and that relate to such lands.

(b) No objection or requisition whatsoever shall be made by the Company to or in respect of the title to any of the said lands and no objection whatever shall be taken by the Company to the power of His Majesty and the Minister and the Commissioner to sell and assure as provided by this Agreement the said lands described in the First Schedule hereto.

5. All the said lands are sold by His Majesty and/or the Minister and the Commissioner to the Company subject to the existing tenancies easements encroachments licenses and occupancies and all such lands are sold subject to the reservations exceptions and conditions contained in the Crown Grants under which any of the lands were originally or are now held. The Company shall not raise any objection or make any claim in respect of any encroachments by or on any part or parts of the lands described in the First Schedule whether revealed by any present or future survey or otherwise.

6. There shall be excepted out of and from the lands described in the First Schedule hereto and excluded from the said sale and the assurances to the Company:

(a) All telegraph lines within the meaning of the Post and Telegraph Act, 1901-1934 of the Commonwealth constructed or laid upon in under or over such lands.

(b) The electric cables and electricity transmission lines constructed or laid upon in under or over the lands described in the First Schedule hereto by any Municipal or other local authority or by any body supplying electricity and all poles pipes wires fittings appurtenances equipment and appliances connected therewith.

(c) The electric cables and electricity transmission lines the property of His Majesty or the Minister for Public Works or the Commissioner constructed or laid upon in under or over the lands described in the First Schedule hereto and all poles pipes wires fittings equipment appurtenances and appliances connected therewith.

7. The said sale of the lands described in the First Schedule hereto is also subject to, and the Crown Grants to the Company of the lands described in the First, Second and Third Parts of such Schedule shall contain covenants and conditions that the Company its successors and assigns will at all times and to the satisfaction of the Minister provide for the maintenance and proper discharge into Newcastle Harbour of the drainage from Throsby Creek through or over the lands described in the First, Second and Third Parts of the First Schedule hereto. The Act ratifying this Agreement shall contain

provisions

provisions to the effect that such covenants and conditions shall bind the lands described in the First, Second and Third Parts of the First Schedule hereto and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements upon any Crown Grant or Certificate of Title comprising such lands or any part thereof and such other entries in the Register Book as he may think desirable in consequence thereof.

8. The completion of the purchase by the Company of the lands described in the First Schedule hereto and payment of the purchase moneys therefor shall take place at the office of the State Crown Solicitor on a date which shall be two months from the date of commencement of this Agreement. If from any cause whatever other than the non-completion caused by the default of the Minister or the Commissioner the purchase money shall not be paid on that date the Company agrees with His Majesty His Heirs and Successors to pay to the Minister interest thereon at the rate of five pounds (£5) per centum per annum computed from that date until the day of actual payment.

9. His Majesty and the Commissioner shall be entitled to the rents and profits to the date of completion and shall pay and bear all rates taxes assessments and outgoings to that date in respect of the lands comprised in the First Schedule hereto other than the rates taxes assessments and outgoings payable by the Company under or by reason of its occupancies or interest in any of such lands prior to the date of completion from which date the Company shall be entitled to such rents and profits and shall pay or bear all rates taxes assessments and outgoings in respect of the lands comprised in the First Schedule hereto. Any necessary apportionments shall be made and adjusted on completion. Nothing in this clause shall relieve the Company of any liability under or by reason of its occupancy or interest in any of the said lands at or prior to the date of completion.

10. No error or misdescription of the lands sold shall annul the sale of the lands described in the First Schedule hereto but compensation (if demanded in writing before completion but not otherwise and if as regards the Company it is otherwise entitled thereto under this Agreement) shall be made to or given by the Company as the case may be and should the parties be unable to agree between themselves as to the amount thereof such amount shall be settled by two arbitrators one to be appointed by the Minister and the other by the Company in accordance with the provisions of the Arbitration Act, 1902.

11. All objections and requisitions (if any) which under this Agreement the Company shall be entitled to make shall be made and delivered to the Crown Solicitor of the State of New South Wales within

within twenty-one days from the date of commencement of this Agreement and all objections and requisitions not so made shall be deemed to be waived.

12. If His Majesty His Heirs or Successors shall be unable or unwilling to comply with or remove any objection or requisition which the Company shall be entitled to make under this Agreement the Minister shall whether he or the Commissioner or His Majesty His Heirs or Successors has or has not attempted to remove or comply with such objection or requisition and notwithstanding any negotiations or litigation whatsoever in respect thereof be at liberty to rescind this Agreement and in no case shall His Majesty or His Heirs or Successors or the Minister or the Commissioner be liable for any damages costs charges expenses and losses whatsoever incurred by the Company in and about this Agreement AND IT IS HEREBY DECLARED that seven days' notice of the intention of the Minister to rescind this Agreement shall be deemed reasonable notice of such intention under Section 56 of the Conveyancing Acts, 1919-1943.

13. His Majesty His Heirs and Successors the Minister and/or the Commissioner shall not be called upon or bound to pay any proportion of the costs of any dividing fence or fences.

14. All notices and documents hereunder may be served as mentioned in Section 170 of the Conveyancing Acts, 1919-1943.

15. Clauses 2 to 6 inclusive of the conditions of sale contained in Schedule III of the Conveyancing Acts, 1919-1943 shall not apply to this Agreement except insofar as the same or any part thereof are incorporated herein.

16. Such of the provisions and conditions of this Agreement as require or prescribe any act or thing to be done or not to be done by the Company shall in addition to being read and construed as conditions of this Agreement be also read and construed as Agreements whereby the Company covenants with His Majesty His Heirs and Successors to observe and perform the said provisions and conditions.

17. If the Company shall omit to fulfil observe or perform the provisions of this Agreement other than Clauses 28 and 30 hereof on the part of the Company to be fulfilled observed or performed the Minister may by notice in writing served on the Company call upon the Company to rectify the default complained of within a reasonable time (to be stated in the notice) after the service of such notice and if the Company shall fail after service of the said notice upon it to rectify the said default within such reasonable time the Minister may by notice in writing served on the Company determine this Agreement but without prejudice to any claim which His Majesty His Heirs and Successors the Commissioner the Minister for Public Works and the Maritime Services Board of New South Wales or any

one or more of them may have against the Company in respect of any breach of the provisions of this Agreement on the part of the Company to be fulfilled observed and performed.

18. (a) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto (and after the publication of the Notice by the Minister referred to in subclause (e) of this clause) a Crown Grant or Crown Grants shall be issued to the Company for the assurance to it of the lands respectively described in the First Part the Second Part the Third Part the Fifth Part the Sixth Part and the Seventh Part of the First Schedule hereto.

(b) Every Crown Grant so to be issued to the Company shall contain a reservation of all minerals in the lands assured by the Grant and shall contain such other reservations and exceptions as are usually inserted by the Crown in Crown Grants issued for Special Purchases under Section 66 of the Crown Lands Consolidation Act, 1913, as amended and for the purposes aforesaid the term "minerals" shall have the same meaning as it has in the said Act.

(c) Every Crown Grant so to be issued to the Company as aforesaid shall be limited to the surface of the land comprised in such Crown Grant and to a depth of 400 feet below such surface and shall contain a proviso in or to the effect that mining operations may have been and may be carried on upon and in the land below the land thereby granted and the lands adjoining the land thereby granted and the land below the same and metals and minerals may have been and may be removed therefrom and that the Crown Grant is made upon and subject to the condition that the Company and its assigns shall not be entitled to make or prosecute any claim for damages or take any proceedings either by way of injunction or otherwise against His Majesty His Heirs or Successors or the Government of the State of New South Wales or any lessee or lessees under any Mining Act or Acts of the said State of New South Wales or his or their executors administrators or assigns for or in respect of any damage or loss occasioned by the letting down subsidence or lateral movement of the land thereby granted or otherwise howsoever by reason of the following acts and matters that is to say by reason of His Majesty His Heirs or Successors or the Government of the said State of New South Wales or any person on His Their or Its behalf or any Lessee or Lessees as aforesaid or his or their executors administrators or assigns having worked or then or thereafter working any mines or having carried on or then or thereafter carrying on mining operations or having searched for worked won or removed or then or thereafter searching for working winning or removing any metals or minerals under in or from the land below the land thereby granted or on in under or from any other lands situated laterally to the land thereby granted and the land below the same and whether on or below the surface of such other lands AND THAT His Majesty doth thereby expressly reserve unto His Majesty

His Heirs and Successors the liberty and authority by reason of the acts and matters aforesaid or in the course thereof for His Majesty His Heirs and Successors and the Government of the said State of New South Wales and any person on His Their or Its behalf and any Lessee or Lessees as aforesaid and His or their executors administrators and assigns to from time to time let down without payment of any compensation whatsoever any part of the land thereby granted and/or of the surface thereof.

(d) As soon as practicable after completion of the sale to the Company of the lands described in the First Schedule hereto the Governor shall appropriate and resume the land described in the Fourth Part of the First Schedule hereto by Gazette notification under Division 1 of Part V of the Public Works Act, 1912 as amended and for the purposes of such Act such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act and the Commissioner shall be the Constructing Authority in respect thereof and the Act ratifying this Agreement may provide accordingly and after such appropriation and resumption the Commissioner shall transfer the land acquired to the Company. The said appropriation and resumption shall not acquire the mines or deposits of coal ironstone kerosene shale limestone slate or other minerals under the land and nothing herein shall require the Commissioner to assure to the Company any mines or minerals under the land not belonging to him immediately prior to the said appropriation and resumption. The Act ratifying this Agreement shall contain provisions to the effect that the Registrar-General is to issue to the Commissioner after the said appropriation and resumption a new Certificate of Title under the Real Property Act, 1900, comprising the land described in the Fourth Part of the First Schedule hereto and that the Registrar-General shall make all such cancellations alterations and entries of and in the Register Book Certificates of Title and otherwise as he may think desirable in consequence thereof.

(e) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto the Minister shall publish in the Gazette a notice revoking the aforesaid appropriation and resumption by the Railway Commissioners of New South Wales published in the Government Gazette of the 25th day of June 1920 so far as concerns such parts of the land thereby appropriated and resumed as are within the lands described in the Sixth Part of the First Schedule hereto and the Act ratifying this Agreement shall provide for the publication of such notice and for those parts of such lands upon the publication in the Gazette of the said Notice by the Minister to be thereby vested in His Majesty the King His Heirs and Successors.

(f) The Company shall not be entitled to any assurance from the Minister the Commissioner or the Crown with respect to any part of the land comprised in the First Schedule hereto except as is provided by this clause.

(g) The Company shall pay to the Minister on demand the cost of all surveys and plans with respect to the lands described in the First and Second Schedules hereto made in connection with this Agreement and the Company agrees to pay to the Minister in respect of every Crown Grant to be issued to it under this clause (and prior to the issue of such Grant) a deed fee of the amount in like case usually payable on a Crown Grant for land specially purchased under Section 66 of the Crown Lands Consolidation Act, 1913 as amended.

19. (a) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto the Governor shall appropriate and resume the land described in the Second Schedule hereto by Gazette notification under Division 1 of Part V of the Public Works Act, 1912, as amended, for the purpose of a public road and for the purposes of the said Act such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act and the Minister for Public Works shall be the Constructing Authority in respect thereof and the Act ratifying this Agreement shall provide accordingly.

(b) The Act ratifying this Agreement shall contain provisions to the effect that sections 138 and 97 of the Public Works Act, 1912, as amended, shall not apply in respect of the said appropriation and resumption.

(c) After the land described in the Second Schedule hereto has been appropriated and resumed as aforesaid the Constructing Authority shall notwithstanding the provisions of section 81 of the Public Works Act, 1912, by Notice in the Gazette dedicate such land as a public road and thereupon the provisions of the Local Government Act, 1919, as amended, with respect to public roads, shall apply thereto accordingly but nothing herein is to affect the operation of subclause (d) of clause 23 and subclause (i) of clause 26 hereof and the Act ratifying this Agreement shall contain provisions to the effect of this subclause.

(d) Notwithstanding the appropriation and resumption as aforesaid of the land described in the Second Schedule hereto the Company shall be permitted to demolish and remove at any time from the land described in the Second Schedule hereto such part of the building known as the "U.S.N. Store" owned by the Company as encroaches upon the land described in the Second Schedule hereto and the Company hereby covenants with His Majesty His Heirs and Successors that the Company shall make no claim for compensation by reason of the appropriation or resumption as aforesaid of that

part

part of the land described in the Second Schedule hereto upon which any part of the "U.S.N. Store" is erected and that the Company shall if as and when requested in writing by the Minister or the Council of the City of Newcastle carry out at its own cost and expense the work of the demolition and removal of such portion of the "U.S.N. Store" as encroaches upon the land described in the Second Schedule hereto and such work shall be carried out to the satisfaction of the Minister. Until such time as the Company has been requested by the Minister or the Council of the City of Newcastle to demolish and remove the encroaching portion of the "U.S.N. Store" the Company shall be under no obligation to remove the same even though the land described in the Second Schedule hereto may have been dedicated as a public road.

(e) The work of the demolition and removal of the encroaching portion of the "U.S.N. Store" as aforesaid shall be carried out within such time or times and at such rate as the Minister shall determine and in the event of the Company failing to carry out and complete such work in accordance with the provisions of this subclause the Minister may without prejudice to any other remedy of His Majesty by reason of such default of the Company do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand by the Minister pay to His Majesty His Heirs and Successors all costs and expenses incurred by the Minister in so doing and the same shall be recoverable from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof.

20. The Company shall pay to the Minister for Public Works at the time of completion of the sale of the lands described in the First Schedule hereto in addition to the purchase moneys then payable in respect of the said lands the sum of Two hundred and eighty pounds (£280) being the value of the four dolphins existing adjacent to the said lands and the said dolphins shall thereupon become the property of the Company but without prejudice to the powers and duties with respect thereto of the authority controlling the Port of Newcastle.

21. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall at its own expense at the date of commencement of this Agreement resume the construction of and thereafter continuously proceed with the construction in accordance in all respects with the approval of the Minister of a road over a width of not less than eighteen feet at levels and alignment approved of by the Minister throughout along and within the land described in the Second Schedule hereto the remainder of the said road to be constructed and completed to the same standard and specification

specification as the part of the said road already constructed together with road drainage and culverts as required by the Minister and together with drainage facilities to the satisfaction of the Minister on and along the southern side at such a level and in such a manner that suitable drainage shall be available thereto from the railway lands to the south of the said land SO THAT at the expiration of one year from the date of commencement of this Agreement or of such further period (if any) as may be allowed by the Minister in writing, the Company shall have at its own cost completed the full and proper construction as aforesaid of the whole of the said road and the Company covenants with His Majesty His Heirs and Successors to construct at its own cost the said road within the said period of one year or further period (if any) allowed in writing by the Minister in accordance in all respects with the foregoing provisions of this clause.

(b) The Company shall at its own expense maintain the said road (including the road drainage and the said drainage facilities) in good order and condition and to the satisfaction of the Minister for and during the period of one year after the Company has completed the construction of the said road in accordance with subclause (a) of this clause.

(c) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall at its own expense commence at the date of this Agreement and thereafter continuously proceed with the construction in accordance in all respects with the approval of the Commissioner of a substantial retaining wall for the purposes of retaining the railway embankment under the conditions which shall exist at the date of commencement of this Agreement in the approximate position shown between the points marked "X" and "Y" on the Plan annexed hereto and marked "C" SO THAT at the expiration of one year from the date of the commencement of this Agreement or such further period (if any) as may be allowed by the Commissioner in writing the Company shall have at its own cost completed the full and proper construction as aforesaid of the said retaining wall and the Company covenants with His Majesty His Heirs and Successors to construct at its own cost the said retaining wall within the said period of one year or further period (if any) allowed in writing by the Commissioner in accordance in all respects with the foregoing provisions of this subclause and at its own expense from time to time and at all times to maintain the said retaining wall in good order and condition to the satisfaction of the Commissioner.

(d) In the event of the Company failing to comply with any of the foregoing provisions of this clause, the Minister or the Commissioner may, without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister or the Commissioner may think necessary to remedy the default of the Company and the Company shall on demand

demand by the Minister or the Commissioner pay to His Majesty His Heirs and Successors all costs and expenses incurred by the Minister or Commissioner in so doing and the same shall be recoverable by His Majesty His Heirs and Successors from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the Secretary for Railways or the person acting in either of such offices for the time being of the amount of such costs and expenses incurred by the Minister or the Commissioner shall be prima facie evidence thereof.

(e) The Company for itself and its assigns hereby covenants with the Minister that it will from time to time and at all times hereafter indemnify and keep indemnified His Majesty His Heirs and Successors and the Commissioner his successors and assigns and the Government of the said State of New South Wales from and against all actions claims and demands which may at any time be brought or made against His Majesty His Heirs and Successors or the Commissioner his successors or assigns or the Government of the said State of New South Wales by or for any person body firm or corporation whomsoever in respect of any loss of life or of any injury to person or property or of any loss or damage occasioned by or arising out of or by reason or as a result of any act or thing done or omitted to be done by the Company its successors or assigns or its or their employees agents workmen servants or licensees in or in connection with the construction or maintenance of the retaining wall referred to in subclause (c) of this Clause.

22. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall at its own expense commence at the date notified to it in that behalf by the Minister on or after the date of completion of the sale to the Company of the lands described in the First Schedule hereto and thereafter continuously proceed with the construction and erection of a substantial fence to the approval in all respects of the Minister on and along the lines forming the western and north-western boundaries of the lands described in the Third and Fourth Parts of the First Schedule and the south-eastern and south-western boundaries of the lands described in the Fourth Third Sixth and Fifth Parts of the First Schedule hereby agreed to be sold to the Company commencing at Selwyn Street and thence southerly and southwesterly along that street to the southernmost point of the land described in the Fourth Part of such Schedule and thence continuously proceeding to the waters of the Hunter River so that at the expiration of six months from the date so notified by the Minister the Company shall have at its own cost completed the full and proper construction and erection as aforesaid of the said fence and the Company covenants with His Majesty His Heirs and Successors to construct and erect at its own cost the said fence within the said period of six months in accordance in all respects with the foregoing provisions of this clause.

(b)

(b) In the event of the Company failing to comply with any of the foregoing provisions of this Clause the Minister may, without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand by the Minister pay to His Majesty His Heirs and Successors all costs and expenses incurred by the Minister in so doing and the same shall be recoverable from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof.

23. (a) Each of them the Minister for Public Works and the Commissioner may as and when he desires to do so carry out such re-locating of all or any electricity transmission lines and cables (together with any poles pipes structures wires fittings equipment appurtenances and appliances connected therewith) the property of His Majesty or the Minister for Public Works or the Commissioner now in or on the land described in any part of the First Schedule hereto as the Minister for Public Works or the Commissioner may (subject to clause 24) consider necessary and proper.

(b) Each of them the Minister for Public Works and the Commissioner may at any time remove from the land described in any part of the First Schedule all or any electricity transmission lines and cables the property of His Majesty or the Minister for Public Works or the Commissioner and all or any poles pipes wires fittings equipment appurtenances and appliances connected therewith.

(c) The Company covenants with His Majesty His Heirs and Successors to pay to the Minister for Public Works or the Commissioner as the case may be on demand the costs and expenses incurred by the Minister for Public Works or the Commissioner in exercising the powers conferred on the Minister for Public Works or the Commissioner by subclause (a) or subclause (b) of this clause in every case where the re-locating or the removal of any electricity line or cable has been carried out at the request of the Company and the same shall be recoverable from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Public Works, in the case of the Minister for Public Works or the Secretary for Railways in the case of the Commissioner or the person acting in either of such offices for the time being of the amount of such costs and expenses incurred by the Minister for Public Works or the Commissioner shall be prima facie evidence thereof.

(d) The Act ratifying this Agreement shall contain provisions to the effect that the Minister for Public Works and the Commissioner respectively may re-locate (with any poles pipes wires fittings structures

structures equipment appurtenances and appliances considered necessary) in on under or above the land described in the Second Schedule hereto all or any electricity transmission lines and cables removed from any land described in any part of the First Schedule hereto notwithstanding the dedication of the land described in the Second Schedule hereto as a public road and that the Minister for Public Works and the Commissioner and their respective successors and assigns may use the same for the conveyance of electricity and may maintain repair add to and renew the same.

24. The Company hereby agrees to grant to the Minister for Public Works and other Ministers of the Crown in right of the State of New South Wales and the Commissioner and other statutory authorities representing the Crown in right of the State of New South Wales and the Hunter District Water Board and the Postmaster General or any of them or their respective successors and assigns on request or requests without compensation easements and rights with respect to the erection, construction, laying, operation and maintenance—FIRSTLY of all such electricity transmission lines and cables, telephone lines and cables and water pipes and mains the property of His Majesty, the Minister for Public Works or other Minister of the Crown as aforesaid or the Commissioner or other statutory authority representing the Crown as aforesaid or the Hunter District Water Board or the Postmaster General as are now upon in under or over the lands described in any part of the First Schedule hereto and SECONDLY of all such additional or substituted electricity transmission lines and cables, telephone lines and cables and water pipes and mains for the purpose of enabling such utilities to be made available for the development of the Islands in the Hunter River and other areas as the Minister for Public Works and other Ministers of the Crown as aforesaid the Commissioner and other statutory authorities representing the Crown as aforesaid and the Hunter District Water Board and the Postmaster General or any of them or their respective successors and assigns may (whether the electricity lines and cables, telephone lines and cables and water pipes and mains firstly mentioned have or have not been removed) at any time hereafter desire to erect construct or lay upon in under or over the lands described in the First Schedule hereto or the lands comprised in Certificates of Title Volume 4605 Folio 90 and Volume 5004 Folio 177 standing in the name of the Company or any part or parts thereof along routes determined by the Minister for Public Works or other Ministers of the Crown as aforesaid or the Commissioner or other statutory authorities representing the Crown as aforesaid or the Hunter District Water Board or the Postmaster General or their respective successors and assigns but not so as to interfere unreasonably with the Company's operations and all or any such easements or rights shall if the Minister for Public Works or other Minister of the Crown as aforesaid or the Commissioner or other statutory authority representing the Crown

as

as aforesaid or the Hunter District Water Board or the Postmaster General or any of their respective successors and assigns require be so granted in a form on the lines of that set out in the Third Schedule hereto.

The power of the Minister for Public Works and other Ministers of the Crown as aforesaid and the Commissioner and other statutory authorities representing the Crown as aforesaid and the Hunter District Water Board and the Postmaster General or any of them or their respective successors to assign the said easements and rights hereinbefore referred to in this clause includes power to assign from time to time to any person or corporation (including the Crown) the whole or any part or parts of any of the said easements or rights.

In this clause the term "Postmaster General" shall mean the Postmaster General of the Commonwealth of Australia or other the proper authority of the Commonwealth for the time being controlling the provision and maintenance of public telephonic and/or telegraphic services.

The Act ratifying this Agreement shall contain provisions to the following effect namely, that the provisions of this clause shall bind the lands described in the First Schedule hereto and also the lands comprised in the said Certificates of Title Volume 4605 Folio 90 and Volume 5004 Folio 177 and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements on any Crown Grant or Certificate of Title comprising such lands or any parts thereof and such other entries in the Register Book as he may think desirable in consequence thereof.

25. In contemplation of the execution of this Agreement and for the purposes thereof the Crown has carried out the removal of the thirty-ton crane (which was controlled by the Minister for Public Works) from its previous position adjacent to the southernmost corner of the land described in the Fifth Part of the First Schedule hereto to its present situation at the southern end of the Dyke Newcastle and the re-erection at that situation of a thirty-ton crane (comprising parts of the crane previously referred to and a boiler and other parts obtained from Walsh Island and elsewhere) together with the construction of railway sidings and other works in connection with the said crane at the southern end of the Dyke and also together with all such further structures facilities and foundations required so as to make that crane ready for use in all respects at its present situation by land and water AND the Company hereby covenants with His Majesty His Heirs and Successors that the Company will on the completion of the sale to the Company under this Agreement of the lands described in the First Schedule hereto pay to the Minister for Public Works the sum of Six hundred and sixty-eight pounds twelve shillings and five pence (£668. 12. 5.) on account of the costs and expenses incurred by His Majesty in the removal

of

of the crane first referred to in this Clause and the re-erection of the crane secondly referred to in this Clause together with the construction of railway sidings and works as aforesaid and together with the structures facilities and foundations as hereinbefore referred to.

26. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall if as and when requested in writing by the Commissioner carry out at its own cost and expense (or at the option of the Commissioner pay to the Commissioner the costs and expenses incurred by him in carrying out) all the following works that is to say the erection and construction of railway works and sidings in the approximate positions shown on the Plan annexed hereto and marked "C" by short heavy broken black lines so as to provide to the satisfaction of the Commissioner railway connection between the Morandoo Sidings near Selwyn Street adjacent to the lands described in the Fourth Part of the First Schedule hereto and the Commissioner's railway lines lying to the south of the land described in the Second Schedule hereto (and referred to on the said Plan as "proposed new roadway") and including a single line of railway approximately 28 chains in length and railway sidings works and connections considered necessary by the Commissioner for the purpose of re-locating and/or providing railway connection between the Morandoo Sidings near Selwyn Street and the Steel Works entrance. The railway works to be erected and constructed under this paragraph shall include the removal (and the making good of any damage thereby caused) to the satisfaction of the Commissioner of the railway sidings and works shown approximately by broken parallel lines on the western part of the said Plan and lying in or upon the said land described in the Second Schedule hereto and in or upon the land adjoining that land on the south.

Should any of the work towards the erection and construction of the railway works and sidings referred to in this subclause (a) be carried out by the Commissioner before the date of the commencement of this Agreement the Company shall pay to the Commissioner the costs and expenses incurred by the Commissioner in the carrying out of such work.

(b) The whole of the work to be erected constructed and provided as aforesaid is to be carried out and completed in proper and workmanlike manner in accordance in all respects with specifications and plans to be prepared by the Commissioner and all such work shall be carried out to the satisfaction of the Commissioner.

(c) The Company shall pay to the Commissioner on demand by the Commissioner the costs and expenses incurred by him in preparing the plans and specifications as mentioned in subclause (b) of this clause.

(d) Any request by the Commissioner to the Company under subclause (a) of this clause may be made with respect to the whole or any part or parts of the work which that subclause provides is to be carried out and the option conferred on the Commissioner by that subclause may be exercised as to the whole or any part or parts of such work.

(e) Until the whole of the work which subclause (a) of this clause provides is to be carried out is carried out and completed in accordance with subclause (b) of this clause (but subject to the carrying out of that work) the Commissioner and all other persons shall be entitled to continue to use the present railway lines and works notwithstanding the completion of the said sale to the Company.

(f) The costs and expenses incurred by the Commissioner in carrying out such of the work provided by subclause (a) of this clause to be carried out as shall be carried out by the Commissioner shall be paid by the Company to the Commissioner on demand and a certificate of the Secretary for Railways or the person acting as such for the time being of the amount of such costs and expenses incurred by the Commissioner shall be prima facie evidence thereof.

(g) Such of the work provided by subclause (a) of this clause to be carried out as is to be carried out by the Company shall be carried out within such time or times and at such rate as the Commissioner shall determine.

(h) In the event of the Company failing to carry out and complete in accordance with this clause any of the work provided by subclause (a) of this clause to be carried out which is to be carried out by the Company the Commissioner may without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Commissioner may think necessary to remedy the default of the Company and the Company shall on demand pay to the Commissioner all costs and expenses incurred by the Commissioner in so doing and the same shall be recoverable by him from the Company in a Court of competent jurisdiction and a certificate of the Secretary for Railways or the person acting as such for the time being of the amount of such costs and expenses incurred by the Commissioner shall be prima facie evidence thereof.

(i) In connection with the railway works and sidings to be erected and constructed under subclause (a) of this clause (and notwithstanding the dedication for public road of the land described in the Second Schedule hereto) railway sidings and works will be laid and retained in across and upon the said land described in the Second Schedule hereto in the position approximately indicated by short heavy broken black lines on the western part of the said Plan marked "C" and the existing railway sidings and works will be retained in across and upon such land in the position approximately indicated

indicated by black hatching and the letters "A-B" on the said part of such Plan. Each of them the Company and the Commissioner may at any time or times use for the conveyance (by locomotives other mechanical power rolling stock and otherwise) of goods live-stock persons and things the railway sidings and works that are laid and retained as aforesaid in across and upon the said land described in the Second Schedule hereto and the existing railway sidings and works that are retained as aforesaid in across and upon such land. The Company (notwithstanding the said dedication for public road) will at all times maintain repair and renew so as to keep in good order and condition the said railway sidings and works that are laid and retained in across and upon the said land described in the Second Schedule hereto and the pavement of the roadway between the rails and for the space of eighteen inches on either side of the rails comprised in such sidings and works and the said existing railway sidings and works that are retained in across and upon such land and the pavement of the roadway between the rails and for the space of eighteen inches on either side of the rails comprised in such sidings and works.

The Act ratifying this Agreement shall contain provisions for railway sidings and works being laid and/or retained in across and upon the land described in the Second Schedule hereto as mentioned in this subclause and for the enforcement of the Company's obligations to maintain repair and renew as aforesaid.

27. (a) The Company for itself and its successors and assigns hereby covenants with His Majesty His Heirs and Successors that the Company its successors and assigns will not at any time without the written consent of the Governor of the State of New South Wales use or permit or suffer to be used the lands described in the First Schedule hereto or any part thereof for or in any manner in connection with the shipment of any coal, other than coal shipped at the wharves cranes and other facilities for shipment at Newcastle of the Commissioner or the Maritime Services Board of New South Wales and other than coal shipped in a ship, the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital, for the purpose of bunkering that ship and other than coal mined or owned by the Company and shipped by it for the sole purpose of being used and consumed by the Company or any other company in which the Company holds at least one-third of the share capital in the industrial undertakings of the Company or of any such company in which the Company holds at least one-third of the share capital.

(b) Provisions to the effect of subclause (a) of this clause shall be included in the Crown Grants of the lands described in the First, Second, Third, Fifth, Sixth and Seventh Parts of the First Schedule hereto and (without limiting the foregoing) the Act ratifying this Agreement shall provide that such provisions of the said

said Crown Grants shall be deemed to be covenants by the Company for itself its successors and assigns with His Majesty His Heirs and Successors and that such provisions shall bind the said lands and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements upon any Crown Grant or Certificate of Title comprising such lands or any part thereof and such other entries in the Register Book as he may think desirable in consequence thereof.

(c) The Company shall in the Transfer of the land described in the Fourth Part of the First Schedule hereto to be executed in the Company's favour by the Commissioner enter into such covenants to bind not only the Company but also the Company's sequels in title and the land described in the Fourth Part of the First Schedule hereto in such form as shall in the opinion of the Commissioner be necessary to give full effect to the provisions of subclause (a) of this clause in so far as they relate to such land and the Act ratifying this Agreement shall provide that the covenants contained in such Transfer shall bind the land described in the Fourth Part of the First Schedule hereto and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements upon any Crown Grant or Certificate of Title comprising such land or any part thereof or such other entries in the Register Book as he may think desirable in consequence thereof.

28. (a) As from the date of commencement of this Agreement there shall be granted to the Company as lessee those parts of the bed of the Hunter River fronting the lands described in the First Schedule hereto upon which wharves or other structures the property of the Company have been erected or constructed for the term of ninety-nine years and at the yearly rental of Two hundred and fifty pounds (£250) or such other amount as may be determined on reappraisement as provided by subclause (f) of this Clause, and as soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto there shall be issued to the Company a lease of the said parts of the bed of the Hunter River.

(b) Subject to the provisions hereinafter appearing the Company shall have the exclusive right from time to time and at all times during the said period of ninety-nine years to construct and erect wharves and other facilities for loading or unloading goods and other structures upon any and every part of the bed of the Hunter River fronting the lands described in the First Schedule hereto but only to such distance outwards from high water mark as may be approved in each case by the Minister. Upon completion of any wharf or other structure constructed by the Company under the provisions of this subclause the Company shall be entitled to receive

receive for the balance then unexpired of the said period of ninety-nine years a lease of the part of the bed of the Hunter River upon which such wharf or other structure has been constructed and the Company shall not be called upon to pay in respect of any such lease any rental in addition to the rental of Two hundred and fifty pounds (£250) referred to in the preceding subclause.

(c) All wharves facilities and other structures to be erected and constructed by the Company under the preceding sub-clause shall be erected and constructed by the Company at its own cost and expense and the work of erecting and constructing the same shall be carried out and completed in a proper and workmanlike manner and in accordance in all respects with specifications and plans previously approved of in writing by the Minister and all such work shall be carried out to the satisfaction of the Minister. The plans and specifications referred to in this subclause shall be furnished by the Company to the Minister at the cost and expense of the Company.

(d) Every lease to be issued to the Company in accordance with the provisions of subclause (a) or subclause (b) of this clause shall be limited to the surface of the land thereby leased and to a depth of 400 feet below such surface and shall include conditions in or to the effect of the conditions set out in the Fourth Schedule hereto.

(e) The Company shall pay to the Minister on demand the cost of all surveys and plans made in connection with any lease granted to the Company in accordance with the provisions of subclause (a) or subclause (b) of this clause or in connection with any wharf facility or other structure erected or proposed to be erected by the Company in accordance with the provisions of subclause (b) of this clause.

(f) The said rental of Two hundred and fifty pounds (£250) shall be liable to re-appraisement at the expiration of each period of twenty-five years during the said period of ninety-nine years and in every such case the re-appraised rental shall be such sum as is determined by the Local Land Board constituted under the Crown Lands Consolidation Act, 1913, as amended, or on appeal therefrom by the Land and Valuation Court.

The Act ratifying this Agreement shall provide—

(i) That for the purpose of the Local Land Board determining the rental under this subclause such Board and the Chairman and Members thereof shall respectively have the same powers as when acting under the Crown Lands Consolidation Act, 1913, as amended, for the purpose of the said Board determining rentals thereunder: and

(ii) That any appeal to the Land and Valuation Court from the determination by the Local Land Board of rental under this subclause shall be made within twenty eight days of the date of the determination by filing within such period notice

notice of the appeal in the office of the Registrar of the Land and Valuation Court and by serving within the same period notice of the appeal on the other party to the determination: and

(iii) That for the purpose of dealing with any and every such appeal the Land and Valuation Court and the Judge thereof shall have the same powers as when dealing with appeals from Local Land Boards under the Crown Lands Consolidation Act, 1913, as amended.

(g) The Company shall for and during the said period of ninety-nine years at its own cost and expense carry out all work which shall be necessary to protect and maintain from erosion and to the satisfaction of the Minister such parts of the lands above high water mark comprised in the First Schedule hereto as adjoin or are adjacent to the Hunter River and such work shall be carried out by the Company at and within such time or times and at such rate as the Minister shall determine.

(h) In the event of the Company failing to carry out and complete in accordance with this clause any of the work provided by the preceding subclause to be carried out by the Company the Minister may without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand pay to the Minister all costs and expenses incurred by the Minister in so doing and the same shall be recoverable by him from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof and neither His Majesty nor the Minister shall incur any liability towards the Company by reason of any damage whatsoever done to or upon the lands comprised in any lease granted to the Company in accordance with the provisions of subclause (a) or subclause (b) of this clause or any wharf facility or structure thereon or to or upon any adjoining or adjacent lands above high water mark in the performance by the Minister, his employees, agents, workmen, servants or licensees of any act or thing permitted to be done by the Minister under the provisions of this subclause.

(i) The Minister on behalf of His Majesty agrees with the Company that His Majesty will not at any time during the said period of ninety-nine years grant to any person without the consent of the Company any right of occupancy of or any right to erect or construct or place any structure upon in or over the bed of the Hunter River adjoining or adjacent to the lands described in the First Schedule hereto which would interfere unreasonably with the exercise by the Company of any of the rights granted to the

Company

Company under the provisions of this Clause AND in any case shall not grant any such right closer to high water mark than the line generally 45 feet distant therefrom shown on the Plan annexed hereto and marked "C."

29. (a) The Company hereby agrees with His Majesty and the Act ratifying this Agreement shall contain provisions to the effect that the Harbour and Tonnage Rates Act, 1920-1935, and any Act amending or replacing the same and the regulations from time to time in force thereunder but insofar only as such Acts and regulations relate to the imposition collection and payment of tonnage rates and berthing charges shall apply to and in respect of every wharf (which term for the purposes of this clause shall include any structure landing place or facility where cargo may be loaded or discharged or where vessels may be berthed) now or hereafter erected constructed or provided upon the lands described in the First Schedule hereto or upon lands adjoining or adjacent thereto as if the same were a public wharf and that accordingly tonnage rates and berthing charges in accordance with the said Act and Regulations will be payable in respect of all vessels berthing at any such wharf subject to the following exceptions such exceptions being applicable only to vessels whilst berthed thereat:—

(i) Any vessel carrying, loading or discharging only cargo the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital shall be exempt from the payment of such tonnage rates and berthing charges.

(ii) Any vessel carrying, loading or discharging cargo part only of which is the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital shall be granted a rebate of such tonnage rates and berthing charges to the extent of the ratio which the part of the cargo which is the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital bears to the whole of such cargo.

(iii) Any vessel the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital berthing for a purpose other than the loading or discharging of cargo shall be exempt from the payment of such tonnage rates and berthing charges.

(b) The Company shall keep or cause to be kept in proper books true and complete records of all such matters in relation to all vessels berthing at any wharf now or hereafter constructed erected or provided upon adjoining or adjacent to the lands described in the First Schedule hereto as may be necessary to enable the Maritime Services Board of New South Wales or other proper authority to determine

determine the tonnage rates and berthing charges payable in respect of such vessels in accordance with subclause (a) of this Clause and the Act ratifying this Agreement, and the Company shall allow and provide every reasonable facility for the Maritime Services Board of New South Wales or other proper authority and any person authorised by such Board or authority at all reasonable times to inspect and make copies of or extracts from such records AND the Company shall at such times as are required by such Board or authority during the period of ninety-nine years referred to in Clause 28 hereof furnish to such Board or other authority all such particulars as such Board or authority may deem necessary for the purpose of enabling such Board or authority to ascertain and determine the tonnage rates and berthing charges payable in respect of all vessels berthing at any wharf now or hereafter constructed erected or provided upon adjoining or adjacent to the lands described in the First Schedule hereto.

30. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall pay to the Minister for Public Works the costs and expenses incurred by him in carrying out all the following work that is to say:

(i) Such dredging as may from time to time be required by the Company within a distance of 60 feet from the face of all berths, wharves and landing places now or at any time hereafter constructed erected or provided upon adjoining or adjacent to the lands described in the First Schedule hereto.

(ii) All such dredging and other work as may be necessary to carry out the construction of a channel upstream from the swinging basin and to such dimensions as may be required from time to time by the Company.

(iii) All such dredging and other work as may be necessary to carry out any extension of the swinging basin which may be required by the Company.

(b) Notwithstanding the covenant hereinbefore contained on the part of the Company to pay to the Minister for Public Works the costs and expenses incurred by him in carrying out the work referred to in subclause (a) of this Clause the Company shall be permitted to carry out itself and at its own expense all or any of the work referred to in paragraph (i) of subclause (a) of this Clause subject to the approval of the Minister for Public Works in writing being first obtained and upon such conditions as may be determined by the Minister for Public Works.

(c) The costs and expenses incurred by the Minister for Public Works in carrying out the work provided by subclause (a) of this Clause shall be paid by the Company to the Minister for Public Works on demand and a certificate of the Under Secretary, Department of Public Works, or the person acting as such for the time being

being of the amount of such costs and expenses incurred by the Minister for Public Works shall be prima facie evidence thereof.

(d) The Minister for Public Works or the Government of the said State of New South Wales will during the said period of ninety-nine years referred to in Clause 28 hereof at the cost of His Majesty—

(i) maintain a channel from the Pacific Ocean to the swinging basin and the swinging basin and all extensions thereto carried out under the provisions of paragraph (iii) of subclause (a) of this Clause at a depth which in the opinion of the Minister for Public Works is reasonable having regard to the normal requirements of the shipping in the Port of Newcastle,

(ii) maintain any channel constructed under the provisions of paragraph (ii) of subclause (a) of this Clause to the dimensions to which such work has been carried out at the expense of the Company provided however that in the opinion of the Minister for Public Works the maintenance of such channel to such dimensions is reasonable having regard to the normal requirements of shipping at the Company's berths and the requirements elsewhere in the Port of Newcastle.

(e) The liability of the Minister for Public Works or the Government of the said State of New South Wales to carry out dredging operations under this Clause shall be governed by the availability of dredging equipment at any particular time having regard to the necessity to use such dredging equipment elsewhere in the Port of Newcastle.

31. (a) The Company shall pay to the Minister for Public Works at the time of completion of the sale of the lands described in the First Schedule hereto in addition to the purchase moneys then payable in respect of the said lands the sum of Eight thousand seven hundred and ninety-seven pounds nineteen shillings and one penny (£8,797. 19. 1.) being the balance of cost to His Majesty of the initial dredging for the swinging basin extension which was carried out mainly in 1947.

(b) On the completion of the sale of the lands described in the First Schedule hereto the obligation of the Company under the provisions of the Newcastle Iron and Steel Works Act, 1912, to pay interest at the rate of 5% per annum on the sum of Twenty nine thousand two hundred and fifty five pounds fourteen shillings (£29,255. 14. 0.) being the cost of dredging the swinging basin and lower berth and of reclamations all of which were carried out prior to the 31st day of January 1915, shall cease and the Act ratifying this Agreement shall provide accordingly. Any necessary apportionment of the interest paid or payable by the Company shall be made and adjusted on completion.

(c)

(c) On the completion of the sale of the lands described in the First Schedule hereto the obligation of the Company to pay to the Minister for Public Works the sum of Four hundred and seventy-three pounds ten shillings and sixpence (£473. 10. 6.) per annum for the cost of the maintenance of the swinging basin extension which was carried out mainly in 1947 shall cease and any necessary apportionment of the moneys paid or payable by the Company shall be made and adjusted upon completion.

32. On the completion of the sale to the Company under this Agreement of the lands described in the First Schedule hereto the Lease granted to the Company by Section 4 of the Newcastle Iron and Steel Works Act, 1912, and the Agreement set out in the Schedule to that Act and the rights and obligations of the Company thereunder shall cease and determine and the Act ratifying this Agreement shall provide for the repeal of the Newcastle Iron and Steel Works Act, 1912. Any necessary apportionment of rental paid or payable by the Company in respect of this Lease shall be made and adjusted on completion.

33. On the completion of the sale to the Company under this Agreement of the lands described in the First Schedule hereto the Permissive Occupancy granted to the Company in respect of the lands formerly comprised in Special Lease No. 11 of 1919 Newcastle granted to the Company shall cease and determine and any necessary apportionment of rental paid or payable by the Company in respect of the Permissive Occupancy shall be made and adjusted on completion.

34. Nothing in this Agreement contained shall affect in any way the liability of the Company or any other person to pay harbour rates in accordance with the provisions of the Harbour and Tonnage Rates Act, 1920-1935, and any Act amending or replacing the same and the regulations from time to time in force thereunder.

35. (a) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by or on behalf of the Minister or His Majesty His Heirs or Successors shall be deemed to have been duly given if signed by the Under Secretary, Department of Lands, or the person acting as such for the time being.

(b) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by the Commissioner shall be deemed to have been duly given if signed by the Secretary for Railways or the person acting as such for the time being.

(c) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by the Minister for Public Works shall be deemed to have been duly given if signed by the Under Secretary, Department of Public Works, or the person acting as such for the time being.

(d) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by the Maritime Services Board of New South Wales shall be deemed to have been duly given if signed by the Secretary to the Board or by the Harbour Master at Newcastle or by the person for the time being acting in either of such offices.

36. This Agreement is subject to ratification by the Parliament of the State of New South Wales and shall come into effect when so ratified and the expression "the date of commencement of this Agreement" means the date of commencement of the Act which ratifies it PROVIDED that if this Agreement is not ratified by the said Parliament before the thirtieth day of April 1950 it shall become null and void.

37. As between the Commissioner and His Majesty the part of the said price of One hundred thousand pounds (£100,000) to be paid by the Company to the Minister on the completion of the sale of the lands described in the First Schedule hereto which the Commissioner shall be entitled to receive from the Minister shall be the sum of Five thousand eight hundred and fifty pounds (£5,850) (being the part of such price attributable to the estates and interests held by the Commissioner in the lands described in the First and Second Schedules hereto). Any such payment to the Commissioner shall be subject to his giving such indemnity to the Minister against claims by any person in respect of any part of the land described in the Second Schedule hereto or any interest therein as the Minister and the Commissioner may agree upon or in default as determined by the Governor.

IN WITNESS whereof the parties hereto have executed this Agreement the day and year first above written.

FIRST SCHEDULE TO AGREEMENT.

First Part.

ALL THAT piece or parcel of land containing by admeasurement 34 acres 1 rood be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2936 COMMENCING on the original high water mark of the right bank of the South Channel of the Hunter River at the South Eastern corner of portion 349 of 14 acres 21½ perches and bounded thence on the West by the Eastern boundary of portion 349 bearing North 21 minutes West 227 feet 8½ inches on the North East by lines dividing this land from the area of 2 acres 1 rood 14 perches described in the Seventh Part hereof bearing South 66 degrees 6 minutes East

1,055 feet 11 inches thence south 63 degrees 21 minutes East 280 feet 11½ inches and thence by lines dividing it from portion 2,937 of 5 acres 3 perches bearing South 40 degrees 1 minute 30 seconds West 2 feet 11½ inches South 51 degrees 14 minutes 30 seconds East 704 feet 11¾ inches South 37 degrees 9 minutes 30 seconds West 11 feet 10½ inches South 51 degrees 10 minutes 30 seconds East 682 feet 4½ inches and thence South 33 degrees 30 minutes 30 seconds East 766 feet 11 inches on the South East by a line dividing it from the area of 9 acres 32 perches described in the Second Part hereof bearing South 50 degrees 33 minutes West 1,051 feet 7½ inches and thence by lines dividing it from the area of 3 acres 2 roods 24 perches described in the Third Part hereof bearing South 54 degrees 13 minutes 30 seconds West 97 feet 4¼ inches and thence by 51 feet 5¾ inches of the arc of a circle of 380 feet radius the centre of which lies North Westerly of a chord bearing South 65 degrees 5 minutes 20 seconds West 51 feet 5 inches to the original high water mark of the right bank of Throsby Creek again on the West and generally on the North West by that original high water mark of Throsby Creek Northerly and thence generally North Easterly to its junction with the original high watermark of the right bank of the South Channel of the Hunter River aforesaid and on the South West by the lastmentioned original high water mark North Westerly to the point of commencement.

SECOND PART.

ALL THAT piece or parcel of land containing by admeasurement 9 acres 32 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on a South Western boundary of portion 2,937 of 5 acres 3 perches at the Easternmost corner of the area of 34 acres 1 rood described in the First Part hereof and bounded thence on the North West by a line dividing this land from that 34 acres 1 rood bearing South 50 degrees 33 minutes West 1,051 feet 7½ inches on the South by a Northern boundary of the area of 3 acres 2 roods 24 perches described in the Third Part hereof bearing South 89 degrees 47 minutes 30 seconds East 1,167 feet 4 inches and on the North East by lines dividing it from portion 2,937 aforesaid bearing North 26 degrees 34 minutes 30 seconds West 610 feet 9 inches and thence North 33 degrees 30 minutes 30 seconds West 158 feet to the point of commencement.

THIRD PART.

ALL THAT piece or parcel of land containing by admeasurement 3 acres 2 roods 24 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of

of Portion 2,936 COMMENCING on a South Western boundary of portion 2,937 of 5 acres 3 perches at the South Eastern corner of the area of 9 acres 32 perches described in the Second Part hereof and bounded thence on the North by the Southern boundary of that 9 acres 32 perches bearing North 89 degrees 47 minutes 30 seconds West 1,167 feet 4 inches on the North West by lines dividing this land from the area of 34 acres 1 rood described in the First Part hereof bearing South 54 degrees 13 minutes 30 seconds West 97 feet 4¼ inches and thence by 51 feet 5¾ inches of the arc of a circle of 380 feet radius the centre of which lies North Westerly of a chord bearing South 65 degrees 5 minutes 20 seconds West 51 feet 5 inches and thence by a line dividing it from the Northernmost part of a measured portion of part of 24 acres being the residue of portion 156 being 140 feet 10¼ inches of the arc of a circle of 380 feet radius the centre of which lies North Westerly of a chord bearing South 79 degrees 35 minutes 20 seconds West 140 feet and one half of an inch again on the North by the Southern boundary of that part of the residue of portion 156 bearing North 89 degrees 47 minutes 30 seconds West 1,521 feet 6 inches to Selwyn Street on the West and again on the North West by Selwyn Street bearing South 4 minutes East 32 feet and thence South 6 degrees 18 minutes West 34 feet 2¼ inches on the South by the Northern boundary of the area of 2 acres 3 roods 3 perches described in the Fourth Part hereof bearing South 89 degrees 47 minutes 30 seconds East 1,303 feet 11 inches on the South East by a line dividing it from the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto bearing North 82 degrees 22 minutes 50 seconds East 462 feet 10¼ inches and thence by the North Western boundary of the area of 2 roods 14 perches described in the Sixth Part hereof bearing North 50 degrees 12 minutes 30 seconds East 105 feet 5¾ inches again on the South by the Northern boundary of that 2 roods 14 perches and a Northern boundary of the area of 2 acres 1 rood 33 perches described in the Fifth Part hereof in all bearing South 89 degrees 47 minutes 30 seconds East 1,123 feet 1¾ inches and on the North East by a line dividing it from portion 2,937 aforesaid bearing North 15 degrees 17 minutes 45 seconds West 41 feet 6 inches to the point of commencement.

FOURTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 acres 3 roods 3 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on the South Eastern side of Selwyn Street at the South Western corner of the area of 3 acres 2 roods 24 perches described in the Third Part hereof and bounded thence on the North West by Selwyn Street bearing South 6 degrees 18 minutes West 105 feet 8¾ inches and thence by Selwyn Street being

being 110 feet 2 inches of the arc of a circle of 520 feet 1 inch radius the centre of which lies North Westerly of a chord bearing South 39 degrees 23 minutes 30 seconds West 109 feet 11¼ inches on the South East by a line dividing this land from the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto bearing North 82 degrees 22 minutes 50 seconds East 1,397 feet 7½ inches and on the North by a Southern boundary of the aforesaid 3 acres 2 roods 24 perches bearing North 89 degrees 47 minutes 30 seconds West 1,303 feet 11 inches to the point of commencement.

FIFTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 acres 1 rood 33 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on a South Western boundary of portion 2,937 of 5 acres 3 perches at the most Easterly South Eastern corner of the area of 3 acres 2 roods 24 perches described in the Third Part hereof and bounded thence on the North by part of a Southern boundary of that 3 acres 2 roods 24 perches bearing North 89 degrees 47 minutes 30 seconds West 304 feet 7 inches on the West by the Eastern boundary of the area of 2 roods 14 perches described in the Sixth Part hereof bearing South 12 minutes 30 seconds West 64 feet 10 inches again on the North by a Southern boundary of that 2 roods 14 perches bearing North 89 degrees 47 minutes 30 seconds West 77 feet 6 inches on the South West by lines dividing this land from the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto being 71 feet 3 inches of the arc of a circle of 726 feet radius the centre of which lies South Westerly of a chord bearing South 64 degrees 26 minutes East 70 feet 3¾ inches thence by a line bearing South 46 degrees 29 minutes 30 seconds East 253 feet 7 inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing South 70 degrees 22 minutes East 46 feet 11¼ inches thence by 96 feet 8 inches of the arc of a circle of 58 feet radius the centre of which lies South Westerly of a chord bearing South 46 degrees 29 minutes 30 seconds East 85 feet 10½ inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing South 22 degrees 37 minutes East 46 feet 11¼ inches and thence by a line bearing South 41 degrees 6 minutes 30 seconds East 210 feet 2¼ inches on the South East by a North Western boundary of the aforesaid 5 acres 1 rood 30 perches bearing North 74 degrees 49 minutes East 20 feet 1 inch and on the North East by a South Western boundary of portion 2,937 aforesaid bearing North 15 degrees 11 minutes West 561 feet 5 inches to the point of commencement.

SIXTH

SIXTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 roods 14 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on a North Eastern boundary of the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto at the most Westerly North Western corner of the area of 2 acres 1 rood 33 perches described in the Fifth part hereof and bounded thence on the South by a Northern boundary of that 2 acres 1 rood 33 perches bearing South 89 degrees 47 minutes 30 seconds East 77 feet 6 inches on the East by a Western boundary of that 2 acres, 1 rood 33 perches bearing North 12 minutes 30 seconds East 64 feet 10 inches on the North by part of a Southern boundary of the area of 3 acres 2 roods 24 perches described in the Third Part hereof bearing North 89 degrees 47 minutes 30 seconds West 818 feet 6¾ inches on the North West by a South Eastern boundary of that 3 acres 2 roods 24 perches bearing South 50 degrees 12 minutes 30 seconds West 105 feet 5¾ inches on the South East by a line dividing this land from the aforesaid 5 acres 1 rood 30 perches bearing North 82 degrees 22 minutes 50 seconds East 432 feet and one quarter of an inch and on the South West by a line dividing it from that 5 acres 30 perches being 402 feet 11¾ inches of the arc of a circle of 726 feet radius the centre of which lies South Westerly of a chord bearing South 81 degrees 43 minutes East 397 feet 10 inches to the point of commencement.

SEVENTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 acres 1 rood 14 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on the high water mark of the right bank of the South Channel of the Hunter River at the Eastern corner of Portion 2,872 of 3 acres 26 perches and bounded thence on the North West by the South Eastern boundary of portion 2,872 bearing South 23 degrees 54 minutes West 90 feet on the South West by lines dividing this land from the area of 34 acres 1 rood described in the First Part hereof bearing South 66 degrees 6 minutes East 1,055 feet 11 inches and thence South 63 degrees 21 minutes East 280 feet 11½ inches and on the North East by lines dividing this land from portion 2,937 of 5 acres 3 perches bearing North 51 degrees 14 minutes 30 seconds West 403 feet 6¾ inches and thence North 66 degrees 6 minutes West 946 feet 6 inches to the point of commencement.

Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification.

SECOND SCHEDULE TO AGREEMENT.

ALL THAT piece or parcel of land containing by admeasurement 5 acres 1 rood 30 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington COMMENCING at the Easternmost corner of portion 2,936 of 55 acres 1 rood and bounded thence on the North West by a South Eastern boundary of portion 2,936 bearing South 74 degrees 49 minutes West 20 feet 1 inch on the North East by lines dividing this land from portion 2,936 bearing North 41 degrees 6 minutes 30 seconds West 210 feet 2¼ inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing North 22 degrees 37 minutes West 46 feet 11¼ inches thence by 96 feet 8 inches of the arc of a circle of 58 feet radius the centre of which lies South Westerly of a chord bearing North 46 degrees 29 minutes 30 seconds West 85 feet 10½ inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing North 70 degrees 22 minutes West 46 feet 11¼ inches thence by a line bearing North 46 degrees 29 minutes 30 seconds West 253 feet 7 inches and thence by 474 feet 2¾ inches of the arc of a circle of 726 feet radius the centre of which lies South Westerly of a chord bearing North 78 degrees 54 minutes 30 seconds West 465 feet 10 inches on the North West by a South Eastern boundary of portion 2,936 bearing South 82 degrees 22 minutes 50 seconds West 2,292 feet 6 inches to Selwyn Street and thence by Selwyn Street being 134 feet 3¾ inches of the arc of a circle of 520 feet 1 inch radius the centre of which lies North Westerly of a chord bearing South 52 degrees 51 minutes 30 seconds West 133 feet 11¼ inches on the South East by a line bearing North 82 degrees 22 minutes 50 seconds East 2409 feet 1¼ inches on the South West by a line being 423 feet 5 inches of the arc of a circle of 660 feet radius the centre of which lies South Westerly of a chord bearing South 79 degrees 14 minutes 30 seconds East 416 feet 2½ inches and thence by lines bearing South 46 degrees 29 minutes 30 seconds East 414 feet thence South 41 degrees 6 minutes 30 seconds East 374 feet 4 inches and again on the North East by lines bearing North 12 degrees 33 minutes 30 seconds West 138 feet 1¼ inches and thence North 15 degrees 11 minutes West 41 feet 4 inches to the point of commencement.

THIRD

Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification.

THIRD SCHEDULE TO AGREEMENT.

Form of Easement.

THE BROKEN HILL PROPRIETARY COMPANY LIMITED a corporation carrying on business in the State of New South Wales (herein called Transferor) being registered as the proprietor of an estate in fee simple in the land hereafter described subject however to such encumbrances liens and interests as are notified hereunder in consideration of Ten shillings, the receipt whereof is hereby acknowledged, paid to the Transferor by

[1] (herein called Transferee) doth hereby transfer grant and confirm unto the Transferee {his / its} successors and assigns full and free right and liberty for the transferee {his / its} successors and assigns at all times hereafter to use and maintain for the purpose of

[2] { the transmission of electrical energy the electricity / transmission lines and cables / communication the telephone lines and cables / the passage or conveyance of water the lines of pipes }

(if any) (together with poles pipes structures wires fittings equipment appliances and appurtenances connected therewith) at present constructed erected installed and laid upon in under and over all that piece of land situate in the Parish of Newcastle County of Northumberland being that part of the land comprised in

{ Crown Grant / Certificate of Title } Registered Volume Folio

shown on the Plan annexed hereto and marked "A" and also for the purpose aforesaid to construct erect instal lay use and maintain upon in under and over the said land along routes determined by the Transferee {his / its} successors or assigns but not so as to interfere unreasonably with the Company's operations any one or more

[2] { electricity transmission lines and cables / telephone lines and cables / lines of pipes }

(together with poles pipes structures wires fittings equipment appliances and appurtenances connected therewith) in substitution for or in duplication of or in addition to the aforesaid

[2] { electricity transmission lines and cables / telephone lines and cables / lines of pipes }

now upon in under and over the said land and also from time to time to inspect the condition of and amend and repair all or any of the said

[2] { electricity transmission lines and cables / telephone lines and cables / lines of pipes }

poles

poles pipes structures wires fittings equipment appliances and appurtenances (now and hereafter upon in under and over the said land) and for the purposes aforesaid or any of them at all reasonable times to enter upon go return pass and repass through along and over the said land with or without servants workmen and other persons horses carts waggons motors materials and any vehicles and appliances and to make all necessary excavations in or under the said land provided always and it is hereby agreed and declared that in the event of the transferee {his / its} successors or assigns ceasing at any time hereafter to use any of the said

electricity transmission lines and cables
telephone lines and cables
lines of pipes

[2]

poles pipes structures wires fittings equipment appliances or appurtenances for the purpose aforesaid {he / it} or they may remove the same from the said land, making good any damage occasioned by such removal.

[1] Insert name of Minister or Authority to whom easement is to be granted.
[2] Delete unnecessary words according to nature of Easement to be granted.

FOURTH SCHEDULE TO AGREEMENT.

Lease Conditions.

(1) The Company shall at all times at its own cost and expense and to the satisfaction of the Minister maintain repair and renew so as to keep in good order and condition all wharves facilities and other structures now or hereafter constructed erected or provided upon the land leased, unless the Minister shall agree in writing to the demolition and removal of any such wharf facility or other structure, in which case the Company shall at its own cost and expense demolish and remove such wharf facility or other structure and such work shall be carried out to the satisfaction of the Minister.

(2) Upon the expiration of the lease or upon the sooner determination thereof for any reason whatsoever the Company shall if as and when requested in writing by the Minister carry out at its own cost and expense the work of the demolition and removal of such wharves facilities and other structures upon the land hereby leased as the Minister may require and such work shall be carried out to the satisfaction of the Minister.

(3) The lease shall not confer any right to purchase the land.

(4) The land leased shall be used only for the purposes for which it is granted.

(5)

(5) The Company shall pay all rates taxes charges assessments and outgoings upon or in respect of the land leased or the Company's operations thereon during the currency of the lease.

(6) The Company shall not assign sublet or part with the possession of the land leased or any part thereof without the consent in writing of the Minister.

(7) The Company shall at all times at its own cost and expense and to the satisfaction of the Minister keep all wharves facilities and other structures now or hereafter constructed erected or provided upon the land leased in good sanitary condition and free from rats and mice and the right is reserved to terminate the lease should the Minister be of the opinion that the public health is endangered thereby or that any nuisance is committed.

(8) The right of ingress egress and regress in over and out of the land leased and any wharves facilities or other structures constructed erected or provided thereon is reserved to the Minister or any person or persons authorised by him in that behalf.

(9) Any necessary public service may be constructed or laid on the land leased without charge and either above or below the surface after giving to the Company one month's notice in writing of the intention to construct or lay any such public service.

(10) The Company shall not at any time without the written consent of the Governor of the State of New South Wales use or permit or suffer to be used the land leased or any part thereof or any wharf facility or other structure now or hereafter constructed erected or provided thereon for or in any manner in connection with the shipment of any coal, other than coal shipped at the wharves cranes and other facilities for shipment at Newcastle of the Commissioner or the Maritime Services Board of New South Wales or other the Authority controlling the Port of Newcastle and other than coal shipped in a ship, the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital, for the purpose of bunkering that ship and other than coal mined or owned by the Company and shipped by it for the sole purpose of being used and consumed by the Company or any other company in which the Company holds at least one-third of the share capital in the industrial undertakings of the Company or of any such company in which the Company holds at least one-third of the share capital.

(11) In the event of the Company failing to carry out and complete any of the work provided by conditions (1) (2) and (7) of the lease to be carried out by the Company the Minister may without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand pay to the Minister all costs and expenses incurred by the Minister in so doing and the same shall be recoverable

by

by him from the Company in a Court of competent jurisdiction and a Certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof and neither His Majesty nor the Minister shall incur any liability towards the Company by reason of any damage whatsoever done to or upon the land leased or any wharf facility or structure thereon or to or upon any adjoining or adjacent lands above high water mark in the performance by the Minister, his employees, agents, workmen, servants or licensees of any act or thing permitted to be done by the Minister under the provisions of this condition.

(12) The work provided by conditions (1) (2) and (7) of the lease to be carried out by the Company shall be carried out at and within such time or times and at such rate as the Minister shall determine.

(13) It is expressly declared that mining operations may have been and may be carried on upon and in the land below the land hereby leased and the lands adjoining the land hereby leased and the land below the same and metals and minerals may have been and may be removed therefrom and that these presents are made upon and subject to the condition that the Company and its assigns shall not be entitled to make or prosecute any claim for damages or take any proceedings either by way of injunction or otherwise against His Majesty His Heirs or Successors or the Government of the State of New South Wales or any lessee or lessees under any Mining Act or Acts of the said State or his or their executors administrators or assigns for or in respect of any damage or loss occasioned by the letting down subsidence or lateral movement of the land hereby leased or otherwise howsoever by reason of the following acts and matters that is to say by reason of His Majesty His Heirs or Successors or the Government of the said State or any person on His Their or Its behalf or any Lessee or Lessees as aforesaid or his or their executors administrators or assigns having worked or now or hereafter working any mines or having carried on or now or hereafter carrying on mining operations or having searched for worked won or removed or now or hereafter searching for working winning or removing any metals or minerals under in or from the land below the land hereby leased or on in under or from any other lands situated laterally to the land hereby leased and the land below the same and whether on or below the surface of such other lands. AND there is hereby expressly reserved unto His Majesty His Heirs and Successors the liberty and authority by reason of the acts and matters aforesaid or in the course thereof for His Majesty His Heirs and Successors and the Government of the said State and any person on His Their or Its behalf and any Lessee or Lessees as aforesaid and his or their executors administrators and assigns to from time to time let down without payment of any compensation whatsoever any part of the land hereby leased and/or of the surface thereof.

(14)

(14) A breach of any of the conditions of the lease shall render the lease liable to forfeiture. Such forfeiture may be effected by publication in the Gazette of a notice signed by the Minister declaring the lease to be forfeited. Provided however that no such notice shall be published in the Gazette unless the Minister has first served upon the Company a notice in or to the effect of the form set out in the Sixth Schedule to the Conveyancing Acts, 1919-1943 specifying the particular breach complained of and if the breach is capable of remedy requiring the Company to remedy it and in case the Minister claims compensation in money requiring the Company to pay such compensation and the Company has failed within a reasonable time to remedy the breach if remediable or to pay reasonable compensation to the satisfaction of the Minister where compensation in money is required.

THE COMMON SEAL OF THE BROKEN HILL PROPRIETARY COMPANY LIMITED was hereunto affixed by the Authority of its Board of Directors in the presence of LEONARD DARLING and COLIN YORK SYME two of such Directors and of REGINALD GEORGE NEWTON, Secretary.

L.S.

L. DARLING, C. Y. SYME } Directors.

R. G. NEWTON, Secretary.

SIGNED SEALED AND DELIVERED by WILLIAM FRANCIS SHEAHAN the Minister for Lands of the State of New South Wales for and on behalf of His Majesty the King in the presence of:

A. R. JONES, J.P.

W. SHEAHAN.

Sydney: Alfred Henry Pettifer, Government Printer—1950

[3*s*.]

C

PLAN

Showing lands to be acquired by the Broken Hill Proprietary Company Limited and proposed new roadway.

PARISH OF NEWCASTLE. COUNTY OF NORTHUMBERLAND.

CITY OF NEWCASTLE

Scale

FEET 100 50 0 100 200 300 400 500 600 700 FEET

North

HUNTER SOUTH

SWINGING BASIN

RIVER CHANNEL

WATER

CHANNEL TO PACIFIC OCEAN

2872

H.W.M.

3a Or 26p

OLD H.W.M.

349

14a Or 21½p

ORIGINAL H.W.M.

2937

(N. 7786 211 R.)

HIGH

Original High Water Mark of South Channel Hunter River

2936

(N. 7785 211 R.)

Throsby Ck.

Original High Water Mark

55ac 1r 0p

5ac. Or. 3p.

MARK

Residue of 156

Pt 24 ac

Selwyn Street

A

B

PROPOSED NEW ROADWAY (Second Schedule)

5ac 1r 30p

U.S.N. STORE

X

Y

H.W.M.

TOWN OF CARRINGTON

NOTES

Land to be purchased (por 2936 of 55a 1r) ..... shown thus
Land comprised in por 2937 of 5a Or 3p (below High Water Mark) ..... do.
Proposed New Roadway (5a 1r 30p., Second Schedule) ..... do.

(1) 34a. 1r. 0p. First Part of First Schedule
(2) 9a. Or. 32p. Second do do
(3) 3a. 2r. 24p. Third do do
(4) 2a. 3r. 3p. Fourth do do
(5) 2a. 1r. 33p. Fifth do do
(6) 0a 2r 14p Sixth do do
(7) 2a 1r 14p Seventh do do

Railway Works and Sidings to be erected and constructed shown thus
Railway Works and Sidings to be removed do
Existing Railway Works and Sidings to be retained on land described in Second Schedule (Proposed New Roadway) shown by black hatching and lettered "A B."
Retaining Wall to be constructed between the points marked "X" and "Y"

Drawn & Printed at the Department of Lands, Sydney, N.S.W. 59-1973

Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification Bill, 1950.

EXPLANATORY NOTE.

THE main object of this Bill is to ratify an Agreement between His Majesty the King and the Broken Hill Proprietary Company Limited authorising the Crown to sell an area of 55¼ acres of land at Newcastle, above mean high water mark, to the Broken Hill Proprietary Company Limited and to grant to the Company an exclusive right to obtain leases of a strip of land below mean high water mark along the frontage of the land to be sold. The greater part of the land to be sold is now held by the Company under the Newcastle Iron and Steel Works Act, 1912, on a fifty years' lease due to expire in 1962.

Adequate provisions to protect the public interests have been included in the Bill and in the Agreement which is set out at length in the Schedule to the Bill.

35087 505—

PROOF

No. , 1950.

A BILL

To ratify a certain Agreement made between The Broken Hill Proprietary Company Limited of the one part and His Most Gracious Majesty King George VI of the other part with respect to the sale to such Company of certain lands at or near Newcastle on certain terms and conditions and with respect to the granting to such Company of the right to obtain leases of certain adjoining lands; to provide for the carrying into effect of the said Agreement; to repeal the Newcastle Iron and Steel Works Act, 1912; to amend the Crown Lands Consolidation Act, 1913, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. SHEAHAN;—29 *March*, 1950.]

35087 500—A BE

Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Broken Hill Proprietary Company Limited (Steelworks) Agreement Ratification Act, 1950."

Definitions.

2. In this Act, unless the context or subject matter otherwise indicates or requires—

"Commissioner" means The Commissioner for Railways incorporated by the Transport (Division of Functions) Act, 1932, or other the corporation controlling the Government Railways of New South Wales.

"Company" means The Broken Hill Proprietary Company Limited.

"The said Agreement" means the Agreement, a copy of which is set out in the Schedule to this Act.

Ratification of Agreement.

3. (1) The said Agreement is hereby ratified and may be carried into effect notwithstanding the provisions of any other Act.

(2) All acts, matters and things for or with respect to which provision is made in the said Agreement, or which, by the said Agreement, are agreed, directed, authorised or permitted to be made, done or executed by or on behalf of His Majesty or the Governor or the Minister or the Minister for Public Works or the Maritime Services Board of New South Wales or the Registrar-General or the Commissioner are hereby sanctioned, authorised and confirmed.

Enforcement of provision for drainage from Throsby Creek.

4. Upon the issue of the Crown Grants of the lands described in the First, Second and Third Parts of the First Schedule to the said Agreement, the covenants and conditions therein that the Company, its successors and assigns will at all times and to the satisfaction of the Minister

Minister provide for the maintenance and proper discharge into Newcastle Harbour of the drainage from Throsby Creek through or over the lands described in the First, Second and Third Parts of such First Schedule shall bind such lands and every part thereof into whosesoever hands the same may come and bind all persons interested therein and the Registrar-General may make such endorsements upon any Crown Grant or certificate of title comprising such lands or any part thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof.

Resumption of certain land.

5. (1) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule to the said Agreement the Governor shall appropriate and resume the land described in the Fourth Part of the First Schedule to the said Agreement by Gazette notification under Division 1 of Part V of the Public Works Act, 1912, as amended by subsequent Acts.

(2) For the purposes of the Public Works Act, 1912, as amended by subsequent Acts, such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act, as so amended, and the Commissioner shall be the constructing authority in respect thereof.

(3) Such appropriation and resumption shall not acquire the mines or deposits of coal, ironstone, kerosene shale, limestone, slate or other minerals under the land so appropriated and resumed.

(4) The Registrar-General shall without further survey issue to the Commissioner after the said appropriation and resumption a new certificate of title under the Real Property Act, 1900, comprising the land described in the Fourth Part of the First Schedule to the said Agreement, and shall make all such cancellations, alterations and entries of and in the register book, certificates of title or otherwise as he may think desirable in consequence thereof and of such resumption and appropriation.

6.

Revocation of part of a certain resumption.

6. As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule to the said Agreement the Minister shall publish in the Gazette a notice revoking the notification of appropriation and resumption by the Railway Commissioners of New South Wales published in the Gazette of the twenty-fifth day of June, one thousand nine hundred and twenty, under the Public Works Act, 1912 (referred to in subclause (e) of clause eighteen of the said Agreement), so far as concerns such parts of the land thereby appropriated and resumed as are within the lands described in the Sixth Part of the First Schedule to the said Agreement, and those parts of such lands shall upon the publication in the Gazette of the said notice by the Minister be thereby vested in His Majesty, His Heirs and Successors. Further survey shall not be required before the publication of such notice.

Resumption for road.

7. (1) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule to the said Agreement, the Governor shall appropriate and resume the land described in the Second Schedule to the said Agreement by Gazette notification under Division 1 of Part V of the Public Works Act, 1912, as amended by subsequent Acts, for the purpose of a public road.

(2) For the purposes of the Public Works Act, 1912, as amended by subsequent Acts, such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act, as so amended, and the Minister for Public Works shall be the constructing authority in respect thereof.

(3) Sections ninety-seven and one hundred and thirty-eight of the Public Works Act, 1912, as amended by subsequent Acts, shall not apply in respect of the said appropriation and resumption.

(4) The constructing authority shall, notwithstanding the provisions of section eighty-one of the Public Works Act, 1912, as amended by subsequent Acts (but subject

subject to the following provisions of this section), by notice in the Gazette dedicate the land so appropriated and resumed as a public road, and upon such dedication the provisions of the Local Government Act, 1919, as amended by subsequent Acts, with respect to public roads, shall subject to subsections five and six of this section, apply thereto accordingly: Provided that such dedication shall not affect the carrying out of subclause (d) of clause nineteen and clauses twenty-one and twenty-six of the said Agreement.

(5) Notwithstanding anything contained in subsection four of this section, the Minister for Public Works and the Commissioner respectively may relocate (with any poles, pipes, wires, fittings, structures, equipment, appurtenances, and appliances considered necessary) in, on, under or above the land described in the Second Schedule to the said Agreement all or any electricity transmission lines and cables removed from any land described in any part of the First Schedule to the said Agreement and the Minister for Public Works and the Commissioner and their respective successors and assigns may use the said electricity transmission lines and cables (with the poles, pipes, wires, fittings, structures, equipment, appurtenances and appliances) for the conveyance of electricity and maintain, repair, add to and renew the same.

(6) Notwithstanding anything contained in subsection four of this section, railway sidings and works may be laid or retained in, across and upon the land described in the Second Schedule to the said Agreement in the positions specified in subclause (i) of clause twenty-six of the said Agreement.

(7) In the event of the Company failing to carry out its obligations under subclause (i) of clause twenty-six of the said Agreement to maintain, repair and renew the railway sidings and works that are laid and retained in, across and upon the land described in the Second Schedule to the said Agreement the Commissioner may, without prejudice to any other remedy which His Majesty may

may have by reason of such default of the Company, do all acts and things as the Commissioner may think necessary to remedy the default of the Company and the Company shall on demand pay to the Commissioner all costs and expenses incurred by the Commissioner in so doing and the same shall be recoverable by him from the Company in any court of competent jurisdiction. A certificate of the Secretary for Railways or the person acting as such for the time being of the amount of the costs and expenses so incurred by the Commissioner shall be prima facie evidence thereof.

To protect easements for electricity transmission.

8. The provisions of clause twenty-four of the said Agreement and all or any easements and rights granted by the Company in pursuance of such clause shall bind the lands described in the First Schedule to the said Agreement and also the lands comprised in certificates of title, volume 4,605, folio 90, and volume 5,004, folio 177, and every part of such lands into whosesoever hands the same may come and shall bind all persons interested therein, and the Registrar-General may make such endorsements on any Crown Grant or certificate of title comprising such lands or any parts thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof or of the granting of any such easement or rights.

Restrictions on use of certain lands for shipping of coal.

9. (1) Upon the issue of the Crown Grants of the lands described in the First, Second, Third, Fifth, Sixth and Seventh Parts of the First Schedule to the said Agreement, the provisions to the effect of subclause (a) of clause twenty-seven of the said Agreement included in such Crown Grants shall be deemed to be covenants by the Company for itself, its successors and assigns with His Majesty, His Heirs and Successors and such provisions shall bind the said lands described in the First, Second, Third, Fifth, Sixth and Seventh Parts of the First Schedule to the said Agreement and every part thereof into whosesoever hands the same may come, and bind all persons interested therein, and the Registrar-General may make such endorsements upon any Crown Grant

Grant or certificate of title comprising such lands or any part thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof.

(2) Upon acceptance by the Company of a Memorandum of Transfer in its favour of the land described in the Fourth Part of the Schedule to the said Agreement containing covenants on the part of the Company, its successors and assigns in accordance with the provisions of subclause (c) of clause twenty-seven of the said Agreement such covenants shall bind such land and every part thereof into whosesoever hands the same may come and bind all persons interested therein, and the Registrar-General may make such endorsements upon any Crown Grant or certificate of title comprising such land or any part thereof and such other entries in the register book or otherwise as he may think desirable in consequence thereof.

Determination of rental by local land board.

10. (1) The local land board constituted under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, shall have jurisdiction to determine the rental under subclause (f) of clause twenty-eight of the said Agreement.

(2) For the purpose of the said board determining such rental, such board and the chairman and members thereof shall respectively have the same powers as when acting under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts, for the purpose of the said board determining rentals thereunder.

(3) An appeal by either party may be made to the Land and Valuation Court from the determination by the said board of such rental by filing within a period of twenty-eight days from the date of the determination appealed against notice of the appeal in the office of the Registrar of the Land and Valuation Court, and by serving within such period notice of the appeal on the other party to the determination. An appeal on behalf of

of His Majesty against any such determination may be made by the Minister or by the Under Secretary for Lands on the Minister's behalf.

(4) For the purpose of dealing with any and every such appeal the Land and Valuation Court and the Judge thereof shall have the same powers as when dealing with appeals from local land boards under the Crown Lands Consolidation Act, 1913, as amended by subsequent Acts.

Provisions of Harbour and Tonnage Rates Act, 1920-1935, to apply.

11. The Harbour and Tonnage Rates Act, 1920-1935, and any Act amending or replacing the same and the regulations from time to time in force thereunder but in so far only as such Acts and regulations relate to the imposition, collection and payment of tonnage rates and berthing charges shall apply to and in respect of every wharf (which term for the purposes of this section shall include any structure, landing place or facility where cargo may be loaded or discharged or where vessels may be berthed) now or hereafter erected, constructed or provided upon the lands described in the First Schedule to the said Agreement or upon lands adjoining or adjacent thereto as if the same were a public wharf and accordingly tonnage rates and berthing charges in accordance with the said Acts and regulations shall be payable in respect of all vessels berthing at any such wharf subject only to the following exceptions, such exceptions being applicable only to vessels whilst berthed thereat:—

(i) Any vessel carrying, loading or discharging only cargo the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital shall be exempt from the payment of such tonnage rates and berthing charges.

(ii) Any vessel carrying, loading or discharging cargo part only of which is the property of the Company and/or any other company or companies in which the Company holds at least one-third of the share capital shall be granted a rebate of such tonnage rates and berthing charges

charges to the extent of the ratio which the part of the cargo which is the property of the Company and/or any other company or companies in which the Company holds at least one-third of the share capital bears to the whole of such cargo.

(iii) Any vessel the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital berthing for a purpose other than the loading or discharging of cargo shall be exempt from the payment of such tonnage rates and berthing charges.

Certain obligations of the Government of the State and the Company to cease.

12. Upon the completion of the sale to the Company under the said Agreement of the lands described in the First Schedule to the said Agreement—

(a) the obligation of the Company under the Newcastle Iron and Steel Works Act, 1912, to pay interest at the rate of five per centum per annum on the sum of twenty-nine thousand two hundred and fifty-five pounds fourteen shillings being the cost of dredging the swinging basin and lower berth and of reclamations all of which were carried out prior to the thirty-first day of January, one thousand nine hundred and fifteen, shall cease. Any necessary apportionment of the interest paid or payable by the Company shall be made and adjusted on such completion;

(b) the lease granted to the Company under section four of the Newcastle Iron and Steel Works Act, 1912, and the rights and obligations of the Company and of the Government of the said State under such lease and under clauses two, three and seven of the Agreement set out in the Schedule to that Act shall cease and determine.

Repeal of Act No. 55, 1912.

13. (1) This section shall commence upon the date of completion of the sale to the Company of the lands described in the First Schedule to the said Agreement.

(2)

(2) (a) The Newcastle Iron and Steel Works Act, 1912, is hereby repealed.

(b) The repeal of such Act shall not affect the previous operation thereof or, save as provided in this Act or the said Agreement, operate to deprive the Company of any property, right or interest acquired by the Company under the Act so repealed.

(c) Nothing contained in this subsection shall limit any saving in the Interpretation Act of 1897.

(3) As soon as practicable after the date of completion of the sale to the Company of the lands described in the First Schedule to the said Agreement the Minister shall publish in the Gazette a notice specifying such date.

Certain persons may sue and be sued by the Company.

14. It shall not be an objection to the Commissioner, the Minister for Public Works and the Maritime Services Board of New South Wales, or any of them suing the Company and being sued by the Company under the said Agreement that the Commissioner, the Minister for Public Works and the Maritime Services Board of New South Wales are not parties to the said Agreement.

SCHEDULE.

Sec. 3.

THIS AGREEMENT made the twenty-seventh day of March One thousand nine hundred and fifty BETWEEN—THE BROKEN HILL PROPRIETARY COMPANY LIMITED a corporation incorporated under the laws of the State of Victoria and carrying on business in the State of New South Wales (hereinafter called "the Company") of the one part and HIS MOST GRACIOUS MAJESTY KING GEORGE VI of the other part WHEREAS the Company is desirous of acquiring the lands described in the First Schedule hereto and the right to lease certain lands below high water mark fronting such lands described in the First Schedule hereto

hereto for the purposes of the Company and with the object of expanding its industrial operations in the said State of New South Wales NOW IT IS HEREBY AGREED as follows:—

1. In this Agreement unless the context otherwise requires the singular includes the plural and vice versa and the following expressions shall have the meanings set opposite thereto respectively:

"Commissioner" means the Commissioner for Railways incorporated by the Transport (Division of Functions) Act, 1932, or other the corporation controlling the Government Railways of New South Wales;

"Gazette" means New South Wales Government Gazette;

"Minister" means the Minister for Lands of the State of New South Wales and his successors in office;

"Minister for Public Works" means the Minister for Public Works of the State of New South Wales and his successors in office;

"Month" means calendar month;

"High Water Mark" means the mean high water mark of the right bank of the South Channel of the Hunter River as defined by Mr. Surveyor R. A. Allen in his Survey completed on 24th May 1949 of Portion 2936 Parish of Newcastle County of Northumberland and shown on plan catalogued N.7785.2111R. at the Department of Lands, Sydney.

2. (a) Subject to the provisions hereinafter contained His Majesty hereby agrees to sell to the Company and the Company agrees to buy the lands described in the First Schedule hereto at and for the price of One hundred thousand pounds (£100,000).

(b) The Company shall pay the said price in full to the Minister in Sydney free of exchange on completion of such sale and purchase of the lands described in the First Schedule hereto.

3. (a) The land described in the First Part of the First Schedule hereto is Crown Lands as to part thereof subject to the Lease for fifty years from the sixth day of December One thousand nine hundred and twelve vested in the Company by the Newcastle Iron and Steel Works Act, 1912 and the Agreement scheduled thereto and as to the remainder thereof comprises a closed road added to the said Lease by notice in the Gazette of the fourth day of March One thousand nine hundred and twenty seven, page 1302.

(b) The land described in the Second Part of the First Schedule hereto is Crown Lands formerly forming part of Special Lease No. 11 of 1919 granted to the Company under the Crown Lands Consolidation Act, 1913 as amended. This Special Lease expired on the 31st day of December 1948 and the lands comprised therein are now occupied by the Company under a Permissive Occupancy granted to the Company.

(c)

(c) The lands described in the Third Part of the First Schedule hereto are Crown Lands formerly comprised in Crebert Street Extended a public road, as to 13 perches being Crown Lands dedicated for public road under the Crown Lands Consolidation Act, 1913 as amended by Gazette of the 16th day of January 1931, page 266 and the remainder having been resumed (without any limitation as to depth) and dedicated for public road by Gazette of the 14th day of February 1930, page 672, but all these dedications were limited to the surface and 25 feet below the surface. Crebert Street Extended was closed as to part by Notice published in the Gazette of the 4th day of July 1941, page 2438 and as to a further part by Notice published in the Gazette of the 19th day of May 1944 page 895.

(d) As to the lands described in the Fourth Part of the First Schedule hereto—

(i) part thereof is comprised in Certificate of Title registered Volume 1795 Folio 95 issued to the Railway Commissioners of New South Wales subject to the notifications endorsed thereon including that of the exceptions and reservations unto the Caledonian Coal Company Limited its successors and assigns of the mines and minerals beneath the land with full and free liberty and power to carry on mining operations beneath such land or any part thereof which shall not interfere with the safety of the railway which the Commissioners proposed to construct upon the said land or with the traffic upon such railway, it being expressly agreed and declared that the Commissioners shall have no further right to the soil beneath the surface of the said land than shall be requisite for the support of the said railway and for the formation and repair of the same and except as hereinafter otherwise expressly provided the land is hereby agreed to be sold subject to such exceptions and reservations so far as the same are existing at the date of this Agreement, and

(ii) part thereof is comprised in Certificate of Title registered Volume 3797 Folio 42 also issued to the Railway Commissioners for New South Wales, and

(iii) part thereof is comprised in the Notification of Resumption by the Chief Commissioner for Railways and Tramways for New South Wales published in the Gazette of the 19th day of November 1913, page 6901, under the Public Works Act, 1912 (in lieu of the like Notification published in the Gazette of the 12th day of November, 1913, page 6750) by which no mines or deposits of coal, ironstone, kerosene shale, limestone, slate or other minerals under such area were acquired and the same are excepted from this sale, and

(iv) part thereof is comprised in the Indenture of Conveyance dated the 24th day of December 1919 No. 93 Book 1174 made between Caledonian Collieries Limited of the one part

and

and the Railway Commissioners for New South Wales of the other part which conveyed only all mines and minerals (if any) in and under the land comprised in such Conveyance which the said Company might be empowered to convey, and nothing herein shall affect the preceding paragraph (iii), and

(v) part thereof is comprised in Conveyance dated the 22nd day of February 1907 from the Caledonian Coal Company Limited to the Railway Commissioners of New South Wales registered No. 207 Book 827 which excepts and reserves unto the said Company the mines and minerals beneath the said lands with full and free liberty and power to carry on any mining operations beneath the said lands or any part thereof which shall not interfere with the safety of the railway which the Commissioners proposed to construct upon the said land or with the traffic upon such railway, it being expressly agreed and declared that the Commissioners shall have no further right to the soil beneath the surface of the said lands than shall be requisite for the support of the said railway and for the formation and repair of the same and (except as otherwise hereinafter expressly provided) the same are also excepted from this sale and (except as aforesaid) this sale is also subject to the rights to use railways and other rights reserved to the Waratah Coal Company Limited (In Liquidation) by the Conveyance by that Company to the Caledonian Coal Company Limited dated the 1st day of July 1896 registered No. 901 Book 580 so far as the same are existing at the date of this Agreement.

(e) The lands described in the Fifth Part of the First Schedule hereto are Crown lands.

(f) As to the lands described in the Sixth Part of the First Schedule hereto part thereof is comprised within the Notification of Resumption by the Railway Commissioners of New South Wales published in the Gazette on the 25th day of June 1920, page 3587, under the Public Works Act, 1912 by which no mines or deposits of coal, ironstone, kerosene shale, limestone, slate or other minerals under such area were acquired and the same are excepted from this sale. The remainder of such lands is Crown lands.

(g) The land described in the Seventh Part of the First Schedule hereto is Crown lands comprising the land the subject of Special Purchase Application No. 38/20 Newcastle by the Company.

4. (a) Certain information as to the title to the lands comprised in the First Schedule hereto is referred to in this Agreement and the Company shall not require or be entitled to be furnished with any further particulars as to the title of His Majesty or the Minister or the Commissioner to any of such lands or with any abstract of the title to any of such lands or any evidence whatsoever of the title to

any

any of such lands save and except that each of them the Minister and the Commissioner will produce to the Company the deeds and documents that may be in his possession and that relate to such lands.

(b) No objection or requisition whatsoever shall be made by the Company to or in respect of the title to any of the said lands and no objection whatever shall be taken by the Company to the power of His Majesty and the Minister and the Commissioner to sell and assure as provided by this Agreement the said lands described in the First Schedule hereto.

5. All the said lands are sold by His Majesty and/or the Minister and the Commissioner to the Company subject to the existing tenancies easements encroachments licenses and occupancies and all such lands are sold subject to the reservations exceptions and conditions contained in the Crown Grants under which any of the lands were originally or are now held. The Company shall not raise any objection or make any claim in respect of any encroachments by or on any part or parts of the lands described in the First Schedule whether revealed by any present or future survey or otherwise.

6. There shall be excepted out of and from the lands described in the First Schedule hereto and excluded from the said sale and the assurances to the Company:

(a) All telegraph lines within the meaning of the Post and Telegraph Act, 1901-1934 of the Commonwealth constructed or laid upon in under or over such lands.

(b) The electric cables and electricity transmission lines constructed or laid upon in under or over the lands described in the First Schedule hereto by any Municipal or other local authority or by any body supplying electricity and all poles pipes wires fittings appurtenances equipment and appliances connected therewith.

(c) The electric cables and electricity transmission lines the property of His Majesty or the Minister for Public Works or the Commissioner constructed or laid upon in under or over the lands described in the First Schedule hereto and all poles pipes wires fittings equipment appurtenances and appliances connected therewith.

7. The said sale of the lands described in the First Schedule hereto is also subject to, and the Crown Grants to the Company of the lands described in the First, Second and Third Parts of such Schedule shall contain covenants and conditions that the Company its successors and assigns will at all times and to the satisfaction of the Minister provide for the maintenance and proper discharge into Newcastle Harbour of the drainage from Throsby Creek through or over the lands described in the First, Second and Third Parts of the First Schedule hereto. The Act ratifying this Agreement shall contain provisions

provisions to the effect that such covenants and conditions shall bind the lands described in the First, Second and Third Parts of the First Schedule hereto and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements upon any Crown Grant or Certificate of Title comprising such lands or any part thereof and such other entries in the Register Book as he may think desirable in consequence thereof.

8. The completion of the purchase by the Company of the lands described in the First Schedule hereto and payment of the purchase moneys therefor shall take place at the office of the State Crown Solicitor on a date which shall be two months from the date of commencement of this Agreement. If from any cause whatever other than the non-completion caused by the default of the Minister or the Commissioner the purchase money shall not be paid on that date the Company agrees with His Majesty His Heirs and Successors to pay to the Minister interest thereon at the rate of five pounds (£5) per centum per annum computed from that date until the day of actual payment.

9. His Majesty and the Commissioner shall be entitled to the rents and profits to the date of completion and shall pay and bear all rates taxes assessments and outgoings to that date in respect of the lands comprised in the First Schedule hereto other than the rates taxes assessments and outgoings payable by the Company under or by reason of its occupancies or interest in any of such lands prior to the date of completion from which date the Company shall be entitled to such rents and profits and shall pay or bear all rates taxes assessments and outgoings in respect of the lands comprised in the First Schedule hereto. Any necessary apportionments shall be made and adjusted on completion. Nothing in this clause shall relieve the Company of any liability under or by reason of its occupancy or interest in any of the said lands at or prior to the date of completion.

10. No error or misdescription of the lands sold shall annul the sale of the lands described in the First Schedule hereto but compensation (if demanded in writing before completion but not otherwise and if as regards the Company it is otherwise entitled thereto under this Agreement) shall be made to or given by the Company as the case may be and should the parties be unable to agree between themselves as to the amount thereof such amount shall be settled by two arbitrators one to be appointed by the Minister and the other by the Company in accordance with the provisions of the Arbitration Act, 1902.

11. All objections and requisitions (if any) which under this Agreement the Company shall be entitled to make shall be made and delivered to the Crown Solicitor of the State of New South Wales within

within twenty-one days from the date of commencement of this Agreement and all objections and requisitions not so made shall be deemed to be waived.

12. If His Majesty His Heirs or Successors shall be unable or unwilling to comply with or remove any objection or requisition which the Company shall be entitled to make under this Agreement the Minister shall whether he or the Commissioner or His Majesty His Heirs or Successors has or has not attempted to remove or comply with such objection or requisition and notwithstanding any negotiations or litigation whatsoever in respect thereof be at liberty to rescind this Agreement and in no case shall His Majesty or His Heirs or Successors or the Minister or the Commissioner be liable for any damages costs charges expenses and losses whatsoever incurred by the Company in and about this Agreement AND IT IS HEREBY DECLARED that seven days' notice of the intention of the Minister to rescind this Agreement shall be deemed reasonable notice of such intention under Section 56 of the Conveyancing Acts, 1919-1943.

13. His Majesty His Heirs and Successors the Minister and/or the Commissioner shall not be called upon or bound to pay any proportion of the costs of any dividing fence or fences.

14. All notices and documents hereunder may be served as mentioned in Section 170 of the Conveyancing Acts, 1910-1943.

15. Clauses 2 to 6 inclusive of the conditions of sale contained in Schedule III of the Conveyancing Acts, 1919-1943 shall not apply to this Agreement except insofar as the same or any part thereof are incorporated herein.

16. Such of the provisions and conditions of this Agreement as require or prescribe any act or thing to be done or not to be done by the Company shall in addition to being read and construed as conditions of this Agreement be also read and construed as Agreements whereby the Company covenants with His Majesty His Heirs and Successors to observe and perform the said provisions and conditions.

17. If the Company shall omit to fulfil observe or perform the provisions of this Agreement other than Clauses 28 and 30 hereof on the part of the Company to be fulfilled observed or performed the Minister may by notice in writing served on the Company call upon the Company to rectify the default complained of within a reasonable time (to be stated in the notice) after the service of such notice and if the Company shall fail after service of the said notice upon it to rectify the said default within such reasonable time the Minister may by notice in writing served on the Company determine this Agreement but without prejudice to any claim which His Majesty His Heirs and Successors the Commissioner the Minister for Public Works and the Maritime Services Board of New South Wales or any

one or more of them may have against the Company in respect of any breach of the provisions of this Agreement on the part of the Company to be fulfilled observed and performed.

18. (a) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto (and after the publication of the Notice by the Minister referred to in subclause (e) of this clause) a Crown Grant or Crown Grants shall be issued to the Company for the assurance to it of the lands respectively described in the First Part the Second Part the Third Part the Fifth Part the Sixth Part and the Seventh Part of the First Schedule hereto.

(b) Every Crown Grant so to be issued to the Company shall contain a reservation of all minerals in the lands assured by the Grant and shall contain such other reservations and exceptions as are usually inserted by the Crown in Crown Grants issued for Special Purchases under Section 66 of the Crown Lands Consolidation Act, 1913, as amended and for the purposes aforesaid the term "minerals" shall have the same meaning as it has in the said Act.

(c) Every Crown Grant so to be issued to the Company as aforesaid shall be limited to the surface of the land comprised in such Crown Grant and to a depth of 400 feet below such surface and shall contain a proviso in or to the effect that mining operations may have been and may be carried on upon and in the land below the land thereby granted and the lands adjoining the land thereby granted and the land below the same and metals and minerals may have been and may be removed therefrom and that the Crown Grant is made upon and subject to the condition that the Company and its assigns shall not be entitled to make or prosecute any claim for damages or take any proceedings either by way of injunction or otherwise against His Majesty His Heirs or Successors or the Government of the State of New South Wales or any lessee or lessees under any Mining Act or Acts of the said State of New South Wales or his or their executors administrators or assigns for or in respect of any damage or loss occasioned by the letting down subsidence or lateral movement of the land thereby granted or otherwise howsoever by reason of the following acts and matters that is to say by reason of His Majesty His Heirs or Successors or the Government of the said State of New South Wales or any person on His Their or Its behalf or any Lessee or Lessees as aforesaid or his or their executors administrators or assigns having worked or then or thereafter working any mines or having carried on or then or thereafter carrying on mining operations or having searched for worked won or removed or then or thereafter searching for working winning or removing any metals or minerals under in or from the land below the land thereby granted or on in under or from any other lands situated laterally to the land thereby granted and the land below the same and whether on or below the surface of such other lands AND THAT His Majesty doth thereby expressly reserve unto His Majesty

His Heirs and Successors the liberty and authority by reason of the acts and matters aforesaid or in the course thereof for His Majesty His Heirs and Successors and the Government of the said State of New South Wales and any person on His Their or Its behalf and any Lessee or Lessees as aforesaid and His or their executors administrators and assigns to from time to time let down without payment of any compensation whatsoever any part of the land thereby granted and/or of the surface thereof.

(d) As soon as practicable after completion of the sale to the Company of the lands described in the First Schedule hereto the Governor shall appropriate and resume the land described in the Fourth Part of the First Schedule hereto by Gazette notification under Division 1 of Part V of the Public Works Act, 1912 as amended and for the purposes of such Act such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act and the Commissioner shall be the Constructing Authority in respect thereof and the Act ratifying this Agreement may provide accordingly and after such appropriation and resumption the Commissioner shall transfer the land acquired to the Company. The said appropriation and resumption shall not acquire the mines or deposits of coal ironstone kerosene shale limestone slate or other minerals under the land and nothing herein shall require the Commissioner to assure to the Company any mines or minerals under the land not belonging to him immediately prior to the said appropriation and resumption. The Act ratifying this Agreement shall contain provisions to the effect that the Registrar-General is to issue to the Commissioner after the said appropriation and resumption a new Certificate of Title under the Real Property Act, 1900, comprising the land described in the Fourth Part of the First Schedule hereto and that the Registrar-General shall make all such cancellations alterations and entries of and in the Register Book Certificates of Title and otherwise as he may think desirable in consequence thereof.

(e) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto the Minister shall publish in the Gazette a notice revoking the aforesaid appropriation and resumption by the Railway Commissioners of New South Wales published in the Government Gazette of the 25th day of June 1920 so far as concerns such parts of the land thereby appropriated and resumed as are within the lands described in the Sixth Part of the First Schedule hereto and the Act ratifying this Agreement shall provide for the publication of such notice and for those parts of such lands upon the publication in the Gazette of the said Notice by the Minister to be thereby vested in His Majesty the King His Heirs and Successors.

(f) The Company shall not be entitled to any assurance from the Minister the Commissioner or the Crown with respect to any part of the land comprised in the First Schedule hereto except as is provided by this clause.

(g) The Company shall pay to the Minister on demand the cost of all surveys and plans with respect to the lands described in the First and Second Schedules hereto made in connection with this Agreement and the Company agrees to pay to the Minister in respect of every Crown Grant to be issued to it under this clause (and prior to the issue of such Grant) a deed fee of the amount in like case usually payable on a Crown Grant for land specially purchased under Section 66 of the Crown Lands Consolidation Act, 1913 as amended.

19. (a) As soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto the Governor shall appropriate and resume the land described in the Second Schedule hereto by Gazette notification under Division 1 of Part V of the Public Works Act, 1912, as amended, for the purpose of a public road and for the purposes of the said Act such appropriation and resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act and the Minister for Public Works shall be the Constructing Authority in respect thereof and the Act ratifying this Agreement shall provide accordingly.

(b) The Act ratifying this Agreement shall contain provisions to the effect that sections 138 and 97 of the Public Works Act, 1912, as amended, shall not apply in respect of the said appropriation and resumption.

(c) After the land described in the Second Schedule hereto has been appropriated and resumed as aforesaid the Constructing Authority shall notwithstanding the provisions of section 81 of the Public Works Act, 1912, by Notice in the Gazette dedicate such land as a public road and thereupon the provisions of the Local Government Act, 1919, as amended, with respect to public roads, shall apply thereto accordingly but nothing herein is to affect the operation of subclause (d) of clause 23 and subclause (i) of clause 26 hereof and the Act ratifying this Agreement shall contain provisions to the effect of this subclause.

(d) Notwithstanding the appropriation and resumption as aforesaid of the land described in the Second Schedule hereto the Company shall be permitted to demolish and remove at any time from the land described in the Second Schedule hereto such part of the building known as the "U.S.N. Store" owned by the Company as encroaches upon the land described in the Second Schedule hereto and the Company hereby covenants with His Majesty His Heirs and Successors that the Company shall make no claim for compensation by reason of the appropriation or resumption as aforesaid of that

part

part of the land described in the Second Schedule hereto upon which any part of the "U.S.N. Store" is erected and that the Company shall if as and when requested in writing by the Minister or the Council of the City of Newcastle carry out at its own cost and expense the work of the demolition and removal of such portion of the "U.S.N. Store" as encroaches upon the land described in the Second Schedule hereto and such work shall be carried out to the satisfaction of the Minister. Until such time as the Company has been requested by the Minister or the Council of the City of Newcastle to demolish and remove the encroaching portion of the "U.S.N. Store" the Company shall be under no obligation to remove the same even though the land described in the Second Schedule hereto may have been dedicated as a public road.

(e) The work of the demolition and removal of the encroaching portion of the "U.S.N. Store" as aforesaid shall be carried out within such time or times and at such rate as the Minister shall determine and in the event of the Company failing to carry out and complete such work in accordance with the provisions of this subclause the Minister may without prejudice to any other remedy of His Majesty by reason of such default of the Company do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand by the Minister pay to His Majesty His Heirs and Successors all costs and expenses incurred by the Minister in so doing and the same shall be recoverable from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof.

20. The Company shall pay to the Minister for Public Works at the time of completion of the sale of the lands described in the First Schedule hereto in addition to the purchase moneys then payable in respect of the said lands the sum of Two hundred and eighty pounds (£280) being the value of the four dolphins existing adjacent to the said lands and the said dolphins shall thereupon become the property of the Company but without prejudice to the powers and duties with respect thereto of the authority controlling the Port of Newcastle.

21. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall at its own expense at the date of commencement of this Agreement resume the construction of and thereafter continuously proceed with the construction in accordance in all respects with the approval of the Minister of a road over a width of not less than eighteen feet at levels and alignment approved of by the Minister throughout along and within the land described in the Second Schedule hereto the remainder of the said road to be constructed and completed to the same standard and specification

specification as the part of the said road already constructed together with road drainage and culverts as required by the Minister and together with drainage facilities to the satisfaction of the Minister on and along the southern side at such a level and in such a manner that suitable drainage shall be available thereto from the railway lands to the south of the said land SO THAT at the expiration of one year from the date of commencement of this Agreement or of such further period (if any) as may be allowed by the Minister in writing, the Company shall have at its own cost completed the full and proper construction as aforesaid of the whole of the said road and the Company covenants with His Majesty His Heirs and Successors to construct at its own cost the said road within the said period of one year or further period (if any) allowed in writing by the Minister in accordance in all respects with the foregoing provisions of this clause.

(b) The Company shall at its own expense maintain the said road (including the road drainage and the said drainage facilities) in good order and condition and to the satisfaction of the Minister for and during the period of one year after the Company has completed the construction of the said road in accordance with subclause (a) of this clause.

(c) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall at its own expense commence at the date of this Agreement and thereafter continuously proceed with the construction in accordance in all respects with the approval of the Commissioner of a substantial retaining wall for the purposes of retaining the railway embankment under the conditions which shall exist at the date of commencement of this Agreement in the approximate position shown between the points marked "X" and "Y" on the Plan annexed hereto and marked "C" SO THAT at the expiration of one year from the date of the commencement of this Agreement or such further period (if any) as may be allowed by the Commissioner in writing the Company shall have at its own cost completed the full and proper construction as aforesaid of the said retaining wall and the Company covenants with His Majesty His Heirs and Successors to construct at its own cost the said retaining wall within the said period of one year or further period (if any) allowed in writing by the Commissioner in accordance in all respects with the foregoing provisions of this subclause and at its own expense from time to time and at all times to maintain the said retaining wall in good order and condition to the satisfaction of the Commissioner.

(d) In the event of the Company failing to comply with any of the foregoing provisions of this clause, the Minister or the Commissioner may, without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister or the Commissioner may think necessary to remedy the default of the Company and the Company shall on demand

demand by the Minister or the Commissioner pay to His Majesty His Heirs and Successors all costs and expenses incurred by the Minister or Commissioner in so doing and the same shall be recoverable by His Majesty His Heirs and Successors from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the Secretary for Railways or the person acting in either of such offices for the time being of the amount of such costs and expenses incurred by the Minister or the Commissioner shall be prima facie evidence thereof.

(e) The Company for itself and its assigns hereby covenants with the Minister that it will from time to time and at all times hereafter indemnify and keep indemnified His Majesty His Heirs and Successors and the Commissioner his successors and assigns and the Government of the said State of New South Wales from and against all actions claims and demands which may at any time be brought or made against His Majesty His Heirs and Successors or the Commissioner his successors or assigns or the Government of the said State of New South Wales by or for any person body firm or corporation whomsoever in respect of any loss of life or of any injury to person or property or of any loss or damage occasioned by or arising out of or by reason or as a result of any act or thing done or omitted to be done by the Company its successors or assigns or its or their employees agents workmen servants or licensees in or in connection with the construction or maintenance of the retaining wall referred to in subclause (c) of this Clause.

22. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall at its own expense commence at the date notified to it in that behalf by the Minister on or after the date of completion of the sale to the Company of the lands described in the First Schedule hereto and thereafter continuously proceed with the construction and erection of a substantial fence to the approval in all respects of the Minister on and along the lines forming the western and north-western boundaries of the lands described in the Third and Fourth Parts of the First Schedule and the south-eastern and south-western boundaries of the lands described in the Fourth Third Sixth and Fifth Parts of the First Schedule hereby agreed to be sold to the Company commencing at Selwyn Street and thence southerly and southwesterly along that street to the southernmost point of the land described in the Fourth Part of such Schedule and thence continuously proceeding to the waters of the Hunter River so that at the expiration of six months from the date so notified by the Minister the Company shall have at its own cost completed the full and proper construction and erection as aforesaid of the said fence and the Company covenants with His Majesty His Heirs and Successors to construct and erect at its own cost the said fence within the said period of six months in accordance in all respects with the foregoing provisions of this clause.

(b)

(b) In the event of the Company failing to comply with any of the foregoing provisions of this Clause the Minister may, without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand by the Minister pay to His Majesty His Heirs and Successors all costs and expenses incurred by the Minister in so doing and the same shall be recoverable from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof.

23. (a) Each of them the Minister for Public Works and the Commissioner may as and when he desires to do so carry out such re-locating of all or any electricity transmission lines and cables (together with any poles pipes structures wires fittings equipment appurtenances and appliances connected therewith) the property of His Majesty or the Minister for Public Works or the Commissioner now in or on the land described in any part of the First Schedule hereto as the Minister for Public Works or the Commissioner may (subject to clause 24) consider necessary and proper.

(b) Each of them the Minister for Public Works and the Commissioner may at any time remove from the land described in any part of the First Schedule all or any electricity transmission lines and cables the property of His Majesty or the Minister for Public Works or the Commissioner and all or any poles pipes wires fittings equipment appurtenances and appliances connected therewith.

(c) The Company covenants with His Majesty His Heirs and Successors to pay to the Minister for Public Works or the Commissioner as the case may be on demand the costs and expenses incurred by the Minister for Public Works or the Commissioner in exercising the powers conferred on the Minister for Public Works or the Commissioner by subclause (a) or subclause (b) of this clause in every case where the re-locating or the removal of any electricity line or cable has been carried out at the request of the Company and the same shall be recoverable from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Public Works, in the case of the Minister for Public Works or the Secretary for Railways in the case of the Commissioner or the person acting in either of such offices for the time being of the amount of such costs and expenses incurred by the Minister for Public Works or the Commissioner shall be prima facie evidence thereof.

(d) The Act ratifying this Agreement shall contain provisions to the effect that the Minister for Public Works and the Commissioner respectively may re-locate (with any poles pipes wires fittings

structures equipment appurtenances and appliances considered necessary) in on under or above the land described in the Second Schedule hereto all or any electricity transmission lines and cables removed from any land described in any part of the First Schedule hereto notwithstanding the dedication of the land described in the Second Schedule hereto as a public road and that the Minister for Public Works and the Commissioner and their respective successors and assigns may use the same for the conveyance of electricity and may maintain repair add to and renew the same.

24. The Company hereby agrees to grant to the Minister for Public Works and other Ministers of the Crown in right of the State of New South Wales and the Commissioner and other statutory authorities representing the Crown in right of the State of New South Wales and the Hunter District Water Board and the Postmaster General or any of them or their respective successors and assigns on request or requests without compensation easements and rights with respect to the erection, construction, laying, operation and maintenance—FIRSTLY of all such electricity transmission lines and cables, telephone lines and cables and water pipes and mains the property of His Majesty, the Minister for Public Works or other Minister of the Crown as aforesaid or the Commissioner or other statutory authority representing the Crown as aforesaid or the Hunter District Water Board or the Postmaster General as are now upon in under or over the lands described in any part of the First Schedule hereto and SECONDLY of all such additional or substituted electricity transmission lines and cables, telephone lines and cables and water pipes and mains for the purpose of enabling such utilities to be made available for the development of the Islands in the Hunter River and other areas as the Minister for Public Works and other Ministers of the Crown as aforesaid the Commissioner and other statutory authorities representing the Crown as aforesaid and the Hunter District Water Board and the Postmaster General or any of them or their respective successors and assigns may (whether the electricity lines and cables, telephone lines and cables and water pipes and mains firstly mentioned have or have not been removed) at any time hereafter desire to erect construct or lay upon in under or over the lands described in the First Schedule hereto or the lands comprised in Certificates of Title Volume 4605 Folio 90 and Volume 5004 Folio 177 standing in the name of the Company or any part or parts thereof along routes determined by the Minister for Public Works or other Ministers of the Crown as aforesaid or the Commissioner or other statutory authorities representing the Crown as aforesaid or the Hunter District Water Board or the Postmaster General or their respective successors and assigns but not so as to interfere unreasonably with the Company's operations and all or any such easements or rights shall if the Minister for Public Works or other Minister of the Crown as aforesaid or the Commissioner or other statutory authority representing the Crown

as aforesaid or the Hunter District Water Board or the Postmaster General or any of their respective successors and assigns require be so granted in a form on the lines of that set out in the Third Schedule hereto.

The power of the Minister for Public Works and other Ministers of the Crown as aforesaid and the Commissioner and other statutory authorities representing the Crown as aforesaid and the Hunter District Water Board and the Postmaster General or any of them or their respective successors to assign the said easements and rights hereinbefore referred to in this clause includes power to assign from time to time to any person or corporation (including the Crown) the whole or any part or parts of any of the said easements or rights.

In this clause the term "Postmaster General" shall mean the Postmaster General of the Commonwealth of Australia or other the proper authority of the Commonwealth for the time being controlling the provision and maintenance of public telephonic and/or telegraphic services.

The Act ratifying this Agreement shall contain provisions to the following effect namely, that the provisions of this clause shall bind the lands described in the First Schedule hereto and also the lands comprised in the said Certificates of Title Volume 4605 Folio 90 and Volume 5004 Folio 177 and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements on any Crown Grant or Certificate of Title comprising such lands or any parts thereof and such other entries in the Register Book as he may think desirable in consequence thereof.

25. In contemplation of the execution of this Agreement and for the purposes thereof the Crown has carried out the removal of the thirty-ton crane (which was controlled by the Minister for Public Works) from its previous position adjacent to the southernmost corner of the land described in the Fifth Part of the First Schedule hereto to its present situation at the southern end of the Dyke Newcastle and the re-erection at that situation of a thirty-ton crane (comprising parts of the crane previously referred to and a boiler and other parts obtained from Walsh Island and elsewhere) together with the construction of railway sidings and other works in connection with the said crane at the southern end of the Dyke and also together with all such further structures facilities and foundations required so as to make that crane ready for use in all respects at its present situation by land and water AND the Company hereby covenants with His Majesty His Heirs and Successors that the Company will on the completion of the sale to the Company under this Agreement of the lands described in the First Schedule hereto pay to the Minister for Public Works the sum of Six hundred and sixty-eight pounds twelve shillings and five pence (£668. 12. 5.) on account of the costs and expenses incurred by His Majesty in the removal

of

of the crane first referred to in this Clause and the re-erection of the crane secondly referred to in this Clause together with the construction of railway sidings and works as aforesaid and together with the structures facilities and foundations as hereinbefore referred to.

26. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall if as and when requested in writing by the Commissioner carry out at its own cost and expense (or at the option of the Commissioner pay to the Commissioner the costs and expenses incurred by him in carrying out) all the following works that is to say the erection and construction of railway works and sidings in the approximate positions shown on the Plan annexed hereto and marked "C" by short heavy broken black lines so as to provide to the satisfaction of the Commissioner railway connection between the Morandoo Sidings near Selwyn Street adjacent to the lands described in the Fourth Part of the First Schedule hereto and the Commissioner's railway lines lying to the south of the land described in the Second Schedule hereto (and referred to on the said Plan as "proposed new roadway") and including a single line of railway approximately 28 chains in length and railway sidings works and connections considered necessary by the Commissioner for the purpose of re-locating and/or providing railway connection between the Morandoo Sidings near Selwyn Street and the Steel Works entrance. The railway works to be erected and constructed under this paragraph shall include the removal (and the making good of any damage thereby caused) to the satisfaction of the Commissioner of the railway sidings and works shown approximately by broken parallel lines on the western part of the said Plan and lying in or upon the said land described in the Second Schedule hereto and in or upon the land adjoining that land on the south.

Should any of the work towards the erection and construction of the railway works and sidings referred to in this subclause (a) be carried out by the Commissioner before the date of the commencement of this Agreement the Company shall pay to the Commissioner the costs and expenses incurred by the Commissioner in the carrying out of such work.

(b) The whole of the work to be erected constructed and provided as aforesaid is to be carried out and completed in proper and workmanlike manner in accordance in all respects with specifications and plans to be prepared by the Commissioner and all such work shall be carried out to the satisfaction of the Commissioner.

(c) The Company shall pay to the Commissioner on demand by the Commissioner the costs and expenses incurred by him in preparing the plans and specifications as mentioned in subclause (b) of this clause.

(d) Any request by the Commissioner to the Company under subclause (a) of this clause may be made with respect to the whole or any part or parts of the work which that subclause provides is to be carried out and the option conferred on the Commissioner by that subclause may be exercised as to the whole or any part or parts of such work.

(e) Until the whole of the work which subclause (a) of this clause provides is to be carried out is carried out and completed in accordance with subclause (b) of this clause (but subject to the carrying out of that work) the Commissioner and all other persons shall be entitled to continue to use the present railway lines and works notwithstanding the completion of the said sale to the Company.

(f) The costs and expenses incurred by the Commissioner in carrying out such of the work provided by subclause (a) of this clause to be carried out as shall be carried out by the Commissioner shall be paid by the Company to the Commissioner on demand and a certificate of the Secretary for Railways or the person acting as such for the time being of the amount of such costs and expenses incurred by the Commissioner shall be prima facie evidence thereof.

(g) Such of the work provided by subclause (a) of this clause to be carried out as is to be carried out by the Company shall be carried out within such time or times and at such rate as the Commissioner shall determine.

(h) In the event of the Company failing to carry out and complete in accordance with this clause any of the work provided by subclause (a) of this clause to be carried out which is to be carried out by the Company the Commissioner may without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Commissioner may think necessary to remedy the default of the Company and the Company shall on demand pay to the Commissioner all costs and expenses incurred by the Commissioner in so doing and the same shall be recoverable by him from the Company in a Court of competent jurisdiction and a certificate of the Secretary for Railways or the person acting as such for the time being of the amount of such costs and expenses incurred by the Commissioner shall be prima facie evidence thereof.

(i) In connection with the railway works and sidings to be erected and constructed under subclause (a) of this clause (and notwithstanding the dedication for public road of the land described in the Second Schedule hereto) railway sidings and works will be laid and retained in across and upon the said land described in the Second Schedule hereto in the position approximately indicated by short heavy broken black lines on the western part of the said Plan marked "C" and the existing railway sidings and works will be retained in across and upon such land in the position approximately indicated

indicated by black hatching and the letters "A-B" on the said part of such Plan. Each of them the Company and the Commissioner may at any time or times use for the conveyance (by locomotives other mechanical power rolling stock and otherwise) of goods live-stock persons and things the railway sidings and works that are laid and retained as aforesaid in across and upon the said land described in the Second Schedule hereto and the existing railway sidings and works that are retained as aforesaid in across and upon such land. The Company (notwithstanding the said dedication for public road) will at all times maintain repair and renew so as to keep in good order and condition the said railway sidings and works that are laid and retained in across and upon the said land described in the Second Schedule hereto and the pavement of the roadway between the rails and for the space of eighteen inches on either side of the rails comprised in such sidings and works and the said existing railway sidings and works that are retained in across and upon such land and the pavement of the roadway between the rails and for the space of eighteen inches on either side of the rails comprised in such sidings and works.

The Act ratifying this Agreement shall contain provisions for railway sidings and works being laid and/or retained in across and upon the land described in the Second Schedule hereto as mentioned in this subclause and for the enforcement of the Company's obligations to maintain repair and renew as aforesaid.

27. (a) The Company for itself and its successors and assigns hereby covenants with His Majesty His Heirs and Successors that the Company its successors and assigns will not at any time without the written consent of the Governor of the State of New South Wales use or permit or suffer to be used the lands described in the First Schedule hereto or any part thereof for or in any manner in connection with the shipment of any coal, other than coal shipped at the wharves cranes and other facilities for shipment at Newcastle of the Commissioner or the Maritime Services Board of New South Wales and other than coal shipped in a ship, the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital, for the purpose of bunkering that ship and other than coal mined or owned by the Company and shipped by it for the sole purpose of being used and consumed by the Company or any other company in which the Company holds at least one-third of the share capital in the industrial undertakings of the Company or of any such company in which the Company holds at least one-third of the share capital.

(b) Provisions to the effect of subclause (a) of this clause shall be included in the Crown Grants of the lands described in the First, Second, Third, Fifth, Sixth and Seventh Parts of the First Schedule hereto and (without limiting the foregoing) the Act ratifying this Agreement shall provide that such provisions of the said

said Crown Grants shall be deemed to be covenants by the Company for itself its successors and assigns with His Majesty His Heirs and Successors and that such provisions shall bind the said lands and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements upon any Crown Grant or Certificate of Title comprising such lands or any part thereof and such other entries in the Register Book as he may think desirable in consequence thereof.

(c) The Company shall in the Transfer of the land described in the Fourth Part of the First Schedule hereto to be executed in the Company's favour by the Commissioner enter into such covenants to bind not only the Company but also the Company's sequels in title and the land described in the Fourth Part of the First Schedule hereto in such form as shall in the opinion of the Commissioner be necessary to give full effect to the provisions of subclause (a) of this clause in so far as they relate to such land and the Act ratifying this Agreement shall provide that the covenants contained in such Transfer shall bind the land described in the Fourth Part of the First Schedule hereto and every part thereof into whosesoever hands the same may come and bind all persons interested therein and that the Registrar-General may make such endorsements upon any Crown Grant or Certificate of Title comprising such land or any part thereof or such other entries in the Register Book as he may think desirable in consequence thereof.

28. (a) As from the date of commencement of this Agreement there shall be granted to the Company as lessee those parts of the bed of the Hunter River fronting the lands described in the First Schedule hereto upon which wharves or other structures the property of the Company have been erected or constructed for the term of ninety-nine years and at the yearly rental of Two hundred and fifty pounds (£250) or such other amount as may be determined on reappraisement as provided by subclause (f) of this Clause, and as soon as practicable after the completion of the sale to the Company of the lands described in the First Schedule hereto there shall be issued to the Company a lease of the said parts of the bed of the Hunter River.

(b) Subject to the provisions hereinafter appearing the Company shall have the exclusive right from time to time and at all times during the said period of ninety-nine years to construct and erect wharves and other facilities for loading or unloading goods and other structures upon any and every part of the bed of the Hunter River fronting the lands described in the First Schedule hereto but only to such distance outwards from high water mark as may be approved in each case by the Minister. Upon completion of any wharf or other structure constructed by the Company under the provisions of this subclause the Company shall be entitled to receive

receive for the balance then unexpired of the said period of ninety-nine years a lease of the part of the bed of the Hunter River upon which such wharf or other structure has been constructed and the Company shall not be called upon to pay in respect of any such lease any rental in addition to the rental of Two hundred and fifty pounds (£250) referred to in the preceding subclause.

(c) All wharves facilities and other structures to be erected and constructed by the Company under the preceding sub-clause shall be erected and constructed by the Company at its own cost and expense and the work of erecting and constructing the same shall be carried out and completed in a proper and workmanlike manner and in accordance in all respects with specifications and plans previously approved of in writing by the Minister and all such work shall be carried out to the satisfaction of the Minister. The plans and specifications referred to in this subclause shall be furnished by the Company to the Minister at the cost and expense of the Company.

(d) Every lease to be issued to the Company in accordance with the provisions of subclause (a) or subclause (b) of this clause shall be limited to the surface of the land thereby leased and to a depth of 400 feet below such surface and shall include conditions in or to the effect of the conditions set out in the Fourth Schedule hereto.

(e) The Company shall pay to the Minister on demand the cost of all surveys and plans made in connection with any lease granted to the Company in accordance with the provisions of subclause (a) or subclause (b) of this clause or in connection with any wharf facility or other structure erected or proposed to be erected by the Company in accordance with the provisions of subclause (b) of this clause.

(f) The said rental of Two hundred and fifty pounds (£250) shall be liable to re-appraisement at the expiration of each period of twenty-five years during the said period of ninety-nine years and in every such case the re-appraised rental shall be such sum as is determined by the Local Land Board constituted under the Crown Lands Consolidation Act, 1913, as amended, or on appeal therefrom by the Land and Valuation Court.

The Act ratifying this Agreement shall provide—

(i) That for the purpose of the Local Land Board determining the rental under this subclause such Board and the Chairman and Members thereof shall respectively have the same powers as when acting under the Crown Lands Consolidation Act, 1913, as amended, for the purpose of the said Board determining rentals thereunder: and

(ii) That any appeal to the Land and Valuation Court from the determination by the Local Land Board of rental under this subclause shall be made within twenty eight days of the date of the determination by filing within such period notice

notice of the appeal in the office of the Registrar of the Land and Valuation Court and by serving within the same period notice of the appeal on the other party to the determination: and

(iii) That for the purpose of dealing with any and every such appeal the Land and Valuation Court and the Judge thereof shall have the same powers as when dealing with appeals from Local Land Boards under the Crown Lands Consolidation Act, 1913, as amended.

(g) The Company shall for and during the said period of ninety-nine years at its own cost and expense carry out all work which shall be necessary to protect and maintain from erosion and to the satisfaction of the Minister such parts of the lands above high water mark comprised in the First Schedule hereto as adjoin or are adjacent to the Hunter River and such work shall be carried out by the Company at and within such time or times and at such rate as the Minister shall determine.

(h) In the event of the Company failing to carry out and complete in accordance with this clause any of the work provided by the preceding subclause to be carried out by the Company the Minister may without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand pay to the Minister all costs and expenses incurred by the Minister in so doing and the same shall be recoverable by him from the Company in a Court of competent jurisdiction and a certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof and neither His Majesty nor the Minister shall incur any liability towards the Company by reason of any damage whatsoever done to or upon the lands comprised in any lease granted to the Company in accordance with the provisions of subclause (a) or subclause (b) of this clause or any wharf facility or structure thereon or to or upon any adjoining or adjacent lands above high water mark in the performance by the Minister, his employees, agents, workmen, servants or licensees of any act or thing permitted to be done by the Minister under the provisions of this subclause.

(i) The Minister on behalf of His Majesty agrees with the Company that His Majesty will not at any time during the said period of ninety-nine years grant to any person without the consent of the Company any right of occupancy of or any right to erect or construct or place any structure upon in or over the bed of the Hunter River adjoining or adjacent to the lands described in the First Schedule hereto which would interfere unreasonably with the exercise by the Company of any of the rights granted to the Company

Company under the provisions of this Clause AND in any case shall not grant any such right closer to high water mark than the line generally 45 feet distant therefrom shown on the Plan annexed hereto and marked "C."

29. (a) The Company hereby agrees with His Majesty and the Act ratifying this Agreement shall contain provisions to the effect that the Harbour and Tonnage Rates Act, 1920-1935, and any Act amending or replacing the same and the regulations from time to time in force thereunder but insofar only as such Acts and regulations relate to the imposition collection and payment of tonnage rates and berthing charges shall apply to and in respect of every wharf (which term for the purposes of this clause shall include any structure landing place or facility where cargo may be loaded or discharged or where vessels may be berthed) now or hereafter erected constructed or provided upon the lands described in the First Schedule hereto or upon lands adjoining or adjacent thereto as if the same were a public wharf and that accordingly tonnage rates and berthing charges in accordance with the said Act and Regulations will be payable in respect of all vessels berthing at any such wharf subject to the following exceptions such exceptions being applicable only to vessels whilst berthed thereat:—

(i) Any vessel carrying, loading or discharging only cargo the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital shall be exempt from the payment of such tonnage rates and berthing charges.

(ii) Any vessel carrying, loading or discharging cargo part only of which is the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital shall be granted a rebate of such tonnage rates and berthing charges to the extent of the ratio which the part of the cargo which is the property of the Company and/or of any other company or companies in which the Company holds at least one-third of the share capital bears to the whole of such cargo.

(iii) Any vessel the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital berthing for a purpose other than the loading or discharging of cargo shall be exempt from the payment of such tonnage rates and berthing charges.

(b) The Company shall keep or cause to be kept in proper books true and complete records of all such matters in relation to all vessels berthing at any wharf now or hereafter constructed erected or provided upon adjoining or adjacent to the lands described in the First Schedule hereto as may be necessary to enable the Maritime Services Board of New South Wales or other proper authority to determine

determine the tonnage rates and berthing charges payable in respect of such vessels in accordance with subclause (a) of this Clause and the Act ratifying this Agreement, and the Company shall allow and provide every reasonable facility for the Maritime Services Board of New South Wales or other proper authority and any person authorised by such Board or authority at all reasonable times to inspect and make copies of or extracts from such records AND the Company shall at such times as are required by such Board or authority during the period of ninety-nine years referred to in Clause 28 hereof furnish to such Board or other authority all such particulars as such Board or authority may deem necessary for the purpose of enabling such Board or authority to ascertain and determine the tonnage rates and berthing charges payable in respect of all vessels berthing at any wharf now or hereafter constructed erected or provided upon adjoining or adjacent to the lands described in the First Schedule hereto.

30. (a) The Company hereby covenants with His Majesty His Heirs and Successors that the Company shall pay to the Minister for Public Works the costs and expenses incurred by him in carrying out all the following work that is to say:

(i) Such dredging as may from time to time be required by the Company within a distance of 60 feet from the face of all berths, wharves and landing places now or at any time hereafter constructed erected or provided upon adjoining or adjacent to the lands described in the First Schedule hereto.

(ii) All such dredging and other work as may be necessary to carry out the construction of a channel upstream from the swinging basin and to such dimensions as may be required from time to time by the Company.

(iii) All such dredging and other work as may be necessary to carry out any extension of the swinging basin which may be required by the Company.

(b) Notwithstanding the covenant hereinbefore contained on the part of the Company to pay to the Minister for Public Works the costs and expenses incurred by him in carrying out the work referred to in subclause (a) of this Clause the Company shall be permitted to carry out itself and at its own expense all or any of the work referred to in paragraph (i) of subclause (a) of this Clause subject to the approval of the Minister for Public Works in writing being first obtained and upon such conditions as may be determined by the Minister for Public Works.

(c) The costs and expenses incurred by the Minister for Public Works in carrying out the work provided by subclause (a) of this Clause shall be paid by the Company to the Minister for Public Works on demand and a certificate of the Under Secretary, Department of Public Works, or the person acting as such for the time being

being of the amount of such costs and expenses incurred by the Minister for Public Works shall be prima facie evidence thereof.

(d) The Minister for Public Works or the Government of the said State of New South Wales will during the said period of ninety-nine years referred to in Clause 28 hereof at the cost of His Majesty—

(i) maintain a channel from the Pacific Ocean to the swinging basin and the swinging basin and all extensions thereto carried out under the provisions of paragraph (iii) of subclause (a) of this Clause at a depth which in the opinion of the Minister for Public Works is reasonable having regard to the normal requirements of the shipping in the Port of Newcastle,

(ii) maintain any channel constructed under the provisions of paragraph (ii) of subclause (a) of this Clause to the dimensions to which such work has been carried out at the expense of the Company provided however that in the opinion of the Minister for Public Works the maintenance of such channel to such dimensions is reasonable having regard to the normal requirements of shipping at the Company's berths and the requirements elsewhere in the Port of Newcastle.

(e) The liability of the Minister for Public Works or the Government of the said State of New South Wales to carry out dredging operations under this Clause shall be governed by the availability of dredging equipment at any particular time having regard to the necessity to use such dredging equipment elsewhere in the Port of Newcastle.

31. (a) The Company shall pay to the Minister for Public Works at the time of completion of the sale of the lands described in the First Schedule hereto in addition to the purchase moneys then payable in respect of the said lands the sum of Eight thousand seven hundred and ninety-seven pounds nineteen shillings and one penny (£8,797. 19. 1.) being the balance of cost to His Majesty of the initial dredging for the swinging basin extension which was carried out mainly in 1947.

(b) On the completion of the sale of the lands described in the First Schedule hereto the obligation of the Company under the provisions of the Newcastle Iron and Steel Works Act, 1912, to pay interest at the rate of 5% per annum on the sum of Twenty nine thousand two hundred and fifty five pounds fourteen shillings (£29,255. 14. 0.) being the cost of dredging the swinging basin and lower berth and of reclamations all of which were carried out prior to the 31st day of January 1915, shall cease and the Act ratifying this Agreement shall provide accordingly. Any necessary apportionment of the interest paid or payable by the Company shall be made and adjusted on completion.

(c)

(c) On the completion of the sale of the lands described in the First Schedule hereto the obligation of the Company to pay to the Minister for Public Works the sum of Four hundred and seventy-three pounds ten shillings and sixpence (£473. 10. 6.) per annum for the cost of the maintenance of the swinging basin extension which was carried out mainly in 1947 shall cease and any necessary apportionment of the moneys paid or payable by the Company shall be made and adjusted upon completion.

32. On the completion of the sale to the Company under this Agreement of the lands described in the First Schedule hereto the Lease granted to the Company by Section 4 of the Newcastle Iron and Steel Works Act, 1912, and the Agreement set out in the Schedule to that Act and the rights and obligations of the Company thereunder shall cease and determine and the Act ratifying this Agreement shall provide for the repeal of the Newcastle Iron and Steel Works Act, 1912. Any necessary apportionment of rental paid or payable by the Company in respect of this Lease shall be made and adjusted on completion.

33. On the completion of the sale to the Company under this Agreement of the lands described in the First Schedule hereto the Permissive Occupancy granted to the Company in respect of the lands formerly comprised in Special Lease No. 11 of 1919 Newcastle granted to the Company shall cease and determine and any necessary apportionment of rental paid or payable by the Company in respect of the Permissive Occupancy shall be made and adjusted on completion.

34. Nothing in this Agreement contained shall affect in any way the liability of the Company or any other person to pay harbour rates in accordance with the provisions of the Harbour and Tonnage Rates Act, 1920-1935, and any Act amending or replacing the same and the regulations from time to time in force thereunder.

35. (a) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by or on behalf of the Minister or His Majesty His Heirs or Successors shall be deemed to have been duly given if signed by the Under Secretary, Department of Lands, or the person acting as such for the time being.

(b) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by the Commissioner shall be deemed to have been duly given if signed by the Secretary for Railways or the person acting as such for the time being.

(c) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by the Minister for Public Works shall be deemed to have been duly given if signed by the Under Secretary, Department of Public Works, or the person acting as such for the time being.

(d) Any notice or communication required to be or that may be given to the Company under or in connection with this Agreement by the Maritime Services Board of New South Wales shall be deemed to have been duly given if signed by the Secretary to the Board or by the Harbour Master at Newcastle or by the person for the time being acting in either of such offices.

36. This Agreement is subject to ratification by the Parliament of the State of New South Wales and shall come into effect when so ratified and the expression "the date of commencement of this Agreement" means the date of commencement of the Act which ratifies it PROVIDED that if this Agreement is not ratified by the said Parliament before the thirtieth day of April 1950 it shall become null and void.

37. As between the Commissioner and His Majesty the part of the said price of One hundred thousand pounds (£100,000) to be paid by the Company to the Minister on the completion of the sale of the lands described in the First Schedule hereto which the Commissioner shall be entitled to receive from the Minister shall be the sum of Five thousand eight hundred and fifty pounds (£5,850) (being the part of such price attributable to the estates and interests held by the Commissioner in the lands described in the First and Second Schedules hereto). Any such payment to the Commissioner shall be subject to his giving such indemnity to the Minister against claims by any person in respect of any part of the land described in the Second Schedule hereto or any interest therein as the Minister and the Commissioner may agree upon or in default as determined by the Governor.

IN WITNESS whereof the parties hereto have executed this Agreement the day and year first above written.

FIRST SCHEDULE TO AGREEMENT.

First Part.

ALL THAT piece or parcel of land containing by admeasurement 34 acres 1 rood be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2936 COMMENCING on the original high water mark of the right bank of the South Channel of the Hunter River at the South Eastern corner of portion 349 of 14 acres 21½ perches and bounded thence on the West by the Eastern boundary of portion 349 bearing North 21 minutes West 227 feet 8½ inches on the North East by lines dividing this land from the area of 2 acres 1 rood 14 perches described in the Seventh Part hereof bearing South 66 degrees 6 minutes East

1,055 feet 11 inches thence south 63 degrees 21 minutes East 280 feet 11½ inches and thence by lines dividing it from portion 2,937 of 5 acres 3 perches bearing South 40 degrees 1 minute 30 seconds West 2 feet 11½ inches South 51 degrees 14 minutes 30 seconds East 704 feet 11¾ inches South 37 degrees 9 minutes 30 seconds West 11 feet 10½ inches South 51 degrees 10 minutes 30 seconds East 682 feet 4½ inches and thence South 33 degrees 30 minutes 30 seconds East 766 feet 11 inches on the South East by a line dividing it from the area of 9 acres 32 perches described in the Second Part hereof bearing South 50 degrees 33 minutes West 1,051 feet 7½ inches and thence by lines dividing it from the area of 3 acres 2 roods 24 perches described in the Third Part hereof bearing South 54 degrees 13 minutes 30 seconds West 97 feet 4¼ inches and thence by 51 feet 5¾ inches of the arc of a circle of 380 feet radius the centre of which lies North Westerly of a chord bearing South 65 degrees 5 minutes 20 seconds West 51 feet 5 inches to the original high water mark of the right bank of Throsby Creek again on the West and generally on the North West by that original high water mark of Throsby Creek Northerly and thence generally North Easterly to its junction with the original high watermark of the right bank of the South Channel of the Hunter River aforesaid and on the South West by the lastmentioned original high water mark North Westerly to the point of commencement.

SECOND PART.

ALL THAT piece or parcel of land containing by admeasurement 9 acres 32 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on a South Western boundary of portion 2,937 of 5 acres 3 perches at the Easternmost corner of the area of 34 acres 1 rood described in the First Part hereof and bounded thence on the North West by a line dividing this land from that 34 acres 1 rood bearing South 50 degrees 33 minutes West 1,051 feet 7½ inches on the South by a Northern boundary of the area of 3 acres 2 roods 24 perches described in the Third Part hereof bearing South 89 degrees 47 minutes 30 seconds East 1,167 feet 4 inches and on the North East by lines dividing it from portion 2,937 aforesaid bearing North 26 degrees 34 minutes 30 seconds West 610 feet 9 inches and thence North 33 degrees 30 minutes 30 seconds West 158 feet to the point of commencement.

THIRD PART.

ALL THAT piece or parcel of land containing by admeasurement 3 acres 2 roods 24 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of

of Portion 2,936 COMMENCING on a South Western boundary of portion 2,937 of 5 acres 3 perches at the South Eastern corner of the area of 9 acres 32 perches described in the Second Part hereof and bounded thence on the North by the Southern boundary of that 9 acres 32 perches bearing North 89 degrees 47 minutes 30 seconds West 1,167 feet 4 inches on the North West by lines dividing this land from the area of 34 acres 1 rood described in the First Part hereof bearing South 54 degrees 13 minutes 30 seconds West 97 feet 4¼ inches and thence by 51 feet 5¾ inches of the arc of a circle of 380 feet radius the centre of which lies North Westerly of a chord bearing South 65 degrees 5 minutes 20 seconds West 51 feet 5 inches and thence by a line dividing it from the Northernmost part of a measured portion of part of 24 acres being the residue of portion 156 being 140 feet 10¼ inches of the arc of a circle of 380 feet radius the centre of which lies North Westerly of a chord bearing South 79 degrees 35 minutes 20 seconds West 140 feet and one half of an inch again on the North by the Southern boundary of that part of the residue of portion 156 bearing North 89 degrees 47 minutes 30 seconds West 1,521 feet 6 inches to Selwyn Street on the West and again on the North West by Selwyn Street bearing South 4 minutes East 32 feet and thence South 6 degrees 18 minutes West 34 feet 2¼ inches on the South by the Northern boundary of the area of 2 acres 3 roods 3 perches described in the Fourth Part hereof bearing South 89 degrees 47 minutes 30 seconds East 1,303 feet 11 inches on the South East by a line dividing it from the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto bearing North 82 degrees 22 minutes 50 seconds East 462 feet 10¼ inches and thence by the North Western boundary of the area of 2 roods 14 perches described in the Sixth Part hereof bearing North 50 degrees 12 minutes 30 seconds East 105 feet 5¾ inches again on the South by the Northern boundary of that 2 roods 14 perches and a Northern boundary of the area of 2 acres 1 rood 33 perches described in the Fifth Part hereof in all bearing South 89 degrees 47 minutes 30 seconds East 1,123 feet 1¾ inches and on the North East by a line dividing it from portion 2,937 aforesaid bearing North 15 degrees 17 minutes 45 seconds West 41 feet 6 inches to the point of commencement.

FOURTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 acres 3 roods 3 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on the South Eastern side of Selwyn Street at the South Western corner of the area of 3 acres 2 roods 24 perches described in the Third Part hereof and bounded thence on the North West by Selwyn Street bearing South 6 degrees 18 minutes West 105 feet 8¾ inches and thence by Selwyn Street being

being 110 feet 2 inches of the arc of a circle of 520 feet 1 inch radius the centre of which lies North Westerly of a chord bearing South 39 degrees 23 minutes 30 seconds West 109 feet 11¼ inches on the South East by a line dividing this land from the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto bearing North 82 degrees 22 minutes 50 seconds East 1,397 feet 7½ inches and on the North by a Southern boundary of the aforesaid 3 acres 2 roods 24 perches bearing North 89 degrees 47 minutes 30 seconds West 1,303 feet 11 inches to the point of commencement.

FIFTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 acres 1 rood 33 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on a South Western boundary of portion 2,937 of 5 acres 3 perches at the most Easterly South Eastern corner of the area of 3 acres 2 roods 24 perches described in the Third Part hereof and bounded thence on the North by part of a Southern boundary of that 3 acres 2 roods 24 perches bearing North 89 degrees 47 minutes 30 seconds West 304 feet 7 inches on the West by the Eastern boundary of the area of 2 roods 14 perches described in the Sixth Part hereof bearing South 12 minutes 30 seconds West 64 feet 10 inches again on the North by a Southern boundary of that 2 roods 14 perches bearing North 89 degrees 47 minutes 30 seconds West 77 feet 6 inches on the South West by lines dividing this land from the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto being 71 feet 3 inches of the arc of a circle of 726 feet radius the centre of which lies South Westerly of a chord bearing South 64 degrees 26 minutes East 70 feet 3¾ inches thence by a line bearing South 46 degrees 29 minutes 30 seconds East 253 feet 7 inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing South 70 degrees 22 minutes East 46 feet 11¼ inches thence by 96 feet 8 inches of the arc of a circle of 58 feet radius the centre of which lies South Westerly of a chord bearing South 46 degrees 29 minutes 30 seconds East 85 feet 10½ inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing South 22 degrees 37 minutes East 46 feet 11¼ inches and thence by a line bearing South 41 degrees 6 minutes 30 seconds East 210 feet 2¼ inches on the South East by a North Western boundary of the aforesaid 5 acres 1 rood 30 perches bearing North 74 degrees 49 minutes East 20 feet 1 inch and on the North East by a South Western boundary of portion 2,937 aforesaid bearing North 15 degrees 11 minutes West 561 feet 5 inches to the point of commencement.

SIXTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 roods 14 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on a North Eastern boundary of the area of 5 acres 1 rood 30 perches described in the Second Schedule hereto at the most Westerly North Western corner of the area of 2 acres 1 rood 33 perches described in the Fifth part hereof and bounded thence on the South by a Northern boundary of that 2 acres 1 rood 33 perches bearing South 89 degrees 47 minutes 30 seconds East 77 feet 6 inches on the East by a Western boundary of that 2 acres, 1 rood 33 perches bearing North 12 minutes 30 seconds East 64 feet 10 inches on the North by part of a Southern boundary of the area of 3 acres 2 roods 24 perches described in the Third Part hereof bearing North 89 degrees 47 minutes 30 seconds West 818 feet 6¾ inches on the North West by a South Eastern boundary of that 3 acres 2 roods 24 perches bearing South 50 degrees 12 minutes 30 seconds West 105 feet 5¾ inches on the South East by a line dividing this land from the aforesaid 5 acres 1 rood 30 perches bearing North 82 degrees 22 minutes 50 seconds East 432 feet and one quarter of an inch and on the South West by a line dividing it from that 5 acres 30 perches being 402 feet 11¾ inches of the arc of a circle of 726 feet radius the centre of which lies South Westerly of a chord bearing South 81 degrees 43 minutes East 397 feet 10 inches to the point of commencement.

SEVENTH PART.

ALL THAT piece or parcel of land containing by admeasurement 2 acres 1 rood 14 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington Part of Portion 2,936 COMMENCING on the high water mark of the right bank of the South Channel of the Hunter River at the Eastern corner of Portion 2,872 of 3 acres 26 perches and bounded thence on the North West by the South Eastern boundary of portion 2,872 bearing South 23 degrees 54 minutes West 90 feet on the South West by lines dividing this land from the area of 34 acres 1 rood described in the First Part hereof bearing South 66 degrees 6 minutes East 1,055 feet 11 inches and thence South 63 degrees 21 minutes East 280 feet 11½ inches and on the North East by lines dividing this land from portion 2,937 of 5 acres 3 perches bearing North 51 degrees 14 minutes 30 seconds West 403 feet 6¾ inches and thence North 66 degrees 6 minutes West 946 feet 6 inches to the point of commencement.

SECOND SCHEDULE TO AGREEMENT.

ALL THAT piece or parcel of land containing by admeasurement 5 acres 1 rood 30 perches be the same more or less situated in the County of Northumberland Parish of Newcastle at Carrington COMMENCING at the Easternmost corner of portion 2,936 of 55 acres 1 rood and bounded thence on the North West by a South Eastern boundary of portion 2,936 bearing South 74 degrees 49 minutes West 20 feet 1 inch on the North East by lines dividing this land from portion 2,936 bearing North 41 degrees 6 minutes 30 seconds West 210 feet 2¼ inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing North 22 degrees 37 minutes West 46 feet 11¼ inches thence by 96 feet 8 inches of the arc of a circle of 58 feet radius the centre of which lies South Westerly of a chord bearing North 46 degrees 29 minutes 30 seconds West 85 feet 10½ inches thence by 48 feet 4 inches of the arc of a circle of 58 feet radius the centre of which lies North Easterly of a chord bearing North 70 degrees 22 minutes West 46 feet 11¼ inches thence by a line bearing North 46 degrees 29 minutes 30 seconds West 253 feet 7 inches and thence by 474 feet 2¾ inches of the arc of a circle of 726 feet radius the centre of which lies South Westerly of a chord bearing North 78 degrees 54 minutes 30 seconds West 465 feet 10 inches on the North West by a South Eastern boundary of portion 2,936 bearing South 82 degrees 22 minutes 50 seconds West 2,292 feet 6 inches to Selwyn Street and thence by Selwyn Street being 134 feet 3¾ inches of the arc of a circle of 520 feet 1 inch radius the centre of which lies North Westerly of a chord bearing South 52 degrees 51 minutes 30 seconds West 133 feet 11¼ inches on the South East by a line bearing North 82 degrees 22 minutes 50 seconds East 2409 feet 1¼ inches on the South West by a line being 423 feet 5 inches of the arc of a circle of 660 feet radius the centre of which lies South Westerly of a chord bearing South 79 degrees 14 minutes 30 seconds East 416 feet 2½ inches and thence by lines bearing South 46 degrees 29 minutes 30 seconds East 414 feet thence South 41 degrees 6 minutes 30 seconds East 374 feet 4 inches and again on the North East by lines bearing North 12 degrees 33 minutes 30 seconds West 138 feet 1¼ inches and thence North 15 degrees 11 minutes West 41 feet 4 inches to the point of commencement.

THIRD SCHEDULE TO AGREEMENT.

Form of Easement.

THE BROKEN HILL PROPRIETARY COMPANY LIMITED a corporation carrying on business in the State of New South Wales (herein called Transferor) being registered as the proprietor of an estate in fee simple in the land hereafter described subject however to such encumbrances liens and interests as are notified hereunder in consideration of Ten shillings, the receipt whereof is hereby acknowledged, paid to the Transferor by [1] (herein called Transferee) doth hereby transfer grant and confirm unto the Transferee {his / its} successors and assigns full and free right and liberty for the transferee {his / its} successors and assigns at all times hereafter to use and maintain for the purpose of

the transmission of electrical energy the electricity
transmission lines and cables
communication the telephone lines and cables
the passage or conveyance of water the lines of pipes
} [2],

(if any) (together with poles pipes structures wires fittings equipment appliances and appurtenances connected therewith) at present constructed erected installed and laid upon in under and over all that piece of land situate in the Parish of Newcastle County of Northumberland being that part of the land comprised in

Crown Grant / Certificate of Title } Registered Volume Folio

shown on the Plan annexed hereto and marked "A" and also for the purpose aforesaid to construct erect instal lay use and maintain upon in under and over the said land along routes determined by the Transferee {his / its} successors or assigns but not so as to interfere unreasonably with the Company's operations any one or more

electricity transmission lines and cables
telephone lines and cables
lines of pipes
} [2]

(together with poles pipes structures wires fittings equipment appliances and appurtenances connected therewith) in substitution for or in duplication of or in addition to the aforesaid

electricity transmission lines and cables
telephone lines and cables
lines of pipes
} [2]

now upon in under and over the said land and also from time to time to inspect the condition of and amend and repair all or any of the said

electricity transmission lines and cables
telephone lines and cables
lines of pipes
} [2]

poles

poles pipes structures wires fittings equipment appliances and appurtenances (now and hereafter upon in under and over the said land) and for the purposes aforesaid or any of them at all reasonable times to enter upon go return pass and repass through along and over the said land with or without servants workmen and other persons horses carts waggons motors materials and any vehicles and appliances and to make all necessary excavations in or under the said land provided always and it is hereby agreed and declared that in the event of the transferee {his / its} successors or assigns ceasing at any time hereafter to use any of the said

electricity transmission lines and cables
telephone lines and cables
lines of pipes } [2]

poles pipes structures wires fittings equipment appliances or appurtenances for the purpose aforesaid {he / it} or they may remove the same from the said land, making good any damage occasioned by such removal.

[1] Insert name of Minister or Authority to whom easement is to be granted.
[2] Delete unnecessary words according to nature of Easement to be granted.

FOURTH SCHEDULE TO AGREEMENT.

Lease Conditions.

(1) The Company shall at all times at its own cost and expense and to the satisfaction of the Minister maintain repair and renew so as to keep in good order and condition all wharves facilities and other structures now or hereafter constructed erected or provided upon the land leased, unless the Minister shall agree in writing to the demolition and removal of any such wharf facility or other structure, in which case the Company shall at its own cost and expense demolish and remove such wharf facility or other structure and such work shall be carried out to the satisfaction of the Minister.

(2) Upon the expiration of the lease or upon the sooner determination thereof for any reason whatsoever the Company shall if as and when requested in writing by the Minister carry out at its own cost and expense the work of the demolition and removal of such wharves facilities and other structures upon the land hereby leased as the Minister may require and such work shall be carried out to the satisfaction of the Minister.

(3) The lease shall not confer any right to purchase the land.

(4) The land leased shall be used only for the purposes for which it is granted.

(5)

(5) The Company shall pay all rates taxes charges assessments and outgoings upon or in respect of the land leased or the Company's operations thereon during the currency of the lease.

(6) The Company shall not assign sublet or part with the possession of the land leased or any part thereof without the consent in writing of the Minister.

(7) The Company shall at all times at its own cost and expense and to the satisfaction of the Minister keep all wharves facilities and other structures now or hereafter constructed erected or provided upon the land leased in good sanitary condition and free from rats and mice and the right is reserved to terminate the lease should the Minister be of the opinion that the public health is endangered thereby or that any nuisance is committed.

(8) The right of ingress egress and regress in over and out of the land leased and any wharves facilities or other structures constructed erected or provided thereon is reserved to the Minister or any person or persons authorised by him in that behalf.

(9) Any necessary public service may be constructed or laid on the land leased without charge and either above or below the surface after giving to the Company one months notice in writing of the intention to construct or lay any such public service.

(10) The Company shall not at any time without the written consent of the Governor of the State of New South Wales use or permit or suffer to be used the land leased or any part thereof or any wharf facility or other structure now or hereafter constructed erected or provided thereon for or in any manner in connection with the shipment of any coal, other than coal shipped at the wharves cranes and other facilities for shipment at Newcastle of the Commissioner or the Maritime Services Board of New South Wales or other the Authority controlling the Port of Newcastle and other than coal shipped in a ship, the property of or chartered by the Company or the property of or chartered by any other company in which the Company holds at least one-third of the share capital, for the purpose of bunkering that ship and other than coal mined or owned by the Company and shipped by it for the sole purpose of being used and consumed by the Company or any other company in which the Company holds at least one-third of the share capital in the industrial undertakings of the Company or of any such company in which the Company holds at least one-third of the share capital.

(11) In the event of the Company failing to carry out and complete any of the work provided by conditions (1) (2) and (7) of the lease to be carried out by the Company the Minister may without prejudice to any other remedy of His Majesty by reason of such default of the Company, do all acts and things as the Minister may think necessary to remedy the default of the Company and the Company shall on demand pay to the Minister all costs and expenses incurred by the Minister in so doing and the same shall be recoverable

by

by him from the Company in a Court of competent jurisdiction and a Certificate of the Under Secretary, Department of Lands, or the person acting as such for the time being of the amount of such costs and expenses incurred by the Minister shall be prima facie evidence thereof and neither His Majesty nor the Minister shall incur any liability towards the Company by reason of any damage whatsoever done to or upon the land leased or any wharf facility or structure thereon or to or upon any adjoining or adjacent lands above high water mark in the performance by the Minister, his employees. agents, workmen, servants or licensees of any act or thing permitted to be done by the Minister under the provisions of this condition.

(12) The work provided by conditions (1) (2) and (7) of the lease to be carried out by the Company shall be carried out at and within such time or times and at such rate as the Minister shall determine.

(13) It is expressly declared that mining operations may have been and may be carried on upon and in the land below the land hereby leased and the lands adjoining the land hereby leased and the land below the same and metals and minerals may have been and may be removed therefrom and that these presents are made upon and subject to the condition that the Company and its assigns shall not be entitled to make or prosecute any claim for damages or take any proceedings either by way of injunction or otherwise against His Majesty His Heirs or Successors or the Government of the State of New South Wales or any lessee or lessees under any Mining Act or Acts of the said State or his or their executors administrators or assigns for or in respect of any damage or loss occasioned by the letting down subsidence or lateral movement of the land hereby leased or otherwise howsoever by reason of the following acts and matters that is to say by reason of His Majesty His Heirs or Successors or the Government of the said State or any person on His Their or Its behalf or any Lessee or Lessees as aforesaid or his or their executors administrators or assigns having worked or now or hereafter working any mines or having carried on or now or hereafter carrying on mining operations or having searched for worked won or removed or now or hereafter searching for working winning or removing any metals or minerals under in or from the land below the land hereby leased or on in under or from any other lands situated laterally to the land hereby leased and the land below the same and whether on or below the surface of such other lands. AND there is hereby expressly reserved unto His Majesty His Heirs and Successors the liberty and authority by reason of the acts and matters aforesaid or in the course thereof for His Majesty His Heirs and Successors and the Government of the said State and any person on His Their or Its behalf and any Lessee or Lessees as aforesaid and his or their executors administrators and assigns to from time to time let down without payment of any compensation whatsoever any part of the land hereby leased and/or of the surface thereof.

(14) A breach of any of the conditions of the lease shall render the lease liable to forfeiture. Such forfeiture may be effected by publication in the Gazette of a notice signed by the Minister declaring the lease to be forfeited. Provided however that no such notice shall be published in the Gazette unless the Minister has first served upon the Company a notice in or to the effect of the form set out in the Sixth Schedule to the Conveyancing Acts, 1919-1943 specifying the particular breach complained of and if the breach is capable of remedy requiring the Company to remedy it and in case the Minister claims compensation in money requiring the Company to pay such compensation and the Company has failed within a reasonable time to remedy the breach if remediable or to pay reasonable compensation to the satisfaction of the Minister where compensation in money is required.

THE COMMON SEAL OF THE BROKEN HILL PROPRIETARY COMPANY LIMITED was hereunto affixed by the Authority of its Board of Directors in the presence of LEONARD DARLING and COLIN YORK SYME two of such Directors and of REGINALD GEORGE NEWTON, Secretary.

L.S.

L. DARLING, C. Y. SYME } Directors.

R. G. NEWTON, Secretary.

SIGNED SEALED AND DELIVERED by WILLIAM FRANCIS SHEAHAN the Minister for Lands of the State of New South Wales for and on behalf of His Majesty the King in the presence of:

A. R. JONES, J.P.

W. SHEAHAN.

Sydney: Alfred Henry Pettifer, Government Printer—1950

PLAN

C

Showing lands to be acquired by the Broken Hill Proprietary Company Limited and proposed new roadway.

PARISH OF NEWCASTLE. COUNTY OF NORTHUMBERLAND.

CITY OF NEWCASTLE

Scale

FEET 100 50 0 100 200 300 400 500 600 700 FEET

North

HUNTER SOUTH

SWINGING BASIN

RIVER CHANNEL

WATER

CHANNEL TO PACIFIC OCEAN

H.W.M.
2872
Qld 3a Or 26p
H.W.M.
349
14a Or 21½p
ORIGINAL H.W.M.
2937
(N. 7786 2111 R.)
HIGH
7
Original High Water Mark of South Channel Hunter River
2936
(N. 7785 2111 R.)
1
Throsby Ck
Original High Water Mark
55ac 1r 0p
2
5ac Or. 3p.
MARK
Residue of 156
Pt 24 ac
3
6
ROADWAY
5ac 1r 30p
NEW
PROPOSED (Second Schedule)
4
Selwyn Street
A
B
U.S.N. STORE
5
X
Y
TOWN OF CARRINGTON
H.W.M.

NOTES

Land to be purchased (por 2936 of 55a 1r) ---------- shown thus
Land comprised in por 2937 of 5a Or 3p (below High Water Mark) ------ do.
Proposed New Roadway (5a 1r 30p., Second Schedule) ---------- do.

(1) 34a. 1r. 0p. First Part of First Schedule
(2) 9a. Or. 32p. Second do do
(3) 3a. 2r. 24p. Third do do
(4) 2a. 3r. 3p. Fourth do do
(5) 2a. 1r. 33p. Fifth do do
(6) 0a 2r 14p Sixth do do
(7) 2a 1r 14p Seventh do do

Railway Works and Sidings to be erected and constructed shown thus ----------
Railway Works and Sidings to be removed do ==========
Existing Railway Works and Sidings to be retained on land described in Second Schedule (Proposed New Roadway) shown by black hatching and lettered "A B."
Retaining Wall to be constructed between the points marked "X" and "Y"

Drawn & Printed at the Department of Lands, Sydney, N.S.W. 54-193