

For Commissioner of State Revenue  
5/19  
EXEMPT from WA Stamp Duty

STATE OF WESTERN AUSTRALIA

and

WESTERN AUSTRALIAN LAND AUTHORITY

and

CONSERVATION COMMISSION OF WESTERN AUSTRALIA

and

MIRIUWUNG AND GAJERRONG #1 (NATIVE TITLE PRESCRIBED BODY CORPORATE) ABORIGINAL CORPORATION

and

BEN WARD, KIM ALDUS, FRANK CHULUNG, SHEBA DIGNARI, MAGGIE JOHN, CHOCOLATE THOMAS, DANNY WALLACE, CAROL HAPKE, NANCY DILYAI, PAMELA SIMON, JERRY MOORE AND PADDY CARLTON (MG #4 CLAIMANTS)

and

KIMBERLEY LAND COUNCIL ABORIGINAL CORPORATION

(ABN 96 724 252 047)

and

CONSOLIDATED PASTORAL COMPANY PTY LTD (ACN 010 080 654) and  
CARLTON HILL PTY LTD (ACN 009 624 159) and CROSSWALK PTY LTD

(ACN 009 448 739)

and

BAINES RIVER CATTLE CO PTY LTD (ACN 009 603 516)

and

ORD RIVER DISTRICT COOPERATIVE LTD (ABN 16 026 785 781) and  
J.J.McDONALD AND SONS ENGINEERING PTY LTD (ABN 061 012 691)

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**ORD FINAL AGREEMENT VARIATION #2**

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State Solicitor's Office  
Level 14, 141 St George's Terrace  
PERTH WA 6000  
Tel: (08) 9264 1888  
Fax: (08) 9481 7169  
Ref: 03/1781

**THIS DEED is made the**

**day of**

**2005**

**B E T W E E N**

**THE PREMIER, and THE MINISTER FOR LANDS** a body corporate under section 7 of the *Land Administration Act 1997* (WA), **FOR AND ON BEHALF OF THE STATE OF WESTERN AUSTRALIA** ("*State*") care of Office of Native Title, Department of the Premier and Cabinet, 2<sup>nd</sup> Floor, 197 St George's Terrace Perth WA 6000

and

**WESTERN AUSTRALIAN LAND AUTHORITY** ("*LandCorp*"), a body corporate established under the *Western Australian Land Authority Act 1992* (WA) of Level 3, Wesfarmers House, 40 The Esplanade PERTH WA 6000

and

**CONSERVATION COMMISSION OF WESTERN AUSTRALIA** ("*Conservation Commission*") established under section 18 of the *Conservation and Land Management Act 1984* (WA) of Corner Hackett Drive and Australia II Drive CRAWLEY WA 6009

and

**MIRIUWUNG AND GAJERRONG #1 (NATIVE TITLE PRESCRIBED BODY CORPORATE) ABORIGINAL CORPORATION** ("*MG#1 PBC*") registered by the Office of the Registrar of Aboriginal Corporations on 8 April 2005, determined by the Full Federal Court of Australia to be a prescribed body corporate in relation to the MG#1 Determination on 26 July 2005 and entered on the Register of Native Title on 31 August 2005 as the registered native title body corporate for the MG#1 Determination area, care of the Kimberley Land Council Aboriginal Corporation (ABN 96 724 252 047), PO Box 2145 Broome WA 6725

and

**BEN WARD, KIM ALDUS, FRANK CHULUNG, SHEBA DIGNARI, MAGGIE JOHN, CHOCOLATE THOMAS, DANNY WALLACE, CAROL HAPKE, NANCY DILYAI, PAMELA SIMON, JERRY MOORE AND PADDY CARLTON** for and on behalf of the Miriuwung Gajerrong No.4 (WAD 124 of 2004) native title claim group ("*MG#4 Claimants*"), care of the Kimberley Land Council Aboriginal Corporation (ABN 96 724 252 047), PO Box 2145 Broome WA 6725

and

**KIMBERLEY LAND COUNCIL ABORIGINAL CORPORATION** ("*KLC*") (ABN 96 724 252 047) of PO Box 2145 Broome WA 6725

and

**CONSOLIDATED PASTORAL COMPANY PTY LTD** (ACN 010 080 654) of Level 3, 54-58 Park Street SYDNEY NSW 2000 and **CARLTON HILL PTY LTD** (ACN 009 624 159) of Level 3, 54-58 Park Street SYDNEY NSW 2000 and **CROSSWALK PTY LTD** (ACN 009 448 739) of Newcastle Waters Station, Newcastle Waters Northern Territory ("*CPC Parties*")

and

**BAINES RIVER CATTLE CO PTY LTD** (ACN 009 603 516) of 3rd Floor, 54-58 Park Street, SYDNEY NSW 2000 ("*Baines River*")

and

**ORD RIVER DISTRICT COOPERATIVE LTD** (ABN 16 026 785 781) of Lot 672 Weaber Plains Road KUNUNURRA WA 6743 **AND J.J.McDONALD AND SONS ENGINEERING PTY LTD** (ABN 30 061 012 691) of 694 Ingham Road BOHLE QLD 4818 together t/a **GREEN SWAMP AGRICULTURE** ("*Green Swamp Parties*")

## RECITALS

- A. The Parties have executed the Ord Final Agreement and the Ord Final Agreement Variation #1.
- B. This further variation is to address concerns raised by the National Native Title Tribunal regarding the requirements for registration of the Ord Final Agreement as an Indigenous Land Use Agreement.

**THE PARTIES agree as follows:**

### 1. DEFINITIONS AND INTERPRETATION

- (a) Unless the contrary intention appears, a term defined in the Ord Final Agreement has the same meaning in this deed.
- (b) Clause 2.2 (dealing with General Principles of Interpretation) of the Ord Global Final Agreement is repeated in this deed as if set out in full in this deed.

### 2. AMENDMENT AND RESTATEMENT

- 2.1 The Ord Final Agreement, including ANY variations made prior to this deed, is amended and restated so that it is in the form set out in Appendix 1 ("**Amended and Restated Ord Final Agreement**").

*Note: For ease of reference, words which have been deleted from the Ord Final Agreement by this Variation #2 are shown as strikethrough text in the Amended and Restated Ord Final Agreement, denoting that deletion. Words that have been inserted into the Ord Final Agreement by this Variation #2 are shown as underlined text in the Amended and Restated Ord Final Agreement.*

- 2.2 The Ord Final Agreement shall be deemed to have been executed in the form of the Amended and Restated Ord Final Agreement, such that all amendments incorporated into the Amended and Restated Ord Final Agreement shall be deemed to take effect from the date of execution of the Ord Final Agreement by all parties.
- 2.3 Subject to clause 2.4, each Party releases the other Party for any matter or thing done and waives all rights in relation to such matter or thing to the extent

to which the operation of clause 2.2 would result in a Party breaching any term of the Ord Final Agreement.

- 2.4 The release and waiver in clause 2.3 applies to any matter or thing done prior to the date of this deed and only if such matter or thing was done in compliance with the provisions of the Ord Final Agreement prevailing at the time.

**3. REFERENCES**

On and from the date of the Ord Final Agreement, any reference in any document (other than this deed) to the Ord Final Agreement is a reference to the Amended and Restated Ord Final Agreement.

**4. GOVERNING LAW**

This document is governed by the law in force in Western Australia.

**5. GENERAL**

- 5.1 Each Party must pay its own expenses incurred in negotiating, executing and registering this deed.
- 5.2 Each Party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that the other Party may reasonably require to give full effect to this deed.
- 5.3 This deed can only be amended, supplemented, replaced or novated by another document signed by the Parties.
- 5.4 If the Parties agree in writing, this deed may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument. A Party may execute this deed by signing any counterpart.

EXECUTED BY THE PARTIES AS A DEED:

SIGNED for and on behalf of THE )  
STATE OF WESTERN AUSTRALIA )  
by the ACTING PREMIER, the Hon )  
ERIC RIPPER, MLA, in the presence of: )



HON ERIC RIPPER, MLA  
ACTING PREMIER



Signature of witness

CHRISTINE MARIA BOLT

Full name of witness (block letters)

22 BARDWELL ST THORNIE WA

Address of witness

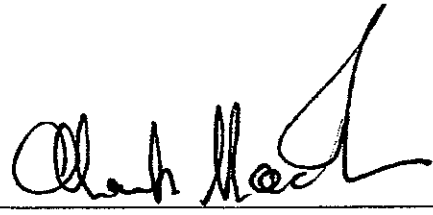
PUBLIC SERVANT

Occupation of witness

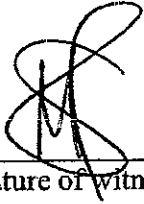
14/1/06

Date

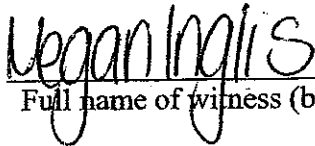
The COMMON SEAL was hereunto )  
affixed on behalf of THE STATE OF )  
WESTERN AUSTRALIA by the )  
MINISTER FOR LANDS, a body )  
corporate under section 7 of the Land )  
Administration Act 1997 (WA), in the )  
presence of:



HON ALANNAH MacTIERNAN,  
MLA MINISTER FOR LANDS



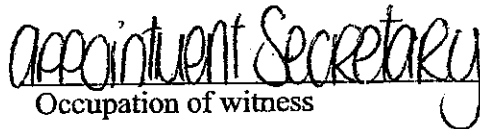
Signature of witness



Full name of witness (block letters)



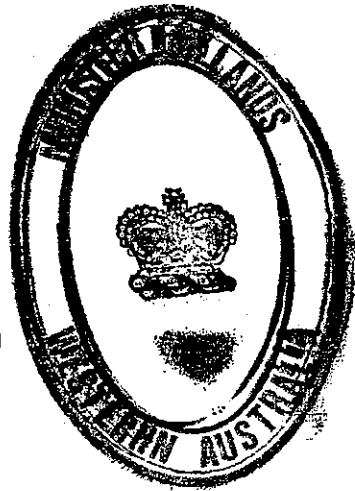
Address of witness



Occupation of witness



Date



The COMMON SEAL of the )  
WESTERN AUSTRALIAN )  
LAND AUTHORITY was )  
hereunto affixed in with the )  
authority of its Board in the )  
presence of: )



*R. Holt*

CHIEF EXECUTIVE OFFICER

*Terry Budge*

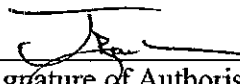
BOARD MEMBER

ROSS HOLT  
Full Name (printed)

TERRY BUDGE  
Full Name (printed)

3/2/06  
Date

Executed by the )  
CONSERVATION )  
COMMISSION OF WESTERN )  
AUSTRALIA by an authorised )  
member in accordance with section )  
26AB of the *Conservation and* )  
*Land Management Act 1984* in the )  
presence of: )

  
\_\_\_\_\_  
Signature of Authorised Member

JOHN BAILEY  
\_\_\_\_\_  
Full Name of Authorised Member  
(printed)

  
\_\_\_\_\_  
Signature of Witness

WILLIAM MAXWELL OICE CARR  
\_\_\_\_\_  
Full Name of Witness (printed)

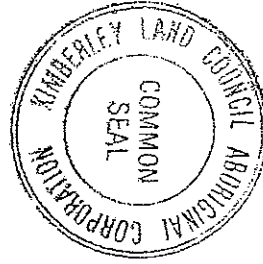
DIRECTOR CONSERVATION COMMISSION  
\_\_\_\_\_  
Occupation of Witness

AUSTRALIA DRIVE CRAWLEY WA  
\_\_\_\_\_  
Address of Witness

8 Feb 2006  
\_\_\_\_\_  
Date



The COMMON SEAL of the )  
KIMBERLEY LAND COUNCIL )  
ABORIGINAL CORPORATION )  
was hereunto affixed with the )  
authority of its Board in the )  
presence of: )



  
CHIEF EXECUTIVE OFFICER

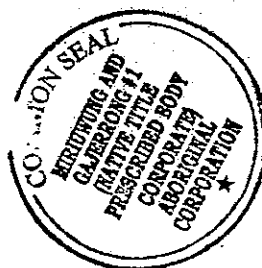
  
BOARD MEMBER

WAYNE BERGMANN  
Full Name (printed)

FRANK SEBASTIAN  
Full Name (printed)

15<sup>th</sup> December 2005  
Date

The Common Seal of )  
MIRIUWUNG AND )  
GAJERRONG #1 (NATIVE )  
TITLE PRESCRIBED BODY )  
CORPORATE) ABORIGINAL )  
CORPORATION was hereto )  
affixed in accordance with its rules )  
and pursuant to the certification )  
documents dated 12 September 2005 )  
as required by rule 9, in the presence )  
of: )



*Ben Ward*  
Committee Member Signature

Ben Ward  
Full Name of Committee Member

*Julie M Melbourne*  
Witness Signature

Julie M Melbourne  
Full Name of Witness (printed)

Solicitor  
Occupation of Witness

Speargrass Rd, Kununurra  
Address of Witness

X  
Committee Member Signature

DANNY WALLACE  
Full Name of Committee Member

*Julie M Melbourne*  
Witness Signature


Julie M Melbourne  
Full Name of Witness (printed)

Solicitor  
Occupation of Witness

Speargrass Rd, Kununurra  
Address of Witness

NANCY DILYAI  
Committee Member Signature

Nancy Dilyai  
Full Name of Committee Member

  
Witness Signature

Julie M Melbourne  
Full Name of Witness (printed)

Solicitor  
Occupation of Witness

Speargrass Rd, Kununurra  
Address of Witness

SIGNED BY THE MG#4 CLAIMANTS

By executing this deed the signatories represented warrant that they are authorised to execute this deed on behalf of the MG#4 Claimants and all persons included in the native title claim group.

Executed by Paddy Carlton for and on behalf of the MG#4 Claimants in the presence of:

*Julie M Melbourne*

Signature of witness

Julie M Melbourne

Full Name of witness (printed)

Speargrass Rd, Kununurra

Address of witness

Solicitor

Occupation of witness

)  
)  
) PADDY CARLTON

PADDY CARLTON

*PAC*

Executed by Danny Wallace for and on behalf of the MG#4 Claimants in the presence of:

*Julie M Melbourne*

Signature of witness

Julie M Melbourne

Full Name of witness (printed)

Speargrass Rd, Kununurra

Address of witness

Solicitor

Occupation of witness

)  
)  
)

*X*

DANNY WALLACE

Executed by Chocolate Thomas for and on )  
behalf of the MG#4 Claimants in the )  
presence of: )

*Julie M Melbourne*  
Signature of witness

Julie M Melbourne  
Full Name of witness (printed)

Speargrass Rd, Kununurra  
Address of witness

Solicitor  
Occupation of witness

CHOCOLATE THOMAS  
CHOCOLATE THOMAS

Executed by Jerry Moore for and on )  
behalf of the MG#4 Claimants in the )  
presence of: )

*Julie M Melbourne*  
Signature of witness

Julie M Melbourne  
Full Name of witness (printed)

Speargrass Rd, Kununurra  
Address of witness

Solicitor  
Occupation of witness

Jerry Moore  
JERRY MOORE

Executed by Ben Ward for and on behalf of the MG#4 Claimants in the presence of: )  
)  
)

*Julie M Melbourne*  
Signature of witness

*Ben Ward*  
BEN WARD

Julie M Melbourne  
Full Name of witness (printed)

Speargrass Road

Kununurra  
Address of witness

Solicitor  
Occupation of witness

Executed by Kim Aldus for and on behalf of the MG#4 Claimants in the presence of: )  
)  
)

*DG Hill*  
Signature of witness

*Kim Aldus*  
KIM ALDUS

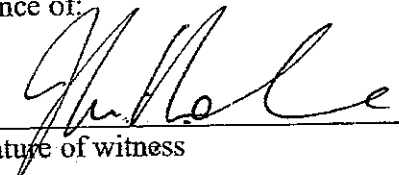
Desmond George Hill  
Full Name of witness (printed)

3 Eugenia Street - Kny  
Address of witness

Co-ordinator  
Occupation of witness

Executed by Frank Chulung for and on  
behalf of the MG#4 Claimants in the  
presence of:

)  
)  
)

  
Signature of witness

  
FRANK CHULUNG

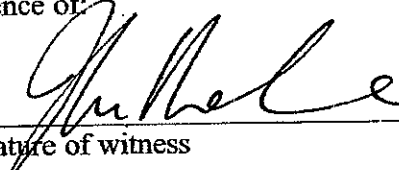
Julie M Melbourne  
Full Name of witness (printed)

Speargrass Rd, Kununurra  
Address of witness

Solicitor  
Occupation of witness

Executed by Nancy Dilyai for and on  
behalf of the MG#4 Claimants in the  
presence of:

)  
)  
)

  
Signature of witness

NANCY DILYAI  
NANCY DILYAI

Julie M Melbourne  
Full Name of witness (printed)

Speargrass Rd, Kununurra  
Address of witness

Solicitor  
Occupation of witness

Executed by Sheba Dignari for and on )  
behalf of the MG#4 Claimants in the )  
presence of: )

*[Handwritten Signature]*

Signature of witness

Julie M Melbourne

Full Name of witness (printed)

Speargrass Rd, Kununurra

Address of witness

Solicitor

Occupation of witness

+

SHEBA DIGNARI

Executed by Maggie John for and on )  
behalf of the MG#4 Claimants in the )  
presence of: )

*[Handwritten Signature]*

Signature of witness

Julie M Melbourne

Full Name of witness (printed)

Speargrass Rd, Kununurra

Address of witness

Solicitor

Occupation of witness

MAGGIE

MAGGIE JOHN



Executed by Pamela Simon for and on  
behalf of the MG#4 Claimants in the  
presence of:

)  
)  
)

  
Signature of witness

Julie M Melbourne  
Full Name of witness (printed)

Speargrass Rd, Kununurra  
Address of witness

Solicitor  
Occupation of witness

  
PAMELA SIMON

Executed by Carol Hapke for and on  
behalf of the MG#4 Claimants in the  
presence of:

)  
)  
)

  
Signature of witness

Julie M Melbourne  
Full Name of witness (printed)

Speargrass Rd, Kununurra  
Address of witness

Solicitor  
Occupation of witness

  
CAROL HAPKE

9 December, 2005  
Date

Executed by **CONSOLIDATED** )  
**PASTORAL COMPANY PTY** )  
**LIMITED (ACN 010 080 654)** by )  
its attorney who states that at the date )  
of his execution hereof he has had no )  
notice of the revocation of the Power )  
of Attorney dated 28 September )  
2005 under the authority of which he )  
has executed this Deed in the )  
presence of )  
)



Witness Signature

C. HAWKER

Full Name of Witness

PUBLIC SERVANT

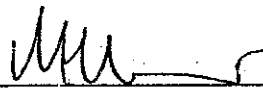
Witness Occupation

177 ST GEORGE TCE

Witness Address

13-1-06

Date



Signature of Attorney

Mr Hunt

Name of Attorney

Executed by **CARLTON HILL** )  
**PTY LIMITED (ACN 009 624 159)** )  
by its attorney who states that at the )  
date of his execution hereof he has )  
had no notice of the revocation of the )  
Power of Attorney dated 28 )  
September 2005 under the authority )  
of which he has executed this Deed )  
in the presence of )



\_\_\_\_\_  
Witness Signature

CHRISTY HAWKER

\_\_\_\_\_  
Full Name of Witness

PUBLIC SERVANT

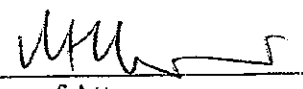
\_\_\_\_\_  
Witness Occupation

177 ST. GEORGES TCE

\_\_\_\_\_  
Witness Address

13-1-06

\_\_\_\_\_  
Date




\_\_\_\_\_  
Signature of Attorney

MW HUNT

\_\_\_\_\_  
Name of Attorney

Executed by CROSSWALK PTY )  
LTD (ACN 009 448 739) by its )  
attorney who states that at the date of )  
his execution hereof he has had no )  
notice of the revocation of the Power )  
of Attorney dated 28 September )  
2005 under the authority of which he )  
has executed this Deed in the )  
presence of )

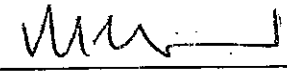
  
\_\_\_\_\_  
Witness Signature

CHRISTY HAWKER  
\_\_\_\_\_  
Full Name of Witness

PUBLIC SERVANT  
\_\_\_\_\_  
Witness Occupation

197 ST. GEORGE TCE  
\_\_\_\_\_  
Witness Address

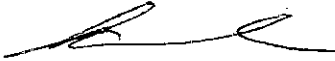
13.1.06  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Signature of Attorney  
M W HUNG  
\_\_\_\_\_  
Name of Attorney

Executed by BAINES RIVER )  
CATTLE COMPANY PTY LTD )  
(ACN 009 603 516) by its attorney )  
who states that at the date of his )  
execution hereof he has had no )  
notice of the revocation of the Power )  
of Attorney dated 28 September )  
2005 under the authority of which he )  
has executed this Deed in the )  
presence of )



Signature of Attorney



Witness Signature

MW HUNT

Name of Attorney

CHRISTY HAWKER

Full Name of Witness

PUBLIC SERVANT

Witness Occupation

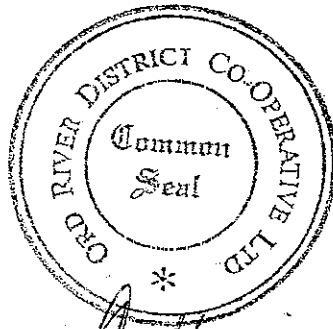
177 ST. GEORGETT

Witness Address

13.1.06

Date

The Common Seal of **ORD RIVER** )  
**DISTRICT CO-OPERATIVE** )  
**LTD (ABN 16 026 785 781)** was )  
duly affixed by authority of the )  
Directors in the presence of: )



*[Handwritten signature]*  
\_\_\_\_\_  
Director

*[Handwritten signature]*  
\_\_\_\_\_  
Director/ Secretary

*LINDSAY INNES*  
\_\_\_\_\_  
Name of Director

*JOANNE CULLIMORE*  
\_\_\_\_\_  
Name of Director/ Secretary

*18.01.2006*  
\_\_\_\_\_  
Date

Executed by J.J. MCDONALD AND )  
SONS ENGINEERING PTY LTD )  
(ACN 061 012 691) by its attorney )  
who states that at the date of his )  
execution hereof he has had no notice )  
of the revocation of the Power of )  
Attorney dated 29 September 2005 )  
under the authority of which he has )  
executed this Deed in the presence of )



Witness Signature

  
Signature of Attorney

CLAYTON BLOOR  
Name of Attorney

KARL HILL

Name of Witness

163 VELLGROVE AVE

PARKWOOD, PUBLIC SERVANT

Witness Address & Occupation

7/2/06

Date

