

Argyle Diamond Mine Participation Agreement: Management Plan Agreement

**Argyle Diamonds Limited and Argyle Diamond Mines Pty
Limited**

and

Traditional Owners

Freehills

QV.1 Building 250 St Georges Terrace Perth Western Australia 6000 Australia
Telephone +61 8 9211 7777 Facsimile +61 8 9211 7878
www.freehills.com DX 104 Perth

SYDNEY MELBOURNE PERTH BRISBANE HANOI HO CHI MINH CITY SINGAPORE
Correspondent Offices JAKARTA KUALA LUMPUR

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In this paper is the agreement between Argyle, Traditional Owners for the mine area and the Kimberley Land Council. This paper carries all the rules to make sure that we treat each other properly. It has taken many years and a lot of hard work to make this agreement. We are very proud to sign it. With this agreement as a start, we can make the future better for Traditional Owners and Argyle.

There are two parts to the agreement between Argyle and Traditional Owners. This part is called the Management Plan Agreement and the other part is called the ILUA. The Management Plans say how Argyle and Traditional Owners will work together to look after the country, help Traditional Owners get training and jobs at the mine and make new Aboriginal businesses.

The rules in the ILUA are very hard to change, but the rules in these Management Plans can change if Argyle and Traditional Owners agree.

The English in these agreements is very high. It was written in a High English that lawyers and the courts can understand. To make it easier for people who don't know this kind of English, we have put in some plain English boxes to help people understand.

This part of the agreement is made up of 11 different parts called *clauses*. Each clause talks about a different idea. There are plain English boxes at the start of each clause to help you understand what it is talking about. At the back of the agreement are 7 different parts called *schedules*. Schedules give people extra information about what is in the agreement. The schedules have maps and other things that help people understand the agreement. At the start of every *schedule* there is a plain English box to help you understand what is in it.

The plain English boxes don't say everything that is in a clause – only the main ideas.

For people that can't read, we have made a video that tells people about the main things in this agreement between Argyle and Traditional Owners.

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Here we say who is in this agreement. This agreement is between Argyle Diamonds, Traditional Owners for the mine area and the Kimberley Land Council.

This Argyle Diamond Mine Participation Agreement - Management Plan Agreement

is made on _____ between the following parties:

- 1 **Argyle Diamonds Limited** (ABN 36 009 102 621) and **Argyle Diamond Mines Pty Limited** (ABN 52 008 912 418)
both of 2 Kings Park Road, West Perth, Western Australia
(together **Argyle**)
- 2 **George Dixon, Evelyn Hall and Patsy Hall on their own behalf, and on behalf of the Mandangala/Tiltuwam dawang (dawaam) comprised of the Toby, Dixon, Hall and Curtin families, and on behalf of all other Miriwung, Gidja, Wularr and Malgnin people who have Traditional Rights in the Agreement Area**
- 3 **Goody Barrett, Chocolate Thomas, Lena Nyadbi, Madigan Thomas, Larry Thomas and Norman Thomas on their own behalf, and on behalf of the Mandangala/Tiltuwam dawang (dawaam) comprised of the Thomas and Barrett families, and on behalf of all other Miriwung, Gidja, Wularr and Malgnin people who have Traditional Rights in the Agreement Area**
- 4 **Churchill Cann, Nancy Nodea and Maggie John on their own behalf, and on behalf of the Yunurr/Yalangga dawang (dawaam), and on behalf of all other Miriwung, Gidja, Wularr and Malgnin people who have Traditional Rights in the Agreement Area**
- 5 **Peggy Patrick, Mona Ramsay, Ronnie Ramsey, Fred Timms and Clancy Patrick on their own behalf, and on behalf of the Neminuwarlin dawang (dawaam), and on behalf of all other Miriwung, Gidja, Wularr and Malgnin people who have Traditional Rights in the Agreement Area**
- 6 **Nancy Dilyai, Phyllis Ningamarra and Jeff Janama on their own behalf, and on behalf of the Balaburr dawang (dawaam), and on behalf of all other Miriwung, Gidja, Wularr and Malgnin people who have Traditional Rights in the Agreement Area**
- 7 **Ben Ward, Ruth Ward and Marjorie Brown on their own behalf, and on behalf of the Bilbidjing dawang (dawaam), and on behalf of all other Miriwung, Gidja, Wularr and Malgnin people**

who have Traditional Rights in the Agreement Area

- 8 Una Morgan, Frank Sampi, Morton Moore, Tiger Moore and Charlie Martin on their own behalf, and on behalf of the Dundun dawang (dawaam), and on behalf of all other Miriwung, Gidja, Wularr and Malignin people who have Traditional Rights in the Agreement Area**

Recitals

- A. Argyle Diamonds Limited is the owner of the Argyle Diamond Mine. Argyle Diamond Mines Pty Limited is the manager of the Argyle Diamond Mine. Together they hold the Granted Argyle Interests and operate the Argyle Diamond Mine in the Agreement Area.
- B. The TOs hold Traditional Rights in the Agreement Area.
- C. Argyle and the TOs have at the same time as the execution of this agreement, executed the Argyle Diamond Mine Participation Agreement – Indigenous Land Use Agreement which is intended to be an Indigenous Land Use Agreement that will be registered under the Native Title Act 1993.
- D. The purpose of this agreement is to record how Argyle and the TOs have agreed to manage their ongoing day to day relationship. This includes how the TOs and Local Aboriginal Communities may benefit from:
- (1) opportunities to gain further employment;
 - (2) training programs;
 - (3) greater involvement in protection of cultural heritage and land management; and
 - (4) more business opportunities with Argyle.
- E. It is intended that by recording these commitments in this agreement it will provide Argyle and the TOs with an agreed and transparent basis for their continuing relationship.
- F. The Management Plan Agreement may be amended by agreement to provide Argyle and the TOs with greater flexibility to manage their day to day relationship.
- G. Argyle and the TOs have also agreed to establish a TO Relationship Committee and to develop Management Plans dealing with the key aspects of the ongoing relationship between Argyle and the TOs at the Mine.

The parties agree

that in consideration of, among other things, the mutual promises contained in this agreement, the parties agree:

1 Term

Here we say how long this agreement lasts.

This agreement starts when everyone has signed and finishes up when Argyle gives up all its mining leases in the agreement area.

1.1 This agreement:

- (a) commences immediately after both this agreement and the ILUA have been signed by all parties to those documents; and
- (b) terminates upon the termination of the last continuing Management Plan.

2 Relationship Principles

Here we promise that we are going to live and work together with respect. Argyle recognises the rights of Traditional Owners and Traditional Owners respect Argyle's right to run a business. Argyle and Traditional Owners will be honest and open with each other and will work together to keep the mine running for a long time. Argyle and Traditional Owners will also work together to make sure that Traditional Owners get more work from the mine.

That way both Traditional Owners and Argyle are better off.

2.1 The parties agree that their relationship is based upon the following principles:

- (a) mutual respect and recognition, including respect for Argyle's responsibilities in running the Argyle Operations as a commercial business and respect for the TOs' Traditional Rights;
- (b) good faith in all interactions;
- (c) mutual collaboration with the common objective being the long term operation of the Argyle Operations; and
- (d) enhancing the TOs' participation in the Argyle Operations.

3 Management Plans

Here we say: "For Argyle and the Traditional Owners to live and work together properly there are lots of things that Argyle and the Traditional Owners have to do. All of these things are written down in the Management Plans in this agreement. We promise to do the things that the management plans say."

3.1 The Management Plans form part of this agreement and are binding upon and enforceable by the parties according to their terms.

4 TO Relationship Committee and Executive Officer

Here we say: "It is very important that Argyle and Traditional Owners work together properly, following the rules in our agreement. We want to work together in a strong and open way. So we are setting up the Traditional Owner Relationship Committee to make sure our agreement works properly."

This Committee will have 4 Argyle people on it and 26 Traditional Owners on it.

The Committee will meet every 3 months to make sure that everyone is doing what they promised in this Agreement. If something is going wrong then the Committee can fix it.

This part tells how this committee will work.

Establishment of TO Relationship Committee

The Traditional Owner Relationship Committee will have 4 Argyle people on it and 26 Traditional Owners. 8 of these 26 Traditional Owners will come from the Toby, Dixon, Hall and Curtin families. 8 more will come from the Thomas and Barrett families. Then there will be two each from Bilbidjing, Neminuwarlin, Yunurr/Yalangga and Dundun.

- 4.1 The TO Relationship Committee is established and comprises 4 Argyle Representatives and 26 TO Representatives.
- 4.2 Subject to clause 4.4, Argyle will by notice in writing nominate the Argyle Representatives, at least one of whom must be at General Manager level within Argyle, and one of whom will be the Business Development Facilitator engaged by Argyle under the Business Development Management Plan, and specify each representative's address for service. Argyle may, by notice in writing, nominate up to 2 proxies for the Argyle Representatives.
- 4.3 Subject to clause 4.4, the TOs will nominate by notice in writing the TO Representatives for each of the estate groups in column A below nominating the number of representatives listed in column B below, and specify each representative's address for service. The Mandangala/Tiltuwam estate group comprised of the Toby, Dixon, Hall and Curtin families and the Mandangala/Tiltuwam estate group comprised of the Thomas and Barrett families may each nominate, by notice in writing, up to 3 proxies for their representatives. The remaining estate groups listed in Column A below may each nominate, by notice in writing, up to 2 proxies for their representatives.

	Column A	Column B
(1)	Mandangala/Tiltuwam comprised of the Toby, Dixon, Hall and Curtin families	8 representatives
(2)	Mandangala/Tiltuwam comprised of the Thomas and Barrett families	8 representatives
(3)	Bilbidjing	2 representatives

(4)	Neminuwarlin	2 representatives
(5)	Yunurr/Yalangga	2 representatives
(6)	Dundun	2 representatives
(7)	Balaburr	2 representatives

- 4.4 At the Commencement Date the Argyle Representatives, the TO Representatives, the Argyle proxies, the TO proxies and their respective addresses for service are set out at **Schedule 2** to this agreement.
- 4.5 The establishment of the TO Relationship Committee under clause 4.1 is not intended to create, nor will it be construed as creating, any partnership, joint venture, fiduciary obligation or any other obligation or liability with regard to Argyle and the TOs, except as expressly provided in this agreement.

Functions

There are a lot of jobs that the Committee has to do. The Committee has to watch how things in the Management Plans are running and think about ways to make them run better.

- 4.6 The functions of the TO Relationship Committee are to:
- (a) foster and maintain a positive relationship between the parties in accordance with the relationship principles set out at clause 2;
 - (b) monitor the ongoing implementation of the Management Plans and make recommendations to the parties as to how particular Management Plans should be implemented and how implementation of those Management Plans could be improved;
 - (c) having regard to clause 4.6.(d), conduct a regular review in relation to each Management Plan and provide to Argyle and the TOs reports succinctly addressing:
 - (1) the effectiveness of implementation and resourcing;
 - (2) the operational successes and difficulties;
 - (3) recommendations for variation of the content or implementation of each Management Plan;
 - (4) the matters set out in clause 4.6(a)-(c) inclusive.
 - (d) conduct a review of the type set out in 4.6(c) annually, unless the TO Relationship Committee resolves that it is not necessary to conduct such a review in any given year;
 - (e) conduct reviews as specified in particular Management Plans addressing the matters set out at clauses 4.6(c)(1)-(3), and any additional matters specified in the particular Management Plan;
 - (f) undertake the responsibilities set out in the Management Plans which include:
 - (1) identification of general employment opportunities for TOs;

- (2) making recommendations about the manner in which Argyle may assist the TOs in developing a career path (moving up the ladder) with Argyle;
 - (3) making recommendations about employment practices which could be implemented by Argyle which would assist the TOs in obtaining, and retaining employment with Argyle. Examples of employment practices which could be considered are mentoring schemes, leave arrangements and flexible work practices;
 - (4) promoting participation in the annual tour of Argyle Operations and undertaking a review of the annual tour report; and
 - (5) set timeframes for negotiations between Argyle and the TOs in relation to the possible transfer of Infrastructure;.
- (g) develop joint approaches by Argyle and the TOs to Local, State and Commonwealth governments, Governmental Agencies and any others as agreed, for partnerships to assist in the delivery of the objectives in the Management Plans.

Powers

This part says that the Committee can do anything to get its job done. The Committee can get help to do its job. It can ask other people to do some work and it can get good advice from people that understand Committee business.

- 4.7 The TO Relationship Committee has all powers it needs to perform the Functions, including the power to:
- (a) take advice from qualified advisors in relation to the performance of a Function;
 - (b) delegate, in writing, the performance of specific parts of any Function, except that the TO Relationship Committee may not delegate:
 - (1) this power of delegation; or
 - (2) the overall performance of a Function; and
 - (c) revoke, in writing, any delegation made under (b).

Subcommittees

The Committee can set up smaller committees to work on different things. These are called sub-committees. The Committee can put whoever they like on these sub-committees, so long as they understand that business. There is already one sub-committee set up in this agreement called the Business Development Taskforce. That sub-committee's job is to help Aboriginal businesses.

- 4.8 The TO Relationship Committee may establish subcommittees responsible for the review and administration of specific Management Plans or parts of Management Plans as required and appoint persons with relevant knowledge and experience to sit on those subcommittees including persons who are not Argyle Representatives or TO Representatives. The members of any subcommittee established by the TO Relationship Committee will not be paid for sitting on that committee.

- 4.9 There is 1 permanent subcommittee being the Business Development Taskforce. Members of the Business Development Taskforce will not be remunerated.
- 4.10 The powers and functions of the Business Development Taskforce are set out in Management Plan 7.

Representatives

This part says that people can stay on the Committee until the end of the mine. Argyle and the different families can change who goes on the Committee. People on the Committee must try to go to every meeting and do their job properly. If someone on the Committee is not doing their job, then they can get kicked off the Committee, as long as everyone else agrees.

- 4.11 Argyle and the TOs must each appoint and at all times maintain their representatives on the TO Relationship Committee.
- 4.12 Each representative will hold their position for the term of this agreement or until that representative is replaced under this clause.
- 4.13 If a party wishes to replace one of its representatives at any time, that party may do so by giving written notice of the replacement and that replacement's address for service to the other party.
- 4.14 If the TO Relationship Committee holds the otherwise unanimous opinion that a particular representative is not, or has become incapable of, fulfilling that representative's responsibilities as a member of the TO Relationship Committee set out in clause 4.15, the TO Relationship Committee may remove the representative in question and Argyle or the TOs, as applicable, must appoint a replacement representative.
- 4.15 The Argyle Representatives and the TO Representatives must use their best endeavours:
- (a) to ensure that the TO Relationship Committee performs the Functions; and
 - (b) to attend all TO Relationship Committee meetings of which they have been notified.
- 4.16 Argyle and the TOs must use their best endeavours to ensure that their representatives attend notified TO Relationship Committee meetings.

Training

The Committee will have some workers to help it do the job. These workers are called the Secretariat. The Secretariat will make sure that people on the Committee can get training to help them do the job.

- 4.17 The Secretariat will arrange training as necessary to ensure that all members of the TO Relationship Committee have the knowledge and capabilities required to fulfil their obligations as members of the TO Relationship Committee. Relevant knowledge and capabilities will include:
- (a) an understanding of the ILUA, the Management Plans and other related documents;

- (b) an understanding of the Argyle Operations, of Argyle's employment structure and of relevant Argyle policies and procedures;
 - (c) an understanding of TO Relationship Committee meeting procedures and documentation;
 - (d) a capacity to comprehend and assess budgets and other financial statements relevant to the TO Relationship Committee;
 - (e) a capacity to comprehend and assess written and oral reports relevant to the Management Plans; and
 - (f) an understanding of the role of independent advisors in the work of the TO Relationship Committee.
- 4.18 In assessing a representative's understanding or capacity under clause 4.17 and the delivery of training, the Secretariat will take into account the nature and extent of the support which will be provided to that representative by the Executive Officer.

Co-Chairs

The Committee will have two Chairmen. Argyle will put up one of these Chairmen. Traditional Owners will put up the other Chairman, and a Deputy as well – one woman and one man. The main job of these Chairpeople is to talk for the Committee, to Argyle, Traditional Owners or Secretariat workers. Chairpeople can stay in this job for 3 years.

- 4.19 The TO Relationship Committee will have 2 Co-Chairs and a Deputy TO Chairperson at all times.
- 4.20 The TO Representatives must appoint a Chairperson and a Deputy Chairperson of the opposite gender to the TO Chairperson, each selected from the TO Representatives and the Argyle Representatives must appoint a Chairperson selected from the Argyle Representatives.
- 4.21 One of the Co-Chairs as at the Commencement Date is Simon Nish. The other Co-Chair and the Deputy Chairperson will be nominated by the TO Representatives at the first TO Relationship Committee meeting from Evelyn Hall and Chocolate Thomas.
- 4.22 The term of each Chairperson and the Deputy Chairperson is fixed at 3 years, subject to earlier resignation or removal, or extension of the term due to failure to appoint a replacement.
- 4.23 At least 28 days before the expiration of the term of a Chairperson or Deputy Chairperson, the representatives of the party that appointed that Chairperson must appoint a replacement Chairperson.
- 4.24 In the event that no replacement is appointed the Chairperson's term will be extended until such appointment is made.
- 4.25 If a Chairperson ceases to be an Argyle Representative or a TO Representative or resigns as Chairperson of the TO Relationship Committee the representatives who appointed that Chairperson must appoint a replacement Chairperson.
- 4.26 The 2 Co-Chairs will hold their appointments at the same time. The Co-Chairs' functions are to jointly:

- (a) chair TO Relationship Committee meetings;
 - (b) represent the TO Relationship Committee in its dealings with Argyle and TOs;
 - (c) report to Argyle and TOs as to the work of the TO Relationship Committee; and
 - (d) provide direction to and supervision of the Secretariat in accordance with any resolutions of the TO Relationship Committee.
- 4.27 The functions in clauses 4.26 are to be performed by cooperation between the Co-Chairs.
- 4.28 The TO Chairperson has the following additional duties and functions:
- (a) to ascertain decisions of the TO Representatives and communicate those decisions to the TO Relationship Committee or Argyle as required by this agreement; and
 - (b) to ascertain decisions of the TOs and communicate those decisions to the TO Relationship Committee or Argyle as required by this agreement.
- 4.29 The Argyle Chairperson also has the function to ascertain decisions of Argyle and the Argyle Representatives and communicate those decisions to the TO Relationship Committee or the TOs as required by this agreement.
- 4.30 If at any time an Executive Officer has not been appointed then the TO Chairperson has the additional duties and functions set out in clause 4.64.
- 4.31 The Deputy Chairperson will perform the functions of the TO Chairperson where it is not culturally appropriate for a person of the gender of the TO Chairperson from time to time to exercise a particular function.

Secretariat

The Committee will have some workers to help them. These workers are called the Secretariat. Argyle will pay for these workers and give them an office. These workers will help Traditional Owners on the Committee get to meetings, write up the agenda and the minutes for meetings and many other things.

- 4.32 Argyle will establish a Secretariat to support the TO Relationship Committee.
- 4.33 Argyle will pay the costs of the Secretariat and provide the Secretariat with an office and administrative support. The Secretariat is likely to be staffed by Argyle employees, who will be responsible for fulfilling the duties of the Secretariat, in addition to other responsibilities as Argyle employees. The costs of the Secretariat will form part of the Annual Budget set out in clause 4.54.
- 4.34 The Secretariat will be subject to day to day directions from Argyle, but must also follow any directions given to the Secretariat by the TO Relationship Committee in relation to the Functions and the Secretariat's duties under 4.35.
- 4.35 The duties of the Secretariat include, but are not limited to:
- (a) convening TO Relationship Committee meetings;
 - (b) preparing and serving notices, agenda and any other information which the Secretariat reasonably considers appropriate for proposed TO Relationship Committee meetings;

- (c) preparing and distributing minutes of TO Relationship Committee meetings to Argyle and the TOs;
- (d) before and after TO Relationship Committee meetings, organising and chairing or ensuring that there is an appropriate person to chair meetings with Local Aboriginal Communities to inform them of the matters under discussion at TO Relationship Committee meetings;
- (e) ensuring that the TO Relationship Committee operates within the Annual Budget;
- (f) assisting the TO Representatives to participate in the TO Relationship Committee meetings;
- (g) assisting the TO Relationship Committee to fulfil the Functions; and
- (h) assisting the Co-Chairs to fulfil their functions.

Meetings

There will be a Committee meeting at least every three months – or four times a year. These meetings will be at the Mine and will not last longer than 2 days. Any Traditional Owners can come to the meetings to listen, even if they are not on the Committee. Other people have to be invited.

- 4.36 There will be a standard agenda for each meeting, unless otherwise agreed. Any Argyle Representative or TO Representative may request the Secretariat to place an additional item on the agenda.
- 4.37 The standard agenda items will include:
- (a) Argyle Operations proposed to be conducted at the Mine in the coming year;
 - (b) matters arising under the Management Plan Agreement before the next TO Relationship Committee meeting;
 - (c) work program clearances proposed before the next TO Relationship Committee meeting;
 - (d) notice by Argyle of any proposed substantive changes to support provided by Argyle to Local Aboriginal Communities;
 - (e) any land management or water proposals under the Land Management Management Plan;
 - (f) any changes to Law which affect the ILUA;
 - (g) a report from the Business Development Facilitator;
 - (h) new information from Argyle concerning past operations of the Mine, that might have an impact on the TOs or the Management Plans;
 - (i) timing of the Annual Tour; and
 - (j) any other matters which the Representatives agree should be standard agenda items.
- 4.38 The Secretariat must convene a TO Relationship Committee meeting at least once every 3 months or upon request of either of the Co-Chairs.

- 4.39 The duration of a TO Relationship Committee meeting will not exceed 2 days inclusive of travelling time.
- 4.40 Unless otherwise agreed by all representatives, TO Relationship Committee meetings will be held at the Mine.
- 4.41 The TO Relationship Committee must use its best endeavours to hold meetings in person, but may also hold meetings by telephone conference, video conference or in such other manner as the TO Relationship Committee may determine from time to time.
- 4.42 TOs may attend TO Relationship Committee meetings as observers.
- 4.43 Other persons may attend TO Relationship Committee meetings by invitation of the TO Relationship Committee. Unless otherwise agreed by the TO Relationship Committee, the Secretariat and the Executive Officer are permanent invitees to TO Relationship Committee meetings.

Notice of meetings

The Secretariat has to give Committee members notice of a meeting, seven days before that meeting. The Secretariat has to tell each Committee member what the meeting is about and anything else that they need to know to understand the meeting – all 7 days before. If there is an emergency, meetings can happen sooner.

- 4.44 At least 7 days before a meeting of the TO Relationship Committee, the Secretariat must give each representative and the Executive Officer:
- (a) written notice of the time, date and place of the meeting;
 - (b) the agenda of the meeting; and
 - (c) appropriate supporting information.
- 4.45 In the case of an emergency, the Secretariat may call a TO Relationship Committee meeting and contact the representatives by phone and need only give 24 hours' notice (or such shorter period of notice as agreed and confirmed in the minutes of the meeting) of the time, date and purpose of the meeting.

Quorum

There has to be 2 Argyle people at a meeting and 14 Traditional Owners. Out of the 14 Traditional Owners there has to be 4 Traditional Owners from the Toby, Dixon, Curtin and Hall families, and 4 from the Thomas and Barrett families. If these people don't come, it is not a proper meeting. If this happens, the meeting gets put back to the next day. If enough people still don't come, the meeting can go ahead with only 1 Argyle person and 1 person from the Toby, Dixon, Curtin and Hall families and 1 person from the Thomas and Barrett families.

- 4.46 The TO Relationship Committee must not conduct any business at a meeting unless there is a quorum.
- 4.47 A quorum consists of at least 2 Argyle representatives and 14 TO representatives which must include at least 4 representatives from each of the estate groups referred to at clause 4.3(1) and (2).

- 4.48 If a quorum is not present within 2 hours from the time appointed for the start of a meeting, the meeting will be adjourned until 24 hours, or such other time as agreed by the representatives present, after the time appointed for the meeting, at the same place.
- 4.49 If a quorum is not present within 2 hours from the time appointed for the start of the adjourned meeting, the persons then present will constitute a quorum so long as there is at least 1 Argyle Representative present and at least 1 TO Representative present from each of the estate groups referred to at clause 4.3(1) and (2).

Voting and Decision making by the TO Relationship Committee

The Committee makes a decision by voting on it. The Argyle Chairman finds out what Argyle people reckon and then he puts in a vote. The Traditional Owner Chairman finds out what Traditional Owners on the Committee reckon, and then he puts in a vote. If the two Chairmen vote the same, then a decision is made. If the 2 Chairmen don't vote the same, they can vote again the next time the Committee meets, to try to make a decision.

- 4.50 The Argyle Chairperson is responsible for ascertaining the decision of the Argyle Representatives and placing 1 vote on behalf of all of the Argyle Representatives in accordance with that decision.
- 4.51 The TO Chairperson is responsible for ascertaining the decision of the TO Representatives and placing 1 vote on behalf of all the TO Representatives in accordance with that decision.
- 4.52 All resolutions of the TO Relationship Committee must be determined by unanimous vote.
- 4.53 If the vote under clauses 4.50 and 4.51 results in a resolution not being passed any party may raise the subject of the vote at a subsequent meeting of the TO Relationship Committee and provide the TO Relationship Committee with additional information to consider before taking the vote again.

Annual Budget

Argyle will pay for the Committee to run. Argyle pays sitting fees and training for Traditional Owners on the Committee. Argyle will also pay for the Committee to get proper advice from experts. The Secretariat will look after the money to run the Committee.

- 4.54 Argyle will provide the Annual Budget to the Secretariat in the annual sums set out in **Schedule 5**, for the administration of the TO Relationship Committee. The size of the Annual Budget must be adequate to enable the TO Relationship Committee to fulfil its functions in a reasonable manner. The Annual Budget will be provided as follows:
- (a) the 2004 Annual Budget will be provided within 10 Business Days of the Secretariat being established under clause 4.32; and
 - (b) thereafter, the Annual Budget will be provided on 1 July of each year until the Cessation of Production Operations or 1 July 2024, whichever is earlier.

If Cessation of Production Operations has not occurred by 1 July 2024, Argyle will provide for the reasonable costs of the Secretariat until the Cessation of Production Operations.

- 4.55 The Annual Budget will be administered by the Secretariat, who must ensure that the Annual Budget is not exceeded.
- 4.56 The Annual Budget will include allocations for the purpose of:
- (a) general administration;
 - (b) obtaining advice for the TO Relationship Committee;
 - (c) obtaining independent advice for the Argyle Representatives on the TO Relationship Committee;
 - (d) payment for attendance at committee meetings by Argyle Representatives and TO Representatives; and
 - (e) training for members of the TO Relationship Committee.
- 4.57 Each TO Representative on the TO Relationship Committee will be paid for their attendance at meetings at the Standard Argyle Rate.
- 4.58 The TO Relationship Committee must operate in an efficient manner and within the constraints of the Annual Budget.

Notice and Communication of TO Decisions

Traditional Owners will have a worker to help them follow this agreement and the ILUA. This worker is called the Executive Officer. This Executive Officer is not part of the Secretariat. Their job is to help all Traditional Owners, not just people on the Committee.

Here the Traditional Owners tell Argyle that the Executive Officer has the right to talk for them under this agreement. The Executive Officer is the right person to get letters and reports and the Executive Officer will tell Argyle about Traditional Owner decisions. This part says that if Argyle gives a letter to the Executive Officer, Traditional Owners will get it too. And if the Executive Officer tells Argyle about a decision from Traditional Owners, Argyle can be sure that Traditional Owners are behind that decision.

- 4.59 The TOs represent and warrant that they hereby authorise the person from time to time holding the position of Executive Officer, on behalf of the TOs to:
- (a) receive notices, reports and information provided by Argyle under this agreement; and
 - (b) communicate to Argyle, decisions made by the TOs under this agreement.
- 4.60 The TOs represent and warrant that they hereby authorise the TO Representatives to, on behalf of the TOs, otherwise fulfil the TOs' obligations under this agreement.
- 4.61 For the purpose of this agreement, Argyle is entitled to rely on the fact that:
- (a) any notice, report or information provided to the Executive Officer on behalf of the TOs has been communicated to the TOs; and

- (b) any action taken by the TO Representatives and any decision which is communicated to Argyle by the Executive Officer on behalf of the TOs, is authorised by the TOs.
- 4.62 Argyle will provide each TO Representative with a copy, for information purposes, of any notice, report or information provided to the Executive Officer under this clause. However, Argyle is entitled to rely on service of such a document on the Executive Officer.

Executive Officer

Traditional Owners will have a worker to help them follow this agreement and the ILUA. This worker is called the Executive Officer. This Executive Officer is not part of the Secretariat and does different things, like helping Traditional Owners on the Trusts and helping people go on Work Program Clearances and Mine Tours. The bosses for the Executive Officer will be the Trustees of the Charitable Trust, not Argyle. Argyle will put in some of the money to pay for this Executive Officer.

- 4.63 It is intended by the parties that there will be an Executive Officer.
- 4.64 The role of the Executive Officer is to assist the TOs to exercise their rights and perform their obligations under the ILUA, this agreement and the Charitable Trust and the Special Purposes Trust formed under the ILUA, by providing organisational and managerial support to TOs and by providing assistance to the trustees of the Charitable Trust and the Special Purpose Trust to establish and implement the Trusts. In addition, it is intended that the Executive Officer has the following additional duties and functions:
- (a) to provide Argyle with written notice of an address for service from time to time;
 - (b) to receive notices under this agreement on behalf of the TOs;
 - (c) to communicate decisions of the TOs to the TO Relationship Committee or Argyle as required by this agreement; and
 - (d) arrange for independent advice to the TO Representatives on the TO Relationship Committee.
- 4.65 The parties estimate that the work of the Executive Officer will be apportioned in the following percentages:
- (a) work in relation to the ILUA 10%;
 - (b) work in relation to this agreement 50%; and
 - (c) work in relation to the Charitable Trust and the Special Purpose Trust formed under the ILUA 40%.
- 4.66 It is intended by the parties, that the Executive Officer will be employed by the trustee of the Charitable Trust, as soon as practicable after the establishment of the Charitable Trust. The parties will use their best endeavours to ensure that the trustee of the Charitable Trust employs, then continues to employ, an Executive Officer for the term of this agreement.
- 4.67 Until the establishment of the Charitable Trust and the engagement of an Executive Officer by the trustee of the Charitable Trust, Argyle will, on behalf of

Argyle and the TOs who are nominated to be directors of the trustee of the Charitable Trust, engage an Executive Officer. If at any other time no Executive Officer is engaged by the Trustee of the Charitable Trust, then the parties may jointly engage an Executive Officer during such period.

- 4.68 Argyle and the TOs will jointly meet the costs of employment of the Executive Officer. The Administration Payments referred to in clauses 6.25 to 6.27 of the ILUA and payable to the trustee of the Charitable Trust until 31 December 2008, includes a component for the employment of the Executive Officer by the trustee of the Charitable Trust. In addition Argyle will make annual payments to the trustee of the Charitable Trust (**Annual Management Plan Payments**) to provide funds to the trustee of the Charitable Trust for the implementation of the Management Plans and the employment of the Executive Officer. The Annual Management Plan Payments made by Argyle in accordance with this clause will be in the sums set out in **Schedule 6**. The Annual Management Plan Payments will be paid as follows:
- (a) subject to (c), the 2004 Annual Management Plan Payment will be paid to the trustee of the Charitable Trust within 10 Business Days of the establishment of the Charitable Trust; and
 - (b) subject to (c), thereafter, the Annual Management Plan Payment will be paid to the trustee of the Charitable Trust on 1 January of each year until the Cessation of Production Operations or 1 January 2024, whichever is earlier;
 - (c) in circumstances where an Executive Officer has been engaged in accordance with clause 4.67, the Annual Management Plan Payments will be paid directly to the Executive Officer until such time as the Charitable Trust is established.

If the Cessation of Production Operations has not occurred by 1 July 2024, Argyle will provide reasonable funding to the Charitable Trust for the implementation of the Management Plans and the employment of the Executive Officer until the Cessation of Production Operations.

- 4.69 The TOs acknowledge that if, at the end of a calendar year, monies provided by Argyle under clause 4.68 have not been duly committed, such monies must be refunded to Argyle, in accordance with clause 17.1(g) of the Charitable Trust.
- 4.70 Where any clause in this agreement, including any warranty clause, refers to the Executive Officer and no Executive Officer is engaged at a given point in time, then that reference is to be read as a reference to the TO Chairperson.

5 Variation

Here we say: "This agreement can only be changed if everyone on the Relationship Committee agrees and signs their name."

- 5.1 This agreement may be varied by a unanimous vote of the TO Relationship Committee with the variations put in writing and signed by every Argyle Representative and every TO Representative present at the meeting at which the vote was cast.

- 5.2 Time periods specified in this agreement may be varied by written agreement between the Argyle Chairperson and TO Chairperson.
- 5.3 Each of the Management Plans may be varied under the procedure set out in that Management Plan.

6 Transfer and Novation

Here we say what happens if Argyle wants to sell the mine or some of its mining titles to another mining company. Before Argyle can sell any mining rights it has to make sure that the new mining company agrees to follow the rules in this agreement.

Traditional Owners will soon have to set up an Aboriginal Corporation to look after their Native Title rights. This corporation is called a Prescribed Body Corporate. This part also talks about how the Traditional Owners can hand-over to a Prescribed Body Corporate so it is part of this agreement too. If the Traditional Owners hand-over to a Prescribed Body Corporate, the Prescribed Body Corporate has to follow the rules in this agreement.

Transfer by Argyle

6.1 Subject to:

- (a) Argyle complying with all Governmental Requirements; and
- (b) Argyle procuring the third party (Substitute Party) to enter into a deed of transfer substantially in the form of **Schedule 3**.

Argyle may transfer to the Substitute Party the whole or any part of the Argyle Interests including the rights, titles and interests arising under this agreement attaching or relating to those Argyle Interests.

Transfer Effective

6.2 Any exercise by Argyle of its right under clause 6.1 will become effective on the date the deed of transfer substantially in the form of **Schedule 3** is executed by both Argyle and the Substitute Party.

Transfer by Argyle

- 6.3 Upon Argyle transferring its rights, titles and interests in a part only of any of the Argyle Interests in accordance with this agreement, Argyle will be jointly and severally liable with the Substitute Party for the performance of the obligations under this agreement in respect of the part of the Argyle Interests transferred.
- 6.4 Upon Argyle transferring its rights, titles and interests in the whole of any of the Argyle Interests in accordance with this agreement, Argyle will thereupon be released from its obligations under this agreement in respect of all the Argyle Interests, with effect from the date the deed of transfer referred to in clause 6.1 is executed by Argyle and the Substitute Party. For the avoidance of doubt, Argyle remains liable for any obligations under this agreement arising before the date at which the deed of transfer is executed by Argyle and the Substitute Party.

Novation by the TOs

6.5 Subject to:

- (a) the TOs complying with all Governmental Requirements;
- (b) a Consent Determination being made;
- (c) the TOs procuring the TO PBC to enter into a deed of novation substantially in the form of **Schedule 4**; and
- (d) Argyle and the Substitute Party agreeing to the amendments, if any, required to be made to this agreement as a result of the intended novation and documenting those amendments in the deed of novation referred to in clause 6.5(c),

the TOs may novate this agreement to the TO PBC.

Reversion to TOs

6.6 If:

- (a) the TOs enter into the deed of novation substantially in the form of **Schedule 4** and novate this agreement to the TO PBC under clause 6.5; and
- (b) following this novation, Argyle acting in accordance with the relationship principles specified in clause 2.1 forms the opinion that the TO PBC:
 - (1) has ceased to exist;
 - (2) has ceased to operate; or
 - (3) has failed to comply with its obligations under this agreement,

then this agreement will be novated back to the TOs in accordance with the terms and conditions set out in the deed of novation entered into between the parties (including the TO PBC).

6.7 For the avoidance of doubt, and without limiting any obligation imposed on the TOs under the deed of novation entered into by the parties (including the TO PBC) under clause 6.5, if this agreement is novated back to the TOs, the TOs acknowledge and agree that they will:

- (a) be responsible for, and be deemed to have carried out, any and all acts and omissions of the TO PBC in respect of this agreement;
- (b) be deemed to have received and accepted all rights, interests and benefits arising or accruing to the TO PBC in respect of this agreement; and
- (c) not, and not be entitled to, bring any claim or action against Argyle for a failure by Argyle to perform any of its obligations under this agreement where Argyle has discharged or performed such obligations for the benefit of the TO PBC.

7 Warranties

Here the Traditional Owners tell Argyle that they are the right people to make this agreement and nobody has been left out.

The Traditional Owners say to Argyle, "The people who sign this agreement have got the right to sign for us and make us part of this agreement".

The Traditional Owners also tell Argyle that lawyers and other people have given them good advice about the agreement. Traditional Owners say, "We understand what is in the agreement." And the Traditional Owners say to each other "we all have rights in this country – we can't push anyone out".

TO Warranties

- 7.1 The TOs who sign this agreement represent and warrant that the TOs:
- (a) have reviewed the Ethnography and agree that the Ethnography correctly identifies:
 - (1) all of the people who hold Traditional Rights in the Agreement Area; and
 - (2) the nature and extent of those Traditional Rights;
 - (b) are the only people who hold the Traditional Rights in relation to the Agreement Area;
 - (c) have authorised the TOs who sign this agreement to enter into this agreement on behalf of all of the TOs and that the TOs have the full power and authority to enter into and perform the TOs' obligations under this agreement;
 - (d) have received full and proper legal and financial advice during the Agreement Making Process and about the content and effect of this agreement; and
 - (e) are making this agreement on the basis of an informed understanding of its contents.

Reliance on Warranty

- 7.2 For the purposes of this agreement, Argyle is entitled to rely on:
- (a) the warranties contained in this agreement; and
 - (b) any authorisation, consent or notice given by the TOs in writing apparently in compliance with this agreement.

Survival of warranties

- 7.3 A warranty given by a Party in this agreement will not merge on the completion of the matters referred to in, or contemplated by, this agreement, but will survive that completion even if any Party has:
- (a) waived any right under this agreement; or
 - (b) failed to take proceedings for any breach.

TOs recognise each other

- 7.4 The TOs:
- (a) recognise that each Estate Group holds Traditional Rights in the Agreement Area;
 - (b) agree not to challenge the Traditional Rights of any other Estate Group; and
 - (c) recognise each others rights and obligations under this agreement.

8 Dispute Resolution

Here we say: "If we have an argument, first we will try and sort it out ourselves. If this doesn't work, then together we will ask a mediator to help us – someone separate from both sides. If the mediator can't sort it out, and we still have an argument, then we can go to court."

- 8.1 If a dispute arises between the parties in relation to this agreement:
- (a) either party may give notice in writing to the other party setting out details of the dispute; and
 - (b) the parties must use their best endeavours to resolve that dispute within the TO Relationship Committee.
- 8.2 If the parties fail to resolve the dispute within 21 days after service of a notice under clause 8.1, then either party may refer the dispute to mediation by written notice to the other party.
- 8.3 The mediation is to be conducted by an independent person appointed by agreement of the parties.
- 8.4 If the parties do not agree on the appointment of a mediator within 21 days of a referral under clause 8.2, then either party may request the President of the Law Society of WA to appoint an independent mediator who has experience in the area of the dispute and if possible, indigenous cultural experience.
- 8.5 The costs of the appointed mediator will be borne equally by the parties up to a total cost of \$20,000, after which the costs of the appointed mediator will be borne 75% by Argyle and 25% by the TOs.
- 8.6 Except to the extent of any inconsistency with this clause, the mediation will be conducted in accordance with the Mediation Rules of the Law Society of New South Wales.
- 8.7 The parties will hold the mediation in Kununurra, Western Australia unless otherwise agreed. Any resolution arising from the mediation must be put in writing signed by both parties, and will not be binding until put in writing and signed by both parties in this manner.
- 8.8 If the parties engage in the mediation process under this clause, they will do so in good faith and with the aim of reaching a resolution of the dispute. If the parties fail to achieve a resolution of the dispute by mediation within 4 weeks of the appointment of a mediator under this clause or such further time as is agreed by

the parties, either party may take such action as it considers appropriate, including commencing legal proceedings.

- 8.9 The parties acknowledge that nothing in this clause derogates from any right or entitlement of the parties to enforce their rights under this agreement.

9 General

This clause talks about a lot of different things:

- 1 *It tells Argyle and the Traditional Owners where to send papers under this agreement.*
- 2 *It says that Argyle and the Traditional Owners will still follow the laws of Western Australia, no matter what is in this agreement.*
- 3 *It says if we can't follow a rule in this agreement, because the State law blocks it, then the rest of the agreement is still OK.*
- 4 *It says that the Traditional Owners or Argyle can't give up their rights in this agreement unless they say so in writing.*
- 5 *The Traditional Owners and Argyle promise they will do everything that needs to be done to make this agreement work.*
- 6 *The Traditional Owners and Argyle agree that this new agreement takes the place of all other agreements between us.*
- 7 *It also says that Argyle and the Traditional Owners can sign separate copies of the agreement.*
- 8 *This agreement will not be kept private. Anyone can find out what is in this agreement. No secrets.*
- 9 *Argyle and the Traditional Owners will pay their own lawyers for making this agreement, but Argyle will pay any government taxes on the agreement.*

Notices

- 9.1 Any notice or other communication including any request, demand, consent or approval, to or by a party to this agreement:

(a) must be in writing and addressed as shown below:

(1) if to Argyle Diamond Mines Pty Limited:

Address: 2 Kings Park Road
WEST PERTH, WA 6005

Attention: The General Manager responsible for Community Relations

Facsimile: 08 9482 1161; and

(2) if to the TOs, to the Executive Officer:

Address: Argyle Charitable Trust
PO Box 5
Kununurra WA 6743

- (3) if to the TO Representatives, to the address for service notified to Argyle from time to time, the initial addresses for service being set out in **Schedule 2** to this agreement,
or as specified to the sender by any party by notice;
- (b) must be signed by the sender (if a natural person) or an officer or under the common seal of the sender (if a corporation);
- (c) is regarded as being given by the sender and received by the addressee:
- (1) if by delivery in person, when delivered to the addressee;
- (2) if by post, 5 Business Days from and including the date of postage;
or
- (3) if by facsimile transmission, if legibly received, when transmitted to the addressee,
- but if the delivery or receipt is on a day which is not a Business Day or is after 4.00pm (addressee's time) it is regarded as received at 9.00am on the following Business Day; and
- (d) can be relied upon by the addressee and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.

9.2 A facsimile transmission is regarded as legible unless the addressee telephones the sender within 1 Business Day after transmission is received or regarded as received under clause 9.1(c) and informs the sender that it is not legible.

9.3 In clauses 9.1 to 9.2, a reference to an addressee includes a reference to an addressee's officers, agents or employees or any person reasonably believed by the sender to be an officer, agent or employee of the addressee.

Governing law and jurisdiction

9.4 This agreement is governed by the laws of Western Australia.

9.5 The parties irrevocably submit to the exclusive jurisdiction of the courts of Western Australia.

Severance

9.6 If any clause of this agreement is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions in this agreement.

Waivers

9.7 Waiver of any right arising from a breach of this agreement or of any power arising upon default under this agreement or upon the occurrence of an event of default must be in writing and signed by the party granting the waiver.

9.8 A failure or delay in exercise, or partial exercise, of:

- (a) a right arising from a breach of this agreement or the occurrence of an event of default; or

- (b) a power created or arising upon default under this agreement or upon the occurrence of an event of default,

does not result in a waiver of that right or power.

- 9.9 A party is not entitled to rely on a delay in the exercise or non-exercise of a right or power arising from a breach of this agreement or on a default under this agreement or on the occurrence of an event of default as constituting a waiver of that right or power.
- 9.10 A party may not rely on any conduct of another party as a defence to the exercise of a right or power by that other party.
- 9.11 This clause may not itself be waived except by writing.

Further assurances

- 9.12 Each party must do all things and execute all further documents necessary to give full effect to this agreement.

Entire agreement

- 9.13 This agreement supersedes all previous agreements in respect of its subject matter, and embodies the entire agreement between the parties in respect of its subject matter.

Counterparts

- 9.14 This agreement may be executed in any number of counterparts.
- 9.15 All counterparts, taken together, constitute 1 instrument.
- 9.16 A party may execute this agreement by signing any counterpart.

To the extent not excluded by law

- 9.17 The rights, duties and remedies granted or imposed under the provisions of this agreement operate to the extent not excluded by law.

Attorneys

- 9.18 Each of the attorneys executing this agreement states that the attorney has no notice of the revocation of the power of attorney appointing that attorney.

No Confidentiality

- 9.19 The existence and terms of this agreement are not subject to any confidentiality provisions.

Costs and stamp duty

- 9.20 Each Party is responsible for its own legal and other costs and expenses but Argyle must pay the stamp duty on this agreement.

10 Tax

This clause talks about two kinds of tax that must be paid to the government: There is GST and PAYG tax. Argyle has to pay the government GST on the money it pays to Traditional Owners in the agreement. Argyle will do the paperwork for tax so it can claim some of this money back later on. Traditional Owners and Communities can't claim it.

*PAYG Tax is tax that comes out of wages. When Argyle pays Traditional Owners for work that they do, Argyle has to take tax money out of this pay to give to the government. Argyle has to take out nearly half the pay for tax, unless Traditional Owners can fill out the form in **Schedule 7** at the back of this agreement. If Argyle takes out tax from the pay, Traditional Owners can claim some back from the Government.*

GST

- 10.1 Any reference in this clause to a term defined or used in the GST Act is, unless the context indicates otherwise, a reference to that term as defined or used in the GST Act.
- 10.2 Unless expressly included, the consideration for any supply under or in connection with this agreement does not include GST. To the extent that any supply made under or in connection with this agreement is a taxable supply, the recipient must pay, in addition to the consideration to be provided under this agreement for that supply (unless it expressly includes GST) any amount (**additional amount**) equal to the amount of that consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply. The recipient must pay the additional amount at the same time as the consideration to which it is referable.
- 10.3 The supplier must issue a tax invoice to the recipient of a taxable supply to which clause 10.2 applies at the same time as payment of the GST inclusive consideration for that supply.

PAYG Withholding

- 10.4 Before making payments to the TOs under this agreement, Argyle will deduct and remit any tax which Argyle may be required by the Tax Law to deduct and remit to the Commissioner of Taxation from time to time.
- 10.5 Argyle will not be required to deduct and remit tax at the rate of 48.5% under the Tax Law provided that the TOs receiving payments under this agreement give to Argyle a written statement in the form contained in **Schedule 7** to the effect that their supply of services is made in their capacity as an individual and their supply is wholly of a private or domestic nature.

11 Dictionary

There are lots of words in this agreement that have special legal meaning. This clause gives the meaning of many important words used in this agreement.

Definitions: Agreement and Management Plans

Aboriginal Heritage Act means the *Aboriginal Heritage Act 1972 (WA)*;

Aboriginal Site means an Aboriginal site as defined in the Aboriginal Heritage Act and a Significant Aboriginal Area as defined in the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth);

Administration Payments has the meaning set out in the ILUA;

agreement means this agreement;

Agreement Area means the area of land and waters comprising the Granted Argyle Interests. A map of the agreement area as at the Commencement Date is set out in **Schedule 1** and an electronic version is contained on the disc attached at **Schedule 8**;

Agreement Making Process means the process followed by the parties in negotiating the ILUA and this agreement as set out in Schedule 1 of the ILUA;

Annual Budget means the budget for the TO Relationship Committee set out in clauses 4.54-4.58;

Annual Management Plan Payments means the payments by Argyle to the trustee of the Charitable Trust pursuant to clause 4.68 and **Schedule 6** of this agreement;

Annual Tour means the tour referred to in clause 2 of Management Plan 5;

Argyle Chairperson means the Argyle Representative appointed to the TO Relationship Committee by Argyle under clause 4.11 and appointed as the Argyle Chairperson by the Argyle Representatives under clause 4.20;

Argyle Interests means the Granted Argyle Interests, the Interests and the Future Argyle Interests;

Argyle Operations means the conduct of:

- (a) past, present and future Mining Operations within the Agreement Area including without limitation:
 - (1) the mining of ore from the Agreement Area;
 - (2) the processing, extraction and commercial sale of diamonds and other materials extracted as a by-product of diamond mining operations;
 - (3) the construction, development or installation of plant, facilities and infrastructure;
 - (4) mine development and other earth-moving or earth disturbing activities; and
 - (5) all other activities which Argyle considers to be necessary, incidental or conducive to the extraction of minerals from within the Agreement Area;
- (b) Exploration within the Agreement Area;
- (c) Decommissioning and rehabilitation of any completed Exploration or Mining Operations; and
- (d) grazing operations in the Agreement Area;

Argyle Representative means a person appointed by Argyle under clause 4.11 from time to time to represent Argyle on the TO Relationship Committee;

Balaburr dawang (dawaam) means the dawang (dawaam) identified by that name in the Ethnography;

Balaburr Genealogy means the genealogy for the Balaburr dawang (dawaam) originally prepared by Kim Barber, edited by Kim Barber and Hilary Rumley on 14 March 2003 as part of the Ethnography and which was delivered by hand to Argyle by the KLC on 8 September 2004;

Bilbidjing dawang (dawaam) means the dawang (dawaam) identified by that name in the Ethnography;

Bilbidjing Genealogy means the genealogy for Bilbidjing dawang (dawaam) originally prepared by Kim Doohan and Kim Barber dated 12 April 1997, edited by Kim Barber and Hilary Rumley on 16 May 2004 as part of the Ethnography and which was delivered by hand to Argyle by the KLC on 8 September 2004;

Business Development Facilitator means the person appointed under clause 5.2 of the Management Plan 7;

Business Development Taskforce means the subcommittee of the TO Relationship Committee established in accordance with clause 3 of Management Plan 7;

Business Days means a day which is not a weekend or public holiday in Perth Western Australia;

Cessation of Production Operations means the point in time when the mining and processing of ore within the Agreement Area has permanently ceased and Argyle notifies the TOs in writing of that fact;

Chairperson means either of the 2 persons appointed under clause 4.20;

Charitable Trust means the trust to be established under the trust deed set out in Schedule 10 of the ILUA;

Co-Chairs means both of the Argyle Chairperson and the TO Chairperson;

Claim means any claim for compensation, damages, restitution, benefits or loss however arising;

Closure means the date upon which the last of the following has occurred: Completion of Decommissioning, Argyle has complied with all Rio Tinto policies and standards and Government Requirements connected with the withdrawal of Argyle from the Argyle Operations, and the last Argyle Interest has been determined, surrendered or otherwise terminated;

Commencement Date means the date referred to in clause 1.1(a);

Completion of Decommissioning means the point in time when Argyle notifies the TOs in writing that:

- (a) Argyle has removed all mining infrastructure associated with Argyle Operations in the Agreement Area which Argyle is required to remove or wishes to remove; and
- (b) completed all major Rehabilitation;

Consent Determination means a consent determination in the form set out in Schedule 9 of the ILUA;

CPI means the Consumer Price Index for Perth or if the index is no longer in existence an equivalent index nominated by Argyle;

dawang (dawaam) means an estate or local group with Traditional Rights in an area of land and/or water;

Decommissioning means the removal by Argyle of mining infrastructure situated within the Agreement Area associated with the Argyle Operations which Argyle is required to remove or wishes to remove;

Deputy Chairperson means a TO Representative of the opposite gender to the TO Chairperson from time to time appointed under clause 4.20 of this agreement;

Designated Area means the areas of land the subject of a declaration by the Governor from time to time under section 15 of the Diamond Act, a map of which areas at the date of this agreement is set out in Schedule 8 of the ILUA;

DIA means the Department of Indigenous Affairs or other department responsible for the administration of the Aboriginal Heritage Act;

Diamond Act means the Diamond (Argyle Diamond Mines Joint Venture) Agreement Act 1981(WA);

Diamond Agreement means the agreements which form schedules to the Diamond Act;

Dundun dawang (dawaam) means the dawang (dawaam) identified by that name in the Ethnography;

Dundun (D1) Genealogy means the genealogy for the Dundun dawang (dawaam) prepared by Kim Barber and Hilary Rumley dated 25 May 2004 as part of the Ethnography and which was delivered to Argyle by hand by the KLC on 8 September 2004;

Dundun (D2) Genealogy means the genealogy for the Dundun dawang (dawaam) prepared by Kim Barber and Hilary Rumley dated 24 May 2004 as part of the Ethnography and which was delivered by hand to Argyle by the KLC on 8 September 2004;

Estate Group means each of the Balaburr dawang (dawaam), Bilbidjing dawang (dawaam), Dundun dawang (dawaam), Mandangala/Tiltuwam dawang (dawaam), Neminuwarlin dawang (dawaam) and the Yunurr/Yalangga dawang (dawaam) identified by the Ethnography;

Ethnography means the ethnographic study undertaken by Kim Barber and Hilary Rumley dated September 2004 and which study was provided to Argyle by the KLC on 23 September 2004 and which identifies the traditional owners of the Agreement Area;

Executive Officer means that person appointed under clause 4.66 of this agreement;

Exploration means any activity determined by Argyle to be necessary or desirable to explore for diamonds;

Functions means the functions of the TO Relationship Committee as set out in clause 4.6;

Future Argyle Interests means any Interest held or applied for by Argyle or granted to Argyle necessary or incidental to the conduct of the Argyle Operations and applied for or granted after the Commencement Date;

Genealogies means the Mandangala/Tiltuwam (MT1) Genealogy, the Mandangala/Tiltuwum (MT2) Genealogy, the Balaburr Genealogy, the Bilbidjing Genealogy, the Neminuwarlin Genealogy, the Dundun (D1) Genealogy, the Dundun (D2) Genealogy and the Yunurr/Yalangga Genealogy;

Governmental Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority tribunal, government Minister, agency or entity;

Governmental Requirements means Laws connected with the completion of Argyle Operations and the terms of any interest, grant, authority, consent, permit, title, requirement or permission granted or imposed by a Governmental Agency;

Granted Argyle Interests means any Interest held by Argyle in relation to the Argyle Operations and granted before the Commencement Date, and includes:

- (a) the Grazing Lease;
- (b) Mining Lease 259SA granted under the Mining Act pursuant to the Diamond Act;
- (c) Mining Leases 80/42, 80/43, 80/44, 80/45 and 80/114 granted under the Mining Act; and
- (d) Miscellaneous Licences 80/1, 80/11, 80/24 and 80/26 granted under the Mining Act;

Grazing Lease means grazing lease 3116/8547 also identified as LGE I/154304 held by Argyle and granted on 3 February 1986 under s116 of the Land Act 1933 and clause 24 of the Diamond Act;

Grazing Lease Land means the area of land contained within the Grazing Lease;

GST Act means the A New Tax System (Goods and Services Tax) Act 1999;

Infrastructure means any buildings, erections and other improvements erected on any land the subject of the Argyle Interests;

ILUA means the Argyle Diamond Mine Participation Agreement– Indigenous Land Use Agreement, entered into by Argyle, the TOs, and the Kimberley Land Council Aboriginal Corporation which the parties intend to be an Indigenous Land Use Agreement (Area Agreement) under Part 2, Division 3, subdivision C of the NTA;

Interests means the Diamond Act, the Diamond Agreement and any interest under the Diamond Act, the Diamond Agreement, or the Mining Act and any other legal or equitable interest in relation to the Argyle Operations and includes any lease, licence, grant, authority, consent, permit, title or permission granted or given to Argyle and necessary or incidental to Argyle Operations;

Law means the laws applicable in the State of Western Australia from time to time, both statutory and common law;

Local Aboriginal Communities means the Mandangala, Woolah, Warmun, Crocodile Hole and Juwulinypany Communities and any other Aboriginal

community which Argyle considers in its absolute discretion should be consulted about Argyle Operations;

Management Plan means a management plan formed by the parties to this agreement and annexed to this agreement as varied from time to time in accordance with the variation clause of that management plan;

Mandangala/Tiltuwam dawang (dawaam) means the dawang (dawaam) identified by that name in the Ethnography;

Mandangala/Tiltuwam (MT1) Genealogy means the genealogy for the Mandangala/Tiltuwam dawang (dawaam) prepared by Kim Barber and Hilary Rumley dated 13 March 2003 as part of the Ethnography and which was delivered by hand to Argyle by the KLC on 8 September 2004;

Mandangala/Tiltuwam (MT2) Genealogy means the genealogy for the Mandangala/Tiltuwam dawang (dawaam) originally prepared by Kim Doohan and Kim Barber dated 11 April 1997, edited by Kim Barber and Hilary Rumley on 13 March 2003 as part of the Ethnography and which was delivered by hand to Argyle by the KLC on 8 September 2004;

Mine and Mine Site means the diamond mine operated by Argyle on Mining Lease M259SA;

Mining Act means the Mining Act 1978 (WA);

Mining Operations has the meaning set out in section 8 of the Mining Act and includes all activities authorised under the Argyle Interests, the Diamond Act and the Diamond Agreement;

Native Title Rights means the Traditional Rights recognised to be native title rights by the Federal Court in a determination of native title in relation to the Agreement Area;

Neminuwarlin dawang (dawaam) means the dawang (dawaam) identified by that name in the Ethnography;

Neminuwarlin Genealogy means the genealogy for Neminuwarlin dawang (dawaam) prepared by Kim Barber and Hilary Rumley dated 25 May 2004 as part of the Ethnography and which was delivered by hand to Argyle by the KLC on 8 September 2004;

NTA means the Native Title Act 1993 (Cth);

Parties or parties means the parties to this agreement;

Prescribed Body Corporate means a registered native title body corporate within the meaning of s253 of the NTA and in a form prescribed under s59 of the NTA;

Registration means registration of the ILUA as an Indigenous Land Use Agreement under the NTA;

Rehabilitation means the regeneration of land in the Agreement Area disturbed by Argyle Operations;

Secretariat means the person or persons engaged to fulfil the role established under clauses 4.32 to 4.35;

Standard Argyle Rate means the standard rate that Argyle pays its casual employees from time to, which at the Commencement Date is \$300 net/day. Argyle will notify the TO Relationship Committee of changes to the standard rate;

State means the Crown in right of Western Australia;

Tax Law means the Income Tax Assessment Act 1936, Income Tax Assessment Act 1997 and Taxation Administration Act 1953.

TOs means:

- (a) the members of the Mandangala/Tiltuwam dawang (dawaam) comprised of the Toby, Dixon, Hall and Curtin families identified as Miriwung which have primary Traditional Rights over the entirety of the area covered by Mining Lease 259SA, Mining Lease 80/42, 80/43, 80/44 and 80/114 and Miscellaneous Licences 80/1, 80/11, 80/24 and 80/26 and that portion of the Grazing Lease to the north of Mining Lease 259SA;
- (b) the members of the Mandangala/Tiltuwam dawang (dawaam) comprised of the Thomas and Barrett families identified as Gidja which have primary Traditional Rights over the entirety of the area covered by Mining Lease 259SA, Mining Lease 80/42, 80/43, 80/44 and 80/114 and Miscellaneous Licences 80/1, 80/11, 80/24 and 80/26 and that portion of the Grazing Lease to the north of Mining Lease 259SA;
- (c) the Yunurr/Yalangga dawang (dawaam) identified as Miriwung, Gidja and/or Malgnin which have primary Traditional Rights in the southernmost portion of Mining Lease 259SA which Traditional Rights are shared with the Mandangala/Tiltuwam dawang (dawaam) referred to at (a) and (b) above;
- (d) the Neminuwarlin dawang (dawaam) which have primary Traditional Rights in that portion of the Grazing Lease to the south west of Mining Lease 259SA in the vicinity of Bow River;
- (e) the Balaburr, Bilbidjing, Yunurr/Yalangga, Neminuwarlin and Dundun dawang (dawaam) which have secondary Traditional Rights in the area covered by Mining Lease 259SA, Mining Lease 80/42, 80/43, 80/44 and 80/114 and Miscellaneous Licences 80/1, 80/11, 80/24 and 80/26, which rights are characterised as the right to access, to hunt and gather and to be included in and informed about decisions in relation to the Mandangala/Tiltuwam dawang (dawaam); and
- (f) other Miriwung, Gidga, Wularr and/or Malgnin people who have secondary Traditional Rights in the Agreement Area, which are characterised by the right to be included in and informed about decisions in relation to areas of spiritual and ceremonial significance in the Agreement Area, in particular in relation to Aboriginal Sites and possible impacts on Aboriginal Sites.

The membership of the Estate Groups referred to at (a) – (e) and the language groups referred to at (f), their particular Traditional Rights and the interaction of those Traditional Rights is more fully described in the Ethnography and the Genealogies;

TO Business means a business which has, in Argyle's opinion, a substantial and genuine level of participation by TOs in the ownership, management, funding, and operation of the business including by way of example only, a business which:

- (a) is owned by TOs;
- (b) is controlled by TOs;

(c) is a genuine joint venture between a TO Business and a non-TO Business;

TO Chairperson means the TO Representative appointed to the TO Relationship Committee by the TOs under clause 4.11 and appointed as the TO Chairperson by the TO Representatives under clause 4.20;

TO PBC means the Prescribed Body Corporate established to hold the TOs Native Title Rights;

TO Representative means a person appointed by the TOs under clause 4.11 from time to time to represent the TOs on the TO Relationship Committee;

TO Relationship Committee means the committee established under clause 4.1;

Traditional Rights means rights and interests identified in the Ethnography and held by the TOs under Aboriginal laws and customs in relation to the Agreement Area, including rights and interests which, although not recognised by the Law, are, subject to this agreement, exercisable in relation to the entire Agreement Area; and

Yunurr/Yalangga dawang (dawaam) means the dawang (dawaam) identified by that name in the Ethnography.

Yanurr/Yalangga Genealogy means the genealogy for the Yanurr/Yalangga dawang (dawaam) originally prepared by Kim Doohan and Kim Barber, edited by Kim Barber and Hilary Rumley on 14 March 2003 as part of the Ethnography and which was delivered by hand to Argyle by the KLC on 8 September 2004;

Definitions: Management Plan 1 Aboriginal Site Protection

Aboriginal Heritage Procedures Manual means the manual setting out the requirements of the DIA in relation to Aboriginal Heritage Surveys in its form from time to time. The version of this manual current at the date of this agreement was published on 12 March 2002;

ACMC means the Aboriginal Cultural Materials Committee formed under the Aboriginal Heritage Act;

Agreed Consultants means those anthropologists, archaeologists and other suitably qualified persons agreed upon by Argyle and the TOs from time to time in accordance with clause 13.1 and who are, subject to their compliance with clause 13.2, as at the date of this agreement listed in **Schedule 3 to Management Plan 1**;

Anthropologist means an anthropologist appointed under clause 8.12(b) of Management Plan 1;

Archaeologist means the archaeologist appointed under clause 7.1 of Management Plan 1;

Archaeological Assistant means a person nominated by Argyle and the TOs under clause 7.4 from time to time;

Archaeological Report means the report provided to Argyle and the TOs by the Archaeologist under clause 7.12-7.16 of Management Plan 1;

Archaeological Survey means the archaeological survey conducted under this Management Plan by the Archaeologist according to the timeline and methodology set out in clauses 5 and clauses 7.7 to 7.11 of Management Plan 1;

Argyle Survey Representative means that person or persons appointed under clause 8.9 of Management Plan 1 in relation to a particular Survey;

Assistant TOs means TOs who are engaged to participate in a Survey for the purpose of assisting Senior TOs to conduct that Survey;

Cleared means that the TOs have formed the view as the context requires that:

- (a) Argyle Operations may be carried out in the Current Mining Area;
- (b) the Work Program or part of it may be carried out, as the Work Program or part of it will not have an inappropriate impact on any Aboriginal Site;

Current Mining Area means the areas of land and water including:

- (a) the Designated Areas;
- (b) the existing open pit mine and associated infrastructure;
- (c) the underground operations and associated infrastructure; and
- (d) areas of likely future alluvial mining (cleared by TOs on 4 to 6 August 2004),

which are described and also delineated on the map at **Schedule 1 of Management Plan 1**, an electronic version of which is contained on the disc attached at **Schedule 8**.

Ground Disturbing Works means any Exploration or Mining Operations which involve ground disturbing activities;

Non Ground Disturbing Works includes geological mapping geophysical surveys, flagging of targets, aerial surveys and accessing the Agreement Area by vehicle or foot;

Not Cleared means that the TOs have formed the view that the Work Program or part of it will destroy, damage or alter an Aboriginal Site/s in the Work Program Area;

Preliminary Archaeological Report means the Report provided under clause 7.12 of Management Plan 1;

Register of Aboriginal Sites means that register maintained by the DIA under section 38 of the Aboriginal Heritage Act;

section 16 consent means the consent of the Registrar of Aboriginal Sites under section 16 of the Aboriginal Heritage Act;

section 18 consent means the consent of the Minister responsible for the Aboriginal Heritage Act under section 18 of the Aboriginal Heritage Act;

Senior TOs means TOs with the authority and right to speak for land and waters in the Work Program Area under Aboriginal law and custom;

Survey means an Archaeological Survey and a Work Clearance Survey conducted under the terms of Management Plan 1;

Survey Team means that team appointed under clause 8.12 of Management Plan 1;

Works means the works proposed to be undertaken by Argyle, details of which are set out in the Work Program and includes any minor variations to those works;

Work Clearance Report means the report provided to Argyle by the TOs under clause 8.24-8.26 of Management Plan 1;

Work Clearance Survey means the survey conducted under Management Plan 1 by the Survey Team and the Anthropologists according to the timeline and methodology set out in clause 5 and 8.14-8.23 of Management Plan 1;

Work Clearance Survey Methodology means the methodology referred to in clause 8.14-8.23 of Management Plan 1;

Work Clearance Survey Plan means that map marked up under clause 8.21 of Management Plan 1;

Work Program means the document described in clause 6 of Management Plan 1; and

Work Program Area means the area of land and waters affected by the Work Program.

Definitions: Management Plan 2 – Training and Employment

Fit for Work Medical means an examination by Argyle's medical staff to determine whether a person meets the physical criteria, as determined by Argyle from time to time, for training or employment by Argyle;

Indigenous Training Program means the program of this name implemented by Argyle at the Mine which is described in detail in clause 1 of **Schedule 2 to Management Plan 2** and runs from 2002 to 2007;

Local Aboriginal People means aboriginal people who live in the area described in **Schedule 1 of Management Plan 2**, an electronic version of which is contained on the disc attached at **Schedule 8**;

Security Clearance means Argyle's standard security clearance administered to all Argyle employees from time to time; and

TO Register means the register of TOs established under clause 7 of Management Plan 2.

Definitions: Management Plan 3 – Cross Cultural Training

Cross Cultural Training means the training course developed by Argyle in accordance with clause 3 of Management Plan 3;

Long Term Contractors means contractors who are engaged to supply goods or services to the Mine from time to time, whose contracts require the supply of their goods or services over a period of more than 6 months or contractors who Argyle considers will have significant direct contact with Aboriginal people on a regular basis; and

Manthe Ceremony means a ceremony conducted by TOs to welcome new people to country and to make them safe.

Definitions: Management Plan 4 – Land Access

Argyle Security Guard means the person responsible from time to time for controlling the gate at the southern end of Mining Lease 259SA;

Baldy Bay means Baldy Bay Pty Ltd ACN 071 491 131;

Claim means any action, suit, claim, proceeding, demand, deduction, set-off, counterclaim, Loss, damage, cost (including all legal costs as between solicitor

and client on a full indemnity basis) and any expense of any nature whatsoever, and howsoever arising out of, or relating to or connected with the presence of any TO or TO agent, employee, invitee or contractor, whether:

- (a) present, unascertained, immediate, future or contingent;
- (b) in tort (including any negligence), or under any statute or by reason of any other principle, whether legal, equitable or statutory; or
- (c) arising, resulting directly or indirectly, from any conduct, statement, representation, information or advice done, made or given, or omitted to be done, made or given, whether negligently or otherwise, in relation to any act, matter or thing arising out of or in any way connected with the presence of any TO or TO agent, employee, invitee or contractor within the Agreement Area;

Land Access TO List means the list of TOs maintained by Argyle in accordance with clause 4 of Management Plan 4; and

Loss means any loss, claim, action, liability, damage, cost, charge, expense, interest, diminution in value or deficiency or any kind or character that any party pays, suffers or incurs or is liable for including:

- (a) all interest or other amounts payable to third parties;
- (b) all legal (on a full indemnity basis) and other expenses incurred in connection with investigating or defending any claim or action, whether or not resulting in any liability in all amounts paid in settlement of claim or action;
- (c) all losses of profit, revenue, lost reputation, lost goodwill, lost opportunities to enter or complete arrangements with third parties and special losses or damages; and
- (d) all consequential losses or damages.

Definitions: Management Plan 5 – Land Management

Annual Environmental Report means the annual report produced by Argyle and provided to the State detailing the environmental activities of the preceding year and proposed plans for the coming year;

Annual Sustainability Report means the annual report produced by Argyle recording Argyle's annual sustainability outcomes including environmental performance;

Senior TOs means those TOs who are authorised under traditional Aboriginal law and custom to make decisions on behalf of the TOs in relation to the land and waters the subject of the Proposal;

Environment means all components of the Earth, including:

- (a) land, air and water;
- (b) any layer of the atmosphere;
- (c) any organic or inorganic matter and living organism;
- (d) human-made or modified structures and areas; and
- (e) ecosystems that include components referred to in paragraphs (a), (b) or (c);

Environmental Law means:

- (a) all present and future legislation, regulations and local laws in Western Australia relating to the Environment including but not limited to the Environmental Protection Act (WA) 1986, the Explosives and Dangerous Goods Act (WA) 1961, and the Contaminated Sites Act (WA) 2003; and
- (b) any common law relating to the Environment;

Environmental Proposal means a proposal prepared by Argyle to be submitted to the Department of Industry and Resources or that Governmental Agency responsible for the administration of the Mining Act 1978 and Environmental Laws from time to time in relation to the Decommissioning of any Major Infrastructure and, where relevant the rehabilitation of any such area;

Governmental Requirements means laws relating to the Proposal, and the terms of any interest, grant, authority, consent, permit, title, requirement, permission granted or imposed by a Governmental Agency;

Major Infrastructure means:

- (a) any Infrastructure which Argyle intends to Decommission, in respect of which Argyle must prepare an Environmental Proposal under Environmental Law; or
- (b) any other infrastructure which Argyle intends to Decommission, in respect of which Argyle considers that the Decommissioning requires consultation with TOs;

Mine Visit means the mine visit described in clause 3.4 to 3.13 of Management Plan 5;

Proposal means the document produced by Argyle in accordance with clause 3.1 and 3.2 of Management Plan 5;

TO Field Team means the team of Senior TOs appointed by the TOs under clause 3.5 of Management Plan 5 for participation in the Mine Visit; and

Water Reports means those water reports listed in **Schedule 1 of Management Plan 5**.

Definitions: Management Plan 6 – Decommissioning

Investment Committee means that committee from time to time within Rio Tinto plc which makes decisions about whether the Argyle Operations are to continue.

Definitions: Management Plan 7 – Business Development and Contracting

Local Aboriginal Community Business means a business which has a substantial and genuine level of participation by Aboriginal people in the ownership, management, funding and operation of the business and which business is based within and services the East Kimberley Region, which is the eastern half of the Shire of Wyndham and East Kimberley and the northern part of the Shire of Halls Creek including Halls Creek and the communities along the Great Northern Highway to the west, as shown on the plan set out in **Schedule 1 of Management Plan 7**, an electronic version of which is contained on the disc attached at **Schedule 8**; and

Non-TO Business means a business which is not a TO Business.

Definitions: Management Plan 8 – Devil Devil Springs

Action Plan means a document evidencing the arrangements agreed to by the TOs, Argyle and the DIA for the management of Devil Devil Springs from time to time;

Consultation means a consultation between TOs who are responsible for the management of Devil Devil Springs under Aboriginal law and custom, Argyle and the DIA under Clause 2 of Management Plan 8;

Devil Devil Springs means the Aboriginal Site which has the DIA Number 14002 and the DIA Site Id K01100, and which is a protected area under the Aboriginal Heritage Act as marked on the maps at **Schedule 2 in Management Plan 1**, electronic versions of which are contained on the disc set out at **Schedule 8**; and

Devil Devil Springs Buffer Zone means the buffer zone to be agreed between Argyle, TOs and DIA at the first Consultation meeting to be held under Management Plan 8, or as determined in accordance with clause 3.2 of Management Plan 8.

Words and expressions defined in the NTA

Unless the context otherwise requires, words and expressions defined in the NTA have the same meaning where used in this agreement.

Interpretation

- (a) In this agreement and the Management Plans headings and bold type and text in boxes form part of this agreement and will be construed as a part thereof intended to assist in explaining its purport and object. In the event of an inconsistency between the words in clauses, headings, bold type and text boxes, the words in the clauses prevail; and
- (b) Unless the context otherwise requires:
 - (1) words importing the singular include the plural and vice versa;
 - (2) words importing a gender include any gender;
 - (3) other parts of speech and grammatical forms of a word or phrase defined in this agreement have a corresponding meaning;
 - (4) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Governmental Agency;
 - (5) a reference to any thing (including any right) includes a part of that thing but nothing in this clause 11 implies that performance of part of an obligation constitutes performance of the obligation;
 - (6) a reference to a clause, party, or schedule is a reference to a clause of, and a party, and schedule to, this agreement and a reference to this agreement includes any schedule;
 - (7) a reference to a statute, regulation, proclamation, ordinance, standard or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, whether passed by the same or another Governmental Agency with legal power to do so, and a reference to a statute includes all

- regulations, proclamations, ordinances and by-laws issued under that statute;
- (8) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
 - (9) a reference to a party or a party to a document includes that party's successors and permitted assigns, nominees, employees, officers, agents and contractors;
 - (10) a covenant or agreement on the part of 2 or more persons binds them jointly and severally;
 - (11) a reference to an agreement other than this agreement includes an undertaking, agreement or legally enforceable arrangement or understanding whether or not in writing;
 - (12) a reference to an asset includes all property of any nature, including, but not limited to, a business, and all rights, revenues and benefits;
 - (13) a reference to a document includes any agreement in writing, or any certificate, notice, instrument or other document of any kind;
 - (14) no provision of this agreement will be construed adversely to a party solely on the ground that the party was responsible for the preparation of this agreement or that provision;
 - (15) specifying anything in this agreement after the word "includes" or "for example" or similar expressions does not limit what else is included unless there is express wording to the contrary;
 - (16) a reference to any mining tenement or other title includes a reference to each renewal of that mining tenement or other title;
 - (17) a reference to the renewal of any mining tenement or other title includes the re-grant, extension, renewal, conversion, or substitution of the mining tenement or other title;
 - (18) words such as "may" which impart permission to conduct an activity, include a permission to suspend or cease to conduct that activity; and
 - (19) currency is a reference to Australian currency and all amounts payable under this agreement must be paid in Australia in Australian dollars.
- (c) Unless otherwise defined in this agreement or unless the context otherwise requires, terms used in the agreement have the same meaning as defined in the ILUA.
- (d) A reference to Argyle is a reference to Argyle Diamonds Limited and Argyle Diamond Mines Pty Limited jointly and severally, as the context requires.

Schedule 1 – Agreement Area

This schedule shows the area where this agreement runs. The agreement runs over all of Argyle's mining leases. The agreement also runs over Argyle's grazing lease. There is a map showing the agreement area at the bottom of the schedule.

The Agreement Area as at the Commencement Date comprises the area of land and waters in:

- (a) the Grazing Lease;
- (b) Mining Lease 259SA granted under the Mining Act pursuant to the Diamond Act;
- (c) Mining Leases 80/42, 80/43, 80/44, 80/45 and 80/114 granted under the Mining Act; and
- (d) Miscellaneous Licences 80/1, 80/11, 80/24 and 80/26 granted under the Mining Act;

For the avoidance of doubt the agreement area excludes Reserve 46647 but includes the land comprised within LGE H/603415 and Reserve 41271, as set out in the map included in this schedule. The Agreement Area for the purposes of this agreement varies from the ILUA Agreement Area to the extent that the Agreement Area for the purposes of this agreement *includes* that portion of Mining Lease 80/42 in relation to which native title was determined to exist in *State of Western Australia v Ward* (WAG6001/1995).

Schedule 2 – Initial TO Relationship Committee Representatives

This schedule shows the names of people who will go onto the Committee when the agreement starts.

Party/ Estate Group	Name	Address for Service
Argyle	General Manager appointed by Managing Director Jeff Waddington Simon Nish Allan James <i>Proxies:</i> <i>David Epworth</i> <i>Ian Bell</i>	c/- Argyle Mine Site
Mandangala/Tiltuwam comprised of the Toby, Dixon, Hall and Curtin families	Evelyn Hall John Toby Patsy Hall George Dixon James Dixon Jodie Hall Ralph Gerrard Ted Hall <i>Proxies:</i> <i>Ruth Gerrard</i>	Mandangala Aboriginal Corporation PO Box 938 Kununurra WA 6743
Mandangala/Tiltuwam comprised of the Thomas and Barrett families	Chocolate Thomas Ronnie Ramsey	Juwurlinji Community (Bow River Station) C/- PMB Turkey Creek Kununurra WA 6743
	Goody Barrett Lena Nyadbi Madigan Thomas Helen Pinday Geraldine Bedford Larry Thomas (<i>proxy</i>) Norman Thomas (<i>proxy</i>) Shirley Purdie (<i>proxy</i>)	Warmun Aboriginal Community C/- PMB Turkey Creek Kununurra WA 6743

	John Curtin	Mandangala Aboriginal Corporation PO Box 938 Kununurra WA 6743
Bilbidjing	Marjorie Brown Steve Brown (<i>proxy</i>)	PO Box 1757 Kununurra WA 6743
	Ruth Ward	PO Box 751 Kununurra WA 6743
	Katrina Benning (<i>proxy</i>)	C/- Waringarri Aboriginal Corporation PO Box 162 Kununurra WA 6743
Neminuwarlin	Peggy Patrick Fred Timms (<i>proxy</i>)	Warmun Aboriginal Community C/- PMB Turkey Creek Kununurra WA 6743
	Mona Ramsey	Juwurlinji Community (Bow River Station) C/- PMB Turkey Creek Kununurra WA 6743
Yunurr/Yalanga	Nancy Nodea Anthony Yalanga	Warmun Aboriginal Community C/- PMB Turkey Creek Kununurra WA 6743
	Patrick McGinty (<i>proxy</i>)	PO Box 66 Halls Creek WA 6770
	Maggie John (<i>proxy</i>)	C/- Waringarri Aboriginal Corporation PO Box 162 Kununurra WA 6743
Dundun	Colin Morgan Dean Morgan (<i>proxy</i>)	Oombulgurri Association PO Box 208 Wyndham WA 6740
	Frank Sampi	Mardiwah Loop C/- Post Office Halls Creek WA 6770
	Lucila Martin (<i>proxy</i>)	Warmun Aboriginal Community C/- PMB Turkey Creek Kununurra WA 6743
Balaburr	Ben Ward Fabian Ward (<i>proxy</i>) Ben Ward (Jnr) (<i>proxy</i>)	PO Box 751 Kununurra WA 6743
	Annette Janama	C/- Waringarri Aboriginal Corporation PO Box 162 Kununurra WA 6743

Schedule 3 – Deed of Transfer – Argyle to Substitute Party

If Argyle wants to sell the mine or some of its mining rights to another mining company it has to make sure that the new mining company promises to follow the rules in this agreement. This schedule shows the agreement that the new mining company has to sign, before Argyle can sell.

This deed of transfer

is made on

between the following parties:

- 1 **Argyle Diamonds Limited** ABN 36 009 102 621 and **Argyle Diamond Mines Pty Limited** ABN 52 008 912 418
both of 2 Kings Park Road, West Perth, Western Australia
(together **Argyle**)
- 2 *[insert name of Substitute Party]*
[insert ABN/ACN/ARBN]
of *[insert address]*
(**Substitute Party**)

Recitals

- A. Argyle and the TOs are parties to the Management Plan Agreement.
- B. Argyle has agreed to transfer to the Substitute Party and the Substitute Party has agreed to take the Transferred Interest.

The parties agree

in consideration of, among other things, the mutual promises contained in this deed:

1 Definitions and interpretation

1.1 Definitions

In this deed (including the Recitals) words and phrases defined or referred to in the Management Plan Agreement have the same meaning when used in this deed and, in addition, unless the subject matter or context otherwise requires:

Effective Date means *[insert date]*;

Management Plan Agreement means the Argyle Diamond Mine Participation Agreement: Management Plan Agreement dated *[insert date]*;

Power means any right, power, authority, discretion or remedy conferred on a party under or by virtue of this deed or applicable law; and

Transferred Interest is specified in Schedule 1.

1.2 Interpretation

Clause 11 of the Management Plan Agreement applies in this deed.

2 Transfer and Amendment

2.1 Transfer

On and from the Effective Date, Argyle transfers the Transferred Interest to the Substitute Party and the Substitute Party accepts that transfer.

2.2 Assumptions of rights and obligations

- (a) On and from the Effective Date, the Substitute Party:
 - (1) must comply with the Management Plan Agreement to the extent it relates to or is connected with the Transferred Interest
 - (2) obtains the rights and assumes the obligations of Argyle in respect of or attaching to the Transferred Interest; and
 - (3) acknowledges and agrees that the obligations imposed on it under paragraphs (1) and (2) above are for the benefit of Argyle and the TOs, and in the case of the TOs, are enforceable against the Substitute Party by the TOs under section 11 of the Property Law Act 1969.
- (b) The Substitute Party does not obtain any rights or assume any obligations of Argyle under the Management Plan Agreement which accrued or arose before the Effective Date.

2.3 Release

- (a) Argyle remains liable for all of its obligations under the Management Plan Agreement which arose before the Effective Date.
- (b) The Substitute Party does not accept liability for any obligations that arose and were due to be completed with under the Management Plan Agreement before the Effective Date.

2.4 Indemnity and liability

- (a) Argyle must indemnify the Substitute Party on demand against any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment which the Substitute Party pays, suffers, incurs or is liable for in respect of any act of or omission by Argyle in respect of the Management Plan Agreement, which occurred before the Effective Date.
- (b) The Substitute Party must indemnify Argyle on demand against any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment which Argyle pays, suffers, incurs or is liable for in respect of any act of or omission by the Substitute Party in respect of the Transferred Interest, which occurs after the Effective Date.
- (c) The Substitute Party is not liable as between the Substitute Party and Argyle to the TOs in respect of any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment which the TOs pays, suffers, incurs or is liable for in respect the Management Plan Agreement, which occurred, or which arises out of or is caused by any act or omission which occurred, before the Effective Date.
- (d) Without limiting the general nature of their respective terms, each indemnity in this clause 2.4 in favour of a party extends to all legal costs

and expenses incurred by the party on the higher of a solicitor and own client basis and a full indemnity basis.

2.5 Amendment of Management Plan Agreement

Only include this clause 2.5 if the Management Plan Agreement is to be amended by agreement. If not change the heading to clause 2 (*Transfer*).

- (a) Each party undertakes to use its best endeavours to procure the written consent of the TOs to any amendments considered necessary to the Management Plan Agreement as a consequence of the transfer of the Transferred Interest effected by this deed.
- (b) Where the parties agree that they are unable to procure the written consent of the TOs under clause 2.5(a), each party acknowledges and agrees that it will do all things and execute all deeds and instruments as may be necessary or desirable to give full effect to the provisions of this deed.
- (c) Subject to this deed, the Management Plan Agreement continues in full force and effect.

3 Representations and warranties

3.1 General representations and warranties

Further representations and warranties may be required if the parties amend the Management Plan Agreement.

The Substitute Party represents and warrants to each other party that:

- (a) **registration:** it is a corporation as that expression is defined in the Corporations Act 2001 having limited liability, registered (or taken to be registered) and validly existing under the Corporations Act 2001;
- (b) **corporate power:** it has the corporate power to own its assets and to carry on its business as it is now being conducted;
- (c) **authority:** it has full power and authority to enter into and perform its obligations under this deed and the Management Plan Agreement;
- (d) **authorisations:** it has taken all necessary action to authorise the execution, delivery and performance of this deed in accordance with its terms;
- (e) **binding obligations:** this deed constitutes its legal, valid and binding obligations and is enforceable in accordance with its terms subject to any necessary stamping and registration and to equitable principles and laws generally affecting creditors rights;
- (f) **transaction permitted:** the execution, delivery and performance by it of this deed do not and will not violate:
 - (1) any law, regulation, authorisation, ruling, consent, judgment, order or decree of any Governmental Agency;
 - (2) its constitution or other constituent documents; or
 - (3) any encumbrance, undertaking or document which is binding on it or on any of its assets,

and do not and will not result in:

- (4) the creation or imposition of any encumbrance or restriction of any nature on any of its assets; or
- (5) the acceleration of the date of payment of any obligation existing under any encumbrance, undertaking or document which is binding upon it or on any of its assets;
- (g) **no trusts:** it does not enter into this deed as trustee of any trust or settlement;
- (h) **Authorisations:** any authorisations, consents, permits, registrations, approvals or similar things required in connection with the execution, delivery and performance by it and the validity and the enforceability against it of this deed and its performance of the transactions contemplated by this deed have been obtained or effected and are in full force and effect and there has been no material default by it in the performance of any of the terms and conditions of any of them; and
- (i) **no immunity:** it does not, and its assets do not, enjoy immunity from any suit or execution.

3.2 Survival and repetition

The representations and warranties given in clause 3.1:

- (a) survive the execution of this deed and the occurrence of the Effective Date; and
- (b) are repeated on the Effective Date with respect to the facts and circumstances then subsisting.

3.3 Reliance

Argyle has entered into this deed in reliance on the representations and warranties in clause 3.1.

4 Costs and stamp duty

4.1 Costs

Subject to clause 4.2, each party must pay its own costs and expenses in relation to the negotiation, preparation, execution and delivery of this deed.

4.2 Stamp duty

The Substitute Party must pay all stamp duty assessed on this deed.

5 General

5.1 Notices

- (a) Any notice or other communication including, but not limited to, any request, demand, consent or approval, to or by a party to this deed or the Management Plan Agreement:

- (1) sent to Argyle must be in the form required by clause 9.1 of the Management Plan Agreement; and
- (2) sent to the Substitute Party must be addressed as follows:
 - Address: **[insert details]**
 - Attention: **[insert details]**
 - Facsimile: **[insert details]**

5.2 Governing law and jurisdiction

- (a) This deed is governed by the laws of Western Australia.
- (b) The parties irrevocably submits to the exclusive jurisdiction of the courts of Western Australia and all courts of appeal there from.

5.3 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this deed or any Power which is prohibited in any jurisdiction is, in that jurisdiction, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this deed which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.

5.4 Waivers

- (a) Waiver of any right arising from a breach of this deed or of any Power, arising upon default under this deed must be in writing and signed by the party granting the waiver.
- (b) A failure or delay in exercise, or partial exercise, of:
 - (1) a Power arising from a breach of this deed; or
 - (2) a Power created or arising upon default under this deed
 does not result in a waiver of that Power.
- (c) A party is not entitled to rely on a delay in the exercise or non-exercise of a Power arising from a breach of this deed or on a default under this deed as constituting a waiver of that Power.
- (d) A party may not rely on any conduct of another party as a defence to exercise of a Power by that other party.
- (e) This clause may not itself be waived except by writing.

5.5 Variation

A variation of any term of this deed must be in writing and signed by the parties.

5.6 Further assurances

Each party must do all things and execute all further documents necessary to give full effect to this deed.

5.7 Continuing indemnities and survival of indemnities

- (a) Each indemnity contained in this deed is a continuing obligation of the party giving that indemnity despite:

- (1) any settlement of account; or
- (2) the occurrence of any other thing,

and remains in full force and effect, until all money owing, contingently or otherwise, under any indemnity is paid in full.

(b) Each indemnity contained in this deed:

- (1) is an additional, separate and independent obligation of the party giving that indemnity and no one indemnity limits the generality of any other indemnity; and
- (2) survives the occurrence of the Effective Date and the termination of this deed.

5.8 Counterparts

- (a) This deed may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this deed by signing any counterpart.

5.9 GST

- (a) In clause 5.9(b), any reference to a term defined or used in the A New Tax System (Goods and Services Tax) Act 1999 is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.
- (b) Unless expressly included, the consideration for any supply under or in connection with this deed does not include GST. To the extent that any supply made under or in connection with this deed is a taxable supply, the recipient must pay, in addition to the consideration provided under this deed for that supply (unless it expressly includes GST) an amount (**additional amount**) equal to the amount of that consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply.

Executed as a deed:

**The common seal of
Argyle Diamonds Limited
(ABN 36 009 102 621)**

is fixed to this document

in the presence of:

Secretary/Director

Director

Name (please print)

Name (please print)

**The common seal of
Argyle Diamond Mines Pty Limited
(ABN 52 008 912 418)**

is fixed to this document

in the presence of:

Secretary/Director

Director

Name (please print)

Name (please print)

**The common seal of
Substitute Party**

is fixed to this document

in the presence of:

Secretary/Director

Director

Name (please print)

Name (please print)

Schedule 1 – Transferred Interest

[Refer to clause 6 of the Management Plan Agreement and insert details of the Argyle Interest to be novated to the Substitute Party.]

Schedule 4 – Deed of Assignment and Covenant – TOs as Assignors

When Traditional Owners get full Native Title Rights, they will have to set up a corporation to look after these rights. This corporation is called a Prescribed Body Corporate in the Native Title Law. When the Prescribed Body Corporate is set up, it will have to follow the rules in this agreement too. This schedule shows the agreement between the Traditional Owners and the Prescribed Body Corporate to make sure it follows these Management Plans.

This deed of novation

is made on _____ between the following parties:

- 1 **Argyle Diamonds Limited** ABN 36 009 102 621 and **Argyle Diamond Mines Pty Limited** ABN 52 008 912 418
both of 2 Kings Park Road, West Perth, Western Australia
(together **Argyle**)
- 2 **[TO Prescribed Body Corporate]**
ABN [insert details]
of [insert address]
(**Substitute Party**)
- 3 **TOs as identified in Ethnography**
c/- KLC
(**TOs**)

Recitals

- A. Argyle and the TOs are parties to the Management Plan Agreement.
- B. The parties have agreed to novate the Management Plan Agreement on the terms of this deed.

The parties agree

in consideration of, among other things, the mutual promises contained in this deed:

1 Definitions and interpretation

1.1 Definitions

In this deed (including the Recitals) words and phrases defined or referred to in the Management Plan Agreement have the same meaning when used in this deed and, in addition, unless the subject matter or context otherwise requires:

Effective Date means [insert date];

Management Plan Agreement means the Argyle Diamond Mine Participation Agreement: Management Plan Agreement dated [insert date];

Power means any right, power, authority, discretion or remedy conferred on a party under or by virtue of this deed or applicable law; and

Reversion Date means the date, as determined by Argyle acting reasonably and in good faith, the Substitute Party ceases to exist, operate or comply with its obligations under the Management Plan Agreement.

1.2 Interpretation

Clause 11 of the Management Plan Agreement applies in this deed.

2 Novation and Amendment

2.1 Novation

On and from the Effective Date, the parties novate the Management Plan Agreement so that:

- (a) the Substitute Party replaces the TOs under the Management Plan Agreement as if it was and had (subject to clause 2.2(b)) at all times been an original party to the Management Plan Agreement; and
- (b) a reference in the Management Plan Agreement to the TOs must be read as a reference to the Substitute Party.

2.2 Assumptions of rights and obligations

- (a) On and from the Effective Date, the Substitute Party:
 - (1) must comply with the Management Plan Agreement; and
 - (2) obtains the rights and assumes the obligations of the TOs under the Management Plan Agreement.
- (b) The Substitute Party does not obtain any rights or assume any obligations of the TOs under the Management Plan Agreement which accrued or arose before the Effective Date.
- (c) On and from the Effective Date, Argyle must comply with the Management Plan Agreement on the basis that the Substitute Party has replaced the TOs under it in accordance with this deed.

2.3 Release by Argyle

- (a) Argyle does not release the TOs from any of the TOs' obligations or any liability which arose under or in respect of the Management Plan Agreement before the Effective Date.
- (b) The TOs remains liable for all of its obligations under the Management Plan Agreement which arose before the Effective Date.
- (c) The Substitute Party does not accept liability for any obligations that arose and were due to be completed with under the Management Plan Agreement before the Effective Date.

2.4 Indemnity and liability

- (a) The TOs must indemnify Argyle on demand against any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment which Argyle pays, suffers, incurs or is liable for in respect of any act of or omission by the TOs in respect of the Management Plan Agreement, which occurred before the Effective Date.

- (b) The TOs must indemnify the Substitute Party on demand against any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment which the Substitute Party pays, suffers, incurs or is liable for in respect of any act of or omission by the TOs in respect of the Management Plan Agreement, which occurred before the Effective Date.
- (c) The Substitute Party must indemnify the TOs on demand against any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment which the TOs pay, suffer, incur or are liable for in respect of any act of or omission by the Substitute Party in respect of the Management Plan Agreement, which occurs after the Effective Date.
- (d) The Substitute Party is not liable to Argyle in respect of any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment which Argyle pays, suffers, incurs or is liable for in respect the Management Plan Agreement, which occurred, or which arises out of or is caused by any act or omission which occurred, before the Effective Date.
- (e) Without limiting the general nature of their respective terms, each indemnity in this clause 2.4 in favour of a party extends to all legal costs and expenses incurred by the party on the higher of a solicitor and own client basis and a full indemnity basis.

2.5 Amendment of Management Plan Agreement

Only include this clause 2.5 if the Management Plan Agreement is to be amended by agreement. If not change the heading to clause 2 (*Novation*).

- (a) The Substitute Party and Argyle agree that on and from the Effective Date, the Management Plan Agreement is amended **as set out in the schedule/as follows**:
[insert amendments].
- (b) Subject to this deed, the Management Plan Agreement continues in full force and effect.

3 Reversion to TOs

3.1 Application

This clause 3 only applies if:

- (a) the Management Plan Agreement has been novated by the TOs to the Substitute Party in accordance with clause 2; and
- (b) during the term of the Management Plan Agreement, Argyle acting in accordance with the relationship principles specified in clause 2.1 of the Management Plan Agreement forms the opinion that the Substitute Party:
 - (1) has ceased to exist;
 - (2) has ceased to operate; or
 - (3) has failed to comply with its obligations under the Management Plan Agreement.

3.2 Novation back to TOs

On and from the Reversion Date, the parties novate the Management Plan Agreement so that:

- (a) the TOs replace the Substitute Party under the Management Plan Agreement; and
- (b) a reference in the Management Plan Agreement to the Substitute Party (if any) must be read as a reference to the TOs.

3.3 Assumptions of rights and obligations

- (a) On and from the Reversion Date, the TOs:
 - (1) must comply with the Management Plan Agreement;
 - (2) obtain the rights and assume the obligations of the Substitute Party under the Management Plan Agreement;
 - (3) obtain all rights and assume all obligations of the Substitute Party under the Management Plan Agreement which accrued or arose before the Reversion Date;
 - (4) will be deemed to have carried out any and all acts of and omissions of the Substitute Party in respect of the Management Plan Agreement; and
 - (5) will be deemed to have received and accepted all rights, interests and benefits arising, accruing or granted to the Substitute Party in respect of the Management Plan Agreement.
- (b) On and from the Reversion Date, Argyle must comply with the Management Plan Agreement on the basis that the TOs have replaced the Substitute Party under it in accordance with this deed.

3.4 Release by Argyle

- (a) Argyle does not release the TOs from any of the Substitute Party's obligations or any liability which arose under or in respect of the Management Plan Agreement before the Reversion Date.
- (b) The TOs remain liable for all obligations under the Management Plan Agreement including any obligations of the Substitute Party which arose before the Reversion Date.
- (c) The TOs accept liability for any obligations that arose under the Management Plan Agreement before the Reversion Date.
- (d) The TOs acknowledge and agree that they will not, and will not be entitled to, bring any claim or action against Argyle for a failure by Argyle to perform any of its obligations under the Management Plan Agreement where Argyle has discharged or performed such obligations for the benefit of the Substitute Party.

3.5 Indemnity and liability

- (a) The TOs must indemnify Argyle on demand against any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment which Argyle pays, suffers, incurs or is liable for in respect of any act of or omission by the Substitute Party in respect of the Management Plan Agreement which occurred before the Reversion Date.

- (b) Without limiting the general nature of its respective terms, the indemnity in this clause 3.5 in favour of Argyle extends to all legal costs and expenses incurred by Argyle on the higher of a solicitor and own client basis and a full indemnity basis.

3.6 Consequential amendments

- (a) Argyle and the TOs agree that on and from the Reversion Date, the:
- (1) Management Plan Agreement will be amended such that it reverts back to the form existing immediately prior to the Effective Date; and
 - (2) amendments made to the Management Plan Agreement under clause 2.5 will no longer be of any force or effect.
- (b) Subject to this deed, the Management Plan Agreement Continues in full force and effect.

4 Representations and warranties

4.1 General representations and warranties

Further representations and warranties may be required if the parties amend the Management Plan Agreement.

The Substitute Party represents and warrants to each other party that:

- (a) **registration:** it is a corporation as that expression is defined in the Corporations Act 2001 having limited liability, registered (or taken to be registered) and validly existing under the Corporations Act 2001;
- (b) **corporate power:** it has the corporate power to own its assets and to carry on its business as it is now being conducted;
- (c) **authority:** it has full power and authority to enter into and perform its obligations under this deed and the Management Plan Agreement;
- (d) **authorisations:** it has taken all necessary action to authorise the execution, delivery and performance of this deed in accordance with its terms;
- (e) **binding obligations:** this deed constitutes its legal, valid and binding obligations and is enforceable in accordance with its terms subject to any necessary stamping and registration and to equitable principles and laws generally affecting creditors rights;
- (f) **transaction permitted:** the execution, delivery and performance by it of this deed do not and will not violate:
 - (1) any law, regulation, authorisation, ruling, consent, judgment, order or decree of any Governmental Agency;
 - (2) its constitution or other constituent documents; or
 - (3) any encumbrance, undertaking or document which is binding on it or on any of its assets,

and do not and will not result in:

- (4) the creation or imposition of any encumbrance or restriction of any nature on any of its assets; or
- (5) the acceleration of the date of payment of any obligation existing under any encumbrance, undertaking or document which is binding upon it or on any of its assets;
- (g) **no trusts:** it does not enter into this deed as trustee of any trust or settlement;
- (h) **Authorisations:** any authorisations, consents, permits, registrations, approvals or similar things required in connection with the execution, delivery and performance by it and the validity and the enforceability against it of this deed and its performance of the transactions contemplated by this deed have been obtained or effected and are in full force and effect and there has been no material default by it in the performance of any of the terms and conditions of any of them; and
- (i) **no immunity:** it does not, and its assets do not, enjoy immunity from any suit or execution.

4.2 Argyle's representations and warranties

Argyle represents and warrants to the Substitute Party that:

- (a) **disclosures:** all information provided to the Substitute Party by or on behalf of Argyle before the date of this deed, and between the date of this deed and the Effective Date, is true and correct in all material respects and is not, whether by omission of information or otherwise, misleading;
- (b) **no failure to disclose:** it has not withheld from the Substitute Party any information material to the decision of the Substitute Party to enter into this deed;
- (c) **default:**
 - (1) neither the TOs nor Argyle is in breach of or default under any provision of the Management Plan Agreement;
 - (2) no event of default (however described) nor other event or circumstance has occurred which, with giving of notice, lapse of time, satisfaction of some other condition, or any combination of the above, causes or enables:
 - (A) the acceleration of any payment to be made under the Management Plan Agreement; or
 - (B) the enforcement, termination or rescission of the Management Plan Agreement.

4.3 Survival and repetition

The representations and warranties given in clauses 4.1 and 4.2:

- (a) survive the execution of this deed and the occurrence of the Effective Date;
- (b) are repeated on the Effective Date with respect to the facts and circumstances then subsisting; and

- (c) are repeated on the Reversion Date with respect to the facts and circumstances then subsisting.

4.4 Reliance

Each of the parties have entered into this deed in reliance on the representations and warranties in clauses 4.1 and 4.2.

5 Costs and stamp duty

5.1 Costs

Subject to clause 5.2, each party must pay its own costs and expenses in relation to the negotiation, preparation, execution and delivery of this deed.

5.2 Stamp duty

The Substitute Party must pay all stamp duty assessed on this deed.

6 General

6.1 Notices

- (a) Any notice or other communication including, but not limited to, any request, demand, consent or approval, to or by a party to this deed or the Management Plan Agreement:

- (1) sent to the TOs or Argyle must be in the form required by clause 9.1 of the Management Plan Agreement; and
- (2) sent to the Substitute Party must be addressed as follows:

Address: **[insert details]**

Attention: **[insert details]**

Facsimile: **[insert details]**

6.2 Governing law and jurisdiction

- (a) This deed is governed by the laws of Western Australia.
- (b) The parties irrevocably submits to the exclusive jurisdiction of the courts of Western Australia and all courts of appeal there from.

6.3 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this deed or any Power which is prohibited in any jurisdiction is, in that jurisdiction, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this deed which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.

6.4 Waivers

- (a) Waiver of any right arising from a breach of this deed or of any Power, arising upon default under this deed must be in writing and signed by the party granting the waiver.
- (b) A failure or delay in exercise, or partial exercise, of:
 - (1) a Power arising from a breach of this deed; or
 - (2) a Power created or arising upon default under this deed
 does not result in a waiver of that Power.
- (c) A party is not entitled to rely on a delay in the exercise or non-exercise of a Power arising from a breach of this deed or on a default under this deed as constituting a waiver of that Power.
- (d) A party may not rely on any conduct of another party as a defence to exercise of a Power by that other party.
- (e) This clause may not itself be waived except by writing.

6.5 Variation

A variation of any term of this deed must be in writing and signed by the parties.

6.6 Further assurances

Each party must do all things and execute all further documents necessary to give full effect to this deed.

6.7 Continuing indemnities and survival of indemnities

- (a) Each indemnity contained in this deed is a continuing obligation of the party giving that indemnity despite:
 - (1) any settlement of account; or
 - (2) the occurrence of any other thing,

and remains in full force and effect, until all money owing, contingently or otherwise, under any indemnity is paid in full.

- (b) Each indemnity contained in this deed:
 - (1) is an additional, separate and independent obligation of the party giving that indemnity and no one indemnity limits the generality of any other indemnity; and
 - (2) survives the occurrence of the Effective Date and the termination of this deed.

6.8 Counterparts

- (a) This deed may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this deed by signing any counterpart.

6.9 GST

- (a) In clause 6.9(b), any reference to a term defined or used in the A New Tax System (Goods and Services Tax) Act 1999 is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.

- (b) Unless expressly included, the consideration for any supply under or in connection with this deed does not include GST. To the extent that any supply made under or in connection with this deed is a taxable supply, the recipient must pay, in addition to the consideration provided under this deed for that supply (unless it expressly includes GST) an amount (**additional amount**) equal to the amount of that consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply.

Executed as a deed:

**The common seal of
Argyle Diamonds Limited
(ABN 36 009 102 621)**

is fixed to this document

in the presence of:

Secretary/Director

Director

Name (please print)

Name (please print)

**The common seal of
Argyle Diamond Mines Pty Limited
(ABN 52 008 912 418)**

is fixed to this document

in the presence of:

Secretary/Director

Director

Name (please print)

Name (please print)

**The common seal of
Substitute Party**

is fixed to this document

in the presence of:

Secretary/Director

Director

Name (please print)

Name (please print)

**Signed sealed and delivered by
[Insert a signing clause for each TO]**

in the presence of:

Witness

Name (please print)

Schedule – Amendments to Management Plan Agreement

Schedule 5 – Annual Budget for Secretariat

Year	Amount
2004	\$35,691.30
2005	\$146,905.38
2006	\$87,540.00
2007	\$90,078.66
2008	\$92,690.94
2009	\$95,378.98
2010	\$98,144.97
2011	\$100,991.17
2012	\$103,919.91
2013	\$106,933.59
2014	\$110,034.67
2015	\$113,225.67
2016	\$116,509.22
2017	\$119,887.98
2018	\$123,364.74
2019	\$126,942.31
2020	\$130,623.64
2021	\$134,411.73
2022	\$138,309.67
2023	\$142,320.65
2024	\$146,447.94

Note: these amounts are based on the assumptions set out on the following page.

TO Relationship Committee - Secretarial Costs

	Rate per year	Daily Rate	Set-Up Costs 2004		Costs for 2005		Recurrent Costs per	
			Days	Cost	Days	Costs	Days	Costs
Convene TO Relationship Committee								
Field Officer	\$168,000.00	\$648.15	27	\$17,446.15	108	\$71,808.37	54	\$34,892.31
Admin Officer	\$66,000.00	\$253.85	11	\$2,855.77	45	\$11,754.35	45	\$11,423.08
Catering				\$489.38		\$2,014.27		\$1,957.50
TOTAL				\$20,791.30		\$85,576.99		\$48,272.88
Training								
Field Officer	\$84,000.00	\$323.08	20	\$6,461.54	80	\$26,595.89	40	\$12,923.08
Admin Officer	\$66,000.00	\$253.85	5	\$1,269.23	20	\$5,224.15	10	\$2,538.46
Communication Tools				\$1,250.00		\$5,145.00		\$5,000.00
TOTAL				\$8,980.77		\$36,964.85		\$30,461.54
Advice								
Field Officer	\$84,000.00	\$323.08	5	\$1,615.38	20	\$6,648.92	10	\$3,230.77
Independent Advice				\$1,000.00		\$4,116.00		\$4,000.00
TOTAL				\$2,615.38		\$10,764.92		\$7,230.77
Communication Tools								
Field Officer	\$84,000.00	\$323.08	4	\$1,292.31	16	\$5,319.14	8	\$2,584.62
Admin Officer	\$66,000.00	\$253.85	3	\$781.54	12	\$3,134.49	6	\$1,523.08
Communication Tools				\$1,250.00		\$5,145.00		\$5,000.00
Grand Total				\$35,691.30		\$146,905.38		\$85,072.85

ASSUMPTIONS

- No of working days / year 260
- Secretarial staff are assumed to be part of the ADM Community Relations team and secretarial costs are assumed to form part of the Community Relations operating costs.
- Convene TO Relationship Committee Mths**
- No of Field Officers in 2004 & 2005 2
- No of Field Officers 2006 onward 1
- Field Officer - pay / year \$70,000
- Admin Officer - pay / year \$55,000
- Salary On Costs 20%
- No of meetings / year 4.5
- No days / meeting 2
- Field Officer - Days / meeting 12
- Admin Officer - Days / meeting 10
- Number of TOs 28
- Catering per person per day \$15
- Training**
- No of Field Officers in 2004 & 2005 2
- No of Field Officers 2006 onward 1
- Field Officer - pay / year \$70,000
- Admin Officer - pay / year \$55,000
- Salary On Costs 20%
- Field Officer training days / year 40
- Admin Officer training days / year 10
- Advice**
- No of Field Officers in 2004 & 2005 2
- No of Field Officers 2006 onward 1
- Field Officer - pay / year \$70,000
- Salary On Costs 20%
- Field Officer - days / year 10

Set up costs for 2004 are assumed to be 1/4 of costs for 2005

Cash Costs	2004	2005	2006 on / year
Catering	\$489.38	\$2,014.27	\$1,957.50
Comm Tools	\$2,500.00	\$10,290.00	\$10,000.00
Indep Advice	\$1,000.00	\$4,116.00	\$4,000.00
TO Pays	\$305,080	\$313,927	\$323,031
Totals	\$309,069.38	\$330,347.59	\$338,988.71

NB: All costs are EXCLUSIVE of GST

Schedule 6 – Argyle contribution to Management Plans Implementation and Executive Officer Costs

Year	Amount
2004	\$41,715.38
2005	\$147,646.07
2006	\$151,927.80
2007	\$156,333.71
2008	\$160,867.38
2009	\$165,532.54
2010	\$170,332.98
2011	\$175,272.64
2012	\$180,355.55
2013	\$185,585.86
2014	\$190,967.85
2015	\$196,505.91
2016	\$202,204.59
2017	\$208,068.52
2018	\$214,102.51
2019	\$220,311.48
2020	\$226,700.51
2021	\$233,274.83
2022	\$240,039.80
2023	\$247,000.95
2024	\$254,163.98

Note: these amounts are based on the assumptions set out on the following page.

Management Plans - TO Executive Officer

	Rate per year	Daily Rate	Set-Up Costs 2004		Recurrent Costs per annum	
			Days	Cost	Days	Costs
TO Relationship Committee						
Executive Officer	\$120,000.00	\$461.54	10	\$4,615.38	50.5	\$23,307.69
Field Officer	\$70,000.00	\$269.23	10	\$2,692.31	43.5	\$11,711.54
Admin Officer	\$60,000.00	\$230.77	4	\$923.08	22	\$5,076.92
Vehicle		\$70.00	10	\$700.00	40.5	\$2,835.00
Communication Tools				\$10,000.00		
Independent Advice for TOs						\$4,000.00
TOTAL				\$16,820.77		\$46,931.15
Rehabilitation						
Executive Officer	\$120,000.00	\$461.54	3	\$1,384.62	24	\$11,076.92
Field Officer	\$70,000.00	\$269.23	0	\$0.00	18	\$4,846.15
Admin Officer	\$60,000.00	\$230.77	2	\$461.54	9	\$2,076.92
Vehicle		\$70.00		\$0.00	15	\$1,050.00
TOTAL				\$1,846.16		\$19,050.00
Training & Employment						
			(Recurrent Costs Factored into TO Relationship Committee Recurrent Costs)			
Executive Officer	\$120,000.00	\$461.54	7	\$3,230.77		\$0.00
Field Officer	\$70,000.00	\$269.23	7	\$1,884.62		\$0.00
Admin Officer	\$60,000.00	\$230.77	2	\$461.54		\$0.00
Vehicle		\$70.00	6	\$420.00		\$0.00
TOTAL				\$5,996.92		\$0.00
Vehicle Hire						
			(Set-up Costs Parly Factored into TO Relationship Committee Set-up Costs)			
Executive Officer	\$120,000.00	\$461.54	2	\$923.08	2	\$923.08
Field Officer	\$70,000.00	\$269.23	0	\$0.00	2	\$538.46
Admin Officer	\$60,000.00	\$230.77	1	\$230.77	1	\$230.77
Vehicle		\$70.00	0	\$0.00	0	\$0.00
TOTAL				\$1,153.85		\$1,692.31
Site Services						
			(Set-Up & Recurrent Costs Parly Factored into TO Relationship Committee Costs)			
Executive Officer	\$120,000.00	\$461.54	2	\$923.08	2	\$923.08
Field Officer	\$70,000.00	\$269.23	0	\$0.00	1	\$269.23
Admin Officer	\$60,000.00	\$230.77	1	\$230.77	1	\$230.77
Vehicle		\$70.00	0	\$0.00	0	\$0.00
TOTAL				\$1,153.85		\$1,423.08
Land Management						
			(Set-up Costs Factored into TO Relationship Committee Set-up Costs)			
Executive Officer	\$120,000.00	\$461.54		\$0.00	20	\$9,230.77
Field Officer	\$70,000.00	\$269.23		\$0.00	16	\$4,307.69
Admin Officer	\$60,000.00	\$230.77		\$0.00	20	\$4,615.38
Vehicle		\$70.00		\$0.00	12	\$840.00
Independent Advice				\$0.00		\$12,000.00
TOTAL				\$0.00		\$30,993.85
Independent Advice						
			(Set-up Costs Factored into TO Relationship Committee Set-up Costs)			
			(Recurrent Costs Factored into Rehabilitation / Decommissioning consultants within Land Management Recurrent Costs)			
TOTAL				\$0.00		\$4,000.00
Rehabilitation						
			(Set-up Costs Parly Factored into TO Relationship Committee Set-up Costs)			
Executive Officer	\$120,000.00	\$461.54	4	\$1,846.15	5	\$2,307.69
Field Officer	\$70,000.00	\$269.23	4	\$1,076.92	5	\$1,346.15
Admin Officer	\$60,000.00	\$230.77	1	\$230.77	2	\$461.54
Vehicle		\$70.00	4	\$280.00	5	\$350.00
TOTAL				\$3,433.84		\$4,465.38
Devil Devil Springs						
			(Set-up Costs Factored into TO Relationship Committee Set-up Costs)			
Executive Officer	\$120,000.00	\$461.54		\$0.00	8	\$3,692.31
Field Officer	\$70,000.00	\$269.23		\$0.00	8	\$2,153.85
Admin Officer	\$60,000.00	\$230.77		\$0.00	4	\$923.08
Vehicle		\$70.00		\$0.00	8	\$560.00
TOTAL				\$0.00		\$7,329.23
Office Costs						
Premises	\$15,000.00		4 months	\$5,000.00	12 months	\$15,000.00
Phone	\$6,000.00		4 months	\$2,000.00	12 months	\$6,000.00
Postage	\$3,600.00		4 months	\$1,200.00	12 months	\$3,600.00
Stationary & Petties	\$3,000.00		4 months	\$1,000.00	12 months	\$3,000.00
TOTAL				\$9,200.00		\$27,600.00
Grand Total				\$41,715.38		\$143,465.00

ASSUMPTIONS

No of working days / year	280
All salaries include 20% on costs	
TO Relationship Committee	
No of meetings / year	4.5
Exec Officer - Days / meeting	9
Exec Officer - Admin days / year	10
Field Officer - Days / meeting	9
Field Officer - Admin days / year	3
Admin Officer - Days / meeting	4
Admin Officer - Admin days / year	4
Motor Vehicle Hire - Days / meeting	9
Rehabilitation	
Exec Officer - Days / meeting	4
Exec Officer - Admin days / year	1
Field Officer - Days / meeting	6
Field Officer - Admin days / year	1
Admin Officer - Days / meeting	1
Admin Officer - Admin days / year	1
Motor Vehicle Hire - Days / meeting	6
Training & Employment	
Exec Officer - Days / Year	1
Exec Officer - Admin days / Year	6
Field Officer - Days / Year	1
Field Officer - Admin days / Year	6
Admin Officer - Days / Year	1
Admin Officer - Admin days / Year	1
Motor Vehicle Hire - Days / Year	6

Schedule 7 – Supplier Statement

When Argyle pays Traditional Owners for different things, it has to take out tax from this pay, to give to the government. The whitefellas tax law says that Argyle has to take out nearly half the money from this pay unless Traditional Owners make a promise. They have to promise Argyle that they are not running a business to get this money. This schedule shows the kind of promise that Traditional Owners have to make to Argyle so no money gets taken out of their pay for tax.



Statement by a supplier

Reason for not quoting an Australian business number (ABN) to an enterprise

Name of supplier

Address of supplier

Under the pay as you go legislation and guidelines produced by the Tax Office I provide you with a written statement that explains why I have not quoted an ABN for the current and future supply of goods and services to you.

Tick the appropriate box

The supply is made to you in my capacity as an individual, and the supply is made in the course of an activity that is a private recreational pursuit or hobby

The supply is made to you in my capacity as an individual, and the supply is wholly of a private or domestic nature for me

I (or the supplier that I represent) am/is a non-resident who is not carrying on an enterprise in Australia

The whole of the payment that I (or the supplier that I represent) will receive for the supply is exempt from income tax

I (or the partnership that I represent) have no reasonable expectation of profit or gain from the activity undertaken and consider that I (or the partnership that I represent) do not meet the definition of enterprise for tax purposes

For this reason I am not quoting you an ABN. You should not withhold an amount from the payment you make to me for the supply; I agree to advise you in writing if circumstances change to the extent that this statement becomes invalid.

Name of authorised person (if not the supplier)

Signature of supplier or authorised person Date / /

Daytime contact phone number

It is an offence to make a false or misleading statement

The person or entity to whom this statement is made should retain the statement for 5 years

NAZ3346-2/2004

Schedule 8 – CD Rom containing Maps

Management Plan 1 – Aboriginal Site Protection

This is the first Management Plan in this Management Plans Agreement. This Management Plan has the rules for how Argyle and Traditional Owners will look after Aboriginal Sites.

1 Term

The Aboriginal Sites Protection Management Plan starts when everyone has signed this agreement and it finishes when the Argyle Mine is all shut down.

- 1.1 This Management Plan:
- (a) commences at the Commencement Date; and
 - (b) terminates upon Completion of Decommissioning.

2 Aims of this Management Plan

The Aboriginal Site Protection Management Plan tries to do three things:.
The first thing is to protect Aboriginal Sites.
The second thing is to make sure Argyle can do its mining work.
And the third thing is to make sure that Surveys are done properly when Argyle needs them done.

- 2.1 The aims of this Management Plan are:
- (a) to enable TOs to ensure that Aboriginal Sites in the Agreement Area are protected;
 - (b) to enable Argyle to undertake Argyle Operations in the Agreement Area; and
 - (c) to ensure that Surveys are done in accordance with an agreed standard and to ensure the timely conduct of Surveys necessary to facilitate Argyle Operations.
- 2.2 Argyle must ensure that its contractors, employees and agents comply with this Management Plan.

3 Current Mining Area

*Here is where we say what happens in the areas that Argyle is already mining or knows that it is going to mine soon. These areas are called the Current Mining Area. You can see a map of this area in **Schedule 1** at the end of this Management Plan.*

In these areas, the Traditional Owners agree that Argyle can go ahead with mining and we don't have to do Surveys.

The Traditional Owners also say that they will not block Argyle from getting any permission or licence from the Government, that Argyle needs to do mining inside these areas.

3.1 Under the ILUA the parties agreed that:

“ *Aboriginal Heritage*

3.8 *The TOs:*

- (a) *agree that the Current Mining Area is Cleared;*
- (b) *consent to the conduct of all Argyle Operations in the Current Mining Area;*
- (c) *acknowledge that Argyle is entitled to conduct the Argyle Operations under the terms of existing section 16 and section 18 consents granted to Argyle in relation to the Current Mining Area; and*
- (d) *will not oppose any application by Argyle for a section 16 or section 18 consent in relation to the conduct of Argyle Operations in the Current Mining Area.*

3.9 *The maps in Schedule 2 of Management Plan 1 shows all of the Aboriginal Sites within the Agreement Area of which Argyle has knowledge as at the date of this agreement.”*

3.2 A map and description of the Current Mining Area is set out at **Schedule 1** of this Management Plan. An electronic version of the map is contained on the disc attached at **Schedule 8 of the Management Plan Agreement**.

4 Survey Areas

Here Argyle agrees that if it wants to do anything outside the Current Mining Area Traditional Owners must do a survey. On this survey Traditional Owners will look at what Argyle wants to do and see if it will damage important places. But, if the work Argyle wants to do does not leave any marks on the country there is no need for a survey. Also, if Traditional Owners and Argyle both say “There is no need for a survey” then work can go ahead straight away.

4.1 A Survey is not required if Argyle proposes to conduct:

- (a) any Argyle Operations inside the Current Mining Area; or
- (b) Non Ground Disturbing Works inside the Agreement Area.

4.2 A Survey is required if Argyle proposes to conduct Ground Disturbing Works inside the Agreement Area but outside the Current Mining Area, unless otherwise agreed pursuant to clause 4.3.

4.3 Argyle and the TOs can agree that a Survey is not required if:

- (a) an Archaeological and/or Work Clearance Survey has been conducted in relation to the Work Program Area within the last 5 years; or
 - (b) Argyle and the TOs otherwise consider that it is not necessary to conduct a Survey of the Work Program.
- 4.4 The agreement referred to in 4.3 must be put in writing and signed by the Co-Chairs.
- 4.5 Failure by the parties to reach agreement under clause 4.4 is not a dispute.

5 Survey Methodology – Generally

Here Argyle and the Traditional Owners agree about how to do a Survey.

First, Argyle will give a Work Programme to Traditional Owners showing all the work that they want to do.

Next, an Archaeologist will have a look at the area.

After that, the Traditional Owners will go and do a Survey of the Area.

When the Survey is finished, Argyle will get a Report saying what the Archaeologist and Traditional Owners decided.

- 5.1 Surveys will be conducted under the following methodology:
- (a) Argyle will give notice to the TO Relationship Committee at the meeting of the TO Relationship Committee of its intention to provide a Work Program to the TOs and the approximate date of delivery of that Work Program. The notice will include details of the location and nature of the proposed Works, to enable the TO Relationship Committee to consider, in accordance with clause 8.12(a) and (b) and 8.13(a), the issue of the appropriate number of Senior TOs required to attend the Work Clearance Survey and the engagement of anthropologists.
 - (b) Argyle will provide a Work Program to the TOs and to the Archaeologist (clause 6).
 - (c) desktop research work to be carried out to identify historical material and records or reports of previous surveys or research that might assist one or both of the Archaeological Survey and Work Clearance Survey;
 - (d) The Archaeologist will then conduct an Archaeological Survey of the Work Program Area (clause 7).
 - (e) Upon completion of the Archaeological Survey, the Survey Team will conduct a Work Clearance Survey (clause 8). The Archaeologist will attend the Work Clearance Survey and will inform the Survey Team of the findings of the Archaeological Survey for the Survey Team's consideration.
 - (f) Upon the completion of the Work Clearance Survey:
 - (1) the Archaeologist will provide to Argyle and the TOs the final Archaeological Report; and

- (2) the Survey Team will provide to Argyle and the TOs the Work Clearance Report.

5.2 A sample timeline for the conduct of a Survey is set out in **Schedule 9**.

6 Work Program

Argyle agrees to give the Traditional Owners a Work Program paper before a Survey is done.

This part says what has to be in the Work Program paper that Argyle gives to the Traditional Owners. This Work Program has to show exactly what Argyle wants to do on the country and why. It has to show where Argyle wants to do something using maps, how many people are going to work on it, and if it will damage the country around that area.

- 6.1 If a Survey is required Argyle will provide the TOs and the Archaeologist with a written Work Program. The Work Program must:
- (a) contain an executive summary suitable for use by the Survey Team in the field during the conduct of a Work Clearance Survey; and
 - (b) describe:
 - (1) the proposed Argyle Operations;
 - (2) the Work Program Area and the location of proposed Argyle Operations within that area, illustrated by:
 - (A) four topographic maps of 1:100 000 or other appropriate scale; and
 - (B) aerial or satellite images if available;
 - (3) the estimated start and finish dates for the performance of the Work Program which estimate must take into account time for consultations in the field;
 - (4) the nature, scope and objectives of the Work Program;
 - (5) how the Work Program will be performed;
 - (6) how many Argyle personnel will be involved in the performance of the Work Program;
 - (7) the estimated costs of performing the Work Program;
 - (8) any water, timber, vegetation, soil (including ochre) or other natural resources proposed to be obtained from the Work Program Area;
 - (9) likely impact of the performance of the Work Program on the environment;
 - (10) Argyle's proposals to minimise the impact of the Work Program on the environment and the TOs;
 - (11) Argyle's opinion about whether a Survey is required;

- (12) any business opportunities for TOs arising from the Work Program; and
 - (13) any other information relevant to the conduct of a Work Clearance Survey by the TOs.
- (c) If the TOs request Argyle to provide any further information relevant to the conduct of a Work Clearance Survey, Argyle will provide that information (if it exists) within 7 days of receiving the TOs' request.
 - (d) If the TOs request an explanation of the Work Program before the commencement of the Survey:
 - (1) an Argyle Survey Representative will meet with the TOs within 14 days of the request to provide the explanation; and
 - (2) the Work Program is deemed to have been received by the TOs on the day of the meeting between Argyle and the TOs.
 - (e) If at any time Argyle wishes to substantially or materially vary the proposed Work Program, other than by reducing its scope, Argyle must advise the TOs by submitting a variation to the original Work Program, or a new Work Program. In either case, the proposed Work Program will be assessed, as if it were a new Work Program, following the same procedures described in this Management Plan.
 - (f) After reviewing the Preliminary Archaeological Report Argyle may propose alternative Work Program Areas for consideration during the Work Program Clearance Survey.

7 Archaeological Survey

Here we talk about the proper way to do an Archaeological Survey. An Archaeologist knows how to look for very old places that people once used. Some of these places are so old, that people today don't remember. The whitefella law says that these old places have to be protected too.

Archaeological Survey Team

Argyle and the Traditional Owners will both hire an Archaeologist to do this work. Before starting the work, the Archaeologist will talk to the Anthropologist to learn anything that might help. Then the Archaeologist will choose 4 young Traditional Owners to help on the survey and to train up. These young people will get paid.

- 7.1 If a Survey is required Argyle will engage, jointly on behalf of Argyle and the TOs, an Archaeologist from the list of Agreed Consultants and provide the Archaeologist with the Work Program.
- 7.2 Argyle and the TOs will agree upon the terms of engagement for the Archaeologist, and Argyle will provide the Executive Officer with a copy of the executed agreement.

- 7.3 The Archaeologist will use his or her best endeavours to have a briefing from the TO Anthropologist, if a TO Anthropologist has been appointed, prior to commencing the Archaeological Survey. The purpose of the briefing is to obtain information which may assist the Archaeologist in conducting the Archaeological Survey. The briefing will preferably be carried out in person, but may be carried out by video conference or telephone if necessary.
- 7.4 Argyle and the TOs agree that the conduct of Archaeological Surveys provides a valuable opportunity for TOs to be trained by an Archaeologist in how to conduct scientifically based archaeological field work. Argyle and the TOs may therefore nominate TOs to be Archaeological Assistants. The initial nominees are set out at **Schedule 10** of this Management Plan. Argyle will provide TOs who have been nominated to be Archaeological Assistants with introductory archaeological fieldwork training.
- 7.5 Archaeological Assistants:
- (a) will attend the Archaeological Survey as contractors of Argyle to assist in the conduct of the field work component of the Archaeological Survey and for the purpose of learning how to conduct archaeological field work and are not therefore required to exercise any cultural knowledge or authority;
 - (b) must be able to meet the physical demands of the Archaeological Survey work; and
 - (c) will be paid for their work in accordance with Item 5 of the Budget set out in **Schedule 5** to this Management Plan.
- 7.6 If Archaeological Assistants have been nominated under clause 7.4, within 7 days of being engaged under 7.1 the Archaeologist may:
- (a) select up to four Archaeological Assistants to participate in the Archaeological Survey; and
 - (b) accompanied by the Archaeological Assistants, conduct an Archaeological Survey of the Work Program Area.

Archaeological Survey Methodology

The Archaeologist must look carefully over the whole area where Argyle wants to work. He must write down anything important he finds. If he finds anything important, like bones, or stone tools or paintings, they will not be moved without permission from Traditional Owners.

- 7.7 The aim of an Archaeological Survey is to establish whether the Work Program Area contains any Aboriginal Sites consisting of physical evidence of past Aboriginal occupation or land use.
- 7.8 In conducting an Archaeological Survey the Archaeologist will use a methodology which:
- (a) complies with the requirements of the DIA's *Aboriginal Heritage Procedure Manual*;
 - (b) complies with the requirements of the Aboriginal Heritage Act;
 - (c) includes desktop research to identify historical material and record or reports of previous surveys; and

- (d) involves a physical inspection of the Work Program Area.
- 7.9 Further to 7.8, in conducting an Archaeological Survey:
- (a) the Archaeologist will use the coverage to impact ratio set out in **Schedule 4**;
 - (b) the Archaeologist will make a detailed record of any artefacts identified and record to a standard:
 - (1) sufficient for the ACMC to consider as the basis for a recommendation for a section 16 or section 18 consent; and
 - (2) required by the DIA from time to time for registration of that artefact upon the Register of Aboriginal Sites; and
 - (c) if the Archaeologist identifies artefacts and Argyle proposes to remove those artefacts from the land, Argyle will first obtain:
 - (1) the TO's written consent to the removal of the artefacts under a section 16 consent; and
 - (2) a section 16 and/or a section 18 consent.
- 7.10 Argyle will, where possible, seek the TO's consent under 7.9(c)(1) during the conduct of the Work Clearance Survey. Argyle will not seek this consent before the conduct of the Work Clearance Survey.
- 7.11 The Archaeologist will also attend the Work Clearance Survey and perform the functions set out in clause 8.

Archaeological Report

The Archaeologist must write a quick report before 7 days is up, after the survey. He must give this report to Argyle and the Traditional Owners. Argyle might change its work program if the report says it will damage something.

Two weeks after the survey the Archaeologist has to give Argyle and the Traditional Owners a full report about the area. If there is anything in the report that the Traditional Owners want to keep a secret from government, they must tell Argyle. Argyle will cut this out of the report before they give it to government.

- 7.12 Within 7 days of completing the Archaeological Survey field work the Archaeologist will provide Argyle and the TOs with a Preliminary Archaeological Report containing sufficient detail about the location and extent of any Aboriginal sites of a type described in 7.7 to allow Argyle to determine whether it wishes to propose alternative Work Program Areas for consideration under 6.1(f).
- 7.13 Within 14 days of completion of the Work Clearance Survey, the Archaeologist must provide Argyle and the TOs with a written Archaeological Report, signed and dated by the Archaeologist.
- 7.14 The Archaeological Report must include:
- (a) the date(s) the fieldwork was conducted and a description of that fieldwork;
 - (b) the names of all persons who participated in, and also those who were consulted about, the Archaeological Survey;

- (c) results of searches of the Register of Aboriginal Sites;
- (d) a description of the Work Program Area and a warranty that the Archaeological Survey was conducted in accordance with the methodology referred to in clause 7.7-7.11;
- (e) a description of the results of the Survey including advice as to the location and nature of any Aboriginal Sites that are identified and a copy of any site descriptions recorded under 7.7-7.11;
- (f) recommendations regarding the management of any Aboriginal Sites including a record of all recommendations made by TOs; and
- (g) such other information that arises from carrying out the Archaeological Survey that the Archaeologist reasonably believes may assist Argyle in carrying out the work proposed in the Work Program, consistent with the aims set out in clause 2.1.

7.15 The Archaeologist will ensure that the Archaeological Report is prepared to a standard sufficient to enable the report to be submitted to DIA and for DIA to register any Aboriginal Sites discovered.

7.16 If TOs notify the Archaeologist under 8.8(e) that they do not wish Argyle to provide information about particular sites to the DIA, Argyle will provide a copy of the Archaeological Report to the DIA with information about those sites removed from the text and advise the DIA that requests for any further information should be directed to the TOs. The parties acknowledge that the general presumption is that all information about Aboriginal Sites identified as a result of the Archaeological Survey will be provided to the DIA and that requests under this clause will be made in exceptional circumstances only.

8 Work Clearance Survey

*Here is where we say how the Traditional Owners will do their Survey.
Once the Survey is done, the Traditional Owners have to tell Argyle if the work is Cleared or not.*

Work Clearance Survey – participants

The Traditional Owners will go on the Survey with two Anthropologists – one man and one woman.

The Traditional Owners have to send people on the Survey who can talk for that place. One or two young Traditional Owners can go along to help and learn. If two young people go along, there can be no more than 6 old people. If no young people go, there can be 8 old people. If it is a very important place more people can go.

The Archaeologist must go as well to tell people what he found on his survey. There will also be an Argyle worker there who knows how to change the work program and answer questions about it.

- 8.1 The following people will participate in the Work Clearance Survey:
- (a) Senior TOs (who may be accompanied by the Executive Officer and one other person to assist in the field);
 - (b) Assistant TOs;
 - (c) the Anthropologists;
 - (d) the Archaeologist;
 - (e) the Argyle Survey Representatives.

Senior TOs

- 8.2 Senior TOs are TOs with the authority and right to speak for land and waters in the Work Program Area under Aboriginal law and custom.
- 8.3 The role of Senior TOs is to apply their cultural knowledge and authority under Aboriginal law and custom to the consideration of the effect of the Work Program in the manner set out in this Management Plan.
- 8.4 The TOs warrant that each Senior TO has, together with the other Senior TOs as a group, the authority of the TOs to make decisions in the field during the Work Clearance Survey as to whether the Work Program or parts of it are Cleared.

Assistant TOs

- 8.5 Assistant TOs are TOs who do not, or do not yet, have the authority and right to speak for the land and waters in the Work Program Area under Aboriginal law and custom.
- 8.6 The role of the Assistant TOs is to attend the Work Clearance Survey to assist the Senior TOs and to receive training from Senior TOs in matters of Aboriginal cultural importance within the Work Program Area.

Anthropologists

- 8.7 The role of the Anthropologist is to conduct the Work Clearance Survey and prepare a report under the terms of this Management Plan. The Anthropologist will use a methodology which includes desktop research to identify historical material and records or reports of previous surveys.

Archaeologist

- 8.8 The role of the Archaeologist is to:
- (a) attend the Work Clearance Survey;
 - (b) inform the Survey Team of the preliminary results of the Archaeological Survey;
 - (c) consider any additional information provided by the Survey Team which is relevant to the finalisation of the Archaeological Report;
 - (d) ascertain if the TOs do not wish information about particular Aboriginal Sites identified in the Archaeological Survey to be provided to the DIA; and
 - (e) give Argyle written notice of any Aboriginal Sites about which the TOs do not wish information to be provided to the DIA.

Argyle Survey Representative

- 8.9 The Argyle Survey Representative must be a person or persons appointed by Argyle under this clause with authority to vary the Work Program.
- 8.10 The role of the Argyle Survey Representative is to:
- (a) attend the Work Clearance Survey;
 - (b) accompany the Survey Team at all times except when TOs wish to have private discussions;
 - (c) provide to TOs an introductory explanation of the Work Program and any further explanation of the Work Program which may be necessary;
 - (d) consider and if possible make variations to the Work Program; and
 - (e) confirm that all participants in the Work Clearance Survey have exactly the same documents in the field.

Work Clearance Survey: engaging participants

- 8.11 The Survey Team comprises:
- (a) male and female Senior TOs;
 - (b) 2 anthropologists (1 male and 1 female);
- selected and engaged in the manner set out in 8.12-8.13 of this clause.
- 8.12 Within 14 days of receiving a Work Program under clause 6 the TOs will, with the assistance of the Executive Officer:
- (a) engage a male and a female anthropologist from the list of Agreed Consultants;
 - (b) and to the extent necessary, with the assistance of the anthropologists, select a reasonable number of male and female Senior TOs and a reasonable number of Assistant TOs to participate in the Work Clearance Survey. The total number of Senior TOs and Assistant TOs participating in a Work Clearance Survey may not exceed 8 including no more than 2 Assistant TOs. The parties may however agree through the TO Relationship Committee, that a Work Clearance Survey is of particular importance and/or significance to TOs. If such agreement is reached, the total number of Senior TOs and Assistant TOs may be increased but may not exceed 18 including no more than 4 Assistant TOs; and
 - (c) give Argyle written notice of the identity of:
 - (1) the members of the Survey Team;
 - (2) the Assistant TOs.
- 8.13 In selecting the TO participants who will attend the Work Clearance Survey, the TOs must:
- (a) engage a sufficient number of Senior TOs to ensure the cultural validity of the Work Clearance Survey; and
 - (b) ensure if possible, that the Assistant TOs selected to form part of the Survey Team include up to two of the Archaeological Assistants who participated in the Archaeological Survey.

Work Clearance Survey Methodology

When everyone is on the country, the Argyle worker will explain what Argyle wants to do there. If the Traditional Owners have any worries about the work Argyle wants to do, then they have to tell the Argyle worker about that when the Survey is being done. That way, Argyle might be able to change the work around to fix the problem. Changes can be made right there in the bush and decided by Argyle and the Traditional Owners together.

When the survey is finished everyone signs a map showing what work is OK and what work is not. No more than two week later, Argyle must get a full report showing what work is cleared and what work is not.

- 8.14 The Archaeological Survey will be conducted over the Work Program Area prior to the conduct of the Work Clearance Survey.
- 8.15 Within 14 days of receiving the Preliminary Archaeological Report, or such other time as agreed by the parties, the Survey Team will physically inspect the Work Program Area. During this inspection:
- (a) the Archaeologist will inform the Survey Team of the preliminary results of the Archaeological Survey;
 - (b) Argyle will:
 - (1) explain the Work Program and Work Programme Area to the Survey Team; and
 - (2) inform the Survey Team of any variations which Argyle proposes to make to the Work Program as a result of the preliminary results set out in the Preliminary Archaeological Report;
 - (c) the Survey Team will conduct an ethnographic survey in relation to the Work Program Area under the methodology set out in this clause; and
 - (d) the TO members of the Survey Team will:
 - (1) provide the Archaeologist with any additional information which may assist the Archaeologist to finalise the Archaeological Report; and
 - (2) inform the Archaeologist of any information about Aboriginal Sites that TOs do not wish Argyle to provide to the DIA.
- 8.16 In conducting a Work Clearance Survey, the Survey Team will use a methodology which:
- (a) complies with the requirements of the DIA's *Aboriginal Heritage Procedures Manual*;
 - (b) complies with the requirements of the Aboriginal Heritage Act; and
 - (c) involves a physical inspection of the Work Program Area.
- 8.17 If the Survey Team has any concerns about the Work Program which could result in the Survey Team deciding to Not Clear the Work Program, or a part of the Work Program, the Survey Team must raise those concerns at the time the Work Clearance Survey is conducted with the Argyle Survey Representative attending the Work Clearance Survey.

- 8.18 If the Survey Team raises concerns under 8.17 the Argyle Survey Representative must consider if it is possible to amend the Work Program in a manner which would alleviate those concerns, such as carrying out the work in a different location, and inform the TOs:
- (a) if it is possible to amend the Work Program in such a manner, and if possible, the substance of those amendments; or
 - (b) that it is necessary for Argyle’s technical personnel to review the Work Program with the aim of identifying any possible amendments.
- 8.19 If the Argyle Survey Representative proposes amendments to the Work Program under 8.18 the Survey Team must, time permitting, consider those amendments in the field as part of the Survey and if the Survey Team has any further concern, the process set out at 8.17 – 8.18 applies.
- 8.20
- (a) If the Argyle Survey Representative proposes that Argyle’s technical personnel review the proposed amendments to the Work Program; or
 - (b) in circumstances where there is insufficient time to consider Argyle’s proposed amendments in the field; then
 - (c) the Survey will be extended; unless
 - (d) Argyle and the Survey Team agree that solely the portion of the Work Clearance Survey which relates to the TOs concerns should be suspended.
 - (e) The extension or suspension will end:
 - (1) at such time as Argyle advises the TOs that:
 - (A) an amendment is possible in which case 8.19 applies; or
 - (B) the amendment is not possible; or
 - (2) at the time the Survey is rescheduled.
- 8.21 At the completion of the physical inspection of the Work Program Area and before leaving the field, the Survey Team and the Anthropologists must mark up 3 identical topographical maps of the Work Program Area to show which Works are Cleared, which Works, if any, are Not Cleared and which Works, if any, are the subject of a suspension of the Survey. The maps must be signed by each member of the Survey Team and the Argyle Survey Representative. One map will be kept by the Anthropologists, one map will be kept by the Senior TOs and one map will be kept by the Argyle Survey Representative.
- 8.22 Cleared and Not Cleared Works marked on the Work Clearance Survey Plan must be delineated in sufficient form and detail as to assist Argyle to comply with the Aboriginal Heritage Act.
- 8.23 A decision by the Survey Team to Clear or Not Clear Works in the Work Program Area may only be made on the basis of Aboriginal Site protection.

Work Clearance Report

- 8.24 Within 14 days of completion of the Work Clearance Survey the TOs must provide Argyle with a written Work Clearance Report prepared by the Anthropologists. This report must be signed and dated by the Anthropologists.
- 8.25 The Work Clearance Report must:

- (a) state which of the proposed activities in the Work Program are Cleared and which are Not Cleared; and
 - (b) include a copy of the Work Clearance Survey Plan created under 8.21.
- 8.26 The Work Clearance Report must also include:
- (a) the date(s) the fieldwork was conducted and a description of that fieldwork;
 - (b) the names of all persons who participated in the Survey and who were consulted;
 - (c) results of searches of the Register of Aboriginal Sites;
 - (d) a description of the Work Program Area and a warranty that the Survey was conducted in accordance with the methodology referred to in clauses 8.14-8.23;
 - (e) recommendations regarding the management of any Aboriginal Sites including a record of all recommendations made by TOs; and
 - (f) such other information that arises from carrying out the Work Clearance that the Anthropologists reasonably believe may assist Argyle in carrying out such of the Work proposed in the Work Program as is Cleared, consistent with the aims set out in 2.1.

9 Work Program Cleared

If the Traditional Owners say that a Work Program is cleared, then Argyle can go ahead and do the work that they want to do.

- 9.1 Where an Archaeological Survey and a Work Clearance Survey have been conducted in relation to a Work Program under clause 7 and clause 8, and the Survey Team has decided that the Work Program or part of it is Cleared, then Argyle may conduct the Argyle Operations set out in the Work Program (including minor variations to the Works but not to the area affected by the Works) and all works necessary and incidental to the conduct of those operations.

10 Work Program Not Cleared

If the Traditional Owners say that a work programme or part of a work programme is not cleared then Traditional Owners and Argyle will hold a meeting to see if something else can be worked out. If Argyle and Traditional Owners can't agree at that meeting and the Traditional Owners still don't want that work to go ahead, Argyle will not do the work. No means no.

- 10.1 Where:
- (a) Archaeological and Work Clearance Surveys have been conducted in relation to a Work Program under clause 7 and clause 8; and
 - (b) the Survey Team has decided that the Work Program or a part of it is Not Cleared; then

- (c) the process set out at clause 10.2 to 10.8 can be triggered at Argyle’s discretion upon the giving of written notice by Argyle that consultation is sought under this clause 10 within 7 days of receiving the Work Clearance Report.
- 10.2 Within 14 days of the notice referred to above, the Senior TOs who participated in the Work Clearance Survey and other relevant Senior TOs, the Anthropologists, the Archaeologists (if required by either of the parties), the Argyle Survey Representative and up to 2 additional Argyle employees, will participate in a meeting.
- 10.3 The purpose of the meeting is to:
- (a) ensure that the parties have a clear and consistent understanding of:
 - (1) the Work Program;
 - (2) the Work Clearance Survey Methodology;
 - (3) the manner in which the parties intended that methodology to be applied in the field;
 - (4) the manner in which that methodology was in fact applied in the field; and
 - (5) the TO’s response to the Work Program; and
 - (b) investigate whether the Works can proceed in a manner which the TOs consider is consistent with the TOs’ obligations in respect of Aboriginal Sites.
- 10.4 The parties will hold the meeting in Kununurra, Western Australia or such other place as is agreed, and up to 14 Senior TOs will be paid to attend the meeting at the Standard Argyle Rate. Argyle will also pay for the costs of the meeting where Argyle and the TOs agree that the costs are reasonable.
- 10.5 The parties will engage in the meeting process in good faith and with the aim of reaching an agreed resolution as to whether the Works can proceed in a manner which the TOs’ consider is consistent with the TO’s obligations in respect of Aboriginal Sites.
- 10.6 Any resolution arising from the meeting must be in writing and signed by both parties, and will not be binding until it has been put in writing.
- 10.7 If the parties fail to achieve a resolution at the meeting or at such further meetings as the parties agree to hold then:
- (a) the Work Program or part thereof remains Not Cleared;
 - (b) Argyle will not undertake the Works specified in that Work Program or part thereof in relation to the Work Program Area, and will not seek a section 16 or section 18 consent under the Aboriginal Heritage Act; but
 - (c) subject to (d), nothing in this clause prevents Argyle from submitting a further Work Program in relation to that land in the future; and
 - (d) if the further Work Program is in identical terms to the earlier Work Program, then before submitting that further Work Program, Argyle must inform the TO Relationship Committee of its intention to do so, provide details of why Argyle is submitting an identical Work Program and consult with the TO Relationship Committee.

- 10.8 If the parties agree that Argyle may conduct works under the Work Program, or a modified Work Program, and those Works would alter or damage an Aboriginal Site, then the TOs:
- (a) will support any application consistent with the agreed resolution for a section 16 or section 18 consent made by Argyle in relation to the conduct of Works in the Work Program Area;
 - (b) will provide Argyle with sufficient information to support that application; and
 - (c) agree that Argyle may provide any information provided under (b) to the ACMC in support of the section 18 application.

11 Aboriginal Heritage Act

Here the Traditional Owners recognise that Argyle has to follow the laws in the Aboriginal Heritage Act. No rule in this agreement can block Argyle following the Aboriginal Heritage Act law.

- 11.1 Nothing in this Management Plan:
- (a) is intended to prevent Argyle from doing all things necessary to fulfil its statutory obligations under the Aboriginal Heritage Act; or
 - (b) prevents Argyle from applying for a section 16 and/or section 18 consent in circumstances where the TOs fail or refuse to conduct a Survey in accordance with this Management Plan.

12 Budget

Here is where we say how much Argyle has to pay for a Survey.

The most Argyle has to pay each day to Traditional Owners is \$4,800.

The most that Argyle will pay Traditional Owners who can make decisions is \$300 per day.

The most that Argyle will pay Traditional Owners who are helping those old people or getting trained up, is \$150 per day.

The amount that Traditional Owners get paid each day will depend on the number of old people and young people who are in the Survey.

Argyle also has to pay for the Archaeologist.

Argyle also has to pay for the Anthropologist.

Argyle also has to pay for the costs of aircraft, cars and food needed for the Survey.

Argyle will pay half of the costs of the Survey up front and half at the end when they get the Report.

- 12.1 Argyle will meet the reasonable costs of conducting the Archaeological Survey and the Work Clearance Survey on the basis set out in this clause.
- 12.2 Within 7 days of receiving a Work Program:
- (a) the Archaeologist must provide Argyle and the Executive Officer with an estimate of the costs and expenses associated with the conduct of the Archaeological Survey in the form of the budget in **Schedule 5**; and
 - (b) the TOs must provide Argyle with an estimate of the costs and expenses associated with the conduct of the Work Clearance Survey in the form of the budget in **Schedule 6** of this Management Plan, which costs and expenses must exclude the amount contributed by Argyle to the costs of the Work Clearance Survey as part of the Annual Management Plan Payments as calculated in accordance with the budget and assumptions set out in **Schedule 6** of this agreement.
- 12.3 If Argyle accepts a budget submitted under 12.2, which acceptance will not be unreasonably withheld, Argyle will confirm acceptance by countersigning the budget, returning a copy to the party that submitted the budget, and immediately paying 50% of the budgeted sum.
- 12.4 If Argyle does not accept the budget as a reasonable estimate of the Survey costs, the parties will continue to negotiate until an agreed estimate is achieved.
- 12.5 If the Archaeologist or the TOs, as applicable, become aware that the approved budget requires significant variation, the Archaeologist, or the TOs, as applicable must provide Argyle with an updated budget for consideration in the usual manner under this clause. Upon the submission of the updated budget, the provisions of clauses 12.3 and 12.4 apply.
- 12.6 Where a rate is specified in **Schedule 5** or **Schedule 6** that rate will be reviewed annually by the parties, and may be varied by written agreement.
- 12.7 Within 30 days of completing a Survey the Archaeologist or TOs (as applicable) must submit a Tax Invoice in the form set out in **Schedule 7** or **8** to Argyle with a copy to the Executive Officer specifying the actual hours worked, and costs and expenses incurred, together with reasonable documentary evidence.
- 12.8 Subject to 12.9, within 7 days of receipt of both the Tax Invoice and either the Archaeological Survey Report or Work Clearance Survey Report, as applicable, Argyle will pay the remaining portion of the actual costs and expenses incurred by the Archaeologist or TOs as applicable, in conducting the Survey.
- 12.9 If the Tax Invoice sum is higher than the budget sum approved under 12.3, Argyle and the Archaeologist or TOs as applicable, will attempt to reach agreement in relation to the sum to be paid. If no agreement can be reached, the dispute resolution provisions of this agreement apply.

13 Agreed Consultants and Archaeological Assistants

Argyle and Traditional Owners have to decide together which Archaeologists and Anthropologists work on Surveys.

Anthropologists, Archaeologists and their workers have to promise to follow the rules in this agreement. If an Archaeologist or Anthropologist does not follow the rules, Argyle or the Traditional Owners can write a letter saying that they can't work at Argyle any more. At the next meeting, the Committee will talk about whether the Archaeologist or Anthropologist can keep working at Argyle. If the Committee can't agree then the Archaeologist or Anthropologist has to stop working at Argyle.

- 13.1 Subject to 13.2 Argyle and the TOs may by agreement in writing nominate, remove or add a suitably qualified consultant to the list of Agreed Consultants.
- 13.2 Before a consultant (including the consultants referred to in **Schedule 3**), becomes an Agreed Consultant for the purpose of this Management Plan, that consultant must agree in writing to comply with the terms of this Management Plan.
- 13.3 Before a TO becomes an Archaeological Assistant for the purpose of this Management Plan, that TO must agree in writing to comply with the terms of this Management Plan, insofar as they relate to Archaeological Surveys.
- 13.4 Where, during the conduct of a Survey, a party considers that an Agreed Consultant has failed or is failing to comply with the terms of this Management Plan, the following process will apply:
- (a) the party may give notice to the Agreed Consultant and other relevant parties that the Survey is suspended;
 - (b) within 21 days of the suspension referred to in (a) the party giving the suspension notice must provide to the TO Relationship Committee details of the alleged failure or failures of the Agreed Consultant to comply with the terms of this Management Plan;
 - (c) the issue will be discussed at the next meeting of the TO Relationship Committee, and the parties must attempt to resolve the issue. This may include the TO Relationship Committee seeking a response from the relevant Agreed Consultant;
 - (d) in the event that the party giving notice under 13.4(a) wishes the TO Relationship Committee to consider the issue prior to the next scheduled meeting of the TO Relationship Committee, the Co-Chair appointed by that party may request the Secretariat to convene a TO Relationship Committee meeting;
 - (e) if the issue is resolved by the TO Relationship Committee, the Survey will recommence and continue to be conducted by the relevant Agreed Consultant;
 - (f) in the event that the issue cannot be resolved by the TO Relationship Committee, the following process will apply:
 - (1) the party who gave notice under 13.4(a) (**Notifying Party**) may give notice to the other party that the Notifying Party intends to

- engage its own consultant to attend the Survey (**Reviewing Consultant**) and will provide the other party with the name of the proposed Reviewing Consultant;
- (2) the parties will consult and attempt to reach agreement as to the appointment of the proposed Reviewing Consultant.
 - (3) if the parties are unable to reach agreement within 7 Business Days, the proposed Reviewing Consultant will be appointed by the Notifying Party at the cost of the Notifying Party, and the Survey will recommence;
 - (4) the Reviewing Consultant will monitor and review the conduct of the Survey to ensure that the Agreed Consultant complies with the terms of this Management Plan; and
 - (5) the Reviewing Consultant will provide a written report on the conduct of the survey to the parties.

14 Notice and Communication of TO Decision

Here the Traditional Owners tell Argyle that the Executive Officer has the right to talk for them and organise things for them under this Management Plan. The Executive Officer is the right person to get letters and reports about Site Protection and the Executive Officer will tell Argyle about Traditional Owner decisions. This part says that if Argyle gives a letter to the Executive Officer, Traditional Owners will get it too. And if the Executive Officer tells Argyle about a decision from Traditional Owners, Argyle can be sure that Traditional Owners are behind that decision.

- 14.1 The TOs represent and warrant that they hereby authorise the person from time to time holding the position of Executive Officer to, on behalf of the TOs:
 - (a) receive notices, reports and information provided by Argyle under this Management Plan;
 - (b) communicate to Argyle, decisions made by the TOs under this Management Plan; and
 - (c) agree on the terms of engagement of Archaeologists engaged under this Management Plan.
- 14.2 The TOs represent and warrant that they hereby authorise the person from time to time holding the position of Executive Officer to, on behalf of the TOs, otherwise fulfil the TOs' obligations under this Management Plan.
- 14.3 For the purpose of this Management Plan, Argyle is entitled to rely on the fact that:
 - (a) any notice, report or information provided to the Executive Officer on behalf of the TOs has been communicated to the TOs; and
 - (b) any action taken by the TO Representatives and any decision which is communicated to Argyle by the Executive Officer on behalf of the TOs, is authorised by the TOs and is correct.

- 14.4 Argyle will provide each TO Representative with a copy for information purposes of any notice, report or information provided to the Executive Officer under this clause. However, Argyle is entitled to rely on service of such a document on the Executive Officer.

15 Variation and Review

This Management Plan can only be changed if everyone on the Relationship Committee agrees and signs their name.

The Committee has to review this Management Plan two years after it starts. A review is where the Committee makes sure that the Management Plan is working properly. If it is not working properly the Committee has to think of ways to make it better.

- 15.1 This Management Plan may be varied by a unanimous vote of the TO Relationship Committee with the variations put in writing and signed by every Argyle Representative and every TO Representative present at the meeting.
- 15.2 Time periods specified in this Management Plan may be varied by agreement between the Argyle Chairperson and TO Chairperson.
- 15.3 In conducting regular reviews under clause 4.6(e) of this agreement the TO Relationship Committee should ensure that a review of this Management Plan is conducted 2 years after the commencement of this Management Plan.

Schedule 1 – Map and description of Current Mining Area

There is an area in the Argyle Mining Lease called the Current Mining Area where Argyle is already mining or plans to mine soon. In the ILUA agreement Traditional Owners say that this area is cleared for mining or anything to do with mining. This schedule has a description of the Current Mining Area and a map showing place that make up the Current Mining Area.

Description of Current Mining Area

The Current Mining Area means the areas of land and water shown on the Current Mining Area map in this Schedule, including:



The AK1 Designated Area Fence (Restricted Access)

The AK1 process plant, the explosives plant and magazine, MKIII plant, workshops, parking areas, recovery tailings stockpile, offices, the exploratory decline entrance, laydown areas for storage of equipment, sheds, back-up generators, mess facilities, showers and toilet facilities, change rooms, bulk fuel tanks, water tanks, a sewage treatment tank, landfills, pipelines, powerlines, telephone cables, pumps, standpipes, dams, sumps, roads and tracks, culverts, signs, survey stations and environmental monitoring equipment.








The Alluvial Designated Area Fence (Restricted Access)

The Alluvial process plant, the recovery tailings plant, recovery tailings stockpiles, exploration sample stockpiles, MKIII plant, workshops, parking areas, offices, laydown areas for storage of equipment, sheds, back-up generators, mess facilities, showers and toilet facilities, environmental monitoring equipment, change rooms, bulk fuel tanks, water tanks, septic tanks, powerlines, pipelines, telephone cables, pumps, dams, sumps, roads and signs.

Outside Designated Areas

Accommodation villages, workshops, parking areas, recovery tailings stockpiles, reject material stockpiles, stemming stockpiles, topsoil stockpiles, offices, laydown areas for storage of equipment, sheds, power station, back-up generators, showers and toilet facilities, change rooms, bulk fuel tanks, water tanks, sewage treatment ponds, landfills, borrow pits, fences and gates, pipelines, pumps and pump stations, dams, sumps, water treatment plant, roads and tracks, easements, weighbridge; survey stations, environmental monitoring equipment, the airport, aircraft navigational aids, radio communication/ transmission towers, satellite dishes, telephone cables, mobile telephone transmission tower, lease boundary track and marker pegs; signs and culverts.

- 11kV powerlines.
- 33kV powerlines.
- 132kV powerlines.

- Fire water pipes.
 - - - - Raw water pipes.
 - Potable water pipes.
 - Sewage pipes
 - Communication lines e.g. phone lines
 - · · - Fibre optic cables
-
-  This is the area where a new tailings dam will be built to store tailings after the existing tailings dam is full. It is also the Reclaim Pond 3 site, which will capture water from the AK1 tailings dams' underdrains for recycling.
 -  This is another possible new tailings dam sites if the preferred area is not available.
 -  These show existing tailings dam and reclaim pond sites. These include the AK1 tailings dam (still in use), Alluvial tailings dam 1 and 2 (no longer being used and in the process of being rehabilitated) Alluvial tailings dam 3 (no longer being used, but not yet rehabilitated), Alluvial tailings dam 4 and reclaim pond (still has some use, receiving fine tailings from the recovery tailings processing plant) and Alluvial tailings dam 5 and reclaim pond (no longer being used, but not yet rehabilitated).
 -  This area is the current extent of the AK1 pit and waste dumps.
 -  This area is the final limit the AK1 waste dumps will get to when mining is finished. This area includes a bund around the base of the dumps to prevent material eroded from the dumps washing into the environment. The new Designated Area fenceline is the boundary of the dumps. On the north western side of the dumps near Devil Devil Spring, the dumps will not go out any further, apart from building the bund to prevent dirt and rocks being washed toward the spring and creek.
 -  These are the roads and tracks that may be used only by mining people, or others that may be used by mining people, Lissadell station people and visitors. The main roads at Argyle are the ones that run from the boom gate at Wandarrrie to the mine, the road that runs from the mine to the Airport, and the road that runs from the Airport road to the Argyle village. These roads are sealed. There are also sealed roads that are service roads in the light industrial area near the mine, and in the process plant area. The main unsealed roads, which are used mainly by mining people, are the road to Gap Dam from near the water treatment plant near the village, the road from Gap Dam to the Alluvial Plant, and roads to the sewage lagoons at the village and Wandarrrie. The unsealed road from the airport to Lake Argyle is used by mining people, Lissadell station people and visitors. There are a lot of minor tracks that are used by mining people for surveys, monitoring or exploration. Haul roads are mainly in the AK1 pit and are used only by mining people.
 - 



These are alluvial resource blocks that were cleared by Traditional Owners on 6th August 2004. These are areas where we know there are diamonds, but they have not yet been mined and it may be uneconomical to mine them.



These are alluvial resource blocks that have already been mined and rehabilitated.



These are legacy sites, inherited from pre-Argyle exploration etc.



This is the lease boundary.

Schedule 2 - Maps showing Aboriginal Sites

These are maps which shows all the Aboriginal Sites that Argyle knows about at the moment

These maps are based on the Aboriginal Heritage Review dated May 2003, commissioned by Argyle and prepared by Freehills, 4 copies of which were provided to the KLC at the TO Committee meeting held on 3 and 4 March 2004.

Schedule 3 - Agreed Consultants

Argyle and Traditional Owners agree to use the people whose names are written here as Archaeologists and Anthropologists for Survey work.

- (a) Agreed Archaeologists
 - (1) Stephen Corsini
 - (2) Fiona Hook
 - (3) Gavin Jackson
 - (4) Kate Morse
 - (5) Kim Akerman
- (b) Agreed Female Anthropologists
 - (1) Kim Doohan
 - (2) Katie Glascon
 - (3) Hilary Rumley
 - (4) Nancy Williams
 - (5) Sarah Yu
- (c) Agreed Male Anthropologists
 - (1) Kim Barber
 - (2) Joh Bornman
 - (3) Kingsley Palmer

Schedule 4 - Archaeological Survey Coverage

This schedule tells the Archaeologist what he has to look at depending on what type of work Argyle is going to do.

Level of Impact	Level of coverage
Specific high impact areas of the Work Program eg: <ul style="list-style-type: none"> • high impact geological sampling; • drilling bores 	<ul style="list-style-type: none"> • 100% coverage of the nominated high impact area and a 30m x 30m area around it. • predictive sampling is not required
Defined high impact Work Program Area eg: <ul style="list-style-type: none"> • extension of the waste dumps; • a new tailings dam; • relocation of facilities. 	<ul style="list-style-type: none"> • 100% coverage of the defined high impact area and a 50m buffer area around it. • predictive sampling is not required.
<ul style="list-style-type: none"> • Large areas of lower level work in the Work Program which work is not Non Ground Disturbing Works as defined and therefore included in the Survey. 	<ul style="list-style-type: none"> • any accessible areas of bare ground regardless of landform or geology. • any areas where vegetation has recently been burned off. • the accessible portions of Work Program Area to be examined in detail using closely spaced parallel pedestrian transects over the visible areas.
Where the Work Program Area is a track	<ul style="list-style-type: none"> • 100% coverage of the proposed access track including land 15m to each side of the centre line of the proposed route.

Schedule 5 - Archaeological Survey – Budget

This form helps Argyle and the Archaeologist work out how much the Archaeological Survey will cost.

	ITEM	TIME/QUANTITY	RATE/COST	TOTAL
1	Professional Services			
	Desktop research: <ul style="list-style-type: none"> • literature review • DIA register search • other 	[] hours	[\$]/hour	\$
	Field Work – Archaeological Survey (including travel time)	[] days	[\$]/hour	\$
	Field Work – Work Clearance Survey (including travel time)	[] days	[\$]/hour	\$
	Analysis and Report Writing	[] days	[\$]/hour	\$
2	Administration	[] hours	[\$]/hour	\$
3	Travel (unless provided by Argyle)			
	Air Fare	[Airline]	\$ [Airfare]	\$
	Vehicle	Rental Fuel	[\$]/day [\$]/km	\$
	Helicopter	Charter	[\$]/day	\$
4	Accommodation (unless provided by Argyle)	[Hotel/apartment] [number of nights]	[\$]/night	\$
5	Archaeological Assistants Argyle will meet the costs of Item 5 to a maximum of \$600/day	[Number] Trainees	maximum of \$150 per trainee per day	[\$]
6	Food/Provisions (unless provided by Argyle)	[number] Trainees [number] days	\$50 per person per day	
7	Other (please specify)			
	Total Budget			\$

Submitted by: _____ (Name and signature of Archaeologist) as a genuine estimate on of 200[]	Accepted by: _____ (Name and signature of Argyle Officer) as a genuine estimate on of 200[].
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Schedule 6 - Work Clearance Survey – Budget

This form helps Argyle and Traditional Owners work out how much the Traditional Owner Survey will cost.

	ITEM	TIME/QUANTITY	RATE/COST	TOTAL
1	Professional Services			
	Desktop research: <ul style="list-style-type: none"> • literature review • DIA register search • other 	[] hours	[\$]/hour	\$
	Field Work (including travel time)	[] days	[\$]/hour	\$
	Analysis and Report Writing	[] days	[\$]/hour	\$
2	Administration	[] hours	[\$]/hour	\$
3	Anthropologists' Travel to Argyle (unless provided by Argyle)			
	Air Fare	[Airline]	\$ [Airfare]	\$
	Vehicle	Rental Fuel	[\$]/day [\$]/km	\$
	Helicopter	Charter	[\$]/day	\$
4	Anthropologists' Accommodation (unless provided by Argyle)	[Hotel/apartment] [number of nights]	[\$]/night	\$
5	TO members of Survey Team	Argyle will meet the costs of item 5 to a maximum of \$4,800 per day		
	Senior TOs (including travel time)	[number] TOs [number] days	maximum of \$300 per day, per Senior TO	\$
	Assistant TOs & Archaeological Assistants (including travel time)	[number] TOs [number] days	maximum of \$150 per day, per Assistant TO/Archaeological Assistant	\$
6	Survey team – Food/Provisions (unless provided by Argyle)	[number] people [number] days	\$50 per person per day	
7	Other (please specify)			
	Total Budget			\$

Submitted by: _____ (Name and signature of TO Representative) as a genuine estimate on _____ of _____ 200[]	Accepted by: _____ (Name and signature of Argyle Officer) as a genuine estimate on _____ of _____ 200[].
---	--

Schedule 7 – Archaeological Survey – Invoice

The Archaeologist has to fill out this form and give it to Argyle to get paid.

	ITEM	TIME/QUANTITY	RATE/COST	TOTAL
1	Professional Services			
	Desktop research: <ul style="list-style-type: none"> • literature review • DIA register search • other 	[] hours	[\$]/hour	\$
	Field Work – Archaeological Survey (including travel time)	[] days	[\$]/hour	\$
	Field Work – Work Clearance Survey (including travel time)	[] days	[\$]/hour	\$
	Analysis and Report Writing	[] days	[\$]/hour	\$
2	Administration	[] hours	[\$]/hour	\$
3	Travel (unless provided by Argyle)			
	Air Fare	[Airline]	\$ [Airfare]	\$
	Vehicle	Rental Fuel	[\$]/day [\$]/km	\$
	Helicopter	Charter	[\$]/day	\$
4	Accommodation (unless provided by Argyle)	[Hotel/apartment] [number of nights]	[\$]/night	\$
5	Archaeological Assistants Argyle will meet the costs of Item 5 to a maximum of \$600/day	[Number] Trainees	maximum of \$150 per trainee per day	[\$]
6	Food/Provisions (unless provided by Argyle)	[number] Trainees [number] days	\$50 per person per day	
7	Other (please specify)			
	Total			\$

Submitted by: _____ (Name and signature of Archaeologist) on _____ of _____ 200[]	Accepted by: _____ (Name and signature of Argyle Officer) on _____ of _____ 200[].
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Schedule 8 – Work Clearance Survey – Invoice

The Executive Officer has to fill out this form so Argyle will pay for the Traditional Owner Survey.

	ITEM	TIME/QUANTITY	RATE/COST	TOTAL
1	Professional Services			
	Desktop research: <ul style="list-style-type: none"> • literature review • DIA register search • other 	[] hours	[\$]/hour	\$
	Field Work (including travel time)	[] days	[\$]/hour	\$
	Analysis and Report Writing	[] days	[\$]/hour	\$
2	Administration	[] hours	[\$]/hour	\$
3	Anthropologists' Travel to Argyle (unless provided by Argyle)			
	Air Fare	[Airline]	\$ [Airfare]	\$
	Vehicle	Rental Fuel	[\$]/day [\$]/km	\$
	Helicopter	Charter	[\$]/day	\$
4	Anthropologists' Accommodation (unless provided by Argyle)	[Hotel/apartment] [number of nights]	[\$]/night	\$
5	TO members of Survey Team	Argyle will meet the costs of item 5 to a maximum of \$4,800 per day		
	Senior TOs (including travel time)	[number] TOs [number] days	maximum of \$300 per day, per Senior TO	\$
	Assistant TOs & Archaeological Assistants (including travel time)	[number] TOs [number] days	maximum of \$150 per day, per Assistant TO/Archaeological Assistant	\$
6	Survey team – Food/Provisions (unless provided by Argyle)	[number] people [number] days	\$50 per person per day	
7	Other (please specify)			
	Total			\$

Submitted by: _____ (Name and signature of TO Representative) on _____ of _____ 200[]	Accepted by: _____ (Name and signature of Argyle Officer) on _____ of _____ 200[].
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Schedule 9 - Sample Survey Timeline

This schedule shows what has to happen and when, to finish a Work Program Clearance quickly.

Argyle: (a) provides Work Program; and (b) engages Archaeologist		Argyle: (a) provides Work Program; and (b) engages Archaeologist		Argyle: (a) provides Work Program; and (b) engages Archaeologist	
		TOs may request further relevant information. Within 7 days, Argyle must provide it if it exists		TOs may request further relevant information. Within 7 days, Argyle must provide it if it exists	
				TOs may request an explanation. Within 14 days Argyle will meet TOs to provide explanation.	
Within 7 days Archaeologist: (a)engages < 4 Archaeological Assistants; and (b)conducts the Survey.	Within 14 days the TOs will engage a Survey Team	Within 7 days Archaeologist: (a)engages < 4 Archaeological Assistants; and (b)conducts the Survey.	Within 14 days the TOs will engage a Survey Team	Within 7 days Archaeologist: (a)engages < 4 Archaeological Assistants; and (b)conducts the Survey.	Within 14 days the TOs will engage a Survey Team
Within 7 days the Archaeologist provides Argyle and TOs with a Preliminary Archaeological Report					
Within 14 days (or as agreed):					
<ul style="list-style-type: none"> • the Archaeologist will explain the Preliminary Archaeological Report to the Survey Team; • Argyle will inform the Survey Team of any variations to the Work Program; <p>the Survey Team will conduct an ethnographic survey of the Work Program Area</p>					
Within 14 days the TOs must provide a Work Clearance Report.					

Schedule 10 – Nominated Archaeological Assistants

Mandangala/Tiltuwam on behalf of the Toby, Dixon, Hall and Curtin families	<p>Stuart Curtin Aaron Hall Eddie Hall Dougie Gerrard Kevin Wungundin Stephen Gerrard Karen Gerrard Rosie Gerrard Peter Curtin Ethan Curtin Malcolm Simon Benjamin Curtin Jason Toby Roy Toby Buddy Toby Maureen Hall Marcus Simon Craig Bedford Dylan Curtin</p>
Mandangala/Tiltuwam on behalf of the Thomas and Barrett families	<p>Charlene Carrington Fabian Garlett Ryan Garlett Bessie Daylight Vincent Ramsay Geraldine Bedford Morelle Bedford</p>

Management Plan 2 - Training and Employment

This Management Plan says how Argyle and Traditional Owners will work together to help Traditional Owners get training and jobs at Argyle Mine.

1 Term

Here is where we say when the Training and Employment Management Plan starts and when it finishes up. It starts when everyone has signed this agreement. The training parts finish when Argyle stops getting diamonds, and the rest finishes when the mine is all shut down.

1.1 This Management Plan:

- (a) commences at the Commencement Date; and
- (b) terminates as follows:
 - (1) clauses 2, 3, 6, 7, 9 and 10 terminate upon the Completion of Decommissioning; and
 - (2) clauses 4, 5 and 8 terminate upon the Cessation of Production Operations.

2 Principles

Here Argyle and Traditional Owners agree that it is important to keep people safe at the mine and to keep the mine working properly.

Argyle workers, no matter if they are Aboriginal or whitefellas, have got to be good workers who work safely and well.

Argyle says that it wants four out of ten workers at the mine to be local Aboriginal people by the time Argyle starts underground mining in 2008. Argyle recognises that Aboriginal people want good careers at the same time as following their culture.

Traditional Owners recognise that if they want a job at Argyle they have to be good enough to do the job. Traditional Owners recognise too, that it is important to keep their kids in school.

Argyle also talks about some of the ways it already helps Aboriginal people get jobs and stay in the job.

Business Principles

2.1 The parties acknowledge that:

- (a) it is in the interests of both Argyle and the TOs for the Argyle Operations to be conducted safely and in accordance with sound commercial principles;
- (b) Argyle needs skilled and productive workers in order to conduct the Argyle Operations safely and profitably; and

- (c) Argyle, as the employer, makes all decisions about who to employ in relation to the Argyle Operations subject to the Management Plan and the principles set out in this clause 2.

Employment Principles

- 2.2 The parties agree that the approach of Argyle and TOs to Aboriginal employment at the Mine is based on mutual obligation.
- 2.3 Argyle supports Aboriginal employment and has a number of systems and procedures in place to encourage Aboriginal employment. In particular, Argyle:
 - (a) aims to have Local Aboriginal People comprising at least 40% of its workforce at the Mine by the time underground operations commence in approximately 2008 and maintaining that level until Cessation of Production Operations;
 - (b) if Argyle cannot or does not meet the aim set out in (a), then Argyle will:
 - (1) review Argyle’s recruitment and training practices; and
 - (2) inform the TO Relationship Committee and work with the TO Relationship Committee to try and find a way to meet that aim;
 - (c) recognises the importance of providing opportunities for Aboriginal employees to progress along career paths within Argyle on their merits;
 - (d) recognises that some Aboriginal people have particular cultural obligations which require flexible work practices; and
 - (e) recognises the importance to Aboriginal employees of informal mentoring and performance management systems.
- 2.4 Argyle and the TOs agree on the following matters:
 - (a) senior TOs can play an important role in assisting Aboriginal employees to succeed at Argyle;
 - (b) employment at Argyle is based on merit;
 - (c) TOs have an important role to promote understanding within their communities about what is required to get a job and keep a job at Argyle, including the need to be physically healthy and to meet Argyle’s requirements about drugs and alcohol; and
 - (d) education is important and it is desirable to ensure that Aboriginal children successfully complete High School, so that they will have the best chance to obtain training and employment under this Management Plan.
- 2.5 Argyle has already established:
 - (a) an Indigenous Training Program which Argyle will maintain until 2007. Argyle’s financial commitment to this Indigenous Training Program has a value of \$10 million;
 - (b) an informal mentoring program for its employees which Argyle will maintain, in substantially the same form, until Cessation of Production Operations; and
 - (c) a performance management system which Argyle will maintain, in substantially the same form, until Cessation of Production Operations.

A summary of these programs and systems is set out in **Schedule 2**.

- 2.6 Even though the Indigenous Training Program finishes in 2007, Argyle will maintain a recruitment and training program designed to assist Argyle meet the aim of at least 40% employment of Local Aboriginal People set out in 2.3(a).

3 School Retention Rates

Here the Traditional Owners agree that they try and keep their kids in school, so they can get good jobs when they grow up.

- 3.1 The TOs agree that they will use their best endeavours to increase school retention rates among TO children living in the East Kimberley.
- 3.2 Argyle and the TOs will work collaboratively with Governmental Agencies to develop strategies for raising school retention rates amongst TO children living in the East Kimberley.

4 Training principles

Argyle wants more Aboriginal workers at the mine. Argyle will run a mine tour to help Aboriginal people learn about mine work. Argyle is also making a training program for Aboriginal people to help them get jobs at the mine. Argyle wants to work with Traditional Owners to find the best way to help Traditional Owners get ready for work.

- 4.1 Argyle wishes to facilitate access to employment opportunities at the Mine by TOs and Local Aboriginal People.
- 4.2 Argyle supports the development of a pre-employment training program for TOs and Local Aboriginal People, co-funded by Argyle and Government, to assist Argyle meet the aims set out in 2.3(a).
- 4.3 Argyle wants TOs to make the greatest possible use of pre-employment training and the training preference. Argyle will consult with the TO Relationship Committee about the best way of achieving this.
- 4.4 Argyle expects the employment and training mine tour will assist TOs to formulate ideas about how to make the greatest use of pre-employment training and the training preference.

5 Training preference

Here Argyle agrees to give Traditional Owners the chance to get training in front of other Aboriginal people and whitefellas.

To get into training, a Traditional Owner must be 18 years old and have passed High School. Also, they have to be fit and healthy and have the okay from the police.

Argyle says that sometimes it will not worry about trouble with the police or court if it was a long time ago or if it is nothing to do with mine work.

- 5.1 Argyle has established an Indigenous Training Program.
- 5.2 Subject to 5.3, if a TO applies for a training opportunity under the Indigenous Training Program, Argyle will grant the training opportunity to a TO in preference to other applicants.
- 5.3 The purpose of this clause is to set out the minimum requirements in order to take the benefit of the training preferences under 5.1 or 5.2. To receive the benefit of the training preference a TO must:
- (a) be named on the TO Register;
 - (b) be at least 18 years old;
 - (c) successfully pass a Fit for Work Medical;
 - (d) successfully pass a Security Clearance; and
 - (e) have graduated from year 10 schooling or in the case of mature aged applicants, have year 10 equivalent literacy and numeracy skills.
- 5.4 Where Argyle considers that a person's police record relates to an old and/or irrelevant conviction then Argyle will apply the preferences set out in this clause.

6 Employment preference

Here Argyle agrees that they will give a Traditional Owner first chance for a job, in front of other people if the Traditional Owner can do the job well.

Traditional Owners who have done the training course already will get first chance in front of anyone who had not done the training.

Traditional Owners will only get that chance if they are 18 years old, have enough qualifications to do the job, have the OK from the police and are fit and healthy.

Argyle says that sometimes it will not worry about trouble with the police or court if it was a long time ago or it is nothing to do with mine work.

- 6.1 If:
- (a) a TO who has successfully completed training under Argyle's Indigenous Training Program applies for an advertised employment opportunity at the Mine; and
 - (b) another person applies for an advertised employment opportunity at the Mine; and
 - (c) Argyle is of the opinion that the TO meets all of the essential and desirable criteria for the employment opportunity,
 - (d) then Argyle will employ the TO who has successfully completed training under Argyle's Indigenous Training Program in preference to the other applicant, including other TOs.
- 6.2 If:
- (a) a TO applies for an advertised employment opportunity at the Mine; and

- (b) another person applies for the same advertised employment opportunity at the Mine; and
 - (c) Argyle is of the opinion that the TO meets all of the essential and desirable criteria for the employment opportunity; then
 - (d) Argyle will employ the TO in preference to the other applicant.
- 6.3 To receive the benefit of the employment preferences under 6.1 or 6.2 a TO must:
- (a) be named on the TO Register;
 - (b) be at least 18 years old;
 - (c) successfully pass a Fit for Work Medical;
 - (d) successfully pass a Security Clearance;
 - (e) satisfy at least 1 of the following criteria:
 - (1) hold all technical qualifications necessary to perform the advertised employment;
 - (2) have graduated from year 12 schooling;
 - (3) have graduated from year 10 schooling and successfully completed pre-vocational training relevant to the advertised employment opportunity; or
 - (4) have year 10 equivalent literacy and numeracy skills, and have successfully completed Argyle’s Indigenous Training Program; and
 - (f) satisfy the minimum requirements for the employment opportunity.
- 6.4 Where Argyle considers that a person’s police record relates to an old and/or irrelevant conviction then Argyle will apply the preferences set out in this clause.

7 TO Register

The Executive Officer will keep a list of all Traditional Owners who are over 18 years old. Argyle will look at this list to find out if they should give someone first chance at a job. The Traditional Owners have got to give Argyle the names of all those people and make sure that people go onto the list when they turn 18.

- 7.1 The Executive Officer will establish and maintain on behalf of the TOs, a register of all TOs over the age of 18 years who wish to obtain training and/or employment at the Mine. Unless otherwise instructed by the TOs, the Executive Officer must keep the TO Register confidential.
- 7.2 Notwithstanding the provisions of clause 7.1, Argyle may request the Executive Officer, by notice in writing, to advise Argyle whether a TO is listed on the TO Register. .
- 7.3 The Executive Officer must respond to any request by Argyle under clause 7.2 within 7 Business Days of receipt of the request. Argyle may rely on the Executive Officer’s response and Argyle is not required to give an employment or training preference to any person who the Executive Officer advises is not named on the TO Register or in circumstances where the Executive Officer has failed or refused to provide a response within 7 Business Days.

- 7.4 The TO Register may also contain any information that may be relevant to identifying TOs who are likely to be eligible to receive an employment or training preference under this Management Plan.

8 Employment and Training Mine Tour

Here Argyle agrees to give Traditional Owners a tour of the mine to show them the different jobs at the mine and what working at the mine is like. At first, there will only be one tour. But if it helps Traditional Owners to work at the mine there might be more.

- 8.1 Argyle will provide an employment and training mine tour and workshop. The purpose of the tour is to encourage TOs to apply for training and employment opportunities by providing TOs with a better understanding of what jobs are available at Argyle and what skills are needed to obtain those jobs.
- 8.2 Within 6 months of the Commencement Date Argyle will conduct the employment and training mine tour and workshop which will include the following characteristics:
- (a) the participation of a maximum of 12 TOs over 18 years old;
 - (b) the participation of a maximum of 10 TOs under 18 years old;
 - (c) the participation of a number of Aboriginal people currently employed at the Mine in a variety of roles;
 - (d) an overnight stay in the Argyle village;
 - (e) day and night time, or early morning tours of the Mine;
 - (f) a full or partial induction;
 - (g) presentations about the types of employment available at the Mine during open pit mining and during underground mining, and working life at the Mine; and
 - (h) a facilitated workshop to identify the manner in which TOs can best access training and employment opportunities at the Mine.
- 8.3 The cost to Argyle of the mine tour and workshop to be provided by Argyle under this clause shall not exceed \$5,000 unless otherwise agreed.
- 8.4 While the employment and training mine tour under clause 8.1 is a one off event, Argyle and the TO Relationship Committee may agree to conduct further tours, if Argyle and the TO Relationship Committee consider that:
- (a) the conduct of a tour will assist Argyle in meeting aims set out in 2.3(a);
 - (b) the conduct of a tour will be likely to provide a substantial benefit to achieving that purpose; and
 - (c) there is sufficient demand from the TOs for the conduct of a tour.

9 Notice and Communication of TO Decisions

Here the Traditional Owners tell Argyle that the Executive Officer has the right to talk for them and organise things for them under this Management Plan. The Executive Officer is the right person to get letters and reports about Employment and Training and the Executive Officer will tell Argyle about Traditional Owner decisions. This part says that if Argyle gives a letter to the Executive Officer, Traditional Owners will get it too. And if the Executive Officer tells Argyle about a decision from Traditional Owners, Argyle can be sure that Traditional Owners are behind that decision.

- 9.1 The TOs represent and warrant that they hereby authorise the person from time to time holding the position of Executive Officer to, on behalf of the TOs:
- (a) receive notices, reports and information provided by Argyle under this Management Plan; and
 - (b) communicate to Argyle, decisions made by the TOs under this Management Plan.
- 9.2 The TOs represent and warrant that they hereby authorise the TO Representatives to, on behalf of the TOs, otherwise fulfil the TOs' obligations under this Management Plan.
- 9.3 For the purpose of this Management Plan, Argyle is entitled to rely on the fact that:
- (a) any notice, report or information provided to the Executive Officer on behalf of the TOs has been communicated to the TOs; and
 - (b) any action taken by the TO Representatives and any decision which is communicated to Argyle by the Executive Officer on behalf of the TOs, is authorised by the TOs and is correct.
- 9.4 Argyle will provide each TO Representative with a copy for information purposes of any notice, report or information provided to the Executive Officer under this clause. However, Argyle is entitled to rely on service of such a document on the Executive Officer.

10 Variation and Review

This agreement can only be changed if everyone on the Relationship Committee agrees and signs their name.

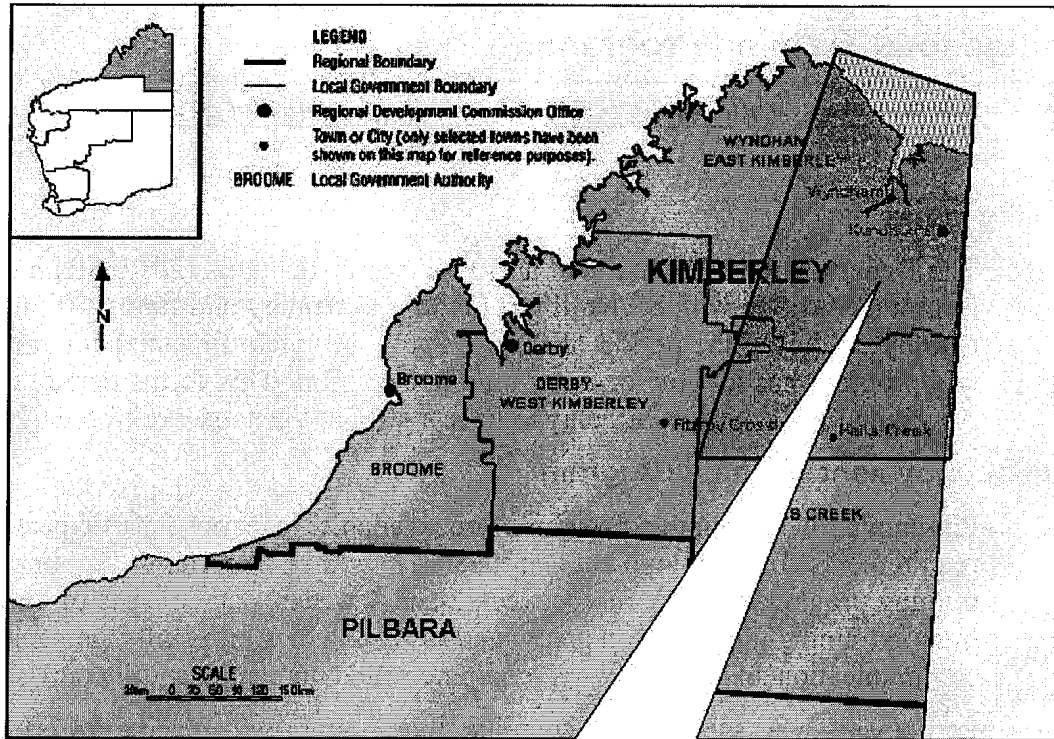
The Committee has to do a review of this Management Plan. A review is where the Committee makes sure that the Management Plan is doing the things that everyone wanted. If it is not working properly the Committee has to think of ways to make it better.

- 10.1 This Management Plan may be varied by a unanimous vote of the TO Relationship Committee with the variations put in writing and signed by every Argyle Representative and every TO Representative present at the meeting.

- 10.2 Time periods specified in this Management Plan may be varied by agreement between the Argyle Chairperson and TO Chairperson.
- 10.3 In conducting regular reviews under clause 4.6(c) of this agreement the TO Relationship Committee should ensure that a review of clause 4 of this Management Plan is conducted 18 months before the cessation of the Indigenous Training Program.
- 10.4 In conducting a review under clause 4.6(c) of this agreement and 10.3 the TO Relationship Committee will consider:
- (a) the success of this Management Plan from the Commencement Date to the date of the review in assisting Argyle to reach its aims under 2.3(a);
 - (b) the manner in which Argyle's ongoing training and employment commitments might be better expressed, taking into account:
 - (1) the scale of business;
 - (2) the duration of mine life;
 - (3) the profitability of the mine;
 - (4) the outcomes of the Indigenous Training Program;
 - (5) the sources of State and Commonwealth Government assistance;
and
 - (6) the possibility of other partnership arrangements.

Schedule 1 - Local Aboriginal People

This Schedule shows what the words “Local Aboriginal People” mean. It shows the area where local people live.



Argyle defines the EKR as the eastern half of the Shire of Wyndham and East Kimberley and the northern part of the Shire of Halls Creek including Halls Creek and the communities along the Great Northern Highway to the west.

*Argyle often refers to the area around its mine as the East Kimberley Region. This region, as Argyle defines it, includes the eastern half of the Shire of Wyndham and East Kimberley (including the western side of the Cambridge Gulf) and the northern part of the Shire of Halls Creek, including the township of Halls Creek and the communities along the Great Northern Highway to the west. Major townships in the region include Oombulgurri, Wyndham, Kununurra and Warmun but **not** Kalumburu or Fitzroy Crossing.*

Schedule 2 – Summary of Argyle’s Employment Programs and Systems

This schedule talks about the things Argyle is already doing to help Aboriginal people get jobs at Argyle and stay in them.

1 Indigenous Training Programs

This part talks about how Aboriginal people can get training for work at Argyle.

Background

- 1.1 The Department of Employment and Workplace Relations (DEWAR) has agreed to provide Argyle with \$5.1 million funding to employ and train 150 Indigenous employees during the period of 2003 - 2007. Argyle’s financial commitment to this program has a value of more than \$10 million. This forms part of Argyle’s Aboriginal Employment Strategy to have a 40% Indigenous workforce by 2008.

Pre-employment Training Program

- 1.2 Pre-employment training programs are available to expose participants to the requirements of employment, particularly within Argyle. Pre-employment training programs will be run between 2 and 4 weeks, and consists of on and off-the-job training that focus on areas such as work ethics, life skills, personal safety, communication skills, shift-work, computers, and numeracy and literacy skills.
- 1.3 Participants who successfully complete the program will receive a Certificate of Attainment, and may be considered for full-time employment, part-time employment, traineeships, or apprenticeships.

Traineeships

- 1.4 Traineeships provide participants with a structured training program over an 18-month to 2-year period. Traineeships combine training and paid employment comprising practical work skills with structured training leading to a nationally recognised qualification. Most trainees will move directly to full-time employment within Argyle, while some may be employed by Argyle Diamond contractors. Other trainees may progress to an apprenticeship program.
- 1.5 Trainees receive a wage of \$24,250 per year, pro-rated for any part years spent in the traineeship.

Apprenticeships

- 1.6 Apprenticeships provide an opportunity for trainees to specialise in a trade area over a 3 – 4 year period. Apprenticeships involve both on and off-the-job training, and can be in the areas of:
- (a) Fitter and Turner;
 - (b) Boilermaker;
 - (c) Electrician; or

- (d) Mechanical.

Training Accreditation

- 1.7 Training programs will be nationally accredited following the Australian Qualifications Framework and registered through a Registered Training Organisation, ensuring skills acquired are recognised and transferable to other workplaces nationally.

2 Performance Feedback and Coaching

This part talks about how Argyle will help after an Aboriginal person gets a job at Argyle. Team Leaders at Argyle make sure that workers are clear about what they have to do. They will also make sure they know how they are going. This part also says how Argyle will help workers who make mistakes.

Performance Review Process

- 2.1 Argyle's Performance Review Process (PREP) will apply to all Indigenous employees. As part of this process, employees will:
 - (a) have Argyle's expectations of them clearly communicated to them by their Team Leader;
 - (b) be provided with ongoing feedback by their Team Leader on their performance against these expectations. Feedback discussions involving poor performance or negative behaviour may be recorded on a Record of Discussion form;
 - (c) be given ongoing coaching by their Team Leader on how to address problems with their performance or more generally, how to improve their performance;
 - (d) have a discussion with their Team Leader at the end of the year to review their performance throughout the whole year;
 - (e) have a personal development plan jointly developed by themselves and their Team Leader, outlining development requirements and an action plan to achieve those requirements.
- 2.2 Argyle will provide a copy of the Performance Review Process (PREP) to the Executive Officer and provide copies of any amendments, at least on an annual basis.

Counselling and Disciplinary Procedures

- 2.3 Instances of unacceptable performance, behavioural misconduct, or breaches of Argyle standards may warrant disciplinary action as outlined in Argyle's Policy for Counselling and Discipline.
- 2.4 Employees who receive disciplinary action will be issued with a letter from their Manager outlining:
 - (a) what the employee specifically did to warrant disciplinary action;
 - (b) what is required by the employee to avoid further disciplinary action;

- (c) what the disciplinary action will comprise; and
 - (d) potential consequences should further unacceptable behaviour occur again.
- 2.5 Indigenous employees who receive disciplinary letters (including written warnings, intent to terminate employment, and termination of employment letters) will be asked by a member of Organisations and Communities (O&C) if they would like their family members notified, and if so, to which family members. If this consent is given, O&C will contact the relevant family members to provide them the opportunity to support and counsel the employee in question. The intent of this process is to enable family members to help local Indigenous employees address work-related problems before they become more severe, or in the case of employees who had their employment terminated, to assist them transition out of their employment with Argyle.

3 Career Development

This part talks about how Aboriginal people can move up the ladder and get better jobs at Argyle.

- 3.1 Employment with Argyle will provide the opportunity for additional workplace training to be obtained for further career development.
- 3.2 Areas of career development may be for example, Occupational Health & Safety, upgrading of process plant operation skills, or furthering administration skills. Career development opportunities are identified as part of Argyle's Performance Review Process, where the Team Leader and Team Member jointly develop a plan for the Team Member that identifies development needs and activities to build skills and knowledge to fulfil those needs.
- 3.3 In addition, Argyle is currently implementing a succession planning process, whereby on a yearly basis, development needs are identified for employees over a 1-3 year timeframe based on employees' future aspirations and assessed potential. In its first year of operation, the succession planning process will apply to all Stratum 2 employees and above, and is intending to extend the process to all employees following the first year of operation.
- 3.4 Employees wishing to undertake training and development in order to further their career within Argyle should first speak to their immediate manager. In order to be considered for career advancement, employees will need to demonstrate a high level of performance in their current role and also demonstrate the ability and willingness to learn skills and knowledge required in other roles.
- 3.5 As part of career development, Indigenous employees will have opportunities to participate in Argyle's Frontline Management (FLMI) program, which is intended to build a level of capability and readiness for a Team Leader role. Employees who successfully complete the program will receive a nationally accredited Certificate IV in Frontline Management.
- 3.6 Argyle managers will nominate Indigenous employees onto the FLMI program based on an assessment of their willingness and ability to successfully complete the program.

4 Employee Support

This part says how Argyle will help Aboriginal people with problems that make it hard to work. These might be family problems or problems with grog or people at work.

- 4.1 Argyle provides a range of services and processes to assist Indigenous employees address personal and/or work-related issues.

Direct Leader

- 4.2 Employees are encouraged to have an open and honest working relationship with their direct leaders, such that they feel comfortable discussing work-related and other issues that are impacting on their work for the purpose of alleviating the issue or assisting the employee to cope with it.

Peer Support

- 4.3 Argyle has specially trained employees in various roles and levels known as Peer Supporters who are available for all employees to discuss personal and/or work-related issues outside of the company's formal hierarchy. Argyle will train Indigenous Peer Supporters as an available avenue for Indigenous employees to seek assistance. The content of the Peer Support training will be worked out in consultation with the TO Relationship Committee.
- 4.4 Peer Supporters are trained in listening and basic counselling skills, and are able to suggest other support options available within and external to Argyle that can further assist with employees issues.

Employee Assistance Program (HEAP)

- 4.5 Argyle Diamonds has an external HEAP program that can provide professional counselling for all employees, partners, and dependent children to help resolve personal and work-related problems.
- 4.6 The counselling service provided by the HEAP is totally confidential and provided by Argyle at no cost.

Management Plan 3 – Cross Cultural Training

This Management Plan says how Argyle and Traditional Owners will work together to run Cross-Cultural Training for Argyle Workers and contractors.

1 Term

This Management Plan starts when everyone has signed this agreement and it finishes when Argyle is not getting any more diamonds.

1.1 This Management Plan:

- (a) commences at the Commencement Date; and
- (b) terminates upon the Cessation of Production Operations.

2 Employees and Contractors to Receive Cross Cultural Training

Here Argyle promises to give Cross Cultural Training to all its workers and contractors who work for Argyle for longer than 6 months. Argyle will also give Cross Cultural Training to contractors who spend a lot of time with Traditional Owners. Argyle will make sure the workers and contractors at the mine now, all do Cross Cultural Training in the next 2 years.

Argyle bosses or leaders will get extra training. They will go on a bush trip with Traditional Owners.

- 2.1 Argyle will deliver Cross Cultural Training to all employees and Long Term Contractors. The Cross Cultural Training is in addition to work place diversity training currently provided by Argyle to its employees and contractors.
- 2.2 Argyle will ensure that:
 - (a) within 2 years of the Commencement Date, all current employees and current Long Term Contractors complete the Cross Cultural Training course;
 - (b) thereafter Cross Cultural Training courses will be run as required to meet the needs of Argyle's business as new employees and new Long Term Contractors are engaged;
 - (c) 4 field trips for superintendents, supervisors and managers will be conducted each dry season until all superintendents, supervisors and managers have undertaken a field trip; and
 - (d) every 3 years, all employees and Long Term Contractors receive a refresher Cross Cultural Training course.

3 Contents of Cross Cultural Training

Argyle and the Traditional Owners will work out what is in the Cross Cultural Training. Argyle will talk to the Traditional Owner Committee every year, to see if the training should change. Argyle will only make big changes in the training if the Committee agrees.

- 3.1 Argyle and the TOs wish to ensure that Argyle provides its workforce with the necessary skills to work in a cross cultural environment.
- 3.2 The Cross Cultural Training course will comprise:
 - (a) general cross cultural content under Rio Tinto policies;
 - (b) East Kimberley specific cross cultural content; and
 - (c) a field trip for superintendents, supervisors and managers.
- 3.3 The content of the Cross Cultural Training in clause 3.2(b) and (c) will be agreed between Argyle and the TOs after execution of this agreement but prior to Registration. Argyle will consult with the TO Relationship Committee at least annually about the content and delivery of the Cross Cultural Training course and any substantial changes to the content and delivery of the Cross Cultural Training course is subject to the agreement of the TO Relationship Committee.

4 Delivery of Cross Cultural Training

Here Argyle agrees to train up to 20 Traditional Owners to help Argyle teach workers and contractors about Aboriginal people.

When Traditional Owners work on Cross Cultural training, they will be Argyle workers and Argyle will pay them wages.

- 4.1 Argyle will train up to 20 TOs to assist Argyle in the delivery of the general cross cultural content under Rio Tinto policies and the East Kimberley specific part of the Cross Cultural Training. In the event that 20 TOs are not available to undertake this training Argyle will, after consultation with the TOs, train other local Aboriginal people.
- 4.2 Argyle will employ 4 of these trainees to assist with the delivery of the general cross cultural content under Rio Tinto policies and the East Kimberley specific portion of each Cross Cultural Training course. For the field trip component of each Cross Cultural Training course Argyle will employ 8 of these trainees.
- 4.3 The TOs who will be initially trained and employed under this clause will be agreed by Argyle and the TOs. Other TOs may be trained and employed by Argyle from time to time as agreed between Argyle and the TOs.
- 4.4 The persons employed under 4.2:
 - (a) will receive standard Argyle terms and conditions for casual employment and will be paid at the Standard Argyle Rate; and
 - (b) must provide Cross Cultural Training in any given week as determined by Argyle from time to time.

5 Cross Cultural Training Business

The Business Development Taskforce helps Aboriginal people set up their own businesses. Two years after this agreement starts, the Business Development Taskforce will see if Cross-Cultural Training can become an Aboriginal business.

- 5.1 The parties recognise that it is a TO aspiration for cross cultural training to be provided to Argyle by a TO Business. Two years after the Commencement Date, the Business Development Taskforce will review this Management Plan to review whether it can assist in realising this aspiration.

6 Aboriginal Ceremonies

Here Argyle promises that it will ask all its workers and contractors to go to Manthe. Argyle will ask any new workers to go to Manthe when they first come to the mine.

When Traditional Owners do Manthe, they will be Argyle workers and Argyle will pay them wages.

Also, if Traditional Owners want to have other ceremonies at the mine then they need to talk to Argyle about that.

- 6.1 Argyle will incorporate a Manthe Ceremony as part of Argyle's site safety induction procedures.
- 6.2 Argyle will request all existing employees and contractors at the Mine who have not attended a Manthe Ceremony at the Commencement Date to do so. Existing employees and contractors will attend a Manthe Ceremony which is being performed for inductees.
- 6.3 Manthe Ceremonies will be conducted as agreed between the parties.
- 6.4 The TOs who conduct the Manthe Ceremonies will be employed by Argyle and must conduct the Manthe Ceremonies as required by Argyle from time to time and to a standard required by Argyle to meet Argyle's Cross Cultural Training objectives.
- 6.5 Other Aboriginal ceremonies may be conducted at the Mine subject to TOs giving Argyle notice of the proposed ceremony and subject to restrictions imposed by Argyle from time to time:
- (a) in the interests of security, health or safety; and/or
 - (b) to enable Argyle to conduct the Argyle Operations without disturbance.
- 6.6 Argyle will not be in breach of this clause if TOs are not available to perform the Manthe Ceremony at the times and under the conditions of this clause.

7 Notice and Communication of TO Decisions

Here the Traditional Owners tell Argyle that the Executive Officer has the right to talk for them and organise things for them under this Management Plan. The Executive Officer is the right person to get letters and reports about Cross-Cultural Training and the Executive Officer will tell Argyle about Traditional Owner decisions. This part says that if Argyle gives a letter to the Executive Officer, Traditional Owners will get it too. And if the Executive Officer tells Argyle about a decision from Traditional Owners, Argyle can be sure that Traditional Owners are behind that decision.

- 7.1 The TOs represent and warrant that they hereby authorise the person from time to time holding the position of Executive Officer to, on behalf of the TOs:
- (a) receive notices, reports and information provided by Argyle under this Management Plan; and
 - (b) communicate to Argyle, decisions made by the TOs under this Management Plan.
- 7.2 The TOs represent and warrant that they hereby authorise the TO Representatives to, on behalf of the TOs, otherwise fulfil the TOs' obligations under this Management Plan.
- 7.3 For the purpose of this Management Plan, Argyle is entitled to rely on the fact that:
- (a) any notice, report or information provided to the Executive Officer on behalf of the TOs has been communicated to the TOs; and
 - (b) any action taken by the TO Representatives and any decision which is communicated to Argyle by the Executive Officer on behalf of the TOs, is authorised by the TOs and is correct.
- 7.4 Argyle will provide each TO Representative with a copy for information purposes of any notice, report or information provided to the Executive Officer under this clause. However, Argyle is entitled to rely on service of such a document on the Executive Officer.

8 Variation and Review

This agreement can only be changed if everyone on the Relationship Committee agrees and signs their name.

The Committee has to do a review of this Management Plan. A review is where the Committee makes sure that the Management Plan is doing the things that everyone wanted and thinks of ways to make it better. The committee must do this review 2 years after the start of this agreement.

- 8.1 This Management Plan may be varied by a unanimous vote of the TO Relationship Committee with the variations put in writing and signed by every Argyle Representative and every TO Representative present at the meeting.

- 8.2 Time periods specified in this Management Plan may be varied by agreement between the Argyle Chairperson and TO Chairperson.
- 8.3 In conducting regular reviews under clause 4.6(c) of this agreement the TO Relationship Committee should ensure that a review of clauses 2, 3, 4 and 5 of this Management Plan is conducted 2 years after the commencement of this Management Plan.

Management Plan 4 – Land Access

This Management Plan says how Argyle and Traditional Owners will work together so Traditional Owners can visit the country.

1 Term

This Land Access Management Plan starts when everyone has signed it and finishes when the mine is closed and Argyle gives up all its mining leases in the agreement area.

- 1.1 This Management Plan:
- (a) commences at the Commencement Date; and
 - (b) terminates upon Closure.

2 TO access

*Argyle recognises Traditional Owners' rights to visit the country. But there are some areas of the mine that Traditional Owners can't go because it isn't safe or Argyle is working there. In **Schedule 1** at the back of this management plan is a map of those areas.*

Traditional Owners can go through the security gate so long as their name is on the list kept at the gate. They also have to tell the guard where they are going and for how long..

- 2.1 The persons named on the Land Access TO List may access the entire Agreement Area at all times:
- (a) other than:
 - (1) the Designated Areas; and
 - (2) areas of land the subject of current Argyle Operations as notified by Argyle to the TOs from time to time. At the date of this agreement the current Argyle Operations affect the land described in **Schedule 1** and also delineated on the map in **Schedule 1** (an electronic copy of which is contained on the disc attached at **Schedule 8 of the Management Plan Agreement**); and
 - (b) subject to restrictions on access imposed under this Management Plan or by Argyle in its absolute discretion from time to time:
 - (1) in the interests of security, health or safety;
 - (2) to enable Argyle to conduct the Argyle Operations without disturbance; and/or

- (3) to give effect to the requirements of Law or the requirements of any Governmental Agency.
- 2.2 If a TO wishes to access a Designated Area or any area identified in **Schedule 1** as an exclusion area that TO must comply with the entry requirements applicable to all persons from time to time.
- 2.3 If a person named on the Land Access TO List wishes to access Mining Lease 259SA and that access is by means of the road at the southern boundary of Mining Lease 259SA:
- (a) that person must enter through the Argyle gate which crosses the road at the southern boundary of Mining Lease 259SA; and
 - (b) the Argyle Security Guard must satisfy himself that the person requesting access is named on the Land Access TO List.
- 2.4 If the Argyle Security Guard is not satisfied that the person requesting access to Mining Lease 259SA is named on the Land Access TO List, then Argyle is not required to grant that person access unless that person otherwise complies with the entry requirements for Mining Lease 259SA applicable to all persons from time to time.
- 2.5 If the Argyle Security Guard is satisfied that the person requesting access to Mining Lease 259SA is named on the Land Access TO List then, for safety and operational reasons, the person requesting access must inform the Argyle Security Guard of where they are going and the duration of the stay.
- 2.6 If the TOs wish for one of their employees, contractors, agents or invitees to access a portion of Mining Lease 259SA the TOs must give Argyle 48 hours' notice of the employee's, contractor's, agent's or invitee's name, where that person wishes to access and the duration of the visit. The 48 hour notice period is to enable Argyle to run a security clearance for that person.
- 2.7 The parties acknowledge that Argyle has procedures that prohibit drugs, alcohol and firearms on Mining Lease 259SA and that these procedures must be complied with at all times by all persons accessing Mining Lease 259SA.

3 Access indemnity

Here the Traditional Owners say that they won't blame Argyle if a Traditional Owner gets injured in the Agreement Area.

- 3.1 The TOs will not make any Claim against Argyle for any Loss which any TO suffers as a result of accessing the Agreement Area unless that Claim arises as a result of Argyle's negligence or wilful carelessness; and
- 3.2 Subject to clause 3.3, the TOs will indemnify and keep Argyle indemnified against any Loss Argyle may suffer or incur or from any Claim made against Argyle by any person named on the Land Access TO List or any third party, arising out of, related to or connected with the TOs, their immediate family, employees, contractors, agents or invitees accessing the Agreement Area, negligence, or other actionable conduct.

- 3.3 If a negligent or wilfully careless act or omission of Argyle contributes to the Loss suffered or incurred by Argyle, the TOs' liability to indemnify Argyle is reduced to the extent of Argyle's act or omission.

4 Land Access TO List

Here the Traditional Owners agree to give Argyle a list of Traditional Owners that are allowed to go through the main security gate.

It is up to the Traditional Owners to make sure that the list had the right names on it.

- 4.1 The TOs through the Executive Officer must provide Argyle with a list of persons permitted to access Mining Lease 259SA. Only TOs and their immediate family members may be included on the list, and the list must be approved by the TOs. This list must be in sufficient detail that the Argyle Security Guard may determine whether or not a person asserting a right of access is entitled to that access without consulting any other source of information. The initial Land Access TO List is set out in **Schedule 2**.
- 4.2 It is the responsibility of the TOs through the Executive Officer to ensure that the list is current and accurate, and Argyle may rely on the list in the form in which it was last updated.
- 4.3 Argyle is not under any obligation to undertake enquires other than consulting the list, to determine the identity of any person asserting a right of access.
- 4.4 Argyle will keep the Land Access TO List confidential and will not disclose without the TO's consent the Land Access TO List to any person, other than a employee, agent or contractor of Argyle.

5 Use of the Grazing Lease

This part talks about what happens if Traditional Owners want to set up things like outstations or tourist businesses on the Grazing Lease Land.

Traditional Owners can write down their idea on paper. Argyle will read it and think about it. If the idea is legal and does not get in the way of Argyle's mining operations, then Argyle may say yes. If Argyle says no at first, then Argyle and the Traditional Owners can talk about ways to change the idea so Argyle can say yes.

- 5.1 Argyle acknowledges that the TOs have indicated that they may ask Argyle to consider non grazing uses of the Grazing Lease Land, such as the establishment of outstations and tourist enterprises and for the purposes of passing knowledge on to young TOs.
- 5.2 The parties agree that if the TOs have developed a proposal for the use of the Grazing Lease Land for non grazing purposes, the TOs must give Argyle written notice of the proposal including details of:
- (a) the area of land the subject of the proposal;

- (b) the proposed land use; and
 - (c) any fixtures and capital works that are proposed and their location.
- 5.3 In addition, as part of any proposal, the TOs may request Argyle to provide assistance to implement the proposal. Any such request must be made through the TO Relationship Committee. For the avoidance of doubt, if Argyle does agree to provide assistance, that assistance will be provided on a commercial, fee for service basis.
- 5.4 Within 28 days of receiving a notice under 5.2, Argyle:
- (a) will consider the impact of the notified proposal upon Argyle Operations in good faith; and
 - (b) will notify the TOs whether or not Argyle consents to the proposal, or consents to the proposal on conditions.
- 5.5 If Argyle withholds consent under 5.4, then the TOs may notify Argyle that the TOs wish to negotiate with Argyle in good faith with the aim of amending the proposal in such a manner so as to obtain Argyle’s consent.
- 5.6 Negotiations may include without limitation, the extent to which the notified proposal:
- (a) will facilitate TO use and development of the Grazing Lease Land;
 - (b) is consistent with the conduct of Argyle Operations;
 - (c) may interfere with the conduct of Argyle Operations; and
 - (d) complies with Law.
- 5.7 For the avoidance of doubt, Argyle has absolute discretion as to whether to provide or withhold Argyle’s consent, or provide consent subject to such conditions as Argyle sees fit and nothing in this clause 5 fetters that discretion.

6 Notice and Communication of TO Decisions

Here the Traditional Owners tell Argyle that the Executive Officer has the right to talk for them and organise things for them under this Management Plan. The Executive Officer is the right person to get letters and reports about Land Access and the Executive Officer will tell Argyle about Traditional Owner decisions. This part says that if Argyle gives a letter to the Executive Officer, Traditional Owners will get it too. And if the Executive Officer tells Argyle about a decision from Traditional Owners, Argyle can be sure that Traditional Owners are behind that decision.

- 6.1 The TOs represent and warrant that they hereby authorise the person from time to time holding the position of Executive Officer to, on behalf of the TOs:
- (a) receive notices, reports and information provided by Argyle under this Management Plan; and
 - (b) communicate to Argyle, decisions made by the TOs under this Management Plan.

- 6.2 The TOs represent and warrant that they hereby authorise the TO Representatives to, on behalf of the TOs, otherwise fulfil the TO's obligations under this Management Plan.
- 6.3 For the purpose of this Management Plan, Argyle is entitled to rely on the fact that:
- (a) any notice, report or information provided to the Executive Officer on behalf of the TOs has been communicated to the TOs; and
 - (b) any action taken by the TO Representatives and any decision which is communicated to Argyle by the Executive Officer on behalf of the TOs, is authorised by the TOs and is correct.
- 6.4 Argyle will provide each TO Representative with a copy for information purposes of any notice, report or information provided to the Executive Officer under this clause. However, Argyle is entitled to rely on service of such a document on the Executive Officer.

7 Variation

This agreement can only be changed if everyone on the Relationship Committee agrees and signs their name.

- 7.1 This Management Plan may be varied by unanimous vote of the TO Relationship Committee with the variations put in writing and signed by every Argyle Representative and every TO Representative present at the meeting.
- 7.2 Time periods specified in this Management Plan may be varied by agreement between the Argyle Chairperson and TO Chairperson.

Schedule 1 – Map and description of operational areas where TOs do not have rights of access

Here is a map and description of the areas where Traditional Owners cannot go.

Description of Operational Areas – Where Traditional Owners Do Not Have Right of Access

The map shows the areas on the Agreement Area where Traditional Owners do not have a right of access. If Traditional Owners want to go into these areas, they must first get permission from Argyle.

Traditional Owners do not have a right of access to the areas bounded by:

- The Wandarrie Boomgate, west to the southwest corner of the fence around the Wandarrie accommodation area; west northwest to intersect with the new southern waste rock dump boundary fenceline; west along the fenceline until the point of intersection with the existing Designated Area fence. Then north along the existing Designated Area fence until the intersection of the old pipeline from the Matsu Valley water tanks. Then north northeast along the old pipeline until the full supply level shoreline of Gap Dam; northeast to the south eastern embankment of the Gap Dam wall; along the western side of the old Alluvial Plant to Gap Dam haul road to the road intersection at the northwest corner of alluvial tailings dam 4; to the south western corner of the Argyle airport boundary fence. Along the outside of the airport boundary fence to the western side of the mine to airport road; along the western, north western and northern side of the mine to airport road to the Wandarrie road intersection; along the north western side of the Wandarrie road, returning to the Wandarrie Boomgate.
- The intersection of the Wandarrie Road and the Mine to Airport Road, east then northeast along the southern and south eastern side of the Mine to Airport Road, to a point 1.3 kilometres northeast of the Limestone Creek Camp Access Road intersection; thence east southeast 615 metres; thence southeast 130 metres thence south southeast 700 metres; thence south southwest 1.3 kilometres; thence south southwest by west 330 metres to a point on the northern side of the Lissadell Road that is 5.68 kilometres east of the main mine entry boomgate; thence southwest 265 metres; thence west 1.55 kilometres; then west northwest by west 1.08 kilometres; thence northwest 850 metres to a point on the southeast side of the Wandarrie Road that is 210 metres northeast of the Wandarrie Borrow Pit turnoff; thence northeast and north along the southeast and east side of the Wandarrie Road, returning to the intersection of the Wandarrie Road and the Mine to Airport Road.
- The Wandarrie Boomgate, east along the southern side of the Wandarrie wastewater treatment ponds access track to the wastewater treatment ponds themselves and the perimeter of the wastewater treatment ponds to the northern side of the access track; returning to the Wandarrie Boomgate along the northern side of the wastewater treatment ponds access track.
- The Alluvial Tailings Dam 5 turnoff from the mine to airport road, opposite the alluvial plant turnoff; east along the southern side of the Alluvial Tailings Dam 5 access road to the fence at the south eastern side of the Alluvial Tailings Dam 5 reclaim pond. Then along the fenceline to the north eastern corner of the alluvial tailings dam wall; five hundred metres to the northwest;

west southwest by west to intersect with the fence adjacent to the 33KV powerline; southeast along the fence and back to the access road to the Alluvial Tailings Dam 5.

- Within the fenced compound and the boat shed at the main pump station.
- Within the fenced compound at the booster pump station.

Traditional Owners do have right of access in all other areas of the mine lease, including, but not limited to:

- The Wandarrie main car park, accommodation office, and the Organisation and Communities office;
- The Wandarrie Road from the Wandarrie Boomgate to the mine to airport road;
- The mine to airport road;
- The Argyle airport car park and terminal area;
- The airport to Lake Argyle Road;
- Gap Dam, accessed from the northern side only, from the Argyle to Glen Hill Road, or via Matsu Valley.

Schedule 2 – Initial Land Access TO List

Management Plan 5 – Land Management

This Management Plan says how Argyle and Traditional Owners will work together to make sure that Traditional Owners have no worries about how the mine is working. Traditional Owners will give Argyle ideas on how to shut parts of the mine down and fix up the country when Argyle finishes with it.

1 Term

This Management Plan starts when everyone has signed and it finishes when everything at the mine has been shut down.

- 1.1 This Management Plan:
- (a) commences at the Commencement Date; and
 - (b) terminates upon the Completion of Decommissioning.

2 Current Operations- Annual Tours

Here Argyle agrees Traditional Owners and Community people can have a tour of the mine every year.

If Aboriginal people have any worries about what Argyle is doing, they can tell Argyle on that tour.

Argyle will pay for the tour, but it will not pay any money to people who come on the tour.

After the tour Argyle will give Traditional Owners a report saying what worries people had, and what Argyle can do to fix them.

- 2.1 Once every year during which Argyle is conducting the Argyle Operations, Argyle will conduct a one day tour of the Argyle Operations.
- 2.2 At least 4 weeks before conducting this Annual Tour, Argyle will notify the TOs and Local Aboriginal Communities when the Annual Tour will take place and request the TOs to provide a list of TOs (and people from Local Aboriginal Communities) who wish to participate.
- 2.3 Both Argyle and the TOs may be accompanied by an advisor whose role is to ensure that the TOs' concerns are accurately recorded. The TOs may also be accompanied by an additional advisor with expertise relevant to the content of the Annual Tour. Argyle will pay up to a maximum of \$4,000 (indexed for CPI from 1 January 2005) in any one year for these costs, unless otherwise agreed. These costs form part of the Annual Management Plan Payments made by Argyle under clause 4.68 and **Schedule 6 of the Management Plan Agreement**. Where Argyle and the TOs agree that the purpose and cost of any additional advice is reasonable, Argyle will also pay the agreed further amount.

- 2.4 If the TOs wish to be accompanied by 1 or 2 expert advisors the Executive Officer must inform Argyle of the names and area of expertise of the advisors at least 2 weeks before the Annual Tour.
- 2.5 Argyle will pay for all logistics and food but will not pay participants to attend the Annual Tour.
- 2.6 At the commencement of the tour Argyle will provide a briefing summarising:
- (a) Argyle Operations that were conducted in the previous year;
 - (b) any significant alterations or proposed alterations to water management;
 - (c) the steps taken by Argyle in response to any concerns raised during the course of the previous year's Annual Tour;
 - (d) details of operations proposed for the coming year;
 - (e) details of Decommissioning and Rehabilitation works proposed for the coming year;
 - (f) the status of closure planning; and
 - (g) any other activities or incidents that took place in the last year that Argyle reasonably expects may be of concern the TOs.
- 2.7 In the course of the Annual Tour, the tour participants may raise any concerns held in relation to the conduct of the Argyle Operations.
- 2.8 Within 6 weeks of the conclusion of the Annual Tour Argyle will provide a report to the TO Relationship Committee identifying:
- (a) any concerns raised during the course of the Annual Tour; and
 - (b) any measures being, or proposed to be, implemented by Argyle to address those concerns.

3 Decommissioning and Rehabilitation Proposals

Here Argyle agrees that if it is going to shut down any part of the mine or try and fix up any country, they will let the Traditional Owners know before they do it.

Traditional Owners can then go and have a look at that country. The Traditional Owners who do that work will get paid \$300 per day.

They can tell Argyle if they have any queries and give Argyle ideas about the best way to shut things down, or fix things up. Argyle will try to follow these ideas, but it doesn't have to follow them if they are too hard. Argyle will teach up to 4 Traditional Owners about how to keep fixing up the country when everything at the mine has been shut down.

Proposals

- 3.1 If Argyle decides to undertake Decommissioning of any Major Infrastructure and/or undertake major rehabilitation of any area associated with the Argyle Operation, Argyle will provide the TOs with a Proposal in relation to the proposed Decommissioning and/or rehabilitation works. Where possible, Argyle will

provide the Proposal shortly before a TO Relationship Committee meeting, so it can be discussed at that meeting.

3.2 The Proposal will include:

- (a) an executive summary of the Proposal including the following;
 - (1) maps and/or aerial photos identifying the Major Infrastructure the subject of the proposal;
 - (2) plans and/or diagrams displaying detail about any proposed rehabilitation works;
 - (3) details about why the Decommissioning of Major Infrastructure is occurring;
 - (4) details on the proposed rehabilitation works including a timeframe for the completion of the proposed rehabilitation work, with allowances for regulatory approvals and weather based delays;
 - (5) possible employment opportunities for TOs arising out of the proposed works;
 - (6) details of environmental impacts;
 - (7) details of the options considered by Argyle and reasons why the proposed method of work has been chosen; and
 - (8) details of Governmental Requirements.

3.3 If TOs have a concern about a particular aspect of the Proposal, the TOs may request Argyle to provide further information about that aspect of the Proposal within 14 days of receiving it and Argyle will provide that information within 14 days of receiving the request.

Mine Visit

3.4 If the TOs wish to participate in a Mine Visit:

- (a) the TO Representatives will notify the TO Relationship Committee of this decision within 21 days of receiving the Proposal, or any further information provided upon request; and
- (b) the TOs must form the TO Field Team within 28 days.

3.5 The TO Field Team will be nominated by the TO Representatives and will be comprised of Senior TOs to a maximum of 8 TOs and must include:

- (a) representatives of the Mandangala/Tiltuwam estate group; and should usually include:
 - (b) a representative number of female TOs; and
 - (c) a representative number of male TOs.

3.6 Both Argyle and the TOs may be accompanied by an advisor whose role is to ensure that the TOs understand the Proposal and that their concerns are accurately recorded. The TOs may also be accompanied by an additional advisor with expertise relevant to the content of the Mine Visit. Argyle will pay up to a maximum of \$4,000 (indexed for CPI from 1 January 2005) in any one year for these costs, unless otherwise agreed. These costs form part of the Annual Management Plan Payments made by Argyle under clause 4.68 and Schedule 6 of

the Management Plan Agreement. . Where Argyle and the TOs agree that the purpose and cost of any additional advice is reasonable, Argyle will also pay the agreed further amount.

- 3.7 If the TOs wish to be accompanied by 1 or 2 expert advisors the Executive Officer must inform Argyle of the names and area of expertise of the advisors within 2 weeks of giving notice of the Mine Visit under clause 3.4.
- 3.8 Within 1 month of receiving a notice under 3.4, Argyle will nominate 1 or more representatives to participate in the Mine Visit. These representatives will be capable of making decisions which bind Argyle.
- 3.9 For participating in the Mine Visit, Argyle will pay members of the TO Field Team the Standard Argyle Rate.
- 3.10 Within 2 months after receiving the notice from the TOs that a Mine Visit is required, Argyle will organise a Mine Visit, including all accommodation and transport, involving the TO Field Team and the Argyle Representatives.
- 3.11 The Mine Visit will include:
 - (a) an oral presentation of the Proposal to the TO Field Team by Argyle;
 - (b) a physical inspection of the land to be affected by the Proposal;
 - (c) further explanation of the Proposal in the field, including questions and answers and consideration, where appropriate, of alterations to the Proposal;
 - (d) the right for the TO Field Team to hold confidential discussions as appropriate;
 - (e) a question and answer session at the end of the Mine Visit.
- 3.12 At the end of the final day of the Mine Visit:
 - (a) If the TO Field Team agrees with the Proposal in its original form, each member of the TO Field Team and each Argyle Representative will sign 2 copies of the Proposal. One copy will be retained by Argyle and one copy will be retained by the TO Field Team. These documents will evidence the agreement of the parties and that the TOs understood the Proposal.
 - (b) If the TO Field Team agrees with the Proposal subject to amendments which are agreed to by Argyle in the course of the Mine Visit, then those amendments will be marked up on 2 copies of the Proposal, and each copy will be signed by every member of the TO Field Team and each Argyle Representative.
 - (c) If the TO Field Team raise concerns which cannot be addressed by Argyle in the course of the Mine Visit, Argyle will consider those concerns and organise a further meeting between the TO Field Team and the Argyle Representatives within 1 month of the Mine Visit or under a timetable agreed between the parties. If the TO Field Team and the Argyle Representatives reach agreement on the amended Proposal at this meeting, 2 copies of the Proposal will be signed in the manner set out in 3.12(b).
 - (d) If there is no agreement between Argyle and the TOs as to amendments to the Proposal, Argyle may proceed with implementation of the Proposal. However, Argyle must include details of discussions between Argyle and

the TOs about the TO Field Team’s concerns in a written report from Argyle to the TO Relationship Committee, and identify that the parties did not reach an agreed outcome on the proposal. The failure to agree must also be reported by Argyle in the Annual Sustainability Report.

- 3.13 If the TOs do not organise a TO Field Team, or the TO Field Team fails to attend the Mine Visit, Argyle may proceed with implementation of the Proposal.

Training for monitoring of Rehabilitation

- 3.14 Before the Completion of Decommissioning, Argyle will provide up to 4 TOs with training in relation to the monitoring of the Rehabilitation, including training in how to monitor water quality, land stability and rehabilitation growth.

4 TO Proposals

Traditional Owners can give Argyle ideas anytime about looking after the country.

Argyle will think about those ideas from Traditional Owners. If Argyle thinks they are good ideas then it will do what Traditional Owners say.

If Argyle thinks those ideas won’t work then it will tell the Traditional Owners why not.

TOs may make land management proposals

- 4.1 Argyle acknowledges that the TOs have responsibilities under their traditional laws and customs in relation to land matters in the Agreement Area.
- 4.2 The TOs may submit a proposal to Argyle suggesting that specified land management measures should be considered in relation to particular areas of land within the Agreement Area.
- 4.3 Any proposals under clause 4.2 must be submitted to the Argyle Chairperson.

Argyle to consider land management proposals

- 4.4 Argyle will consider any proposal which it receives under clauses 4.1 to 4.3 and will inform the TO Relationship Committee at its next meeting whether or not Argyle intends to implement the proposal in whole or in part.
- 4.5 If Argyle does not intend to implement the whole of the proposal then:
- (a) Argyle must provide reasons for Argyle’s decision to the TO Relationship Committee; and
 - (b) the Argyle Representatives and the TO Representatives must discuss the proposal at that TO Relationship Committee meeting with a view to agreeing upon an alternative proposal.

Environmental reporting

- 4.6 If the TOs submit a land management proposal to Argyle under this clause, Argyle will report this in the Annual Environmental Report and the Annual Sustainability Report together with a statement as to whether or not Argyle agreed to implement the proposal in whole or in part.

5 Water

Here Argyle recognises that water is very important for Traditional Owners.

If Argyle wants to make a big change to the way it looks after water, they will tell the Traditional Owners and talk to them about what they want to do. Argyle will pay for a water expert to help people understand what might happen. The Traditional Owners can tell Argyle what they think about what Argyle wants to do.

Traditional Owners can give ideas to Argyle any time about how to look after water. Argyle will think about those ideas. If Argyle thinks they are good ideas then it will do what Traditional Owners say.

If Argyle thinks those ideas won't work then it will tell Traditional Owners why not.

Water Management Changes

- 5.1 Argyle acknowledges that the TOs have responsibilities under their traditional laws and customs in relation to water management matters in the Agreement Area.
- 5.2 If:
- (a) Argyle intends to alter its management of water resources from that outlined in:
 - (1) the Water Reports;
 - (2) the “Argyle Diamond Mine Ground Water Story” video produced in February 2004; or,
 - (3) the previous Annual Tour; and
 - (b) Argyle considers that the alteration constitutes a significant alteration; then
 - (c) Argyle will inform the TO Relationship Committee of the proposed alteration. The information provided will include details:
 - (1) about the proposed alteration including plans, maps and/or diagrams;
 - (2) about why the proposed alteration is occurring;
 - (3) of environmental impacts of the proposed alteration;
 - (4) of the options considered by Argyle and reasons why Argyle intends to undertake the proposed alteration; and
 - (5) of Governmental Requirements; and
 - (d) Argyle will assist the TOs to obtain reasonable independent advice in relation to the proposed alteration. Argyle will pay up to a maximum of \$4,000 (indexed for CPI from 1 January 2005) in any one year for these costs, unless otherwise agreed. These costs form part of the Annual Management Plan Payments made by Argyle under clause 4.68 and Schedule 6 of the Management Plan Agreement. Where Argyle and the

TOs agree that the purpose and cost of any additional advice is reasonable, Argyle will also pay the agreed further amount; and

- (e) the TO Representatives may submit comments on the proposed alterations, to the TO Relationship Committee.

Argyle to consider water submissions

- 5.3 Argyle will consider any comments which it receives under 5.2 and will inform the TO Relationship Committee, at its next quarterly meeting of its response to any comments received.

TOs may make water management proposals

- 5.4 The TOs may submit a proposal to Argyle suggesting that specified water management measures should be considered in relation to particular areas of land within the Agreement Area.
- 5.5 Any proposals under 5.4 must be submitted to the Argyle Chairperson.

Argyle to consider water management proposals

- 5.6 Argyle will consider any proposal which it receives under 5.4 and will inform the TO Relationship Committee at its next meeting whether or not Argyle intends to implement the proposal in whole or in part.
- 5.7 If Argyle does not intend to implement the whole of the proposal then:
 - (a) Argyle must provide reasons for Argyle’s decision to the TO Relationship Committee; and
 - (b) the Argyle Representatives and the TO Representatives must discuss the proposal at that TO Relationship Committee meeting with a view to agreeing upon an alternative proposal.

Environmental reporting

- 5.8 If the TOs submit a water management proposal to Argyle under this clause, Argyle will report this in Argyle’s Annual Environmental Report and the Annual Sustainability Report together with a statement as to whether or not Argyle agreed to implement the proposal in whole or in part.

6 Emergency meeting

The Argyle Chairman or the Traditional Owner Chairman can call an emergency meeting of the committee if there is a big problem in the country.

- 6.1 Either the Argyle Chairperson or the TO Chairperson may call an emergency meeting of the TO Relationship Committee to discuss an issue which they consider to be an environmental emergency. If such a meeting is called, the Argyle environmental manager must attend. Argyle will report the occurrence and outcomes of the emergency meeting in the Annual Environmental Report and the Annual Sustainability Report.

7 Government Requirements

If something in this Management Plan is blocked by whitefellas law or government, Argyle has to follow the whitefella law.

- 7.1 The TOs acknowledge that Argyle must comply with all Governmental Requirements in relation to land management and must comply with Environmental Laws. For the avoidance of doubt, nothing in this Management Plan constrains Argyle’s right to act in a manner necessary to comply with any Governmental Requirement and/or Environmental Laws.

8 Notice and Communication of TO Decisions

Here the Traditional Owners tell Argyle that the Executive Officer has the right to talk for them and organise things for them under this Management Plan. The Executive Officer is the right person to get letters and reports about Land Management and the Executive Officer will tell Argyle about Traditional Owner decisions. This part says that if Argyle gives a letter to the Executive Officer, Traditional Owners will get it too. And if the Executive Officer tells Argyle about a decision from Traditional Owners, Argyle can be sure that Traditional Owners are behind that decision.

- 8.1 The TOs represent and warrant that they hereby authorise the person from time to time holding the position of Executive Officer to, on behalf of the TOs:
- (a) receive notices, reports and information provided by Argyle under this Management Plan; and
 - (b) communicate to Argyle, decisions made by the TOs under this Management Plan.
- 8.2 The TOs represent and warrant that they hereby authorise the TO Representatives to, on behalf of the TOs, otherwise fulfil the TOs obligations under this Management Plan.
- 8.3 For the purpose of this Management Plan, Argyle is entitled to rely on the fact that:
- (a) any notice, report or information provided to the Executive Officer on behalf of the TOs has been communicated to the TOs; and
 - (b) any action taken by the TO Representatives and any decision which is communicated to Argyle by the Executive Officer on behalf of the TOs, is authorised by the TOs and is correct.
- 8.4 Argyle will provide each TO Representative with a copy for information purposes of any notice, report or information provided to the Executive Officer under this clause. However, Argyle is entitled to rely on service of such a document on the Executive Officer.

9 Variation

This agreement can only be changed if everyone on the Relationship Committee agrees and signs their name.

- 9.1 This Management Plan may be varied by a unanimous vote of the TO Relationship Committee with the variations put in writing and signed by every Argyle Representative and every TO Representative present at the meeting.
- 9.2 Time periods specified in this Management Plan may be varied by agreement between the Argyle Chairperson and TO Chairperson.

Schedule 1- Water Reports

This schedule is a list of all the reports about water at Argyle.

Document	When Supplied	To Whom Supplied
Environmental hydrogeology of the Argyle Diamond Mine, prepared by Dames and Moore and dated December 1995.	28/03/03 01/05/03	Daniel Vachon Allan Wedderburn
Argyle Diamond Mines Review of Hydrogeological Factors and Impact of Proposed Exploratory Decline, 1 st Draft Report, dated February 2003, prepared by Mackie Consulting.	28/03/03	Daniel Vachon
Mackie Environmental Research's report: Argyle Diamond Mine Review of Hydrogeological Factors and Impact of Proposed Exploratory Decline April 2003 (Final Report)	01/05/03	Allan Wedderburn
Argyle Diamond Mines Assessment of Potential Seepage to underground operations, Draft Report, prepared by Mackie Consulting and dated March 2002.	28/03/03 01/05/03	Daniel Vachon Allan Wedderburn
"2002 Depressurisation Impacts – Hardrock Aquifers" prepared by Mackie Environmental Research in 2002.	06/05/03	Allan Wedderburn
"Depressurisation Impacts from Underground Mining – Hardrock Aquifers" prepared by Mackie Environmental Research in 2002.	06/05/03	Allan Wedderburn
"Argyle Diamond Mine: Mine Water Management Plan" prepared by Metago Environmental Engineers, April 2004	April 2004	Michael Neal
Argyle Diamond Mine Groundwater Story (Video)	23 February 2004	TO Committee members

Management Plan 6 – Decommissioning Plan

This Management Plan says how Argyle and Traditional Owners will talk about what things to leave at the mine site for Traditional Owners, after mining is finished.

1 Term

The Decommissioning Plan starts when everyone has signed. It finishes up when everything at the mine is shut down.

- 1.1 This Management Plan:
- (a) commences at the Commencement Date; and
 - (b) terminates upon the Completion of Decommissioning.

2 Infrastructure Information to the TOs

Here Argyle agrees to tell the Traditional Owners about buildings or anything else left over from mining, in case they want to use it. This will help Traditional owners make a plan for taking over those things. Traditional Owners can only take over those things if the government lets them. At the tour of the mine every year, Argyle will tell the Traditional Owners if Argyle is planning to finish up mining.

- 2.1 Under clause 4 it may be possible for TOs to obtain a transfer of Infrastructure after the Completion of Decommissioning.
- 2.2 Argyle acknowledges that in order for the TOs to prepare a viable business plan for submission under clause 4.3(e) the TOs may require information about the Infrastructure.
- 2.3 At any time prior to the issue of a notice under clause 4.1 the TO Representatives may request Argyle to provide information about specific pieces of Infrastructure for the purpose of preparing a viable business plan. A request made under this clause should clearly identify the business purpose for which the TOs seek the information.
- 2.4 After receiving a request made under clause 2.3, Argyle will provide the information to the TO Representatives as far as is possible and as soon as practicable, except that Argyle is not required to, but may, provide any information which is commercially sensitive.
- 2.5 The TOs warrant that the TOs will use any information received under this clause for the sole purpose of preparing a viable business plan and will enter into a confidentiality agreement if requested by Argyle.

- 2.6 As part of each Annual Tour under Management Plan 5, Argyle will inform TOs of the current status of closure planning to enable ongoing consultations between the parties as to the possible transfer of Infrastructure to the TOs.

3 Decommissioning

Here Argyle reminds everyone that it already has an agreement with the State Government that says: "The State Government will be the owner of all buildings and things left at the mine site when mining is finished."

Because of this agreement with the State Government, if Traditional Owners want anything from the mine when it is finished, the State Government has to agree.

- 3.1 The parties acknowledge that under the terms of the Diamond Agreement, all Infrastructure shall at the determination of the Diamond Agreement, become and remain the property of the State. Argyle may, however, request the State's consent to remove Infrastructure. In these circumstances the State has the right (exercisable within 3 months) to purchase in situ such fixed or removable Infrastructure at a fair valuation to be agreed or determined by arbitration.
- 3.2 The parties therefore acknowledge, that any arrangements whereby Infrastructure is left in situ and ownership is transferred to TOs, will require the agreement of the State. The parties agree that they will use their best endeavours to consult with and engage the State in the consultation process set out below.

4 Consultations relating to the transfer of Infrastructure

This part talks about how Argyle, Traditional Owners and the State Government will make an agreement about leaving things like buildings, pipes or generators behind, after Argyle is finished so that Traditional Owners can take those things over.

- 4.1 Within 4 weeks of a decision of the Investment Committee to close the Argyle Operations, Argyle will notify the TO Relationship Committee of this decision.
- 4.2 Upon receiving notice under 4.1, the TO Relationship Committee will establish a timetable, lasting:
- (a) 12 months from the date of the last Annual Tour conducted under Management Plan 5; or
 - (b) 6 months from the date of the notice,
- whichever is later for consultations between the parties about the possible transfer of Infrastructure (or part of it) to the TOs and the terms (including commercial terms) upon which such a transfer may occur.
- 4.3 The consultations under 4.2 will be conducted in accordance with the following principles:

- (a) The Infrastructure may not be transferred unless and until Argyle has received all necessary governmental consents including the consent of any relevant State Minister;
 - (b) Argyle wishes to provide the maximum possible opportunity for TOs and Local Aboriginal Communities to obtain a benefit from the ownership and use of the Infrastructure;
 - (c) Argyle will consider the net commercial gain or loss to Argyle of leaving the Infrastructure in place, in comparison to removing it. The parties acknowledge that an important aspect of Argyle's consideration of any proposal is cost neutrality to Argyle;
 - (d) The parties recognise that Argyle or Rio Tinto may require the Infrastructure to meet its other business or commercial needs;
 - (e) Before agreeing to transfer any Infrastructure to the TOs, the TOs must provide Argyle with a business plan for the use of the Infrastructure, which Argyle considers to be a viable business plan. The business plan may include proposals for the provision of funding by Argyle for the ongoing maintenance of the Infrastructure, subject to the application of the cost neutrality principle referred to in (c);
 - (f) The TOs must have an independent means of maintaining and utilising the Infrastructure after the close of Argyle Operations including any governmental consents required by the TOs; and
 - (g) Any transfer of the Infrastructure is conditional upon Argyle and the TOs reaching agreement on arrangements and responsibilities in relation to the Infrastructure between the Cessation of Production Operations and the transfer of the Infrastructure.
- 4.4 If every criteria under this Management Plan is resolved between the parties then Argyle will transfer the Infrastructure on terms agreed between the parties.
- 4.5 If at any time prior to Closure Argyle intends to decommission any portion of the Infrastructure, Argyle will notify the TO Relationship Committee of this decision. The parties will consult about the possible transfer of the Infrastructure the subject of that notice and the provisions of clause 4.3 will apply to those consultations.

5 Notice and Communication of TO Decisions

Here the Traditional Owners tell Argyle that the Executive Officer has the right to talk for them under this Management Plan. The Executive Officer is the right person to get letters and reports about Decommissioning and the Executive Officer will tell Argyle about Traditional Owner decisions. This part says that if Argyle gives a letter to the Executive Officer, Traditional Owners will get it too. And if the Executive Officer tells Argyle about a decision from Traditional Owners, Argyle can be sure that Traditional Owners are behind that decision.

- 5.1 The TOs represent and warrant that they hereby authorise the person from time to time holding the position of Executive Officer to, on behalf of the TOs:
- (a) receive notices, reports and information provided by Argyle under this Management Plan; and

- (b) communicate to Argyle, decisions made by the TOs under this Management Plan.
- 5.2 The TOs represent and warrant that they have authorised the TO Representatives to, on behalf of the TOs, otherwise fulfil the TOs obligations under this Management Plan.
- 5.3 For the purpose of this Management Plan, Argyle is entitled to rely on the fact that:
- (a) any notice, report or information provided to the Executive Officer on behalf of the TOs has been communicated to the TOs; and
 - (b) any action taken by the TO Representatives and any decision which is communicated to Argyle by the Executive Officer on behalf of the TOs, is authorised by the TOs and is correct.
- 5.4 Argyle will provide each TO Representative with a copy for information purposes of any notice, report or information provided to the Executive Officer under this clause. However, Argyle is entitled to rely on service of such a document on the Executive Officer.

6 Variation and Review

This agreement can only be changed if everyone on the Relationship Committee agrees and signs their name.

The Committee has to do a review of this Management Plan. A review is where the Committee makes sure that the Management Plan is doing the things that everyone wanted and thinks of ways to make it better. The Committee must do a review 3 months after the London Bosses decide about the Underground.

- 6.1 This Management Plan may be varied by unanimous vote of the TO Relationship Committee with the variations put in writing and signed by every Argyle Representative and every TO Representative present at the meeting.
- 6.2 In conducting regular reviews under clause 4.6(c) of this agreement the TO Relationship Committee must ensure that a review of this Management Plan is conducted within 3 months of the Investment Committee's decision in relation to the future of the Argyle Operations referred to in clause 4.1 of this Management Plan.

Management Plan 7 – Business Development and Contracting

This Management Plan says how Argyle and Traditional Owners will work together to help Traditional Owners make good businesses.

1 Term

This Business Development and Contracting Management Plan starts when everyone has signed and it finishes when everything is shut down at the mine.

- 1.1 This Management Plan:
- (a) commences at the Commencement Date; and
 - (b) terminates upon Completion of Decommissioning.

2 Principles

Here Argyle says that it wants to see more Traditional Owner Businesses and Local Aboriginal Community Businesses.

- 2.1 Argyle is committed to increasing business opportunities connected with the Mine's operations for local businesses in general, and TO Businesses and Local Aboriginal Community Businesses in particular.
- 2.2 In making contracts and developing business opportunities between Argyle and TO Businesses and Argyle and Local Aboriginal Community Businesses, the primary objectives of Argyle and the TOs are commercially viable, safe and efficient operations at the Mine and the promotion of TO and Local Aboriginal Businesses.

3 Business Development Taskforce

Here a committee is set up to help Traditional Owners start and run good businesses.

The committee has up to 5 people from Argyle and up to 5 Traditional Owners. This committee is a part of the Relationship Committee.

- 3.1 A Business Development Taskforce is established.
- 3.2 The Business Development Taskforce is made up of up to 5 representatives appointed by Argyle and up to 5 representatives appointed by the TOs.
- 3.3 The Argyle representatives will be appointed by the Managing Director of Argyle and will include, for the first 3 years, the Business Development Facilitator referred to in clause 5. As at the date of this agreement the Argyle representatives are:

Allan James (Business Development Facilitator)

David Epworth

Tim O’Neil

Marnie O’Hare

- 3.4 The TO representatives must include at least 2 persons who are TO Representatives on the TO Relationship Committee. As at the date of this agreement the TO representatives are:

Ted Hall

Ethel McLennon

Marjorie Brown

Colin Morgan

Ben Ward

The TO representatives may invite the Executive Officer to attend meetings of the Business Development Taskforce. The Executive Officer will attend meetings as an observer only and will not form part of the Business Development Taskforce.

- 3.5 The Business Development Taskforce is a subcommittee of the Relationship Committee. The membership of the Business Development Taskforce is not however restricted to TO Representatives or Argyle Representatives on the TO Relationship Committee.
- 3.6 The Business Development Taskforce will meet at times and places as it deems appropriate but as a minimum will meet at least every 6 months unless otherwise agreed, and will report to the next following meeting of the TO Relationship Committee.

4 Functions of the Business Development Taskforce

The job of the committee is to think about good ideas for Traditional Owner business and to tell Traditional Owners about these ideas. The committee also tells Aboriginal businesses about new ways to make money and helps them get started and run properly.

- 4.1 The Business Development Taskforce has the following functions:
- (a) any function delegated to it by the TO Relationship Committee which is consistent with the principles at clause 2;
 - (b) to inform TOs Businesses of any contracting opportunities notified by Argyle under clause 6;
 - (c) to consider future contracting opportunities which may arise at the Mine for TO Businesses;
 - (d) to review the outcome of tenders in which TO Businesses have participated;
 - (e) to consider ideas for potential TO Businesses;

- (f) to consult with the TOs in relation to viable business opportunities;
- (g) to work with government and community agencies to develop business support and incubation services in the East Kimberley region;
- (h) to consider what goods and services can be provided by TOs directly to Argyle at the Mine, without the need for a general tender process to be conducted;
- (i) to consider joint ventures between Argyle and TO Businesses in relation to the Argyle Operations at the Mine; and
- (j) to conduct the review set out in clause 5 of Management Plan 3.

5 Business Support

Argyle will help Traditional Owner Businesses to get started and have good management. Argyle will pay for a worker – called a Business Development Facilitator – to help Traditional Owner business. This worker will help for 3 years.

- 5.1 Argyle will for the first 3 years of this Management Plan, provide support to TO Businesses to assist TO Businesses to:
 - (a) develop business plans;
 - (b) develop business skills;
 - (c) pursue contracting and other business opportunities; and
 - (d) implement appropriate corporate governance measures within TO Businesses.
- 5.2 To provide this support, Argyle will employ a suitably qualified business development facilitator for the first 3 years of the Management Plan, whose duties will include the provision of this assistance.
- 5.3 The assistance provided by the Business Development Facilitator appointed under clause 5.2 includes the provision of:
 - (a) information to the TOs on where to seek loans;
 - (b) assistance to TOs in preparing such loan applications;
 - (c) information on what funds may be available for distribution from the Charitable Trust and the Special Purposes Trust;
 - (d) assistance in preparing applications for such distributions;
 - (e) information on how to obtain financial support from and develop partnerships with Local, State and Commonwealth Governments;
 - (f) assistance in obtaining financial support and developing such partnerships with Local, State and Commonwealth Governments;
 - (g) information on what the Business Development Facilitator considers likely to be viable business opportunities;
 - (h) assistance on how to obtain business related education and training;

- (i) assistance in applying for such business related education and training; and
 - (j) information on good governance and business practice.
- 5.4 The business facilitator may also provide information to the Charitable Trust and the Special Purposes Trust on business development opportunities, the viability of business plans and information relating to any applications made to those trusts, where the Trustees of those trusts request such information.
- 5.5 The assistance provided by Argyle under this clause is information and/or support and will not take the form of cash payments, the provision of plant and equipment, or direct funding.
- 5.6 Argyle will ensure that the Business Development Facilitator considers and responds to every request for assistance by a TO Business.
- 5.7 The level of assistance that it is appropriate to provide under this clause is to be determined by Argyle.
- 5.8 Subject to privacy and confidentiality constraints, the Business Development Facilitator will provide an annual report to the Business Development Taskforce and the TO Relationship Committee as to what information and assistance has been provided to TOs and how requests for assistance by TOs were dealt with.

6 Contract Information

Here Argyle agrees that it will tell Traditional Owners about contract work at the mine worth more than \$250,000. If Argyle can, it will tell Traditional Owners about this work, 3 months before anyone else.

- 6.1 Where Argyle intends to let any contract:
- (a) above a value of \$250,000; and
 - (b) which relates to the provision of goods or services to Argyle at the Mine Site,
- Argyle will, subject to clause 6.2 to 6.4, at least 3 months, or such longer period as Argyle considers reasonable, before Argyle plans to request quotations and/or tenders for the performance of that contract, notify the Executive Officer.
- 6.2 The 3 month notice period referred to in clause 6.1 does not apply if Argyle considers that the urgency of the contract requires a shorter notice period.
- 6.3 In the circumstances set out in clause 6.2, Argyle will immediately inform the Executive Officer of the decision and inform the Business Development Taskforce at its next meeting.
- 6.4 Argyle is not obliged to provide the notification in clause 6.1 if it considers that the notification would adversely impact upon security, strategic positioning, intellectual property or commercial confidentiality considerations.

7 TO Business Preference

Here Argyle agrees that if a Traditional Owner Business can do the job just as well as a whitefella business, then the Traditional Owner Business will get the contract.

If a Traditional Owner Business applies for a contract but don't get it, then Argyle has to tell the Traditional Owners why not.

- 7.1 If:
- (a) a TO Business tenders for a contract relating to the provision of goods or services to Argyle at the Mine Site; and
 - (b) a Non-TO Business tenders for a contract relating to the provision of goods and services to Argyle at the Mine Site; and
 - (c) Argyle is of the opinion that the 2 businesses are each as good as the other for the contract opportunity; then
 - (d) Argyle will provide a preference to the TO Business.
- 7.2 Argyle has absolute discretion as to whether it is satisfied that a TO Business tender and a Non-TO Business tender are as good as each other, such that the preference referred to in 7.1 is applied.
- 7.3 If a TO Business unsuccessfully tenders for a contract, Argyle will within 4 weeks of awarding that contract provide a written report to the Business Development Taskforce outlining the reasons why the tender was unsuccessful.

8 Conditions of Tender

Here Argyle agrees it will ask whitefella businesses who want to work for Argyle, to say what they will do to help Traditional Owners. If two whitefellas businesses go for a contract, and they are level, Argyle will choose the one that does more for Traditional Owners.

- 8.1 Argyle will ensure that every request for tender which relates to the provision of goods or services to Argyle at the Mine Site of a value over \$250,000 in a year, requires the tenderer to provide details of the measures the tenderer will take to:
- (a) involve TO Businesses in the contract;
 - (b) provide employment and/or training to TOs; or
 - (c) provide benefits to TOs.
- 8.2 If more than one Non-TO Business tenders for a contract then, if Argyle is of the opinion that the 2 businesses are each as good as the other for the contract opportunity, then Argyle will provide a preference to the Non-TO Business that will provide, in Argyle's opinion, the greatest benefit to TOs.

- 8.3 Argyle has absolute discretion as to whether it is satisfied that Non-TO Business tenders are as good as each other, such that the preference referred to in 8.2 is applied.
- 8.4 If a Non-TO Business tenderer wishes to contact TOs, Argyle will provide that tenderer with the contact details for the Executive Officer for that purpose.
- 8.5 In respect of each request for tender covered by this clause, Argyle will ensure that the Business Development Taskforce is informed of the measures that each tenderer is prepared to take to involve TO Businesses and promote employment, training and/or benefits to TOs. This information may be provided by Argyle after the tender is let. For the avoidance of doubt the Business Development Taskforce has no role in tender selection but may provide Argyle with comments on the information provided by tenderers under this clause.

9 Notice and Communication of TO Decisions

Here the Traditional Owners tell Argyle that the Executive Officer has the right to talk for them under this Management Plan. The Executive Officer is the right person to get letters and reports about Business Development and the Executive Officer will tell Argyle about Traditional Owner decisions. This part says that if Argyle gives a letter to the Executive Officer, Traditional Owners will get it too. And if the Executive Officer tells Argyle about a decision from Traditional Owners, Argyle can be sure that Traditional Owners are behind that decision.

- 9.1 The TOs represent and warrant that they hereby authorise the person from time to time holding the position of Executive Officer to, on behalf of the TOs:
- (a) receive notices, reports and information provided by Argyle under this Management Plan; and
 - (b) communicate to Argyle, decisions made by the TOs under this Management Plan.
- 9.2 The TOs represent and warrant that they hereby authorise the TO Representatives to, on behalf of the TOs, otherwise fulfil the TOs' obligations under this Management Plan.
- 9.3 For the purpose of this Management Plan, Argyle is entitled to rely on the fact that:
- (a) any notice, report or information provided to the Executive Officer on behalf of the TOs has been communicated to the TOs; and
 - (b) any action taken by the TO Representatives and any decision which is communicated to Argyle by the Executive Officer on behalf of the TOs, is authorised by the TOs and is correct.
- 9.4 Argyle will provide each TO Representative with a copy for information purposes of any notice, report or information provided to the Executive Officer under this clause. However, Argyle is entitled to rely on service of such a document on the Executive Officer.

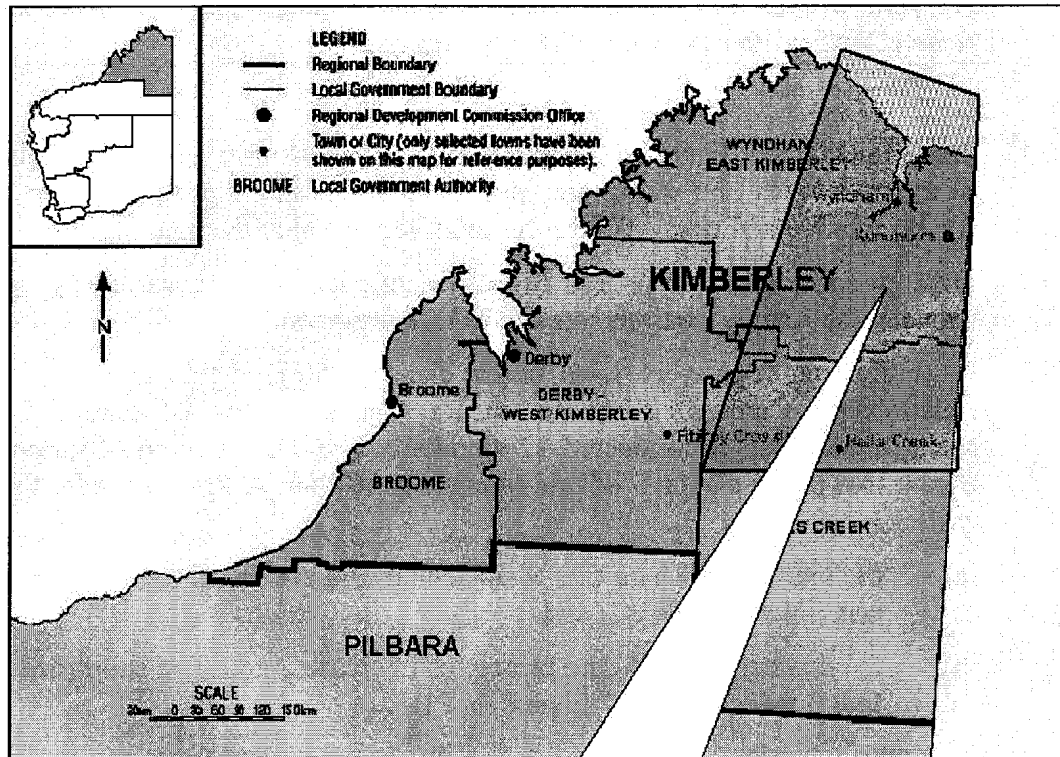
10 Variation and Review

This agreement can only be changed if everyone on the Relationship Committee agrees and signs their name.

The Committee has to do a review of this Management Plan. A review is where the Committee makes sure that the Management Plan is doing the things that everyone wanted and thinks of ways to make it better. The Committee must do a review 2 years after the start of this agreement.

- 10.1 This Management Plan may be varied by unanimous vote of the TO Relationship Committee with the variations put in writing and signed by every Argyle Representative and every TO Representative present at the meeting.
- 10.2 Time periods specified in this Management Plan may be varied by agreement between the Argyle Chairperson and TO Chairperson.
- 10.3 In conducting regular reviews under clause 4.6(c) of this agreement the TO Relationship Committee should ensure that a review of clause 5 of this Management Plan is conducted 12 months before the cessation of support to TO Businesses under clause 5 of this Management Plan. A Review under this clause will include:
 - (a) the manner in which this Management Plan is assisting Argyle to meet the principles in clause 2; and
 - (b) the manner in which the principles in clause 2 could be supported after the first 3 years of this Management Plan.

Schedule 1 – Local Aboriginal Community Business area



Argyle defines the EKR as the eastern half of the Shire of Wyndham and East Kimberley and the northern part of the Shire or Halls Creek including Halls Creek and the communities along the Great Northern Highway to the west.

*Argyle often refers to the area around its mine as the East Kimberley Region. This region, as Argyle defines it, includes the eastern half of the Shire of Wyndham and East Kimberley (including the western side of the Cambridge Gulf) and the northern part of the Shire of Halls Creek, including the township of Halls Creek and the communities along the Great Northern Highway to the west. Major townships in the region include Oombulgurri, Wyndham, Kununurra and Warmun but **not** Kalumburu or Fitzroy Crossing.*

Management Plan 8 – Devil Devil Springs

This Management Plan says how Argyle and Traditional Owners will work together to look after Devil Devil Springs.

1 Term

This Devil Devil Springs Management Plan starts when everyone has signed and it finishes when everything at the mine is shut down.

1.1 This Management Plan:

- (a) commences at the Commencement Date; and
- (b) terminates upon Completion of Decommissioning.

2 Management

Here Argyle recognises that Devil Devil Springs is an important place and that it will deal with the Traditional Owners who are responsible for that place. Argyle will talk to those Traditional Owners about how to look after Devil Devil Springs. Argyle will do the things that the Traditional Owners, Argyle and DIA agree need to be done to look after Devil Devil Springs.

- 2.1 The TOs who are responsible for the management of Devil Devil Springs under Aboriginal law and custom are also responsible, in consultation with Argyle and the DIA, for the management of Devil Devil Springs under this Management Plan.
- 2.2 Argyle will provide the TOs mentioned under 2.1 with the opportunity to consult with Argyle at the mine every 6 months with the aim of managing issues connected with Devil Devil Springs including:
 - (a) water management;
 - (b) vegetable and weed management;
 - (c) the impact of cattle;
 - (d) the management of adjacent waste dumps; and
 - (e) the bunding and rehabilitation of adjacent waste dumps.
- 2.3 The first consultation meeting will be held within 6 months of the Commencement Date. Argyle will invite the DIA to attend these consultation meetings.
- 2.4 At the conclusion of each Consultation meeting under this Management Plan, Argyle will produce an Action Plan which sets out the steps to be taken to manage Devil Devil Springs, as determined in that Consultation. The Action Plan should

- be completed at the Consultation meeting and be signed by all those present at the meeting.
- 2.5 Consultation meetings will also review the implementation of previous Action Plans.
 - 2.6 Argyle will pay the TOs who conduct the work involved in the Consultations at the Standard Argyle Rate.
 - 2.7 Argyle will, subject to obtaining the consent of the DIA, conduct the work identified in the Action Plan, or engage TOs to conduct that work as appropriate. If Argyle engages TOs, Argyle will pay them at the Standard Argyle Rate.
 - 2.8 The TOs acknowledge that Argyle may need to seek a section 18 consent in relation to Devil Devil Springs in order to carry out the measures agreed in the Action Plan.

3 Fencing

Argyle will put a fence around Devil Devil Springs to protect it. If Argyle doesn't do the fencing work itself, Argyle will ask Glen Hill if they want to do this fencing work.

- 3.1 The TOs consent to the construction of a chain mesh 1800 fence designed to keep cattle out of Devil Devil Springs and the Devil Devil Springs Buffer Zone.
- 3.2 Argyle will, subject to the consent of the DIA, construct the fence in a location to be agreed at the first Consultation meeting to be held under this Management Plan. If the location of the fence cannot be agreed, the fence will, subject to the consent of the DIA, be constructed 5 metres outside the current boundary of Devil Devil Springs.
- 3.3 If Argyle engages contractors to construct the fence, it will give the management of the Glen Hill Community a right of first refusal to tender for that work.
- 3.4 Argyle will maintain the fence until the Completion of Decommissioning.

4 Access

Here Argyle says that workers won't go into the Devil Devil Springs area. If anyone needs to go in Argyle will ask Traditional Owners first. Only an emergency at the mine would make Argyle workers go there. Women cannot go there.

- 4.1 Except in the case of an emergency, Argyle, its employees, contractors and agents will not access Devil Devil Springs or the Devil Devil Springs Buffer Zone without the prior consent or presence of TOs responsible for the management of Devil Devil Springs under Aboriginal law and custom.
- 4.2 Argyle acknowledges that Devil Devil Springs is a mens only place and women are not allowed to access the area.

5 Notice and Communication of TO Decisions

Here the Traditional Owners tell Argyle that the Executive Officer has the right to talk for them under this Management Plan. The Executive Officer is the right person to get letters and reports about Devil Devil Springs and the Executive Officer will tell Argyle about Traditional Owner decisions. This part says that if Argyle gives a letter to the Executive Officer, Traditional Owners will get it too. And if the Executive Officer tells Argyle about a decision from Traditional Owners, Argyle can be sure that Traditional Owners are behind that decision.

- 5.1 The TOs represent and warrant that they hereby authorise the person holding from time to time the position of Executive Officer to, on behalf of the TOs:
- (a) receive notices, reports and information provided by Argyle under this Management Plan; and
 - (b) communicate to Argyle, decisions made by the TOs under this Management Plan.
- 5.2 The TOs represent and warrant that they hereby authorise the TO Representatives to, on behalf of the TOs, otherwise fulfil the TOs obligations under this Management Plan.
- 5.3 For the purpose of this Management Plan, Argyle is entitled to rely on the fact that:
- (a) any notice, report or information provided to the Executive Officer on behalf of the TOs has been communicated to the TOs; and
 - (b) any action taken by the TO Representatives and any decision which is communicated to Argyle by the Executive Officer on behalf of the TOs, is authorised by the TOs and is correct.
- 5.4 Argyle will provide each TO Representative with a copy for information purposes of any notice, report or information provided to the Executive Officer under this clause. However, Argyle is entitled to rely on service of such a document on the Executive Officer.

6 Variation

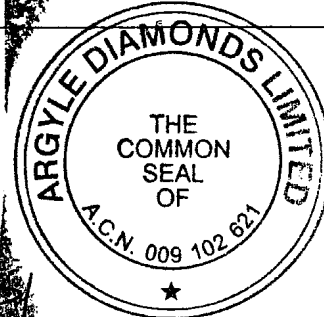
This agreement can only be changed if the Traditional Owners who can talk for Devil Devil Springs agree.

- 6.1 This Management Plan may be varied by agreement in writing made by Argyle and the TOs who are responsible for the management of Devil Devil Springs under Aboriginal law and customs.
- 6.2 Time periods specified in this Management Plan may be varied by agreement between the Argyle Chairperson and TO Chairperson.

Executed as an agreement:

Here is where we put our names to show that we agree with the rules in this agreement.

**The common seal of
Argyle Diamonds Limited
ABN 36 009 102 621**
is fixed to this document
in the presence of:



[Handwritten signature]

Secretary/Director

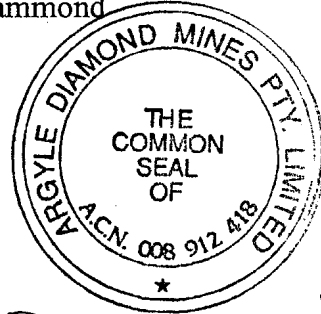
[Handwritten signature]

Director

Mark Sokolich

Brendan Hammond

**The common seal of
Argyle Diamond Mines Pty Limited
ABN 52 008 912 418**
is fixed to this document
in the presence of:



[Handwritten signature]

Secretary/Director

[Handwritten signature]

Director

Mark Sokolich

Brendan Hammond

Mandangal/Tiltuwam dawang/dawaam comprised of the Toby, Dixon, Hall and Curtin families

**Signed by
Evelyn Hall**
in the presence of:

[Handwritten signature: Evelyn Hall]

[Handwritten signature]

Witness

The Hon. Fred Chaney AO
Deputy President
National Native Title Tribunal

Name (please print)

[Handwritten mark]

Signed by
Patsy Hall
in the presence of:

Patsy Hall

[Signature]
Witness
The Hon. Fred Chaney AO
Deputy President
National Native Title Tribunal
Name (please print)

Signed by
George Dixon
in the presence of:

George Dixon

[Signature]
Witness
Michael Neal
Name (please print)

Signed by

TED. HALL
in the presence of:

[Signature]
Witness
[Signature]
Name (please print)

Signed by

Gordon Hall
in the presence of:

Mr Kim E.A. BARBER.
Name (please print)

Gordon Hall

[Signature]
Witness
The Hon. Fred Chaney AO
Deputy President
National Native Title Tribunal
Name (please print)

Signed by Aaron Hall

Aaron Hall

in the presence of:

[Signature]

Witness
The Hon. Fred Chaney AO
Deputy President
National Native Title Tribunal

Name (please print)

Signed by

JAMES DIXON

in the presence of:

James Dixon

[Signature]

Witness
Michael Neal

Name (please print)

Signed by

DONALD CURTIN

in the presence of:

Edward Hall

Don Curtin

[Signature]
Witness

Kim E.A. Barber
Name (please print)

Edward Hall

[Signature]
Michael Neal

D.V.

Mandangala/Tiltuwam dawang/dawaam comprised of the Thomas and Barrett families

Signed by
Goody Barrett
in the presence of:

GOODY

Marcia Langton
Witness

MARCIA LANGTON
Name (please print)

Signed by
Chocolate Thomas
in the presence of:

CHOCOLATE THOMAS

Michael Neal
Witness
Michael Neal

Name (please print)

Signed by
Lena Nyadbi
in the presence of:

LENA

Tim Doohan
Witness

Tim Doohan
Name (please print)

Signed by
Madigan Thomas
in the presence of:

MADIGAN THOMAS

Marcia Langton
Witness

MARCIA LANGTON
Name (please print)

Signed by
Larry Thomas
in the presence of:

LARRY THOMAS

Witness 
Michael Neal

Name (please print)

Signed by
Norman Thomas
in the presence of:

NORMAN THOMAS


Witness 
Michael Neal

Name (please print)

Signed by

Geraldine Bedford
in the presence of:

Geraldine Bedford


Witness 
Witness

Kim Doohan
Name (please print)

Signed by

Myrelle Bedford
in the presence of:

Myrelle Bedford

Witness 
Witness

Kim Doohan
Name (please print)



Signed by

LARISSA CLIFTON

in the presence of:

Larissa Clifton

Marcia G No

Witness

MARCIA LANGTON
Name (please print)

Signed by

Michael Joseph Smith

in the presence of:

my print

D Neal
Witness **Michael Neal**

Name (please print)

Signed by

SHIRLEY PURDIE

in the presence of:

SHIRLEY PURDIE

D Neal
Witness **Michael Neal**

Name (please print)

Signed by

Helen Pinday

in the presence of:

Helen Pinday

Kim Dooka
Witness

Kim Dooka
Name (please print)

D

Signed by

Ethel McLennon
in the presence of:

Ethel McLennon

Marcia Lyke
Witness

MARCIA LANGTON
Name (please print)

Signed by

ALLISON GARLETT
in the presence of:

Alli Garlett

D. Neal
Witness
Michael Neal

Name (please print)

Signed by

Max Thomas
in the presence of:

Max Thomas

Kim Dooker
Witness

Kim Dooker
Name (please print)

Signed by

FABIAN W. GARLETT
in the presence of:

Fabian W. Garlett

D. Neal
Witness
Michael Neal

Name (please print)

D.V.

Yunurr/Yulangga dawang/dawaam

Signed by
Churchill Cann
in the presence of:

X

D Neal
Witness
Michael Neal

Name (please print)

Signed by
Nancy Nodea
in the presence of:

Nancy Nodea

K Doohan
Witness

Kim Doohan
Name (please print)

Signed by
Maggie John
in the presence of:

M A G O I E

D Neal
Witness
Michael Neal

Name (please print)

Signed by ANTHONY YALUNGA

_____ in the presence of:

Anthony Yalunga

[Signature]
Witness
**The Hon. Fred Chaney AO
Deputy President
National Native Title Tribunal**

Name (please print)

Signed by PATRICK MUNG MUNG

_____ in the presence of:

PATRICK

Adooche

Witness

Kim Dooche

Name (please print)

Signed by DOUGIE MACALE

_____ in the presence of:

DOUGIE MACALE

[Signature]

Witness

**The Hon. Fred Chaney AO
Deputy President
National Native Title Tribunal**

Name (please print)

Signed by

Joseph Yalunga

_____ in the presence of:

Joseph Yalunga

[Signature]

Witness

Michael Neal

Name (please print)

Signed by

_____ in the presence of:

_____ Witness

_____ Name (please print)

D.V.

Signed by

 in the presence of:

 Witness

 Name (please print)

Signed by

 in the presence of:

 Witness

 Name (please print)

Signed by

 in the presence of:

 Witness

 Name (please print)

Signed by

 in the presence of:

 Witness

 Name (please print)

Signed by

_____ in the presence of:

_____ Witness

_____ Name (please print)

Neminuwarlin dawang/dawaam

Signed by
Peggy Patrick
in the presence of:

P 1 1 1

Kim Doochan
Witness

Kim Doochan
Name (please print)

Signed by
Mona Ramsay
in the presence of:

MONA RAMSAY

Marcia Langton
Witness

MARCIA LANGTON
Name (please print)

Signed by
Ronnie Ramsey
in the presence of:

Ronnie Ramsey

[Signature]
Witness
**The Hon. Fred Chaney AO
Deputy President
National Native Title Tribunal**

_____ Name (please print)

Dv.

Signed by

in the presence of:

Witness

Name (please print)

Signed by

in the presence of:

Witness

Name (please print)

Signed by

in the presence of:

Witness

Name (please print)

Signed by

in the presence of:

Witness

Name (please print)

DN.

Signed by

_____ in the presence of:

Witness

Name (please print)

Signed by

_____ in the presence of:

Witness

Name (please print)

Signed by

_____ in the presence of:

Witness

Name (please print)

Signed by

_____ in the presence of:

Witness

Name (please print)



Signed by

_____ in the presence of:

Witness

Name (please print)

Signed by

_____ in the presence of:

Witness

Name (please print)

Signed by

_____ in the presence of:

Witness

Name (please print)

Signed by

_____ in the presence of:

Witness

Name (please print)



Signed by

_____ in the presence of:

Witness

Name (please print)

Signed by

_____ in the presence of:

Witness

Name (please print)

Signed by

_____ in the presence of:

Witness

Name (please print)

Signed by

_____ in the presence of:

Witness

Name (please print)

Signed by

_____ in the presence of:


Witness

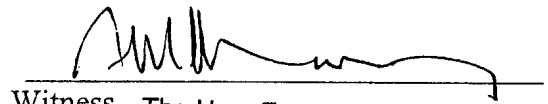
Name (please print)

Bilbidjing dawang/dawaam

**Signed by
Ben Ward**

in the presence of:



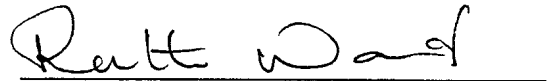


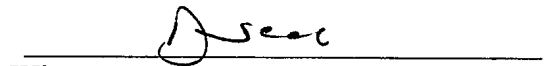
Witness The Hon. Fred Chaney AO
Deputy President
National Native Title Tribunal

Name (please print)

**Signed by
Ruth Ward**

in the presence of:



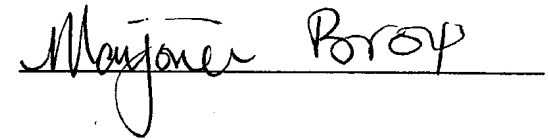


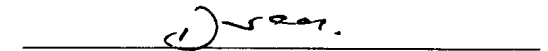
Witness **Michael Neal**

Name (please print)

**Signed by
Marjorie Brown**

in the presence of:





Witness **Michael Neal**

Name (please print)



Signed by BEN WARD JR

_____ in the presence of:

Ben Ward

Witness The Hon. Fred Chaney AO
Deputy President
National Native Title Tribunal

Name (please print)

Signed by DAVID WARD

_____ in the presence of:

David Ward

Witness The Hon. Fred Chaney AO
Deputy President
National Native Title Tribunal

Name (please print)

Signed by

PETER BROWN
_____ in the presence of:

Peter Brown

Witness Michael Neal

Name (please print)

Signed by

_____ in the presence of:

Witness

Name (please print)

DL

Signed by

 in the presence of:

 Witness

 Name (please print)

Signed by

 in the presence of:

 Witness

 Name (please print)

Signed by

 in the presence of:

 Witness

 Name (please print)

Signed by

 in the presence of:

 Witness

 Name (please print)



Signed by

_____ in the presence of:

Witness

Name (please print)

Signed by

_____ in the presence of:

Witness

Name (please print)

Dundun dawang/dawaam

Signed by

Una Morgan

in the presence of:

Una Morgan

Dr...

Witness **Michael Neal**

Name (please print)

Signed by

Frank Sampi

in the presence of:

Frank Sampi

Fred Chaney

Witness **The Hon. Fred Chaney AO
Deputy President
National Native Title Tribunal**

Name (please print)

D.V.

Signed by
Morton Moore
in the presence of:

MORTON MOORE

[Signature]
Witness

Kim E.A. Barber
Name (please print)

Signed by
Tiger Moore
in the presence of:

TIGER MOORE

[Signature]
Witness
Michael Neal

Name (please print)

Signed by
Charlie Martin
in the presence of:

[Signature]

[Signature]
Witness
The Hon. Fred Chaney AO
Deputy President
National Native Title Tribunal

Name (please print)

Signed by

COLIN MORGAN
in the presence of:

[Signature]

[Signature]
Witness
Michael Neal

Name (please print)

[Handwritten mark]

Signed by

Karen Morgan
in the presence of:

Karen Morgan

D. Neal
Witness **Michael Neal**

Name (please print)

Signed by

Colleen Morgan
in the presence of:

Colleen Morgan

D. Neal
Witness **Michael Neal**

Name (please print)

Signed by

PETER BRANDY

in the presence of:

Peter Brandy

Fred Chaney
Witness **The Hon. Fred Chaney AO
Deputy President
National Native Title Tribunal**

Name (please print)

Signed by

Ronald Morgan
in the presence of:

Ronald Morgan

D. Neal
Witness **Michael Neal**

Name (please print)

D.V.

Signed by

TOMMY CARROLL

in the presence of:

TOMMYCARROLL

[Signature]

Witness

Michael Neal

Name (please print)

Signed by

in the presence of:

Witness

Name (please print)

Signed by

in the presence of:

Witness

Name (please print)

Signed by

in the presence of:

Witness

Name (please print)

[Signature]

Signed by

in the presence of:

Witness

Name (please print)

DL.

