

10. MARKETING

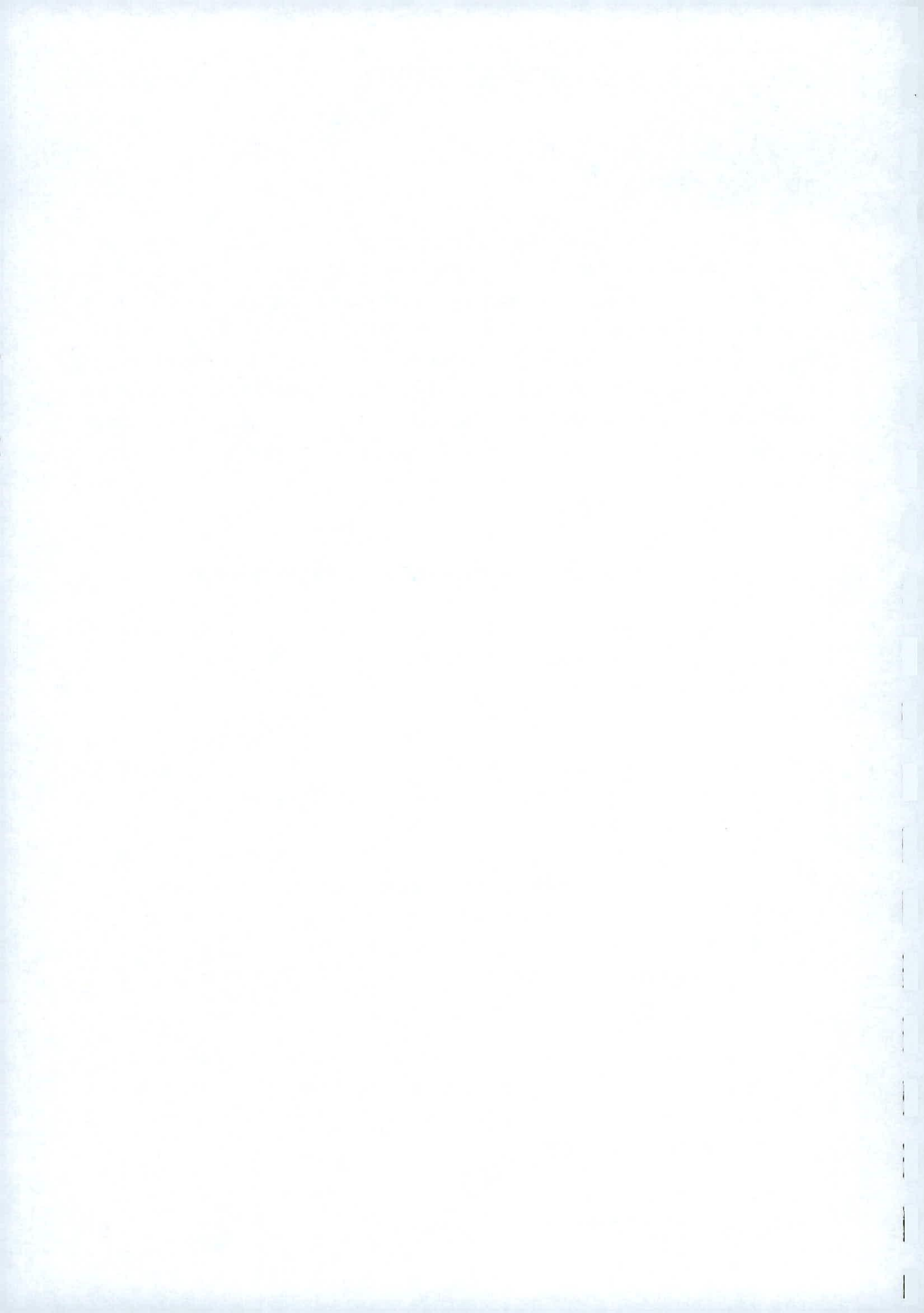
The material being mined will be sold directly to Eastern Province Brick cc as per the agreed supply & off-take-agreement, which can be found in ANNEXURE 4 : Supply & Off-Take Agreement. This agreement projects a consumption of about 27 000 cubic metres of clay per year. The agreement commits the purchaser to buy the clay as raw material for the duration of this mining right as it has been selling bricks since 1936 and as such has established itself as a reliable source of quality bricks. As a member of the clay brick association (CBA) EP Brick cc has access to marketing throughout the Eastern Cape. Though the market for building products is currently at an all time low, E.P. Brick cc has managed to stay in operation due to demand for its specific products.

11. MINERAL RESOURCE & ORE RESERVE DETERMINATION

The mineral resource has been calculated based on reconnaissance of the mining area ; assessing the strata in surrounding pits and knowledge of the underlying geology. The following factors have been taken into consideration in calculating the mineral resources and ore reserves:

1. The amount of material already mined out
2. The amount of material deposited by Waste-tech , excavated for creation of waste disposal facilities
3. The provision of a 9-m boundary pillar
4. Final slopes with an inclination of a maximum of 17° from the horizontal
5. Geological uncertainty and unsuitable material making up a factor of 15%
6. Mining Losses making up a factor of 25%
7. Marketing Losses making up a factor of 5%

The mineral resources calculation is for the total volume of the remaining material which could be mined if boundary conditions were not applicable. The mineral or ore reserve takes into consideration the fact that material will be left in situ to provide for boundary pillars and slopes of the final pit, upon closure of the quarry.



E.P. MINERALS OPENCAST MINE

Table 1: Mineral resource and mineral reserve calculations for EP Minerals Opencast Mine

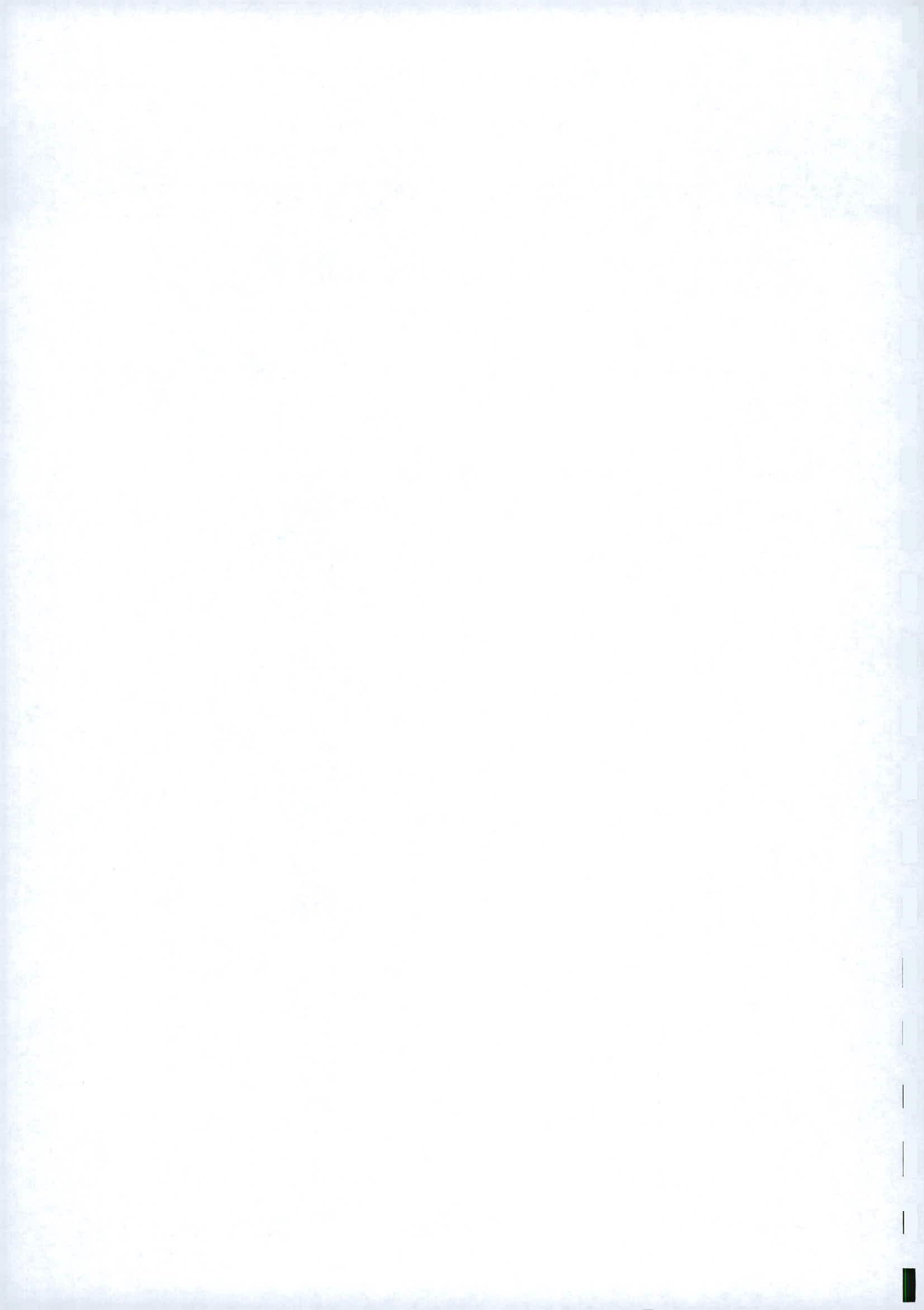
Category	Estimated Volume	Units
Inferred Clay Mineral Resource	6 000	m ³
Indicated Clay Mineral Resource	1 476 537	m ³
Measured Clay Mineral Resource	1 255 057	m ³
Proven Clay Reserve	894 228	m ³

The table below has been used to estimate the life of mine from the time in which the site was surveyed.

Table 2: Summary of clay ore reserve and life of mine calculations at E.P. Minerals Opencast Mine

Life of Mine calculations for E.P. Minerals Opencast Mine		
Proven Clay Reserves	894 228	m ³
Production per year	27 000	m ³
Year	Clay Remaining	
2009	894 228	m ³
2010	867 228	m ³
2011	840 228	m ³
2012	813 228	m ³
2013	786 228	m ³
2014	759 228	m ³
2015	732 228	m ³
2016	705 228	m ³
2017	678 228	m ³
2018	651 228	m ³
2019	624 228	m ³
2020	597 228	m ³
2021	570 228	m ³
2022	543 228	m ³
2023	516 228	m ³
2024	489 228	m ³
2025	462 228	m ³
2026	435 228	m ³
2027	408 228	m ³
2028	381 228	m ³
2029	354 228	m ³
2030	327 228	m ³
2031	300 228	m ³
2032	273 228	m ³
2033	246 228	m ³
2034	219 228	m ³
2035	192 228	m ³
2036	165 228	m ³
2037	138 228	m ³
2038	111 228	m ³
2039	84 228	m ³
2040	57 228	m ³
2041	30 228	m ³
2042	3 228	m ³
2043	0	m ³

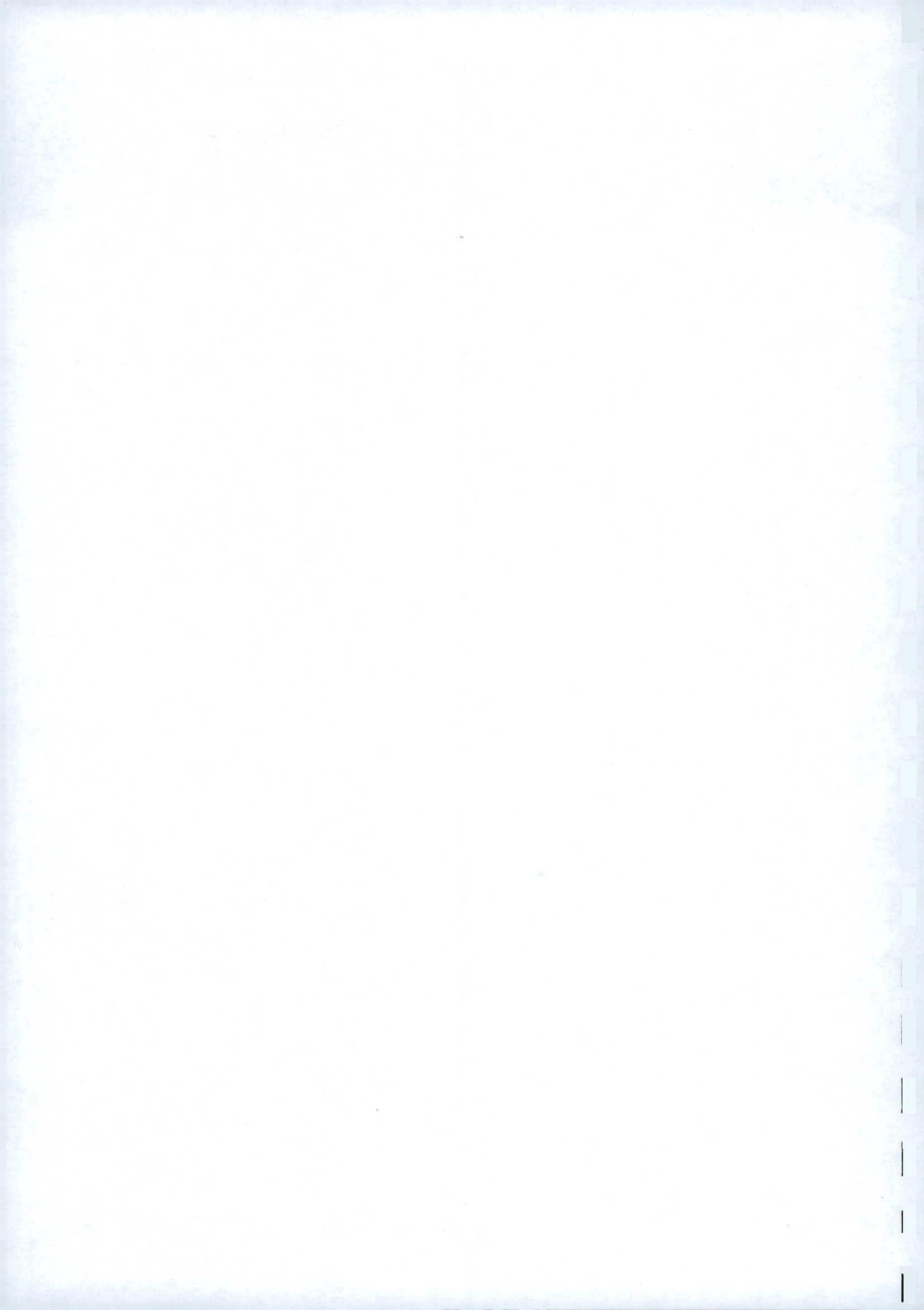
The life of the mine at the current rate of production is therefore expected to be 33 years.



12. COMPLIANCE TO SAMREC CODE 2007

According to Section 2.4 of the SAMREC Code 2007, the Code applies also to clay and mudstones. As the Code sets minimum standards for public reporting for listed public companies, the Code is not applicable to E.P. Minerals Opencast Mine, which is a private company. However, in the light of transparency, the methodology of the code has been used to quantify the difference between the mineral resource and mineral reserve. According to Section 4.3 of the Code, Rudi Gerber is the competent person who compiled this report. See Annexure 5 for the Executive Summary of the CPR.

13. ANNEXURE 1 : CONTOUR PLAN OF MINING AREA



14. ANNEXURE 2 : RESOURCE VOLUME CALCULATION

EP Minerals Opencast Mine Life Of Mine calculations

Proven Reserve	1 232 727	
Maximum Mining rate	180	m ³ /day
Maximum Production per year	40500	m ³ p.a.
Year	Clay remaining	
2009	1192227	m ³
2010	1151727	m ³
2011	1111227	m ³
2012	1070727	m ³
2013	1030227	m ³
2014	989727	m ³
2015	949227	m ³
2016	908727	m ³
2017	868227	m ³
2018	827727	m ³
2019	787227	m ³
2020	746727	m ³
2021	706227	m ³
2022	665727	m ³
2023	625227	m ³
2024	584727	m ³
2025	544227	m ³
2026	503727	m ³
2027	463227	m ³
2028	422727	m ³
2029	382227	m ³
2030	341727	m ³
2031	301227	m ³
2032	260727	m ³
2033	220227	m ³
2034	179727	m ³
2035	139227	m ³
2036	98727	m ³
2037	58227	m ³
2038	17727	m ³

15. ANNEXURE 3 : EXECUTIVE SUMMARY OF CPR



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ALGOA CONSULTING MINING ENGINEERS

COMPETENT PERSON'S REPORT

for the evaluation of the

CLAY Resources & - Reserves held by E.P. Minerals Opencast Mine

belonging to

EASTERN PROVINCE BRICK MINING (PTY) LTD

September 2009

EXECUTIVE SUMMARY

Algoa Consulting Mining Engineers (“ACME”) were requested by the directors of Eastern Province Brick Mining (Pty) Ltd to prepare a Competent Person’s Report (“CPR”) on the clay reserves held by its mine : E.P. Minerals Opencast Mine (“EP Minerals”). This CPR is an assessment for an application for a mining right to be lodged at the Department of Minerals & Energy.

E.P. Minerals Opencast Mine is located at 33° 50' 03" S and 25° 36' 15" E. The open pit mine lies West of the Old Grahamstown Road (R102) to the North West of the suburb of Blue Water Bay, which is one of the northern suburbs of Port Elizabeth.



Figure 1: Locality of EP Minerals Opencast Mine shown on a Google earth image

The Sundays River formation comprise of clays, which were deposited during the Cretaceous period of the Mesozoic Era, which was expected to have warmer climates and higher sea tides, just prior to the breakup of the super continent Pangaea. The Cretaceous period is well known for deposits of chalk (limestone) and in this case the calcrete layer is found lying above the clay

sediments in places. The formation is often fossil - bearing. The layers with higher calcite cementation form prominent cliffs in the area, whereas the clay is soft and erodes easily.

This CPR describes the evaluation of the mineral resources and clay reserves in terms of the geological deposit ; the practical mining methods ; the mineral processing and the marketing of the final clay products of E.P. Minerals Opencast Mine. This CPR is undertaken in accordance with the South African Code for Reporting of Mineral Resources and Mineral Reserves ("SAMREC 2007 Code") and has been substantiated by observation and other evidence obtained from site visits to the mine supported by analyses, market research and other evidence. This report has taken account of all relevant information supplied by the directors of Eastern Province Brick Mining (Pty) Ltd.

The mining modifying factors have the greatest influence on the quantification of the clay reserves. They are the 17° gradient for benches and slopes to ensure slope stability of highwalls. Standard modifying factors combined as an additional 15% for geological – and mining losses were applied to accommodate the requirements for legislation and the geological setting.

E.P. Minerals Opencast Mine plans to conduct the rehabilitation of the disturbed areas concurrently with their production mining activities. All environmental issues have been addressed in E.P. Minerals Opencast Mine's mining right application and key environmental issues managed by E.P. Minerals Opencast Mine comprise of groundwater monitoring and surveys of dust fall-out and noise. E.P. Minerals Opencast Mine's rehabilitation programmes details the topsoil stripping and the re-placement of topsoil ; the rescue of any red data book plant species and the re-vegetation of indigenous plants ; monitoring of groundwater et al.

The clay resources and clay reserves held by E.P. Minerals Opencast Mine could be summarised as follows :

Total Proven Reserves = 1232727 in-situ cubic m³
Total Probable Reserves = 217540 in-situ m³
Total Inferred Resources = 2319839 in-situ m³

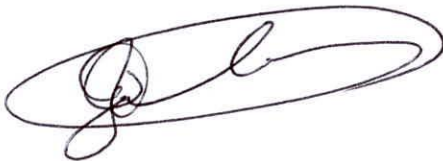
The total estimate of the proven clay reserves are therefore a figure of around 1¼ million BCM's (in-situ bank cubic metres), which should yield 100% as saleable tonnes to local clay brick manufacturers. With a slightly lower level of confidence due to the physical uncertainties of the

clay qualities, an estimate of the probable clay reserves are therefore in the order of an additional 200 000 BCM's.

A sensitivity analysis and risk evaluation has been conducted in the full CPR. The sensitivity analysis performed on the uncertainties and assumptions made during the mine planning phase of E.P. Minerals Opencast Mine has proved that the only influence could be expected from an economic decline of the South African – and / or World economy.

ACME has independently assessed the clay resources database and surveyed drawings of E.P. Minerals Opencast Mine. The data obtained has been used by ACME to create a model of clay resources and to prepare estimates of the clay reserves. The information in this EXECUTIVE SUMMARY is a true reflection of the information contained within the full CPR.

Signed

A handwritten signature in black ink, enclosed within a hand-drawn oval. The signature is stylized and appears to read 'Rudi Gerber'.

Rudi Gerber
B.Eng.(Min.)

16. ANNEXURE 4 : SUPPLY & OFF-TAKE AGREEMENT

SUPPLY – AND OFF-TAKE AGREEMENT

E.P. Brick Mining (Pty) Ltd

hereinafter called “the Supplier”

and

Eastern Province Brick cc

hereinafter called “the Purchaser”

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1. PARTIES

- 1.1. E.P. Brick Mining (Pty) Ltd
Registration number 2009/009347/07
- 1.2. Eastern Province Brick cc
Registration number CK 1997/056247/23

2. INTERPRETATION

- 2.1. The headnotes to the clauses of this Agreement are inserted for reference purposes only and shall in no way govern, or affect the interpretation thereof.
- 2.2. Unless inconsistent with the context, the expressions set forth below shall bear the following meanings :

“the / this Agreement” Shall mean the supply and off-take agreement recorded herein, together with its Annexure ;

“Agent” Shall mean the entity (Algoa Consulting Mining Engineers) that acts as mediator between the Parties to conclude this Agreement ;

“Annexure A” Shall be the registered Mining Right, and shall be annexed to and form part of this Agreement forthwith upon Mining Title Registration ;

“CIPRO” Shall mean the Companies and Intellectual Property Registration Office of South Africa ;

“DME” Shall mean the department of Minerals and Energy (or its successor body) of the government of the Republic of South Africa ;

<i>“Base Date”</i>	Shall mean the date on which the price escalation refers to as a base starting point in time ;
<i>“Designated Stockpile”</i>	Shall refer to the Purchaser’s designated stockpile(s) of Raw Materials, situated on the neighbouring locality ;
<i>“Effective Date”</i>	Shall mean the date of signature of this Agreement by the Party last in time to sign the Agreement ;
<i>“Escalation Formula”</i>	Shall mean the formula used to determine bi-annual price escalation of the Raw Materials ;
<i>“the Expert”</i>	Shall mean the competent person expertly qualified to quantify the measurement for payment for the Raw Materials supplied to the Purchaser ;
<i>“Mine”</i>	Shall mean the mine workings and related infrastructure operated in terms of the Mining Right ;
<i>“Mining Right”</i>	Shall mean a mining right for clay granted by the DME and issued to the Supplier in terms of the provisions of the MPRDA, under reference number EC30/5/1/2/2/.....MR ;
<i>“Mining Works”</i>	Shall mean the work of excavating and / or extracting clay from the Mine in accordance with the approved Mining Work Programme in respect of the Mining Right;
<i>“Mining Work Programme”</i>	Shall mean the Mining Work Programme as submitted by the Supplier to the DME, with the Mining Titles Registration ;
<i>“MPRDA”</i>	Shall mean the Mineral and Petroleum Resources Development Act, No 28 of 2002, as amended from

time to time ;

"Parties" Shall mean the Purchaser and the Supplier, and a *"Party"* shall mean each or any of them as the context requires ;

"Purchase Price" Shall mean the price in South African Rands per metric in-situ cubic metre volume of Raw Materials supplied to the Purchaser ;

"Purchaser" Shall mean Eastern Province Brick closed corporation, a South African closed corporation duly registered with registration number CK 1997/056247/23 ;

"Raw Materials" Shall mean general clay, of brick-making quality, mined at the Mine ;

"Supplier" Shall mean Eastern Province Brick Mining (Proprietary) Limited, a South African Company duly registered with registration number 2009/009347/07 ;

"V.A.T." Shall mean the tax rate for Value Added Tax determined by the South African Revenue Service as amended from time to time.

2.3. If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision of this Agreement.

2.4. Any reference to an enactment is to that enactment as at the date for performance of the obligation in terms of this Agreement which shall be affected by and/or be subject to such enactment.

2.5. Unless inconsistent with the context, an expression which denotes (i) any gender includes the other genders; (ii) a natural person includes an artificial

person and vice versa; and (iii) the singular includes the plural, and *vice versa*.

- 2.6. Where any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this interpretation clause.
- 2.7. A reference to “days” shall be construed as calendar days unless qualified by the word “business”, in which instance a “business day” shall be any day other than a Saturday, Sunday or official public holiday in South Africa. Any reference to “business hours” shall be construed as being the hours between 08h30 (eight hours and thirty minutes) and 17h00 (seventeen hours) on any business day. Any reference to time shall be based upon South African Standard Time.
- 2.8. When any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a business day, in which case the last day shall be the next succeeding business day.
- 2.9. The rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of such contract, shall not apply.
- 2.10. The schedules to this Agreement form an integral part hereof and words and expressions defined in this Agreement shall bear, unless the context otherwise requires, the same meaning in such schedules.

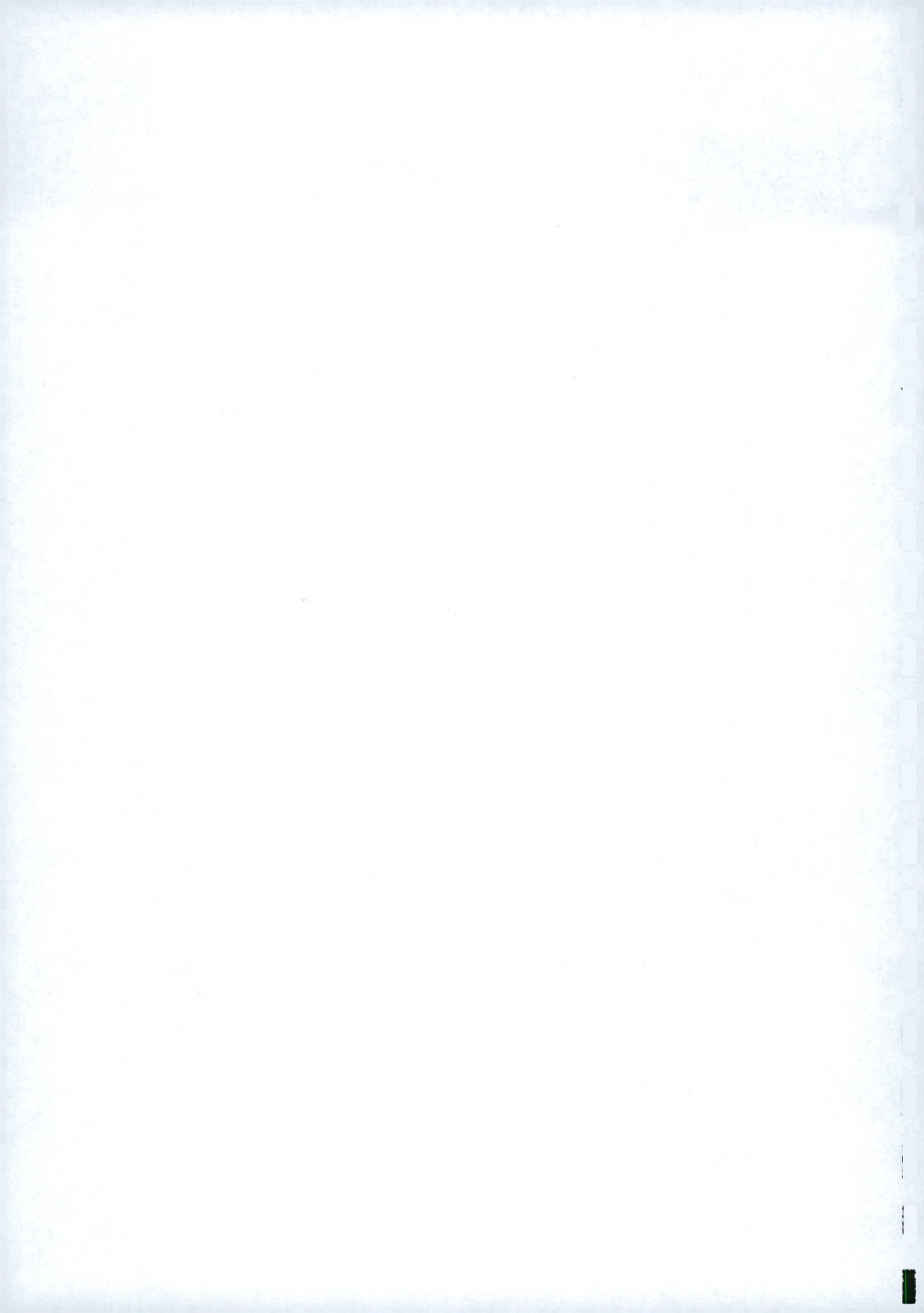
3. RECORDAL

- 3.1. The Supplier is the legal, registered and beneficial owner of the Mining Right, and subject only to requisite regulatory consents, is entitled to dispose thereof and / or of the Raw Materials.

- 3.2. The Purchaser wishes to purchase from the Supplier, and the Supplier has agreed to supply to the Purchaser, Raw Materials for purposes of the Purchaser's brick manufacturing operations in the Eastern Cape Province, on the terms and conditions set out in this Agreement.
- 3.3. The Parties contract on the basis that the Purchaser has both familiarised itself, and been furnished with a copy of the Mining Work Programme, which Programme is acknowledged by both Parties hereto, as being the superseding documentation upon which this contract is founded.
- 3.4. The Parties wish to record their agreement in writing.

4. COMMENCEMENT AND DURATION

- 4.1. This Agreement shall commence on the Effective Date and shall thereafter endure indefinitely unless or until the earlier of:
 - 4.1.1. the termination of the Mining Right in accordance with its terms ; or
 - 4.1.2. the issue of a "closure certificate" in respect of the Mine ; or
 - 4.1.3. terminated in writing by consensual agreement between the Parties ; or
 - 4.1.4. the termination in accordance with the provisions of this Agreement.
- 4.2. Without derogating from the generality of clause 4.1, the Parties acknowledge, record and agree that they intend that ; the Supplier will supply to the Purchaser, and the Purchaser will purchase from the Supplier, in terms of this Agreement all Raw Materials required from time to time by the Purchaser for purposes of the Purchaser's brick manufacturing operations, for so long as the Supplier shall be the owner of the Mine and/or the holder of the Mining Right ; and each of them undertakes in favour of the other of them to do all such things, take all such steps and execute all such documents as may be necessary to give effect to their common intentions in this regard.



5. MINING RIGHT

The Supplier warrants, covenants and undertakes to the Purchaser that :

- 5.1. as at the Effective Date, the Mining Right has been granted to the Supplier and registered at the Mining Titles Registration Office;
- 5.2. as at the Effective Date, it has complied in all respects with the requirements of the MPRDA ;
- 5.3. as at the Effective Date, it is not aware of any fact, matter or circumstance which will or may result in the Mining Right being repealed, or being granted and/or issued on terms materially less favourable than set out in the existing Mining Right ;
- 5.4. it will forthwith upon any Mining Right Amendment, promptly:
 - 5.4.1. in writing notify the Purchaser thereof ; and
 - 5.4.2. deliver a copy of the registered amended Mining Right to the Purchaser.
- 5.5. during the term of this Agreement and having regard to the rights, benefits and interests granted herein to the Purchaser in respect of the Mining Right:
 - 5.5.1. it will take all necessary or reasonable steps to maintain and preserve the Mining Right in full force and effect, including by way of complying fully with its obligations relating thereto;
 - 5.5.2. it will not materially amend or vary any provision, term or condition relating to the Mining Right (including but not limited to the approved Mining Work Programme, Environmental Management Programme and/or Social and Labour Plan pertaining thereto) without first taking cognisance of its obligations under this Agreement, and taking into account the Purchaser's reasonable requirements in respect of any such amendment or variation, unless where required by operation of the law ;
 - 5.5.3. it will promptly notify the Purchaser of any material fact, matter or circumstance relating to the Mining Right and/or the Mining Works notified to it by any regulatory authority and/or of which it may become

aware (whether of a legal, technical or operational nature), which will or may impact (in the widest sense) upon the rights and/or obligations and/or interests of the Parties under or in terms of this Agreement, or the ability of the Supplier to comply with its obligations hereunder.

6. SUPPLY OF RAW MATERIALS

6.1. The Supplier hereby agrees to supply to the Purchaser, which hereby agrees to purchase from the Supplier, with effect from the Effective Date, the Raw Materials, subject to the terms and conditions set out in this Agreement.

7. SCOPE OF WORK

7.1. The Supplier undertakes, by no later than 30 days after the Effective Date, to commence with and thereafter (subject to the further provisions of this clause 7) to conduct the Mining Works in compliance with the Mining Work Programme and all applicable laws.

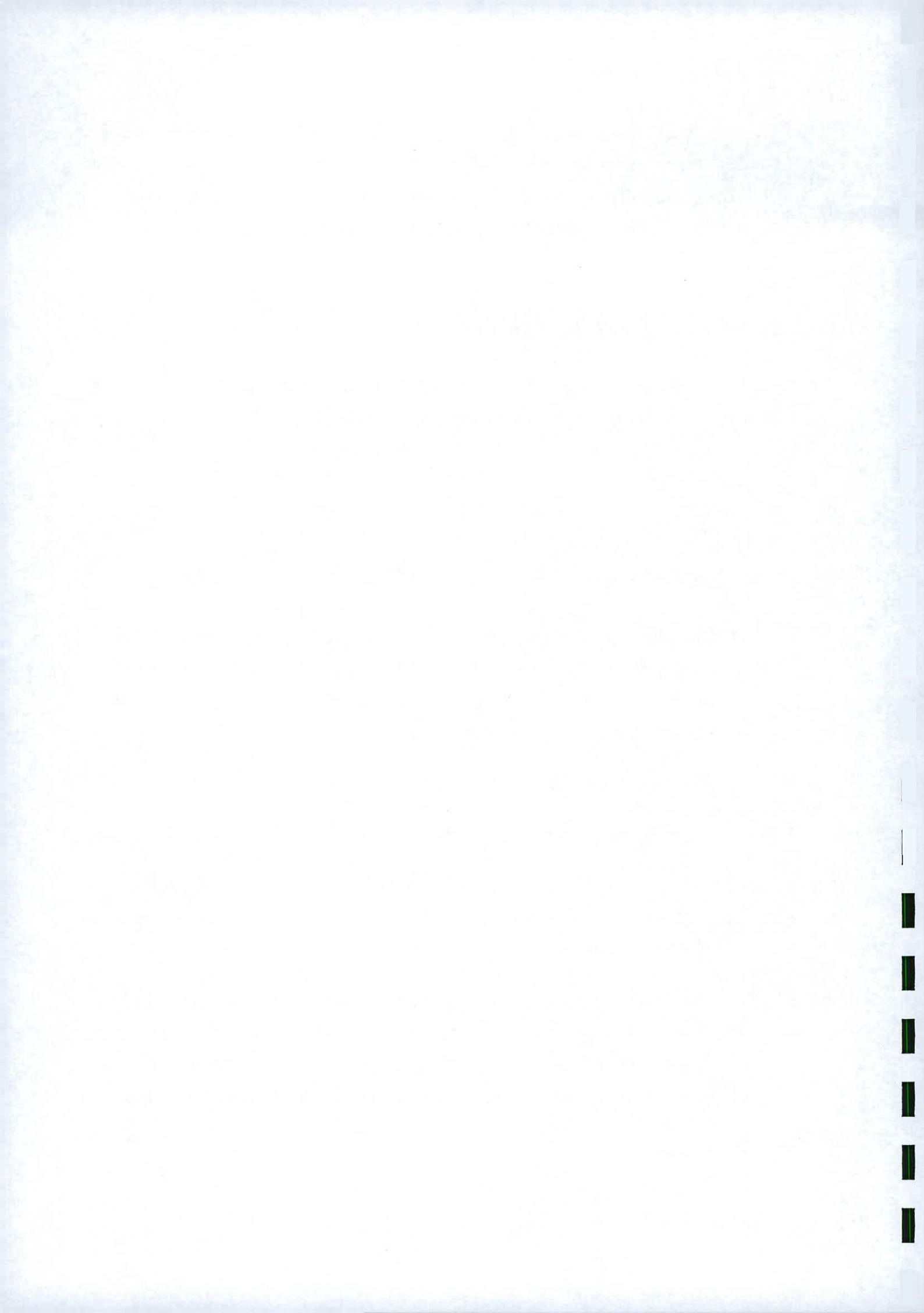
7.2. The Purchaser undertakes:

7.2.1. to order not less than 5000 in-situ cubic metres of clay with each order placed;

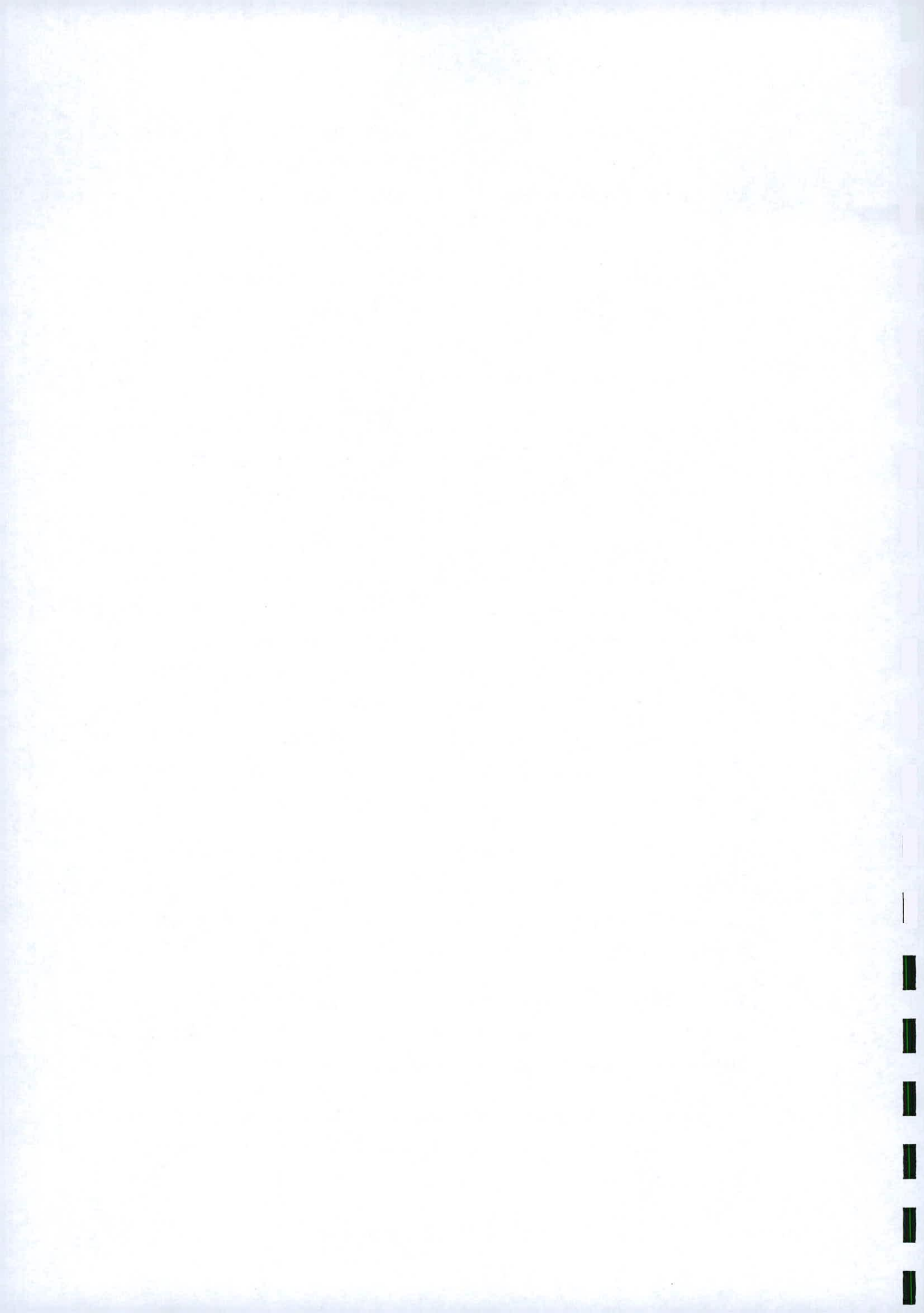
7.2.2. to purchase not less than 20000 in-situ cubic metres of clay per annum from the Supplier.

7.3. The Purchaser shall notify the Supplier in writing at least 2 (two) weeks in advance of the quantity of Raw Materials required by it; the date or dates by which such Raw Materials are required; and, if applicable, the relevant placement of delivery of the Raw Materials on the Designated Stockpiles.

7.4. The Supplier shall:



- 7.4.1. at its own cost mine the Raw Materials from the Mine in accordance with the most efficient mining methods and best mining practices as described in the approved Mining Work Programme;
- 7.4.2. at its own cost transport and deliver the Raw Materials to the Purchaser's designated stockpiles on the Purchaser's neighbouring locality, as soon as practicably possible after each relevant order has been placed but in any event no later than the date for delivery stipulated by the Purchaser (subject to prior notice as provided above);
- 7.4.3. at its own cost annually verify, reconcile and adjust the amount of Raw Materials delivered to the Purchaser accordingly, by utilisation of a volume calculation certified by a registered mine surveyor ;
- 7.4.4. at its own cost supply a competent trip checker at the Purchaser's Designated Stockpile areas to count and record each consignment of Raw Materials delivered to the Purchaser, which count shall be recorded on the relevant proof of delivery and signed by the Purchaser and the Supplier's transport agent, and at its own cost determine the quantum of each consignment of Raw Materials *prima facie* by reference to the load capacity (on a fully-loaded basis) of the relevant transport vehicles used to effect delivery, as recorded and agreed by the Purchaser and the Supplier at the delivery point.
- 7.5. Delivery to the Purchaser of each load of clay comprising a consignment of Raw Materials will be affected upon completion of offloading thereof at the designated stockpile of the Purchaser, whereupon ownership and risk in respect of such load will transfer to the Purchaser.
- 7.6. The Purchaser shall be entitled during the term of this Agreement, to compete in the annual open tender as mining contractor to mine the Raw Materials from time to time when the tender is presented.
- 7.7. The tender as mining contractor for the Raw Materials will be awarded by the Supplier to the successful contractor in accordance with the annual open tender specifications.



8. PURCHASE PRICE

- 8.1. The Purchase Price will be firm and fixed for six monthly intervals whereafter it would be reviewed in accordance with the Price Escalation Clause.
- 8.2. The purchase price for each consignment of Raw Materials purchased by the Purchaser will be **R42-00 (forty two rand)** excluding VAT, per in-situ cubic metre of Raw Materials supplied to the Purchaser, at signature thereof and will be reviewed thereafter in accordance with paragraph 8.1 above.
- 8.3. The Purchase Price is comprehensive and represents all activities of mining, obligations to comply with the relevant authorities, transport and supply from the Mine to the Purchaser's premises.
- 8.4. The Purchase Price is exclusive of V.A.T.

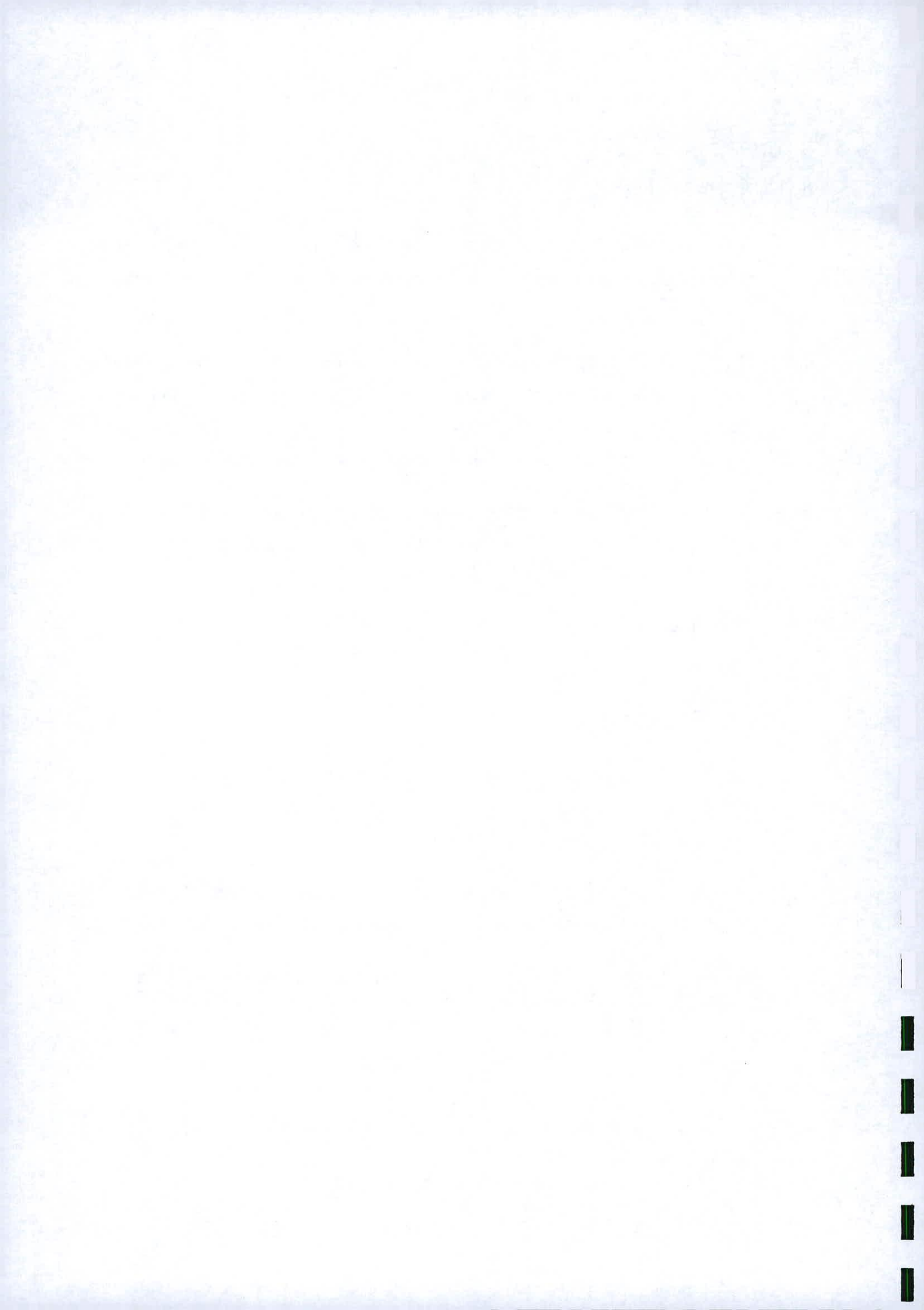
9. PRICE ESCALATION

- 9.1. The Parties will annually during the month of February, with effective date of 01 March of each year, agree in writing the price escalation for the following twelve months of supply of Raw Materials.
- 9.2. Subject to clauses 9.3 and **Error! Reference source not found.**, the Price Escalation shall be determined in accordance with the following formula :

$$P_n = P_i \left\{ 1 + \left(\frac{x}{1} + \frac{y \cdot (A_i - A_o)}{A_o} + \frac{z \cdot (B_i - B_o)}{B_o} \right) \right\}$$

Where,

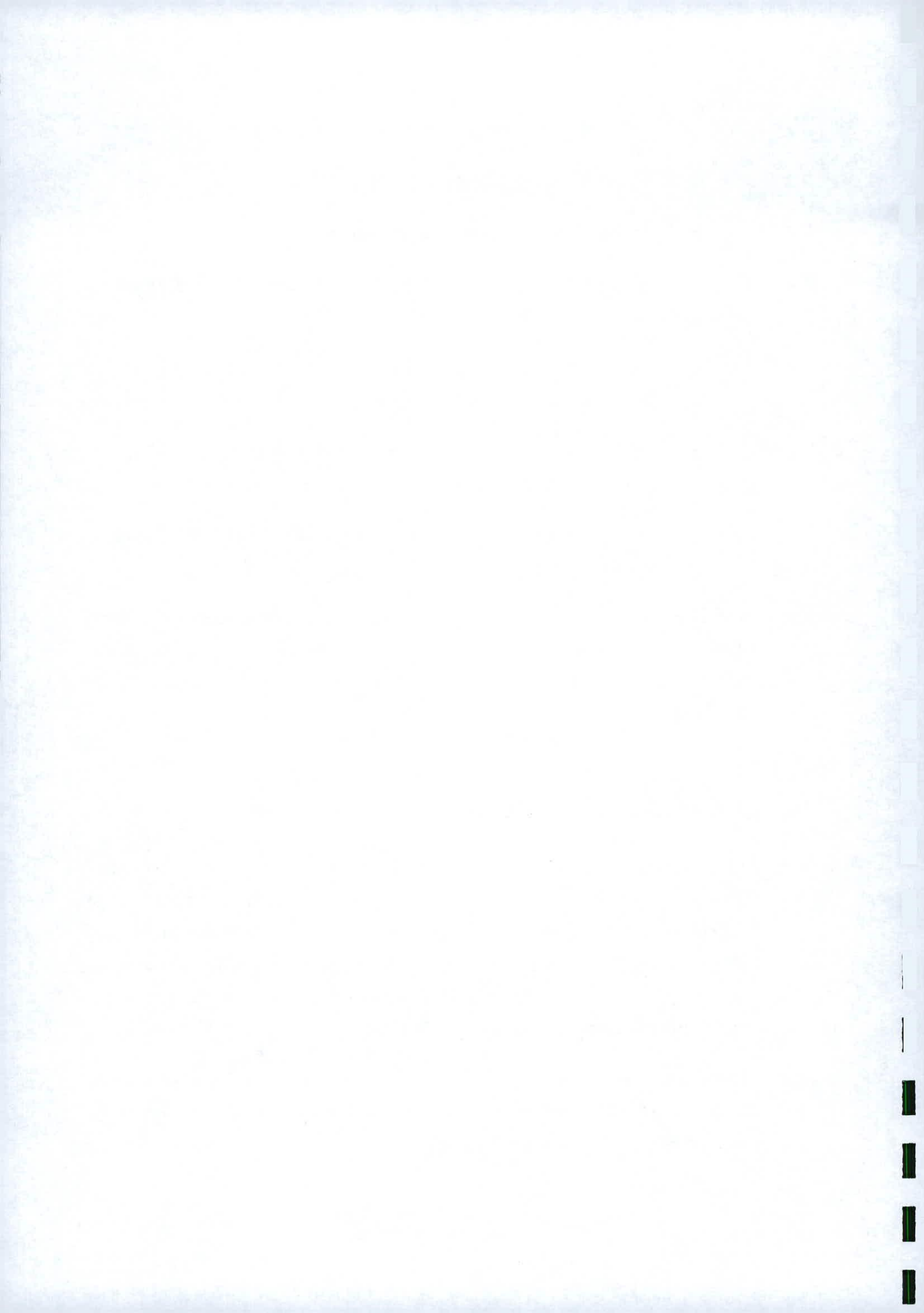
- 9.2.1. P_n is the New Price for the following 12 months of delivery.
- 9.2.2. P_i is the Base Price for the preceding 12 months of delivery.



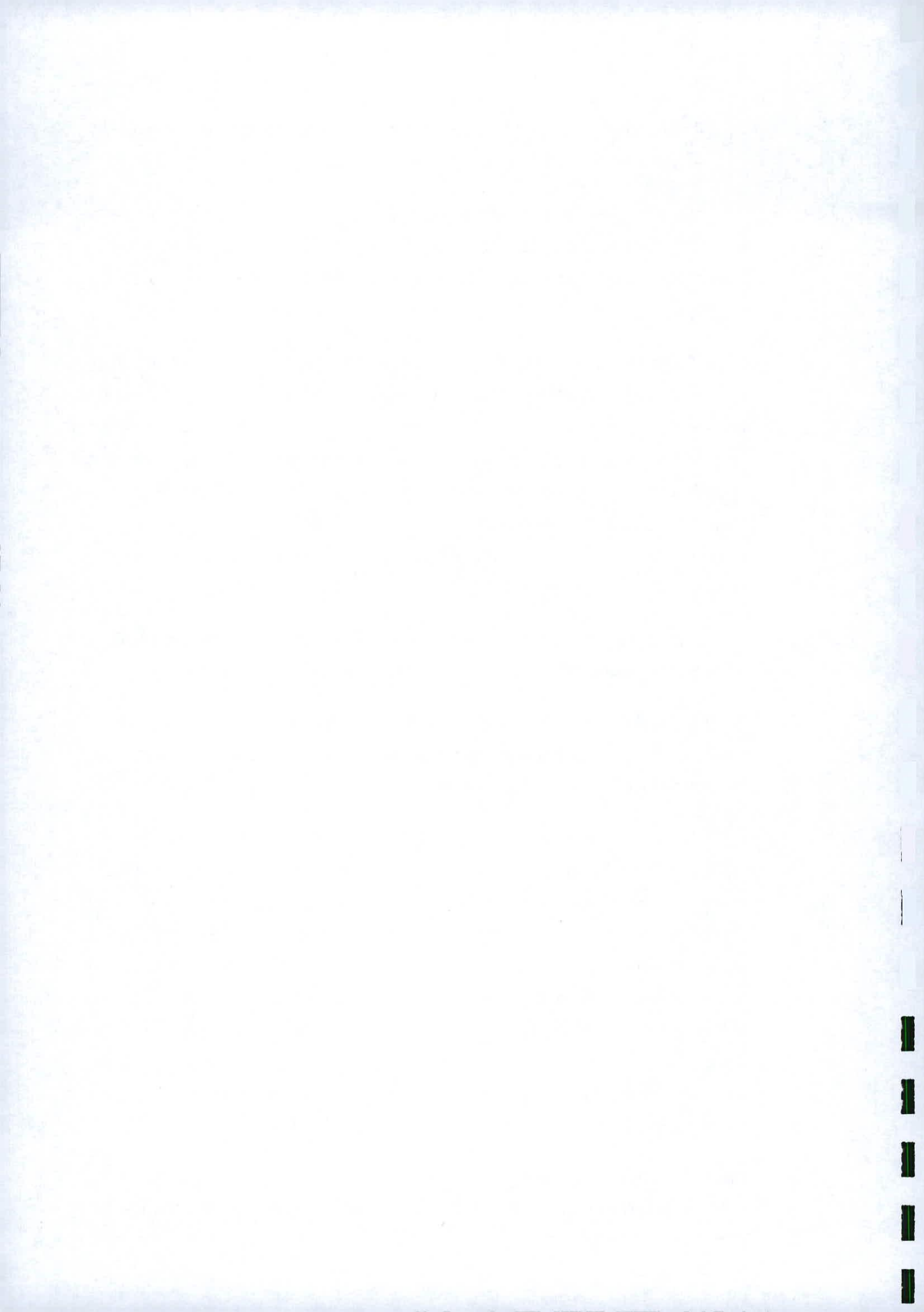
- 9.2.3. x is the "Fixed Portion" component of 15%
- 9.2.4. y is the "Cost-Of-Sales" coefficient of 50%
- 9.2.5. z is the "Other Expenses" coefficient of 35%
- 9.2.6. A_i is the "Cost-Of-Sales" of the Supplier for the period March to January of that financial year.
- 9.2.7. A_o is the "Cost-Of-Sales" of the Supplier for the period March to January of the preceding financial year.
- 9.2.8. B_i is the "Other Expenses" of the Supplier for the period March to January of that financial year.
- 9.2.9. B_o is the "Other Expenses" of the Supplier for the period March to January of the preceding financial year.
- 9.3. The amounts to be applied in the formula in terms of clauses 9.2.6 to 9.2.9 (both inclusive) shall be obtained from unaudited financial results of the Supplier in respect of the relevant escalation component, as recorded in its books and records.

10. INVOICING AND PAYMENT

- 10.1. The Supplier will deliver to the Purchaser monthly in arrears, by not later than the 7th day of the following calendar month, its provisional statement of account and appropriate tax invoice in respect of the total quantum of Raw Materials supplied to the Purchaser for the preceding month, based on its best estimate of the quantum of Raw Materials delivered to the Purchaser during the period concerned derived from the number of loads delivered.
- 10.2. The Supplier shall at its own cost procure the survey of the open-pit area by a competent registered mine surveyor appointed by it annually to conduct a volume reconciliation, pursuant to which:



- 10.2.1. the surveyor will as soon as possible thereafter determine the in-situ volume of clay removed during the past year ; and
- 10.2.2. for purposes of final invoicing and payment, the number of loads delivered to the Purchaser multiplied by the bulk factor will be used to cross-check and verify the volume of Raw Materials supplied to the Purchaser.
- 10.3. Should the Purchaser dispute the volume reconciliation, or any of the mine surveyor's certificates, then the Purchaser is entitled to instruct a different competent registered mine surveyor to re-survey the mine workings concerned. The two mine surveyors would then jointly issue a certificate and should this second certificate be less than 2,5% of the first certificate, then the costs of the second survey will be that of the Supplier. Should the error be less than 2,5%, then the cost of the re-survey will be for the account of the Purchaser.
- 10.4. The second survey certificate jointly issued of the volume of in-situ Raw Materials removed on account of the Purchaser will be final and binding.
- 10.5. Payment by the Purchaser will be due and payable within 30 days of delivery of the Supplier's provisional statement of account, or reconciled statement of account, as the case may be.
- 10.6. By no later than 90 (ninety) days after receipt of the surveyor's determination as contemplated above, the Supplier will furnish the Purchaser with a detailed reconciliation of the total quantum of volume of Raw Materials supplied to the Purchaser based on the surveyor's determination and the quantum previously invoiced to the Purchaser in terms of the Supplier's provisional statements of account contemplated above, together with as applicable (i) its supplementary tax invoice; and / or (ii) credit note in respect of the quantum of Raw Materials previously invoiced and paid for by the Purchaser in respect of the consignment and/or period concerned.
- 10.7. Upon mutual prior agreement and deduced in writing, the Purchaser shall be entitled to off-set any Mining Costs directly incurred by the Purchaser



relating to and/or in connection with the Raw Materials, as evidenced by relevant supporting documentation.

- 10.8. Any dispute arising between the Parties relating to and/or in connection with the quantum and/or price and/or payment for Raw Materials shall not under any circumstances entitle the Supplier to suspend or withhold the further supply of Raw Materials to the Purchaser, but shall instead be referred to an Independent Expert.
- 10.9. All overdue amounts shall bear interest at the rate (nominal annual compounded monthly in arrears) charged by the Supplier's corporate bankers on unsecured overdraft from time to time, plus 150 basis points, from due date up to and including date of payment.

11. INDEPENDENT EXPERT

- 11.1. Any dispute between the Parties contemplated in clause 10.8 shall, in the first instance, be referred to the respective chief executive officers ("CEOs") (or their respective delegates) and/or Members of the Parties for determination, who shall use their bona fide best endeavours to resolve such dispute expeditiously having regard to relevant documents and records.
- 11.2. If such dispute contemplated in clause 10.8 shall not have been resolved within 20 (twenty) business days after it shall first have been referred to the CEO's and/or Members, the matter in question shall be referred for determination to the Agent originally mediating this Agreement.
- 11.3. if the Parties are unable to agree on the identity of the Agent, a different Expert (duly qualified as a registered chartered accountant) shall be selected by the Supplier from a list of amongst at least 3 such persons nominated by the Purchaser, within 5 days after first being notified of the names of such nominees by the Purchaser; and failing any such selection by the Supplier, any one of persons so nominated by the Purchaser in order of his or her availability, as notified to the Supplier within 5 days thereafter.



11.4. On referral of any matter to any Expert in terms of the provisions of this Agreement, the following principles shall apply:

11.4.1. the Parties shall procure that there is made available to the Expert such information relating to the issue in dispute and/or the subject matter of his determination as he reasonably requires in order to make the required determination;

11.4.2. in making the determination, the Expert shall take into account the provisions of this Agreement and any other factors it considers to be relevant;

11.4.3. the Expert shall be deemed to be acting as an expert and not an arbitrator or quasi-arbitrator and his decision shall, in the absence of manifest error, be final and binding on the Parties; and

11.4.4. the cost of obtaining the Expert's determination shall be borne equally by the Parties.

11.5. The Expert's investigation shall be held :

11.5.1. At Port Elizabeth;

11.5.2. in an informal manner without any pleadings and without it being necessary to observe the strict rules of evidence;

11.5.3. as soon as possible with a view to it being completed within one (1) month from the date on which the dispute is referred to ;

11.5.4. in accordance with such procedure as the Expert may determine in his discretion, provided that such procedures shall be fair to both parties.

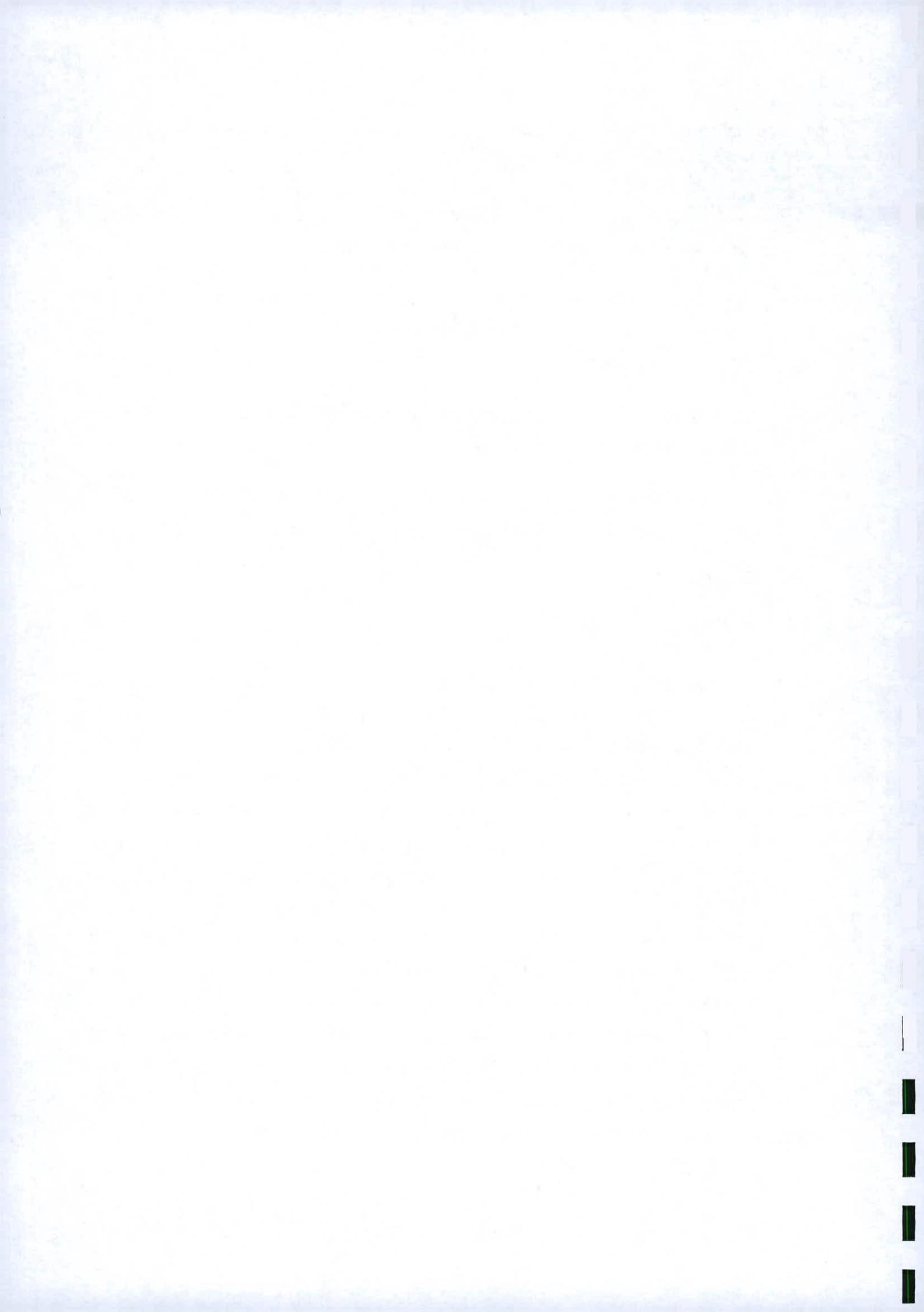
11.6. The Expert shall be entitled to investigate or cause to be investigated any matter which he considers necessary or desirable in connection with the dispute and for that purpose shall have the widest powers to investigate all the relevant books and records of the parties to the dispute, including the right to make copies and to have such records and books produced or

delivered at any reasonable place required by the Expert for the aforesaid purpose.

- 11.7. The Expert shall decide the dispute in accordance with engineering principles, accounting principles and South African law.
- 11.8. The Expert shall be entitled to make such award, including an award in respect of costs, as he may deem fit, provided that the Expert shall be required to furnish written reasons.
- 11.9. The decision of the Expert may be made an order of court by either of the parties at the cost of such party.
- 11.10. Pending the determination of the dispute in terms hereof, both parties shall, where feasible, continue to fulfil the provisions of this contract.

12. FORCE MAJEURE

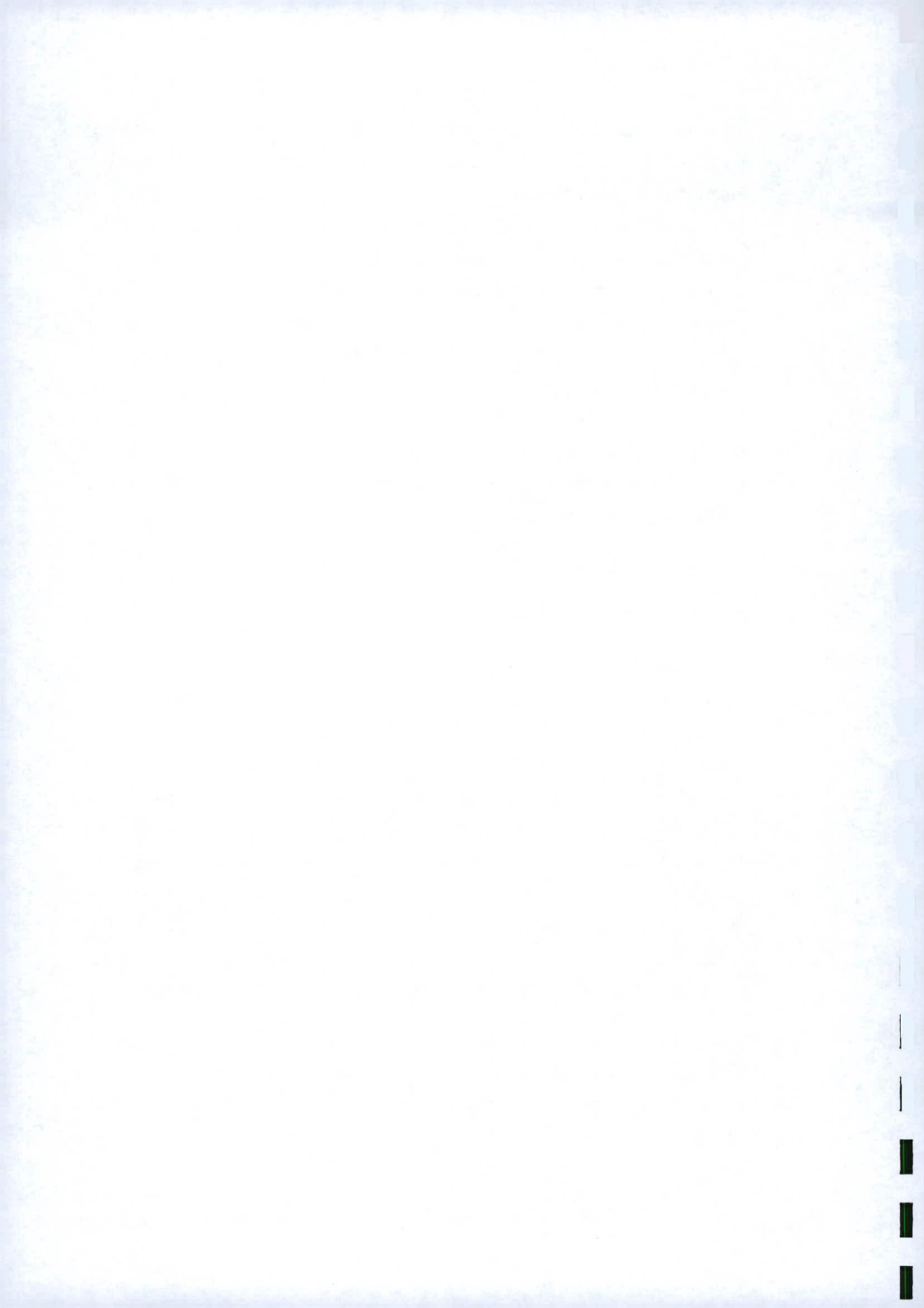
- 12.1. If either Party is prevented or restricted directly or indirectly from carrying out all or any of its obligations under this agreement by reason of strike, lock-out, fire, explosion, floods, riot, war, accident, embargo, legislation, shortage of or a breakdown in transportation facilities, civil commotion, unrest or disturbances, cessation of labour, government interference or control, or any other cause or contingency beyond the control of that Party, the Party so affected shall be relieved of its obligations hereunder during the period that such event and its consequences continue but only to the extent so prevented and shall not be liable for any delay or failure in the performance of any obligations hereunder or loss or damages either general, special or consequential which the other Party may suffer due to or resulting from such delay or failure, provided always that written notice shall forthwith be given of any such inability to perform by the affected Party. Any Party invoking *force majeure* shall upon termination of such event giving rise thereto forthwith give written notice thereof to the other Party.



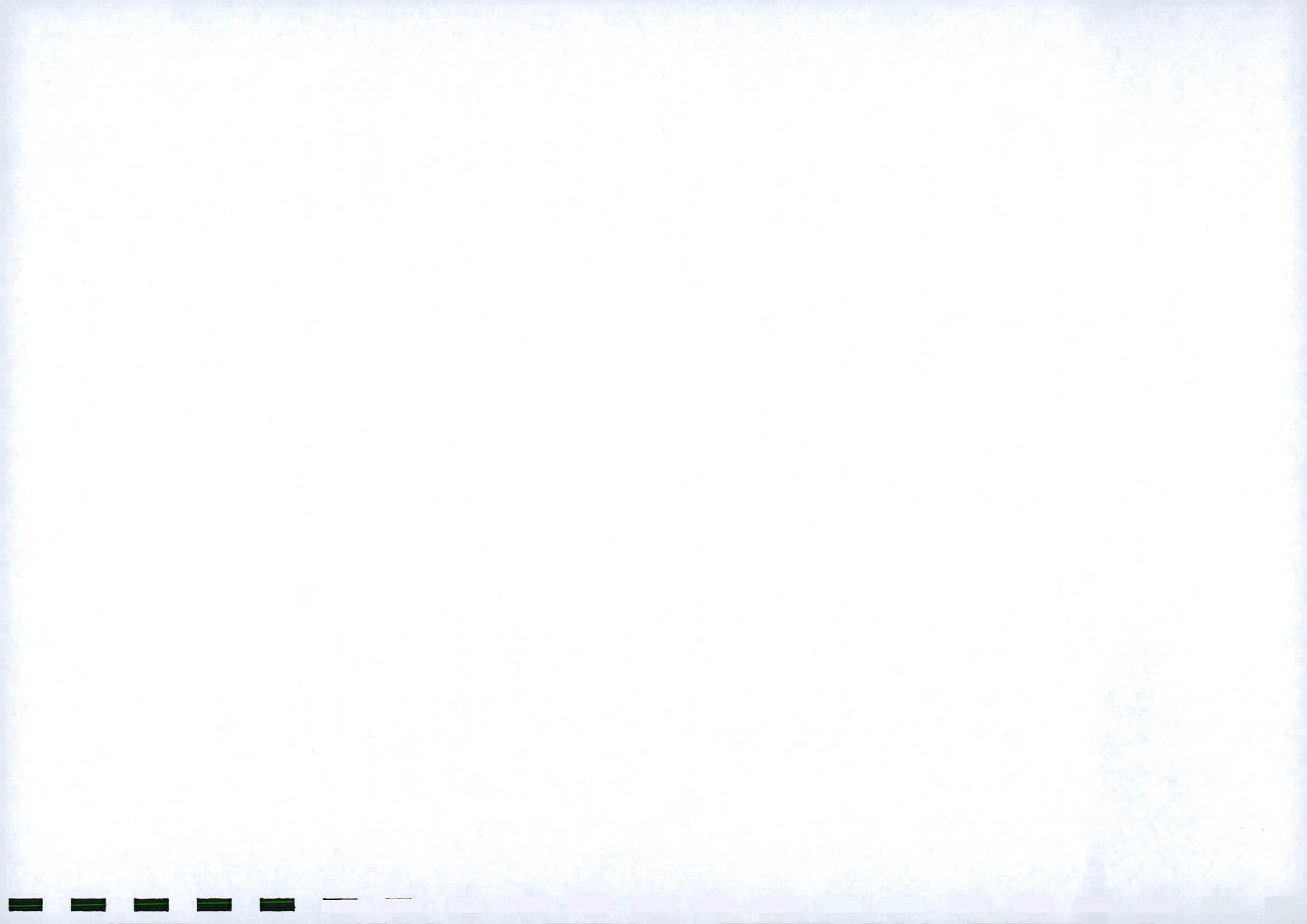
12.2. This Agreement will not, unless otherwise agreed, terminate by reason of intervention of *force majeure* for whatever period ; provided, however, that if such *force majeure* should endure for longer than any continuous period of 240 days, and the affected Party is then unable to demonstrate to the reasonable satisfaction of the unaffected Party that the *force majeure* event will terminate within a reasonable period after expiry of the aforesaid period of 240 days, then at any time whilst such *force majeure* shall continue, but not after it ceases, the Purchaser (if the unaffected Party), or the Supplier (if the unaffected Party) shall be entitled on 90 days' written notice given to the affected Party to terminate this Agreement in respect of any obligations still to be performed hereunder, without prejudice to any rights of the unaffected Party whether as to damages or otherwise, which may have arisen prior to the occurrence of the *force majeure*.

13. BREACH OF CONTRACT

- 13.1. Should any Party ("the Defaulting Party") commit a breach of any of the provisions hereof, then any of the other Parties ("the Aggrieved Party") shall, if it wishes to enforce its rights hereunder, be obliged to give the Defaulting Party 14 days written notice to remedy the breach. If the Defaulting Party fails to comply with such notice, the Aggrieved Party shall be entitled to cancel this Agreement against the Defaulting Party or to claim immediate payment and/or performance by the Defaulting Party of all of the Defaulting Party's obligations whether or not the due date for payment and/or performance shall have arrived, in either event without prejudice to the Aggrieved Party's rights to claim damages. The foregoing is without prejudice to such other rights as the Aggrieved Party may have at law.
- 13.2. The Purchaser further agrees that the Supplier may, in the following instances invoke cancellation of this Agreement, with all outstanding payments, together with its interests thereon becoming immediately due and payable ;



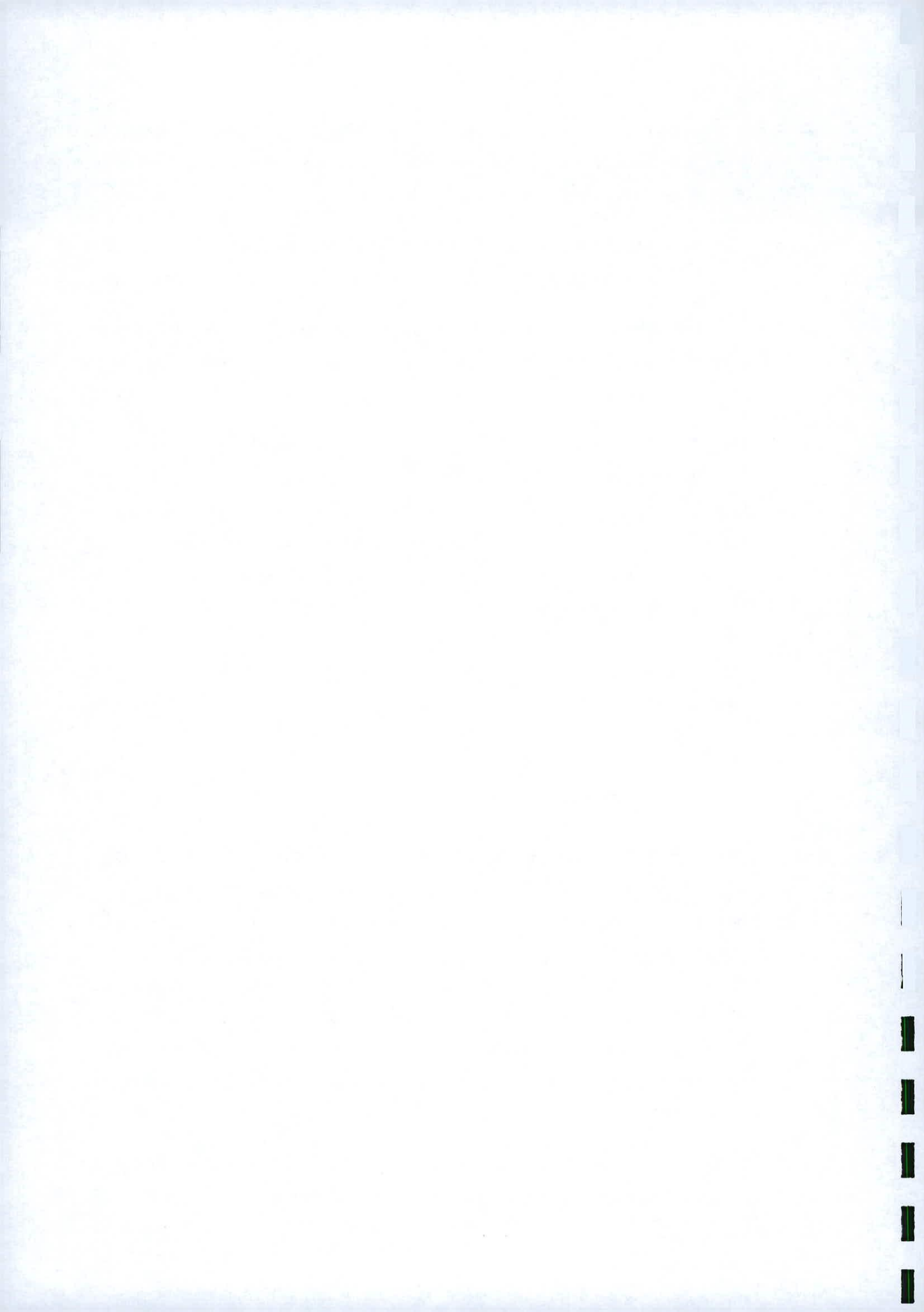
- 13.2.1. The Purchaser is wound-up, or liquidated, whether provisionally, or finally, or placed under judicial management, whether provisionally or finally ; and
- 13.2.2. The Purchaser effects a compromise with its creditors generally.
- 13.3. Should the Supplier not fulfil its obligations towards the supply of Raw Materials for whatever reason, then :
 - 13.3.1. the Purchaser has the right to enter the Property of the Mine with the intent to rectify the reasons for not delivering the Raw Materials ;
 - 13.3.2. where applicable the Purchaser has the right to negotiate, on behalf of the Supplier, with the relevant authorities and compile a rescue plan acceptable to the relevant authorities to rectify the problems at the Mine ;
 - 13.3.3. the Purchaser has the right to mine the Raw Materials on behalf of the Supplier in accordance with the Mining Right and where applicable the approved rescue plan ;
 - 13.3.4. the costs for restoring the supply of Raw Materials from the Mine to the Purchaser would be off-set against the sale of Raw Materials on a month-to-month basis.
- 13.4. Should the Supplier not fulfil its obligations towards the Purchaser for any reason other than that of *force majeure* or a reason attributable to the Purchaser, the Purchaser may, on 30 days written notice to the Supplier demand that the Supplier fulfil its obligations. In the event of the Supplier failing to take satisfactory steps so as to remedy its failure to fulfil its obligations hereunder, and the independent Expert as identified in Clause 11 hereof has verified such failure, the Purchaser may :
 - 13.4.1. enter the Property of the Mine, with the intent of rectifying the reasons for non – delivery of the Raw Materials ;



- 13.4.2. negotiate on behalf of the Supplier with the relevant authorities to compile a rescue plan acceptable to the relevant authorities, in order so as to rectify the problems at the Mine ;
- 13.4.3. mine the Raw Materials on behalf of the Supplier, in accordance with the Mining Right and where applicable, with the approved rescue plan ;
- 13.4.4. set-off costs incurred for the restoration of the supply of Raw Materials from the Mine to the Purchaser, from monies owed to the Supplier in respect of the Raw Materials.
- 13.5. In the event that any of the aforementioned steps are undertaken, consideration of commercial viability for the Mine is tantamount. All steps taken must be overseen by the identified independent Expert and shall be taken jointly with the Supplier hereto. The registered Mining Right and Mining Works Programme as annexed hereto shall govern the manner in which these steps are to be undertaken. Upon a rectification of the problems at the Mine, the determination of which shall be decided by the independent Expert, the Purchaser shall no longer exercise any of the rights conferred upon him as referred to in this clause.

14. DISPUTE RESOLUTION

- 14.1. Any dispute between the Supplier and the Purchaser in terms of, arising from and / or in connection with this Agreement shall be determined by arbitration on the basis and subject to the further provisions of this clause ; save only that where in terms of this Agreement particular provision is made for the matter in dispute first to be determined or resolved in a specified manner or in terms of a specified process, neither Party shall be entitled to invoke the further provisions of this clause, unless and until the Parties shall first have exhausted the remedies provided for in terms of such particular provision.
- 14.2. Subject to clause 14.1, any dispute (whether contractual or delictual) between the Parties in regard to (i) the interpretation of; (ii) the effect of; (ii)



the Parties' respective rights and obligations under; (iv) a breach of; (v) any other matter arising out of, this Agreement, shall be decided by arbitration in the manner set out below in clause 14.3.

14.3. The said arbitration shall be held subject to the provisions of this clause (i) at Port Elizabeth, South Africa; (ii) informally; (iii) in the English language; and (iv) otherwise in accordance with the provisions of the Arbitration Act, 1965, as amended and the Standard Rules of the Association of Arbitrators (the "Arbitration Rules") (and in the event of a conflict in this regard the Arbitration Rules shall prevail), it being the intention that if possible it shall be held and concluded within 90 (ninety) business days after it has been demanded. The arbitrator shall be if the question in issue is:

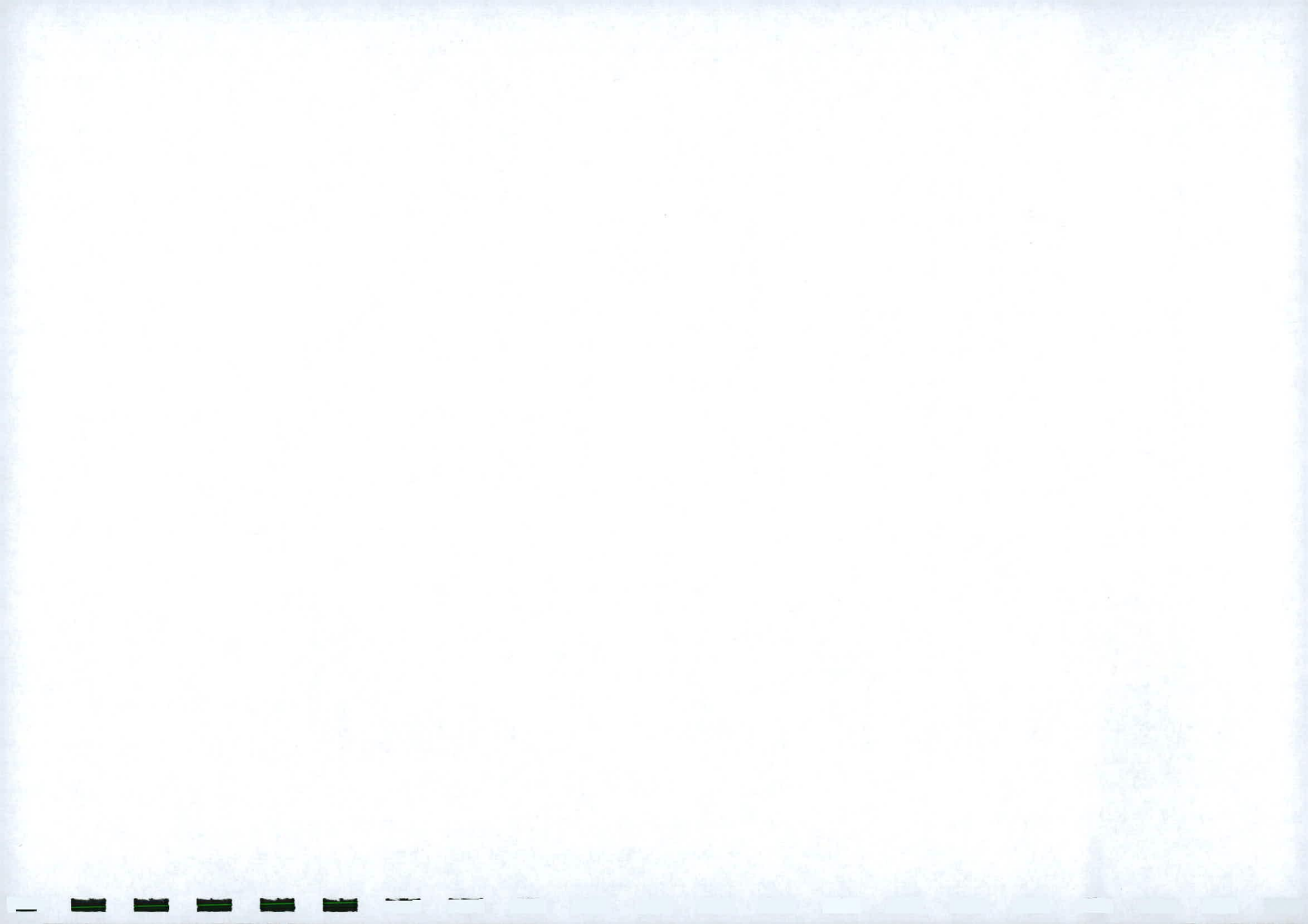
14.3.1. primarily an accounting matter, an independent practising accountant of no less than 10 years' standing agreed upon between the Parties;

14.3.2. primarily a legal matter, a practising Senior Counsel with no less than 10 years standing or retired High Court judge agreed upon between the Parties;

14.3.3. any other matter, an independent person agreed upon between the Parties:

14.4. Provided that if the Parties cannot agree on whether the question in issue is primarily a legal matter, primarily an accounting matter or any other matter, the question in issue shall be deemed to be a legal matter. If the Parties cannot agree upon a particular arbitrator in terms of 14.3 above within 7 business days after the arbitration has been demanded, the nomination in terms of 14.3.1, 14.3.2, 14.3.3, as the case may be, shall be made by the President for the time being of the Law Society of the Northern Provinces at the request of any Party to such dispute.

14.5. The decision of the arbitrator shall be final and binding on the Parties to the arbitration. A decision which becomes final and binding in terms of this clause 14.5 may be made an order of Court at the instance of any Party to the arbitration.



- 14.6. Nothing herein contained shall prevent or preclude any Party from applying to any Court of competent jurisdiction for interim or urgent relief.
- 14.7. The provisions of this clause shall be divisible from every other part of the Agreement and shall survive the termination or cancellation of this Agreement, notwithstanding that the rest of the Agreement may be void or voidable.

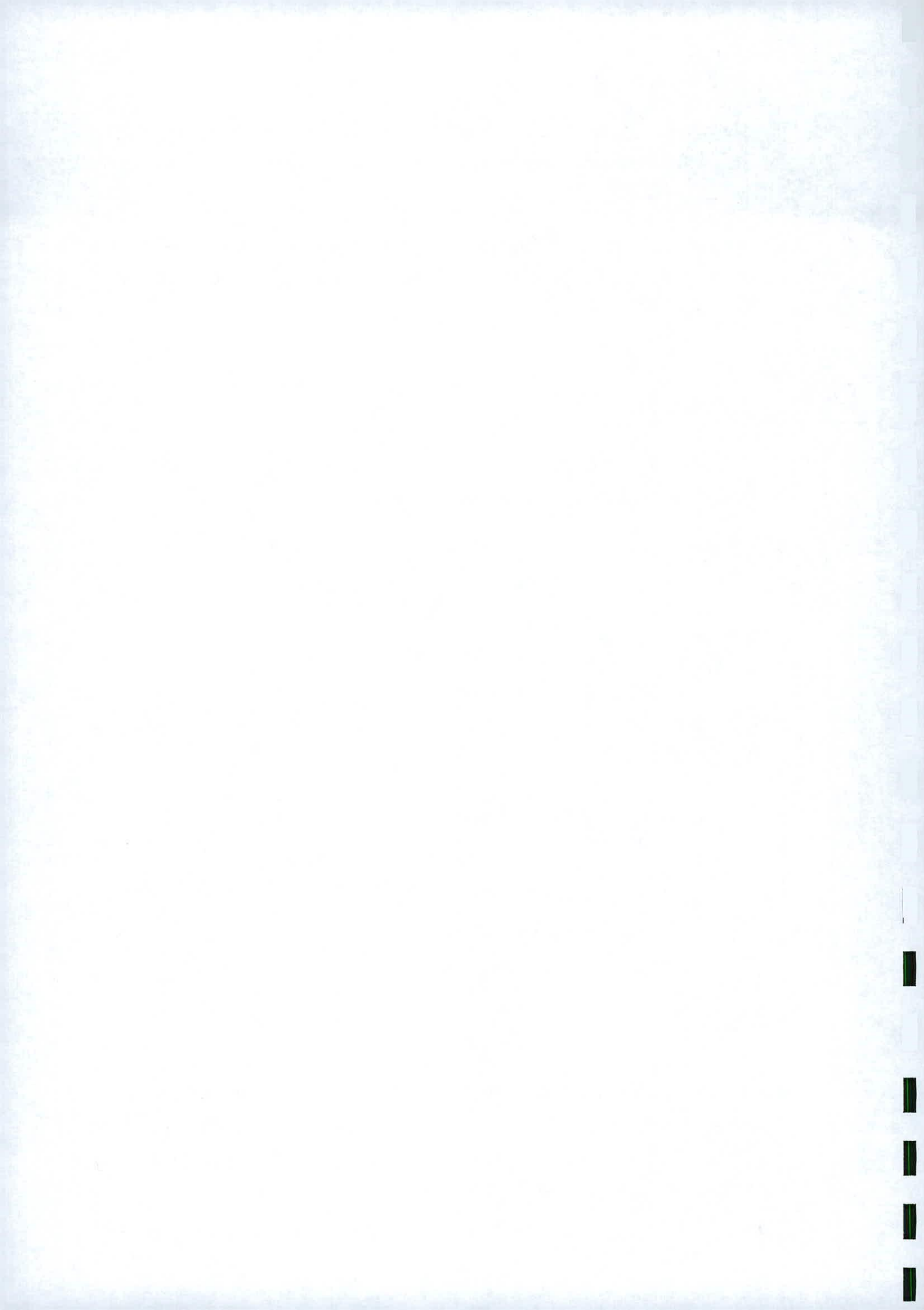
15. DOMICILIUM

15.1. The Parties hereto choose *domicilia citandi et executandi* for all purposes of and in connection with this agreement as follows:

15.2. Supplier: - ERF 561 of Wells Estate ; Port Elizabeth
P.O. Box 76 ; Swartkops ; Port Elizabeth ; 6210
Telephone: 041 466 2727
Facsimile: 041 466 2887
Contact Person: Mr John Martin
Cell No: 082 730 5530
e-mail : epbrick@cybertrade.co.za

15.3. Purchaser: - ERF 561 of Wells Estate ; Port Elizabeth
P.O. Box 76 ; Swartkops ; Port Elizabeth ; 6210
Telephone: 041 466 2727
Facsimile: 041 466 2887
Contact Person: Mr Billy Martin
Cell No: 082 426 8363
e-mail : epbrick@cybertrade.co.za

15.4. Either Party hereto shall be entitled to change its *domicilium* from time to time, provided that any new *domicilium* selected by it shall be an address other than a box number, and any such change shall only be effective upon receipt of notice in writing by the other Party of such change.



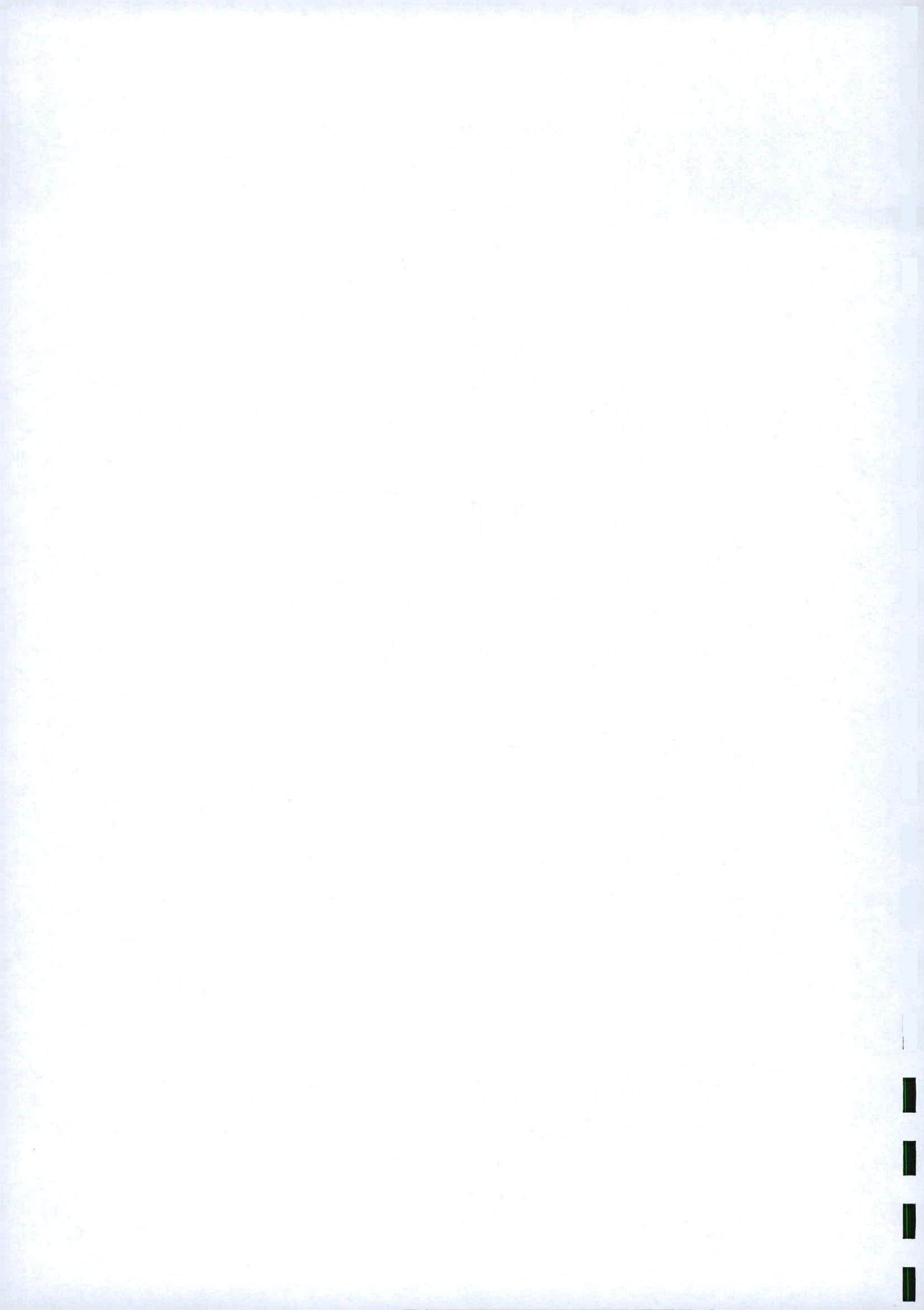
- 15.5. All notices, demands, communications or payments intended for either Party shall be made or given at such party's *domicilium* for the time being.
- 15.6. A notice sent by one Party to another Party shall be deemed to be received:
- 15.6.1. on the same day, if delivered by hand;
- 15.6.2. on the same day of transmission if sent by telefax and if sent by telefax with receipt received confirming completion of transmission, provided that the original of the notice shall, after such transmission, be posted by prepaid registered mail to the Party to whom such notice shall have been given;
- 15.6.3. on the 10th (tenth) day after posting, if sent by prepaid courier.
- 15.7. Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

16. APPLICABLE LAW AND JURISDICTION

- 16.1. This Agreement shall be governed in all respects by and shall be interpreted in accordance with the laws of the Republic of South Africa and the Parties hereby consent and submit to the non-exclusive jurisdiction of the High Court of South Africa (Eastern Cape Local Division).

17. COSTS

- 17.1. Each of the Parties shall pay its own costs of and incidental to the negotiation, preparation and execution of this Agreement.
- 17.2. Any costs, including attorney and own client costs, incurred by a Party arising out of the breach by another Party of any of the provisions of the Agreement shall be borne by the Party in breach.



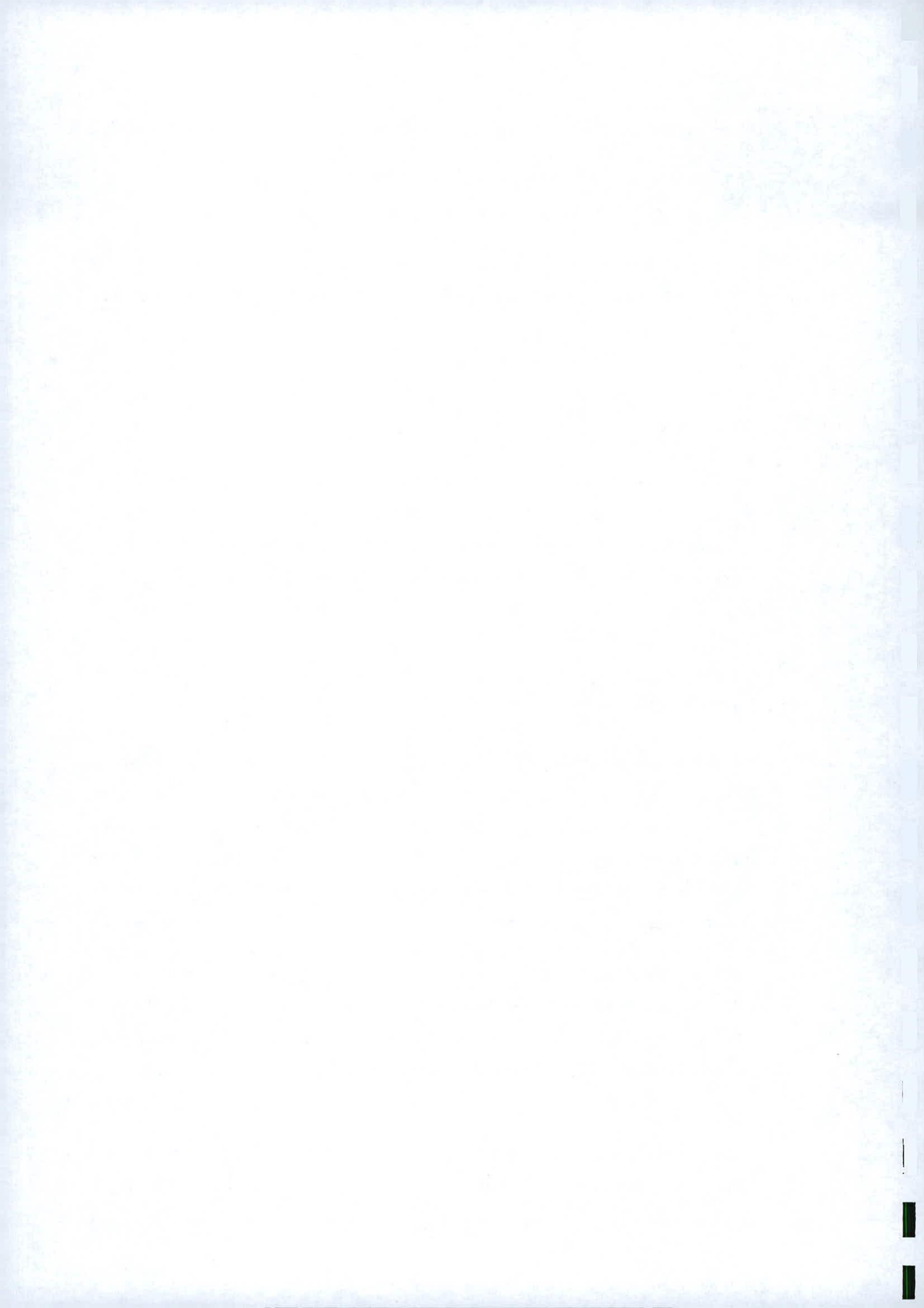
- 17.3. The Parties will share the costs of the Agent's Commission payable equally.
- 17.4. The Agent's Commission shall be R4000-00 (four thousand rand only) exclusive of V.A.T. for this Agreement.
- 17.5. The Agent will supply a suitable tax invoice within 7 days after signing this Agreement by each Party to be paid within 14 calendar days after submitting the tax invoice.

18. SEVERABILITY

- 18.1. If any clause or term of this Agreement should be invalid, unenforceable or illegal, then the remaining terms and provisions of this Agreement shall be deemed to be severable therefrom and shall continue in full force and effect unless such invalidity, unenforceability or illegality goes to the root of this Agreement.

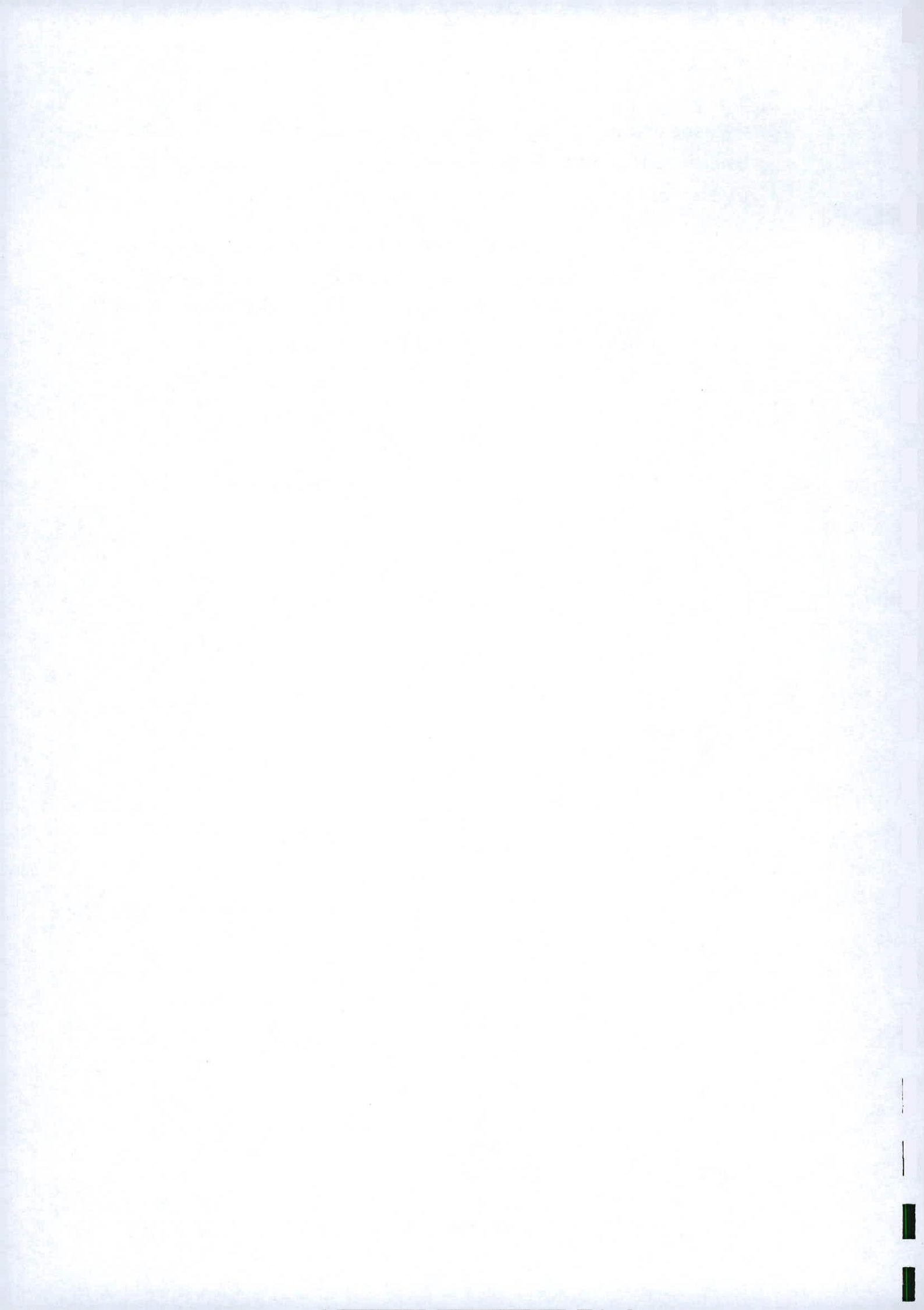
19. GENERAL

- 19.1. This document constitutes the sole record of the agreement amongst the Parties in regard to the subject matter thereof. No Party shall be bound by any express or implied term, representation, warranty, promise or the like, not recorded herein, and no addition to, variation or consensual cancellation of this Agreement shall be of any force or effect unless in writing and signed by or on behalf of all the Parties.
- 19.2. No indulgence which any of the Parties ("the Grantor") may grant to any other or others of them ("the Grantee(-s)") shall constitute a waiver of any of the rights of the Grantor, who shall not thereby be precluded from exercising any rights against the Grantee(-s) which might have arisen in the past or which might arise in the future.
- 19.3. The Parties undertake at all times to do all such things, to perform all such acts and to take all such steps and to procure the doing of all such things,



the performance of all such actions and the taking of all such steps as may be open to them and necessary for or incidental to the putting into effect or maintenance of the terms, conditions and import of this Agreement.

- 19.4. Save as otherwise expressly provided for or stated in this Agreement, neither Party shall be entitled to cede, delegate or otherwise transfer all or any of its rights, interest or obligations under and in terms of this Agreement except with the prior written consent of the other Party.



20. UNDERTAKING

THUS DONE and SIGNED at _____ on this
the _____ day of _____ 2009.

For and on behalf of

E.P. Brick Mining (Pty) Ltd

by _____

who warrants his authority hereto ; AND

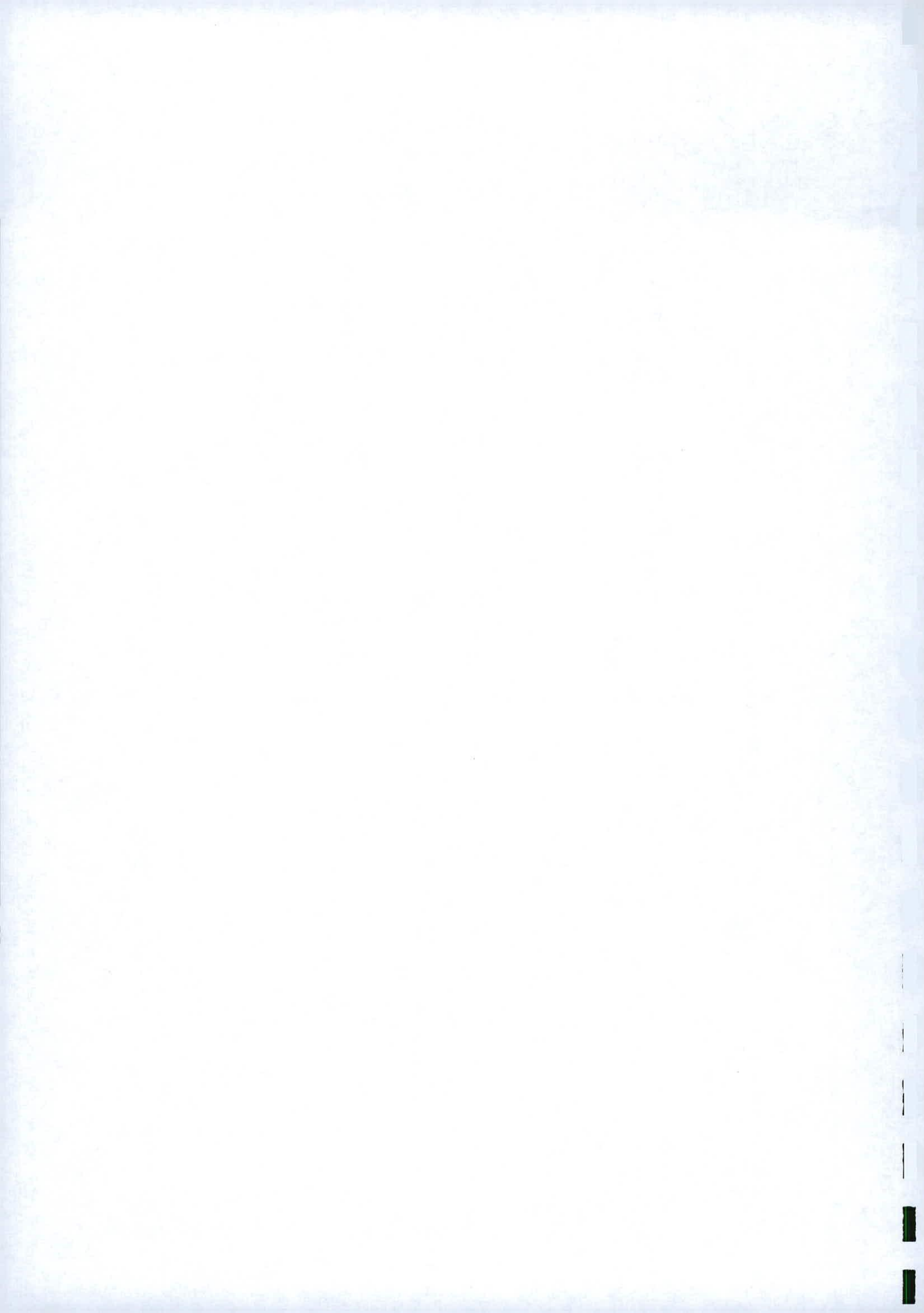
THUS DONE and SIGNED at _____ on this
the _____ day of _____ 2009.

For and on behalf of

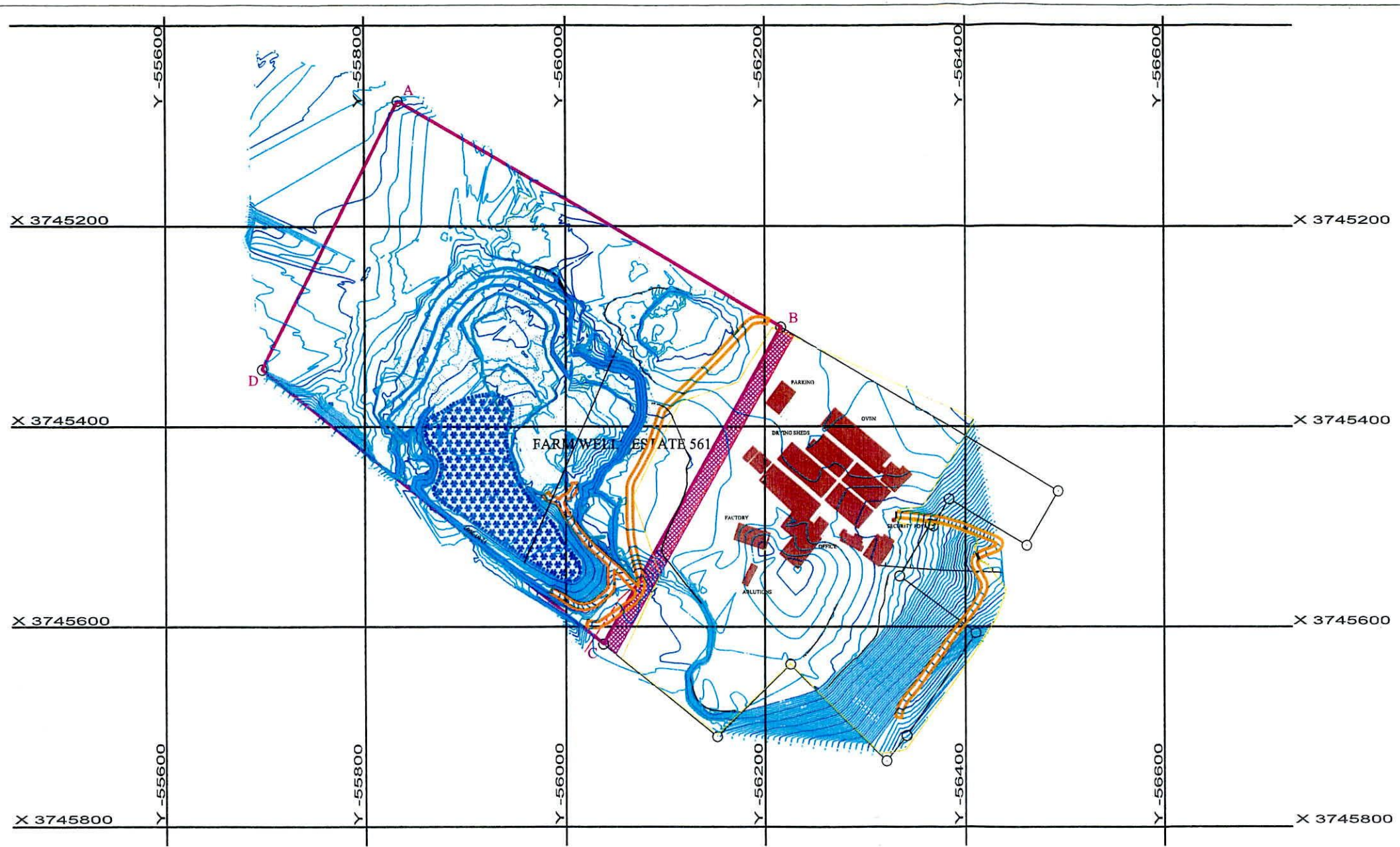
Eastern Province Brick cc

by _____

who warrants his authority hereto



21. ANNEXURE A: COPY OF MINING RIGHT



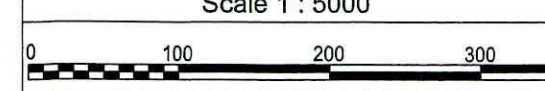
Drawing Nr.	B002
Revision Nr.	1.0
Sheet Nr.	1 of 1

Drawing Title
E.P. Minerals Opencast Mine

Sheet Title
A3 Regulation 2(2) Plan

Coordinate System
WG 25

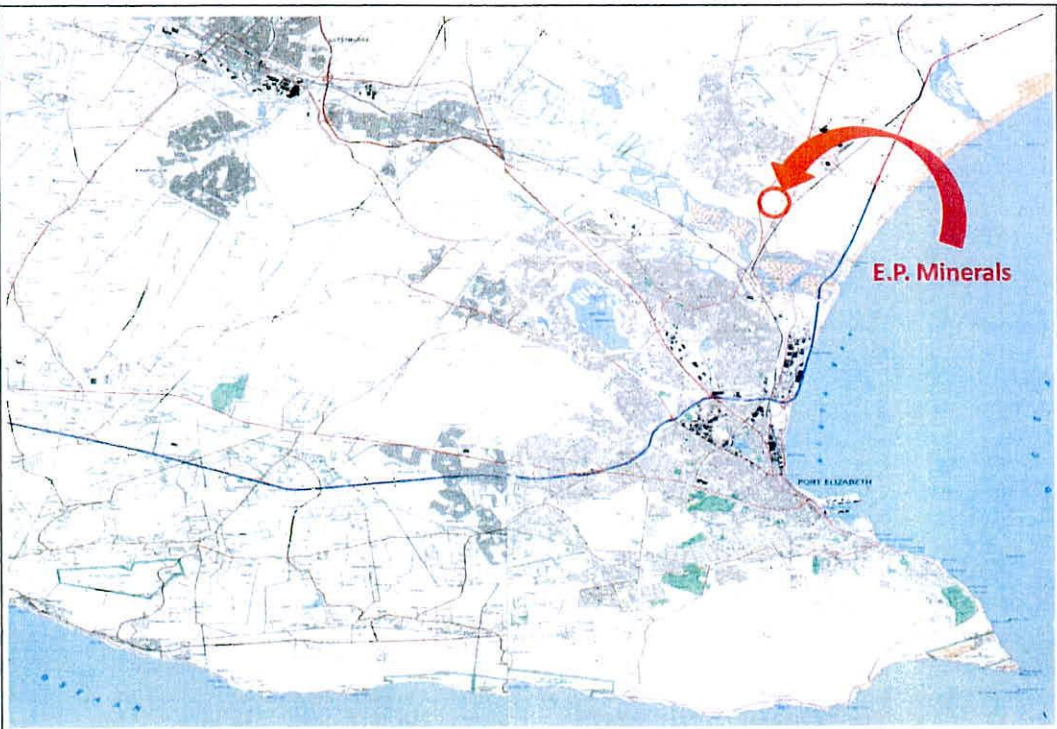
Benchmark Detail : Trig. ΔT4
X = +3746546,06
Y = -56217,59
Elevation = 50,1 m.a.m.s.l.



LEGEND

- Mine Boundary
- Title Deed Boundary
- Roads
- Fences & Walls
- Plant & Buildings
- ESCOM Power Lines
- Dams & Rivers
- Telkom Lines
- Servitudes
- Stormwater Conduits
- Cut-off Drains

NOTES



LOCALITY MAP – NOT TO SCALE

The figure A B C D represents an area of land in extent of approximately 14,5084 hectares, situated on ERF 561 of Wells Estate in the Nelson Mandela Bay Municipal Area, Cacadu District of the Eastern Cape Province of South Africa, in respect of which a Mining Right has been issued to :

Eastern Province Brick Mining (Pty) Ltd t / a E.P. Minerals
Reg. Nr. 2009/009347/07

Sides	m	Angles		Y - Coordinates	X - Coordinates
AB	443.96	300° 30' 55"	A	-55 833.84	3 745 075.50
BC	363.68	29° 30' 56"	B	-56 216.31	3 745 300.93
CD	437.19	128° 51' 23"	C	-56 037.14	3 745 617.41
DA	300.73	207° 8' 0"	D	-55 696.69	3 745 343.13

Designation	Mine Manager
Name	J. Martin
Signature	
Date	24/11/09

ALGOA CONSULTING MINING ENGINEERS

Rudi Gerber B.Eng.(Min.) Cell. 0826532568	P.O. Box 16501 Emerald Hill 6011	
Name	G.I. Suzor	
Mine Surveyor Nr.	MS0097	
Signature		
Date	03-08-09	



Drawing Nr.	B002
Revision Nr.	1.0
Sheet Nr.	1 of 1
Drawing Title	
E.P. Minerals Opencast Mine	
Sheet Title	
A3 Mine Contour Plan	
Coordinate System	WG 25
Benchmark Detail : Trig. ΔT4 X = +3746546,06 Y = -56217,59 Elevation = 50,1 m.a.m.s.l.	
Scale 1 : 2500	
LEGEND	
	New Mine Boundary
	Title Deed Boundary
	Roads
	Fences & Walls
	Plant & Buildings
	ESCOM Power Lines
	Dams & Rivers
	Telkom Lines
	Servitudes
	Stormwater Conduits
	Cut-off Drains
	Partial Old Mine Closure Area
NOTES	
Designation	Mine Manager
Name	J. Martin
Signature	
Date	24/11/09
ALGOA CONSULTING MINING ENGINEERS	
Rudi Gerber B.Eng.(Min.) Cell. 0826532568	P.O. Box 16501 Emerald Hill 6011
Name	R. Gerber
Mining Engineer	
Signature	
Date	24/11/09

