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Department:
Minerals and Energy
REPUBLIC OF SOUTH AFRICA

CONVERTED MINING RIGHT

Granted in terms of Item 7 of Schedule II of the Mineral and Petroleum Resources
Development Act, 2002 (Act No. 28 of 2002)

*BHP Billiton Energy Coal
South Africa Limited*

*Optimum Colliery
(Kwagga Section)*

File MP 30/5/1/2/2/265 MR

F2007/09/28/004

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REPUBLIC OF SOUTH AFRICA
 DEPARTMENT OF MINERALS AND ENERGY
 INITIALS: MINING RIGHTS
 ON THIS: 5th day of June 2008
 UNDER: 35/2008 MR
 [Signature]
 REGIONAL MANAGER
 DEPT OF MINERALS AND ENERGY

Cession: CONVERTED
MINING RIGHTS
OPTIMUM COAL MINE in favour of
PTY LTD
JUNE 2008
 [Signature]
 REGIONAL MANAGER
 DEPT OF MINERALS AND ENERGY

Protocol No: 1373/2008
 File Ref No F2007/09/28/004
 Application No 265 MR

LET IT HEREBY BE MADE KNOWN:

THAT on this 5th day of June in the year 2008, before me, Christopher Ian Stevens a Notary Public, duly sworn and admitted, residing and practising at Johannesburg, in the Gauteng Region Province of South Africa, and in the presence of the subscribing competent witnesses, personally came and appeared:

Mmadikeledi Suzan Malebe, Regional Manager, Mpumalanga Region of the Department of Minerals and Energy, and as such in his / her capacity as the duly authorised representative of:

THE MINISTER OF MINERALS AND ENERGY

The said Regional Manager, being duly authorised thereto under and by virtue of a Power of Attorney granted by the DIRECTOR-GENERAL of the Department of Minerals and Energy on the 19th day of May in the year 2008 in terms of the powers delegated by the Minister on the 12th day of May 2004 in terms of section 103 (1) of the Act.

AND

Sylvester Lewis Peverelle in his capacity as the company's duly authorised representative of BHP Billiton Energy Coal South Africa Limited:

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(Hereinafter together with his/her/its successors in title and assigns referred to as "the Holder", he, the said representative, being duly authorised thereto under and by virtue of a resolution of directors of the Holder, passed at Johannesburg on the 24th day of January in the year 2006 which certified copy of a resolution has this day been exhibited to me, the notary, and remain filed of record in my protocol with the minutes hereof.)

AND THE MINISTER AND HOLDER DECLARED THAT:

WHEREAS The State is the custodian of the Nation's mineral and petroleum resources in terms of section 3 of the Act.

AND WHEREAS The Holder has applied for conversion of an old order mining right in terms of Item 7 of Schedule 2 to the Act,

AND WHEREAS The DIRECTOR-GENERAL of the Department of Minerals and Energy has by virtue of powers delegated to him, converted the Holder's old order, mining right in terms of Item 7 of the Schedule to the Act.

NOW THEREFORE THE MINISTER CONVERTS THE HOLDER'S OLD ORDER MINING RIGHT SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

Definitions

In this mining right, the following words and expressions shall have the following meanings:

'Act' means the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002) and includes the Regulations, guidelines, circulars, directives and orders made in terms of that Act;

'*Environmental Management Programme*' is as defined in the Act and includes any other Environmental Management Programme approved in terms of the previous mining legislation;

'*Financial year*' means a complete financial year of the Holder which, at the time of the granting of this mining right, commences on 1st day of July in the year 2007; and ends on 30th day of June in the year 2008;

'*Holder*' is as defined in the Act, and specifically in relation to this right, it means BHP Billiton Energy Coal South Africa Limited, Registration No/Identification No 196300053706;

'*Mineral*' is as defined in the Act, and specifically in relation to this right means Coal;

'*Mining Area*' is as defined in the Act and includes any additional area of environmental liability as may be reflected on the Environmental Management Programme relating to this right;

'*Mining right*' is as defined in the Act and includes all the Annexures to it, agreements and inclusions by reference;

'*Mining Work Programme*' is as defined in the Act and as reflected in the attached Annexure C to this mining right;

'*Minister*' means the Minister of Minerals and Energy and includes the successors in title, the assignee or any person duly authorised to act in the Minister's place and stead;

'*Old order mining right*' is as defined in the Schedule to the Act.

'*Regional Manager*' is as defined in the Act and specifically in relation to this right means the Regional Manager for the Mpumalanga Region of the Department of Minerals and Energy;

'*Social and Labour Plan*', is as contemplated in regulation 46 of the Regulations to the Act and is as reflected in the attached Annexure D to this mining right; and

1. Description of the Mining Area

The Mining Area shall comprise the following:

Certain: See Annexure A

Situated: Middelburg Magisterial/Administrative District of Middelburg

Measuring: 9288.3805 hectares in extent.

(In the case of various farms being involved, a list can be attached and referred to as Annexure A);

Which Mining Area is described in detail on the attached Diagram/plan marked Annexure B.

2. Conversion of Old Order Mining Right

Without detracting from the provisions of Item 7 of the schedule to the Act, sections 5 and 25 of the Act, the Minister converts the holder's old order right and grants to the Holder the sole and exclusive right to mine, and recover the mineral/s in, on and under the mining area for the Holder's own benefit and account, and to deal with, remove and sell or otherwise dispose of the mineral/s, subject to the terms and conditions of this mining right, the provisions of the Act and any other relevant law in force for the duration of this right.

3. Commencement, Duration and Renewal

3.1. This mining right shall commence on 5 June 2008 and, unless cancelled or suspended in terms of clause 13 of this right and or section 47 of the Act, will continue to be in force for a period of 20 (Twenty) years ending on 4 June 2028.

3.2. The Holder must continue to conduct mining operations failing which this right may be cancelled or suspended.

3.3. Any application for renewal must be submitted to the Regional Manger not later than 60 working days prior to the date of expiry of this right.

4. Amendments, Variation and Abandonment

4.1. The terms of this right (including by extension of the area covered by it or by the addition of minerals or a share or shares or seams, mineralized bodies, or strata, which are not at the time the subject thereof) may not be amended or varied without the written consent of the Minister.

4.2. The Holder shall be entitled to abandon or relinquish the right or the area covered by the right entirely or in part. Upon abandonment or relinquishment of the mining area or any portion thereof, the Holder must:

4.2.1. Furnish the Regional Manager with all prospecting and /or mining results and/or information, as well as the general evaluation of the geological, geophysical and borehole data in respect of such abandoned area in so far as it applies to the mineral or any other mineral/s obtained in respect of this right and,

4.2.2. Apply for a closure certificate in terms of section 43 (3) of the Act.

4.3 With effect from the date the Holder has abandoned or relinquished a portion or portions of the mining area, and subject to section 43 of the Act, the Minister is entitled to grant any right, permit, or permission referred to in the Act in, on, or under the portion/s, so abandoned or relinquished, to any person/s.

5. Payment of Royalties and other Monies

5.1. The Holder shall as contemplated in section 25 (2) (g) pay to the State throughout the duration of this mining right, any royalties payable in terms of any Act or Amendment to an Act of Parliament implemented.

5.2. If, prior to the commencement of the Act, the Holder of this right paid any royalties, levies, fees, or consideration to the state, the Holder shall continue to pay same applicable to such old order mining right until such time a relevant Act of parliament is implemented.

6. Payment of Interest

If mining fees, any fees, any levy, royalties or consideration referred to in clause 5 are not paid punctually, the Holder shall be in mora and shall pay interest thereon at the rate prescribed in terms of section 80 of the Public Finance Management Act, 1999(Act 1 of 1999) reckoned from the date on which payment is due and payable, to the date of actual payment.

7. Restrictions and Obligations Imposed on the Holder

7.1 The Holder is entitled to the rights referred to in section 5(2), (3) and section 25 of the Act, and such other rights as may be contained in this mining right or such other right as may be granted to, acquired by or conferred upon the Holder by any other applicable law.

7.2 Mining operations in the mining area must be conducted in accordance with the Mining Work Programme and any amendment to such Mining Work Programme and an approved Environmental Management Plan.

7.3 The Holder shall not trespass or enter into any homestead, house or its curtilage nor interfere with or prejudice the interests of the occupiers and/or owners of the surface of the Mining Area except to the extent to which such interference or prejudice is necessary for the purposes of enabling the Holder to properly exercise the Holder's rights under this mining right.

8. **Conditions on disposal of Minerals and/ or Products Derived from Mining**

It is a condition of the conversion of this old order mining right that the Holder shall dispose of all minerals and/ or products derived from the exploitation of the mineral at competitive market prices which shall mean in all cases, non-discriminatory prices or non-export parity prices. If the minerals are sold to any entity, which is an affiliate or non-affiliated agent or subsidiary of the Holder, or is directly or indirectly controlled by the Holder, such purchaser must unconditionally undertake in writing to dispose of the minerals and any products produced from the minerals, at competitive market prices.

9. **Mortgage, Cession, Transfer, and Alienation**

This mining right, a shareholding, an equity, an interest or participation in the right or joint venture, or a controlling interest in a company, close corporation or joint venture, may not be encumbered, ceded, transferred, mortgaged, let, sublet, assigned, alienated or otherwise disposed of without the written consent of the Minister, except in the case of a change of controlling interest in listed companies.

10. **Protection of Boreholes, Shafts, Adits and Openings.**

All boreholes, shafts, Adits, excavations, and openings sunk or made, by the Holder during the currency of this mining right shall be sealed, closed, fenced, made safe by the Holder in accordance with the approved Environmental Management Programme, the Mine Health and Safety Act, 1996 or any other applicable laws and Regulations.

11. **Holder's Liability for payment of Compensation for Loss or Damage**

11.1. Subject to section 43 of the Act, the Holder shall, during the tenure of this right while carrying out the mining operations under this right, take all such necessary and reasonable steps to adequately safeguard and protect the environment, the mining area and any person/s using or entitled to use the surface of the mining area from any possible damage or injury associated with any activities on the mining area.

11.2. Should holder fail to take reasonable steps referred to above, and to the extent that there is legal liability, the holder shall compensate such person or persons for any damage or losses, including but not limited to damage to the surface, to any crops or improvements, which such person or persons may suffer as a result of, arising from or in connection with the exercise of his/her rights under this mining right or of any act or omission in connection therewith.

12. Inspection of Mining Area

The Minister and/or any person duly authorised thereto in writing by the Minister shall be entitled to inspect the mining area, the Holder's mining operations and the execution of the approved Environmental Management Programme on the Mining Area as provided for in the Act, and any instruction conveyed in writing by the Minister to the Holder requiring the proper performance by the Holder of the Holder's obligations under this mining right shall be put into effect by the Holder in terms of the Act.

13. Cancellation or Suspension

- 13.1 Subject to section 47 of the Act, this mining right may be cancelled or suspended if the Holder:
- 13.1.1 Submits inaccurate, incorrect and or misleading information in connection with any matter required to be submitted under the Act;
 - 13.1.2 Fails to honour or carry out any agreement, arrangement, or undertaking, including the undertaking made by the Holder in terms of the Broad Based Socio Economic Empowerment Charter and Social and Labour plan, on which the Minister relied for the conversion of this right;
 - 13.1.3 Breaches any material term and condition of this mining right;
 - 13.1.4 Conducts mining operations in contravention of the provisions of the Act;
 - 13.1.5 Contravenes the requirement of the approved Environmental Management Programme; or
 - 13.1.6 Contravenes any provisions of this Act in any other manner.
- 13.2 Before the Minister cancels or suspends this right, the Minister shall:
- 13.2.1 Give written notice to the Holder indicating the intention to suspend or cancel this right;
 - 13.2.2 Give reason/s why the Minister is considering the suspension or cancellation of this right;
 - 13.2.3 Give the Holder 30 days to show reasons why the right should not be suspended or cancelled;
 - 13.2.4 Notify, the mortgagee [if any], of the intention to suspend or cancel this right; and
 - 13.2.5 Direct the Holder, where it is possible to remedy any contravention, breach or failure, to comply or to take such specified measures to remedy any contravention, breach or failure to comply.
- 13.3 If the Holder does not take the measures as specified by the Minister to remedy a contravention, breach or failure, the Minister may cancel or suspend this right after considering representations made by the Holder in terms of clause 13.2.3.

14. Records and Returns

- 14.1. The Holder shall maintain all such books, plans and records in regard to mining on the Mining Area as may be required by the Act and shall furnish to the office of the Regional Manager such reports and documents as may be relevant under this right.

14.2. The Holder shall furnish to the Regional Manager all such monthly returns contemplated in section 28 (2) A of the Act not later than the 15th day of the month following the month in respect of which it was reported.

14.3 The Holder shall furthermore at the end of each year following commencement of this mining right, inform the Regional Manager in writing of any new developments and of the future mining activities planned in connection with the exploitation/mining of the minerals on the Mining Area.

15. Minister's liability for Payment of Compensation

The Minister shall not at any time be liable or responsible for the payment of compensation of whatever nature to the Holder, the Holder's successors-in-title or assignee, or any person whomsoever as a result of the conversion of this right.

16. Compliance with the Laws of the Republic of South Africa

The conversion of this Right, does not exempt the Holder and its successors in title and/or assigns from complying with the relevant provisions of the Mine Health and Safety Act, (Act No.29 of 1996) and any other law in force in the Republic of South Africa.

17. Provisions relating to section 2(d) and (f) of the Act

In the furthering of the objects of this Act, the Holder is bound by the provisions of an agreement or arrangement dated 12 September 2007 entered into between the Holder/empowering partner and Optimum Coal Mine (Pty) Limited, Optimum Coal Terminal (Pty) Limited and Optimum Coal Investments (Pty) Limited (the empowerment partner) which agreement or arrangement was taken into consideration for purposes of compliance with the requirements of the Act and or Broad Based Economic Empowerment Charter developed in terms of the Act and such agreement shall form part of this right.

18. Social and Labour Plan

18.1 The holder must annually, not later than three months before the end of its financial year, submit a detailed implementation plan to give effect to Regulation 46(e) (i), (ii) and (iii) in line with the Social and Labour Plan.

18.2 The holder must annually, not later than three months after finalisation of its audited annual report, submit a detailed report on the implementation of the previous year's social and labour plan.

19. Severability

Notwithstanding anything to the contrary, any provision of this mining right which is contrary to any provision of the Act or which is otherwise ultra vires, null and void, voidable, or unenforceable, shall be severable from the rest of this right, such rest thus being and remaining of full force, effect and enforceable.

20. Domicilia citandi et executandi

20.1. The parties hereto choose the following addresses as their *domicilia citandi et executandi* and for all purposes arising from this mining right, in particular for the purposes of serving of any notice in terms of this mining right, and any notice properly addressed to the under mentioned postal addresses of the parties shall be deemed to have been received by the addressee within 14 days if given in writing and posted by prepaid registered post addressed to the addressee at the relevant postal address:

20.1.1. In the case of the Minister:

Physical Address	Postal Address
Province House Cnr. Botha and Paul Kruger Street WITBANK Code 1035 Tel 013 656 1448 Fax 013 656 0932	Private Bag X7279 WITBANK 1035 013 656 1448 013 656 0932

20.1.2. In the case of the Holder:

Physical Address	Postal Address
6 Hollard Street JOHANNESBURG Code 2001 Tel 011 376 3513 Fax 011 376 2160	P O Box 61075 MARSHALLTOWN 2107 011 376 3513 011 376 2160

20.2. Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a party at any place other than the chosen *domicilia citandi et executandi* shall constitute adequate notice or communication to the party notwithstanding that it was not sent to or delivered at such party's chosen *domicilium citandi et executandi*.

20.3 Either party shall be entitled from time to time to change the *domicilia citandi et executandi* or postal address furnished above after giving at least 14 days prior written notice of such change to the other party, failing which the above mentioned addresses will remain in force.

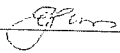
20.4 Any written notice or communication contemplated in this clause which is forwarded by one party to the other by registered post will be presumed to have been received by the addressee on the fourteenth day following the date of posting from an address within the Republic of South Africa to the addressee at the postal address of the addressee for the time being as determined in accordance with the provisions of this clause.


21. Costs

The Holder shall pay all costs and charges incurred in connection with the execution and registration of this prospecting right.

Thus done and signed at Witbank on the 5th day of June in the year 2008 in the presence of the undersigned witnesses:

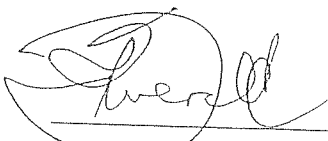
AS WITNESS:





_____ For and on behalf of the Minister

AS WITNESS:




_____ For and on behalf of the Holder


_____ Notary Public




Property	Reg Div	Portion	Previous description as per Annexure to Old Order Mining Right	Province	Extent ha
BLESBOKFONTEIN 487 ✓	JS	MINERAL AREA 2	PORTION OF THE FARM	Mpumalanga	1822.1146
BLESBOKLAAGTE 488 ✓	JS	RE OF MINERAL AREA 1	RE OF MA 1	Mpumalanga	1806.8813
BOSMANSSPRUIT 459 ✓	JS	MINERAL AREA 2	MINERAL AREA 2	Mpumalanga	2056.8655
BOSMANSSPRUIT 459 ✓	JS	MINERAL AREA 3	MINERAL AREA 3	Mpumalanga	257.2535
KOPERMYN 435 ✓	JS	PORTION 5	PORTION 5	Mpumalanga	599.5724
KOPERMYN 435 ✓	JS	PORTION 6	PORTION 6	Mpumalanga	171.3064
KROMDRAAI 486 ✓	JS	MINERAL AREA 6	MINERAL AREA 6	Mpumalanga	47.4968
KROMDRAAI 486 ✓	JS	MINERAL AREA 8	MINERAL AREA 8	Mpumalanga	75.1871
KROMDRAAI 486 ✓	JS	RE OF MINERAL AREA 3 ON PORTION 3	RE OF MINERAL AREA 3 ON PTN 3	Mpumalanga	197.6756
KWAGGAFONTEIN 460 ✓	JS	MINERAL AREA 10	PORTION OF RE 1	Mpumalanga	54.1820
KWAGGAFONTEIN 460 ✓	JS	MINERAL AREA 7	PORTION OF PTN 4	Mpumalanga	293.1227
KWAGGAFONTEIN 460 ✓	JS	MINERAL AREA 8	PORTION OF PTN 5	Mpumalanga	183.1682
KWAGGAFONTEIN 460 ✓	JS	MINERAL AREA 9	PORTION OF PTN 2	Mpumalanga	90.2859
MOOIFONTEIN 448 ✓	JS	RE OF MA 1	RE OF MA 1	Mpumalanga	690.0377
RIETKUIL 491 ✓	JS	RE OF MINERAL AREA 1	RE OF MA 1	Mpumalanga	670.1591
RONDEVALLEY 482 ✓	JS	MINERAL AREA 3	PORTION OF RE	Mpumalanga	118.6134
RONDEVALLEY 482 ✓	JS	MINERAL AREA 4	PORTION OF RE 1	Mpumalanga	103.3720
SCHOONOORD 164 ✓	IS	RE OF MA 1 ON PTN 11	RE OF MA 1 ON PTN 11	Mpumalanga	45.7206
SPECULATIE 483 ✓	JS	MINERAL AREA 5	PORTION OF MA 2	Mpumalanga	5.3657
				Total Extent	9288.3805