

tion of such minerals underlying said lands in accordance with the provisions of the Act of Congress approved February 28, 1920 (41 Stat. 437), as amended, or to enter into any other agreement or agreements of a similar nature, including the right in Second Party, from time to time to modify, change or terminate any such plan or agreement. Said plan or other agreement may designate Second Party, or its nominee, as the oil and gas operator of all lands embraced therein, including any part or all of the lands covered and embraced in said oil and gas lease as hereinabove described. Second Party may exercise the rights and option granted under this section, either by submitting to First Party for signature said Co-Operative or Unit Plan or other agreement and obtaining the signature of First Party thereon, or by executing said Co-Operative or Unit Plan or other agreement as attorney in fact for First Party and enclosing a copy thereof in an envelope addressed to First Party at the address of First Party as stated above and depositing the same in the United States mails with postage thereon prepaid. In either case such Co-Operative or Unit Plan or other agreement shall describe the land or lands, lease or leases to be subjected thereto. Upon the approval of said Co-Operative or Unit Plan or agreement by the Secretary of the Interior, the Operator so designated shall be entitled to all the rights, privileges and benefits of, and be charged with the duties and obligations of the Unit Operator as therein provided as to all lands embraced therein, for the full term of said Co-Operative or Unit Plan or other agreement and lease, including the full term of any and all extensions, renewals, preferential-new leases or substitute leases issued in lieu thereof; however, it is understood that notwithstanding such approval of said Co-Operative or Unit Plan or agreement, this agreement shall not operate as an assignment of said lease until Second Party shall have exercised its option to acquire under Section "FIRST" said lease as to said lands included within such Co-Operative or Unit Plan or agreement.

First Party does hereby make, constitute and appoint Second Party and any executive officer thereof, and Second Party's substitute, severally and each one of them, irrevocably as attorney in fact for First Party, in First Party's name, place and stead at any time, and from time to time, to commit said lease and said land, or any part thereof, to the extent of First Party's interest therein, to any said Co-Operative or Unit Plan or other agreement acceptable to Second Party and to execute the same on behalf of First Party, subject to the approval thereof by the Secretary of the Interior, and to execute all instruments and do all things necessary to make said agreement effective as fully as First Party could or might otherwise do and perform in First Party's individual capacity if personally present, with full power of substitution and revocation, and First Party hereby expressly ratifies and approves all acts and things done and performed by Second Party or an executive officer or substitute thereof, with respect to the matters and things in this section set forth. The rights granted to Second Party under this section shall also extend to and be effective as to any and all lands covered by said oil and gas lease which are included in any exercise of option under Section "FIRST" hereof. The powers and rights authorized by this section, being coupled with an interest, shall be irrevocable during the aforesaid option period. Upon request of Second Party, First Party agrees to join in any said Co-Operative or Unit Plan or agreement, or similar agreement, which is acceptable to Second Party, subject, however, to the approval of the Secretary of the Interior.

THIRD: First Party does hereby authorize Second Party in the name of the First Party and/or each or either of them (and without becoming liable to First Party) to cause an attorney or attorneys at law, of its own selection, to institute, maintain and prosecute to final judgment, in behalf of First Party, any action or cause of action in or before any Court, department or tribunal, having for its purpose the confirming or quieting of the title of First Party in and to said oil and gas lease, or the barring of or cancellation of, or removal of purported mining location or claims, or clouds of any kind on the title of First Party to said oil and gas lease or any part thereof, and in so doing, Second Party agrees to pay all the attorneys fees, court costs, and expenses of conducting and prosecuting such action or actions; provided, however, Second Party shall not in any wise become liable to First Party for or on account of the outcome or result of any such action or cause of action or anything connected therewith.

FOURTH: As to any of said lands not previously committed to a Co-Operative or Unit Plan or other agreement and/or not previously included in a notice of exercise of option granted hereby to acquire said oil and gas lease as provided above, the respective options as hereinabove granted shall continue in full force and effect for the full term of the option period as provided above and Second Party may exercise such continuing options from time to time, and as often as it may desire to do so and may thus likewise commit said lands or lease and/or likewise acquire said oil and gas lease as to any part or all of the lands therein not previously so committed and/or acquired; provided, however, each additional exercise of option to acquire said oil and gas lease as to any additional lands covered thereby shall be exercised in the manner and form set forth above and by the payment to First Party of the sum aforesaid.

FIFTH: At all times during the life of this agreement Second Party agrees that it will, as agent for First Party, pay to the United States, as they accrue, all rentals upon the lands affected hereby and for which First Party is liable under the terms of the aforesaid oil and gas lease and will pay all premiums on bonds required by the Department of the Interior, and First Party immediately on receiving notice thereof agrees to notify Second Party in writing of all such rentals so becoming due, and as they become due.

Whether or not any option has been exercised hereunder, Second Party may, at all times prior to the issuance of such lease, and at all times thereafter, though not less than thirty (30) days prior to the anniversary date of said lease, cancel and terminate this agreement as to said lands or any part thereof, by notifying First Party in writing of its intention so to do and by paying or tendering to First Party the sum of One Dollar (\$1.00) as consideration therefor and by assigning to First Party all of Second Party's right and interest hereunder as to any such lands as to which cancellation and termination of this agreement is desired, and thereupon, this agreement shall cease and terminate and be no longer binding upon either party hereto in any respect whatsoever as to said lands described in said notice and said assignment. If said oil and gas lease has been issued and First Party fails or refuses for a period of fifteen (15) days to accept such assignment or surrender then Second Party may release and surrender to the United States said oil and gas lease as to said lands described in such notice to cancel. The right to terminate and cancel as provided hereby shall be subject to the provisions of any Co-Operative or Unit Plan or other agreement, if any, affecting any of said lands.

SIXTH: Upon Second Party's exercise of any option or options granted hereby to acquire said oil and gas lease as to said land, or any part or parts thereof, in the manner and form as hereinabove set forth, this agreement, when approved by the Secretary of the Interior as an assignment of said oil and gas lease, shall, at all times thereupon, thereafter, and for all purposes with respect to all lands included in the notice of exercise, be treated, construed and operate as an assignment and transfer by First Party to Second Party of said oil and gas lease, including the oil, gas and other minerals produced thereunder, containing full covenants of warranty as to the title of First Party in and to said oil and gas lease and the right of First Party to so assign and transfer the same, and that said oil and gas lease and oil, gas and other minerals which may be produced therefrom are free and clear of all claims, liens and encumbrances, which covenants First Party agrees to defend against all persons whomsoever at his sole cost and expense, subject, however, to the terms and conditions of said lease.

SEVENTH: First Party represents to and covenants with Second Party that First Party has not heretofore sold, assigned, transferred, encumbered or conveyed said oil and gas lease or said application or any right, title or interest therein or in any lease which may be issued pursuant thereto and that any sale, assignment, transfer, conveyance or encumbrance hereafter made by First Party affecting the overriding royalty hereafter mentioned will expressly refer to and be subject to the terms and provisions hereof, and First Party represents to Second Party that First Party has full power, right and authority to execute this agreement, which during the life hereof is exclusive as to all the provisions herein contained, and First Party covenants and agrees that First Party will not surrender or relinquish said application or lease without the consent in writing of Second Party being first had and obtained.

First Party hereby certifies that neither First Party nor any member of First Party's family resides upon or owns or claims any homestead or other exemption rights in the lands or to the application and lease aforesaid under the laws of any state, and for all the purposes hereof, First Party and each and all persons named therein, and their respective spouses, hereby release and waive all homestead, homestead exemptions, and all other exemptions, rights and privileges in and to said application, lease and lands under all homestead exemption laws of the state where said lands are located.

EIGHTH: It is agreed that in the event all or any part of the lands covered hereby are included in a Co-Operative or Unit Plan or other similar agreement, as is provided by Section "SECOND" hereof, and such plan or agreement is duly executed and submitted to the Secretary of the Interior for final approval prior to the expiration of the aforesaid option period, then as to that part of the land covered hereby which is included in said Co-Operative or Unit Plan or agreement, said option period, notwithstanding the provisions of Section "FIRST" hereof, shall continue until a date thirty (30) days after the date of final approval or disapproval by said Secretary of said Co-Operative or Unit Plan or agreement.

NINTH: Notwithstanding that the approval or approvals of the Secretary of the Interior, when required under the provisions hereof, may not be secured during the aforesaid option period, nevertheless the rights, titles, interests, estates, equities, privileges and benefits intended to be transferred and conveyed hereby upon any approval of the Secretary of the Interior shall, upon said approval, and each of them, be treated as between the parties hereto, as having been respectively transferred and conveyed within and during said option period. All such required approval may be had either during or after such option period.

TENTH: With respect to the lands included in any exercise of option as provided hereby, the following and succeeding sections hereof shall also be in full force and effect but not otherwise.

ELEVENTH: First Party agrees, from time to time, to execute any instruments and additional assurances as Second Party may request and as may be proper and necessary in order to vest in Second Party the full and complete title to said oil and gas lease or any part or parts thereof or any of the rights, titles, privileges and benefits granted hereby as Second Party may desire from time to time, to carry out the intent and provisions hereof.

TWELFTH: As to the lands embraced in each and every exercise of option hereunder Second Party agrees to pay to First Party

an overriding royalty of none

of the value on the leased premises, or if marketed of the proceeds from the sale, at the well or wells on said land, of all oil, gas, casinghead gas and other minerals produced, saved and marketed therefrom by it under the provisions of said oil and gas lease including any extension or renewal thereof, which overriding royalty, payable in money only, shall constitute said First Party's only share or interest in any production of oil, gas and other minerals produced from said lands, said royalty, when payable, to be paid on or before the last day of each month next succeeding the month in which said oil, gas, casinghead gas and other minerals are marketed or at such time as may be provided by the terms of any Co-Operative or Unit Plan, and when paid, shall constitute full settlement with First Party by Second Party on account of all of said minerals produced from said lands or for the value or proceeds, as the case may be, of all of said production. It is distinctly understood and agreed that no royalty payable hereunder shall be payable or accrue, or be computed, upon any oil, gas, casinghead gas and other minerals produced from said lands or allocated thereto, as hereinafter provided, which are unavoidably lost or which are used for operating, development or production purposes, including gas and casinghead gas used for recycling or repressuring operations on any of the lands covered by said lease or so used on any lease or other lands covered by any said Co-Operative or Unit Plan or other agreements similar in nature.