

INDUSTRY AGREEMENT

DATED SEPTEMBER 1, 1993

TO REPLACE ASSIGNMENT AND NOVATION AGREEMENTS

AMONG:

OIL AND GAS INDUSTRY PARTICIPANTS

WHEREAS the Parties have agreed for the purpose of ease of administration to replace the use of Assignment and Novation Agreements as a requirement of certain oil and gas industry agreements with a specific assignment procedure.

NOW THEREFORE in consideration of the mutual promises and agreements of current and future signatories, the Administrator and each of the Parties, by its execution of this Industry Agreement, agrees to accept and be bound by the terms and conditions set out below:

I. DEFINITIONS

1.01 In this Industry Agreement, the following terms, when capitalized, shall have the meaning assigned to each below:

- (a) "Administrator" - means the party, industry association or contractor from time to time appointed pursuant to this Industry Agreement to administer this Industry Agreement and to keep a record of the subscribing Parties.
- (b) "Agreement" - means any agreement which:
 - (i) is effective before November 15, 1993; and
 - (ii) relates to real property interests in oil, natural gas, related hydrocarbons or substances produced in association with them; or is an overriding royalty agreement or a pooling agreement; and
 - (iii) either requires, or entitles other parties to the Agreement to request (or is silent as to the right of any party to request) an Assignment and Novation Agreement.

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For greater certainty, the following are excluded:

- (A) unit agreements and unit operating agreements; and
 - (B) agreements which relate only to the construction, ownership or operation of tangible facilities and the interests in real property on which those tangible facilities are located, or the provision of services by or to owners of those facilities; and
 - (C) agreements which relate only to surface interests; and
 - (D) Crown or freehold petroleum and/or natural gas leases; and
 - (E) except for pooling agreements, agreements which relate only to produced oil, natural gas, related hydrocarbons or substances produced in association with them, such as, but not limited to, transportation or marketing agreements.
- (c) "Assignment and Novation Agreement" -means an agreement by all parties to the Agreement and a party to whom an interest in the Agreement has been assigned where:
- (i) the assignee assumes the duties and obligations of the assignor for the assigned interest; and
 - (ii) the assignor is released from its duties for the assigned interest; and
 - (iii) the assignee is substituted as a party to the Agreement in the place of the assignor to the extent of the assigned interest.
- (d) "Industry Agreement" : means this agreement including Exhibit 1 attached to it.
- (e) "New Assignment Procedure" - means the Assignment Procedure attached as Exhibit 1.
- (f) "Party" - means a party to one or more Agreements who executes this Industry Agreement.

II. AMENDMENT OF AGREEMENTS

- 2.01 An Agreement shall be amended by this Industry Agreement if all of the parties to the Agreement on November 15, 1993 are also Parties to this Industry Agreement, unless a Party provides notice of the Agreement's exclusion in accordance with Clause 2.03.
- 2.02 For an Agreement amended by this Industry Agreement, the New Assignment Procedure is attached to and made part of that Agreement effective November 15, 1993.
- 2.03 (a) If a Party (in this clause 2.03 called the assignor) has assigned or has agreed to assign an interest in an Agreement to an entity (or entities) who is (are) neither a party to the Agreement nor a Party to this Industry Agreement (in this clause 2.03 called the assignee) then the assignor shall make a reasonable effort to persuade the assignee to become a Party to this Industry Agreement on or before November 15, 1993.

(b) From November 16, 1993 to and including December 31, 1993, an assignor (as defined in Clause 2.03(a)) may exclude an Agreement from amendment by this Industry Agreement by providing notice. A notice to exclude an Agreement shall:

- (i) be dated and in writing; and
- (ii) specify the Agreement to be excluded; and
- (iii) be delivered on or before December 31, 1993 to all Parties who are parties to the excluded Agreement to the best of the assignor's knowledge as of the date of the notice.

A notice to exclude an Agreement that is so delivered shall have the effect of excluding such Agreement from being amended by this Industry Agreement

(c) Each Party represents and warrants that it has full power and authority to act:

- (i) for itself in amending each Agreement; and
- (ii) on behalf of its assignee in amending each Agreement in relation to which it is an assignor and which is not excluded pursuant to Clause 2.03(b); and

agrees to indemnify and save harmless each other Party to such Agreement and the Administrator against all actions, proceedings, claims and demands made by any party if such representations and warranties are not true.

(d) If a Party has been assigned an interest in an Agreement but is not a party to such Agreement on November 15, 1993, that Party agrees that the assignor is duly authorized to amend such Agreement as its trustee with respect to this Industry Agreement.

2.04 If there is a conflict between the New Assignment Procedure and the provisions of an Agreement, the New Assignment Procedure shall prevail.

2.05 Each Agreement amended by this Industry Agreement shall continue in full force and effect and is ratified and confirmed as amended by this Industry Agreement.

III. AGREEMENT BY SUBSCRIPTION

3.01 Each Party agrees that this Industry Agreement is not only an agreement between it and each other Party as at the date of its execution, but is also an offer to each future signatory who subscribes on or before November 15, 1993 to be bound in accordance with the terms of this Industry Agreement. The Industry Agreement shall be a continuing agreement binding each Party to its terms on and after the date of that Party's subscription under Clause 3.02 notwithstanding that other Parties may be added up to and including November 15, 1993.

3.02 To subscribe to this Industry Agreement, a party shall deliver one executed counterpart execution page showing its address for service to the Administrator at the Administrator's address for service. An executed counterpart received by the Administrator after November 15, 1993 shall not be effective.

IV. ADMINISTRATOR'S DUTIES

- 4.01 The Administrator shall, within 2 business days from September 1, 1993, October 1, 1993, November 1, 1993 and November 15, 1993, provide each Party with an alphabetical list of the Parties who have subscribed as of each of September 1, 1993, October 1, 1993, November 1, 1993 and November 15, 1993, respectively. The list provided as of November 15, 1993 shall include all Parties and shall be considered the definitive list of Parties to this Industry Agreement.
- 4.02 The Administrator or its successor shall maintain the duplicate original executed counterparts to this Industry Agreement in its files for the reference of the Parties until January 2, 2000. Until January 2, 2000, copies of any of the counterparts shall be provided by the Administrator or its successor on request by a Party subject to Clause 4.03.
- 4.03 The Administrator shall charge for its services as follows:
- (i) for each list of the Parties (except as provided under Clause 4.01) \$25.00
 - (ii) for each complete set of executed counterparts (available after December 1, 1993) fee to be determined on a cost recovery basis
 - (iii) a reasonable fee for any other services requested and provided under this Industry Agreement.

V. LIABILITY AND INDEMNITY OF ADMINISTRATOR

- 5.01 Each Party waives the right to claim against the Administrator, its officers, directors, agents and employees for any loss, costs, damages or expenses suffered or incurred by the Parties from any act or omission of the Administrator, its officers, directors, agents and employees whether negligent or otherwise, except when and to the extent that losses, costs, damages or expenses are a result of the gross negligence or willful misconduct of the Administrator, its officers, directors, agents or employees.
- 5.02 Each Party, in relation to Agreements to which it is a party and which are amended under this Industry Agreement, indemnifies and saves harmless the Administrator, its officers, directors, agents and employees against all actions, proceedings, claims or demands made by any third party for loss, costs, damages and expenses in relation to such Agreements which may be brought against or suffered by the Administrator or which it may sustain, pay or incur by reason of anything arising out of or in any way attributable to the activities carried on or to be carried on by the Administrator or its officers, directors, agents or employees pursuant to the Industry Agreement or by reason of any breach of contract or negligence of any of them in the performance, purported performance or non-performance of any of the obligations of the Administrator under this Industry Agreement, except when and to the extent that losses, costs, damages or expenses are a result of the gross negligence or willful misconduct of the Administrator, its officers, directors, agents or employees.

VI. APPOINTMENT AND REPLACEMENT OF ADMINISTRATOR

- 6.01 The Canadian Association of Petroleum Landmen (at Suite 1000, One Palliser Square, 125 - 9 Avenue S.E., Calgary, Alberta T2G 0P6) shall be the Administrator unless replaced in accordance with a vote of the Parties under either (a) or (b) of this clause below:
- (a) After January 2, 1994 the Administrator shall be entitled to resign on 30 days' written notice to the Parties. The Administrator's successor shall be nominated by at least four of the Parties and will be the party, association or contractor who receives a plurality of votes in its favour. The Administrator shall conduct the election of its successor within the 30 day notice period.
 - (b) The Administrator shall be relieved of its duties on the affirmative vote of a simple majority of the voting Parties. If the Administrator is relieved by this method, the Party who proposed the vote succeeds as the new Administrator, effective 30 days after the date of the vote.
- 6.02 The Administrator shall promptly deliver all files and records relating to this Industry Agreement to its successor, and the successor shall agree as Administrator to be bound by and subject to all the terms and conditions of this Industry Agreement.
- 6.03 Any party who has executed this Industry Agreement who proposes a vote under this Article VI shall be responsible for preparing and distributing a mail ballot to each Party, tabulating the results and reporting the outcome of the vote to the Parties. A Party may vote by recording its vote on the mail ballot and returning it to the originator within twenty (20) days of receipt.

VII. EXECUTION AND DELIVERY

- 7.01 This Industry Agreement may be executed in counterpart and, when a counterpart has been executed by a Party, that counterpart shall be binding against that Party as of the date of that Party's subscription. Notwithstanding the foregoing, this Industry Agreement shall not be binding on any Party until the Administrator has signed a counterpart. All counterparts together shall constitute one agreement.
- 7.02 In witness of its agreement to be bound by the terms of this Industry Agreement the undersigned:
- (a) has caused this counterpart copy of the Industry Agreement to be duly executed on the date indicated below, and
 - (b) has caused this counterpart to be delivered to the Administrator of the Industry Agreement.
- 7.03 A counterpart delivered to the Administrator with conditions will not be effective.