

**STATE (WESTERN AUSTRALIAN)
ALUNITE INDUSTRY
PARTNERSHIP.**

6° AND 7° GEO. VI., No. XXVIII.

No. 28 of 1942.

AN ACT to approve and ratify an Indenture of Partnership entered into by the Treasurer with certain persons in relation to the production and treatment of alunite deposits and the sale of chemical products obtained therefrom.

[Assented to 23rd December, 1942.]

WHEREAS the Treasurer acting by virtue of the Preamble. authority conferred upon him by the National Security (Western Australian Alunite Deposits) Regulations as contained in Statutory Rule 1942, No. 342 (Commonwealth), acquired certain partnership interests in certain mineral leases and thereupon entered as a partner into the partnership and executed the Indenture of Partnership, a copy of which is set forth in the Schedule to this Act: And whereas it is deemed desirable and expedient that the said Indenture of Partnership shall be approved and ratified by this present Parliament. Be it therefore enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *State (Western Australian) Alunite Industry Partnership Act, 1942.* Short title.

Approval
and
ratification.

2. The Indenture of Partnership dated the twenty-first day of October, one thousand nine hundred and forty-two, and made between the Treasurer of the first part, Edmund John Martin of the second part, William Matthew Martin of the third part, Alexander Hardy of the fourth part, and Arthur Frederick Bernard Norwood of the fifth part a copy of which Indenture is set out in the Schedule to this Act is hereby approved and ratified.

SCHEDULE.

AN INDENTURE made the twenty-first day of October one thousand nine hundred and forty-two BETWEEN the HONOURABLE JOHN COLLINGS WILLCOCK M.L.A. of Perth in the State of Western Australia Treasurer in the Government of the said State and acting herein for and on behalf of the said Government (hereinafter with his successors in office called "the Treasurer") of the first part EDMUND JOHN MARTIN of the second part WILLIAM MATTHEW MARTIN of the third part ALEXANDER HARDY of the fourth part all of 42 Saint George's terrace Perth in the said State Secretary Works Manager and Investor respectively and ARTHUR FREDERICK BERNARD NORWOOD of Australian Mutual Provident Society Chambers Kalgoorlie in the said State Metallurgist and Consulting Engineer of the fifth part:

WHEREAS by virtue of National Security (Western Australian Alunite Deposits) Regulations numbered 342 of 1942 the Treasurer with the approval of the Governor in Council may engage in and carry on either alone or in conjunction or in partnership with any person or firm the business of acquiring leasing or otherwise obtaining possession of lands in the said State in which deposits of alunite may be found and of working and developing those lands and treating the deposits for the purpose of producing therefrom and selling Potash and other minerals chemicals and products:

AND WHEREAS pursuant to an Agreement bearing date the twenty-first day of October 1942 HORACE BENSON JACKSON K.C. of 53 Saint George's terrace Perth in the State of Western Australia Legal Practitioner DAVID WILLIAM BRISBANE of Peppermint Grove in the said State Civil Engineer and JOSEPH FRANKLIN THORN of Fimiston in the said State Mine Manager sold all their respective shares and interests in the estates assets capital and goodwill of a business carried on by them in partnership with the parties of the second third fourth and fifth parts such partnership being known as "The Potash Alumina Development Syndicate" formed for the purpose of developing processes for the treatment of mineral alunite to the Treasurer for and on behalf of the Government of Western Australia:

NOW THIS INDENTURE WITNESSETH that the Treasurer together with the parties of the second third fourth and fifth parts aforesaid hereby MUTUALLY AGREE to become and continue partners in the business of chemical manufacturers which term shall include the production of potash and by-products and subject to a separate

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agreement of alumina from alunite under the firm name of "The State (Western Australian) Alunite Industry" for the period and on the terms hereinafter expressed that is to say:—

1. The partnership shall be deemed to have commenced on the 25th day of February, 1942, and shall continue for a period of ten years certain and thereafter until the expiration of six months' notice given by any one of the said parties to the others of an intention to dissolve this partnership:

2. The death or retirement of any partner shall not dissolve the partnership as to the other partners:

3. The capital of the partnership shall include all mineral leases patents assets and credits belonging to the Potash Alumina Development Syndicate now the property of the partners hereto and moneys not exceeding Eighty-five thousand pounds (£85,000) (including the sum of Six thousand pounds (£6,000) paid by the Treasurer to HORACE BENSON JACKSON DAVID WILLIAM BRISBANE and JOSEPH FRANKLIN THORN for their interests in the original Syndicate as hereinbefore mentioned) to be brought into this partnership by the Treasurer as agreed for working capital and all other assets hereafter acquired by the partnership:

4. The capital of this partnership shall be deemed to be divisible into four hundred and twenty (420) shares and subject to the provisions of these presents the partners shall be entitled to the capital property and assets for the time being of the partnership including leases and letters patent and to the goodwill of the business when divided into such shares in the following shares that is to say the Treasurer shall be entitled to three hundred and forty-two (342) shares and the said EDMUND JOHN MARTIN twenty-three (23) shares and the said WILLIAM MATTHEW MARTIN twenty-three (23) shares the said ALEXANDER HARDY nine (9) shares and the said ARTHUR FREDERICK BERNARD NORWOOD twenty-three (23) shares:

5. The funds of the partnership shall be kept in a special account in the name of the partnership at the Treasury in Perth:

6. All partnership moneys shall as and when received be paid into or deposited with the Treasury to the credit of the partnership account and all cheques cash orders warrants or other instruments for payments out of the fund of the partnership shall be drawn in the firm name and issued in accordance with the practice to be adopted by the Treasury and approved by the Treasurer:

7. The rent of any leasehold premises from time to time belonging to the partnership or used for the purpose of the business and all rates taxes costs of repairs alterations or improvements and insurances against loss or damage by fire and other outgoings for or in respect of the leasehold premises or for or in respect of any freehold hereditaments which may from time to time so belong or be used and all costs charges and expenses which shall be incurred by the partnership in or about the business and all losses which shall happen in respect of the business shall be paid out of the current income or capital of the partnership:

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8. The net profits of the partnership shall belong to the partners in the respective shares set forth in paragraph 4 of these presents:

9. All matters of policy shall be determined by the partners each partner having one vote for each share held by him: Provided that no decision on a matter of policy, which will impose on a partner an obligation to incur the private expenditure of money shall be binding upon such partner without his consent:

10. There shall be a Board of Management consisting of four members to which the Treasurer shall have power to appoint three members and the parties of the second third fourth and fifth parts or any reduced number of them the remaining member:

Provided that subject to the approval of the Treasurer the members of the Board may by the unanimous decision of all such members co-opt any person to act as an additional member of the Board.

11. The Board shall so far as is consistent with the nature of the partnership have powers similar to that of a Company Board of Directors and may enter into any contract for service with any of the parties hereto and any of the said parties being employed by the partnership shall receive remuneration for his services and such remuneration shall be treated as portion of the outgoings of the business:

12. The working and development of the partnership's mineral leases shall be vested in and placed under the direct management control and supervision of the said Board of Management:

13. The members of the said Board of Management appointed by the Treasurer shall hold office as such members during the pleasure of the Treasurer and the member of the Board of Management who is nominated by the parties of the second third fourth and fifth parts shall hold office as such member during the pleasure of the majority of such parties:

14. The members of the said Board shall by resolution of the majority thereof appoint one of their number to be the chairman of such Board and the member so appointed shall hold office as such chairman during the pleasure of the majority of the members of the Board:

15. At all meetings of the Board of Management three members shall form a quorum thereof:

16. All decisions of the Board of Management shall be made by resolutions carried at meetings of the Board and where the members present at any meeting are not unanimous as to any matter such matter shall be determined by a majority of such members and the decision of such majority shall be deemed to be the decision of the Board as a whole but no decision of the Board of Management shall have any effect or be put into operation unless and until approved by the Treasurer save and except in respect of matters in relation to which the Treasurer may delegate his authority to the Board:

17. Each member of the Board including the chairman shall have one deliberative vote only: the chairman shall not have a casting vote and in the event of an equality of votes upon any matter before a meeting no decision on such matter shall then be made but the further consideration of such matter shall be adjourned until a subsequent meeting and as often as may be necessary until a majority of votes one way or another can be obtained:

18. Subject to the foregoing conditions the Board of Management may make its own rules for the conduct of the proceedings and the transaction of the business at meetings of the said Board:

19. Subject to the provisions of clause 16 hereof all decisions of the Board of Management in relation to matters under its management control and supervision as aforesaid when approved by the Treasurer shall be binding upon the partners hereto:

20. Such of the assets of the partnership as shall comprise leases letters patent processes and pilot plant shall be registered in the name of Alexander James Reid Under Treasurer and held by the said Alexander James Reid in trust on account of the said partnership:

21. Each partner shall at all times duly and punctually pay and discharge his separate and private debts and engagements whether present or future and keep indemnified therefrom and from all actions proceedings costs claims and demands in respect thereof the partnership property and the other partners and their respective estates and effects:

22. Proper books of accounts shall be kept wherein shall be entered particulars of all moneys goods or effects belonging to or owing to or by the partnership or paid received sold or purchased in the course of the partnership business and of all such other transactions matters and things relating to the said business as are usually entered in books of account kept by persons engaged in business of a like character. The said books of account letters papers and records concerning or belonging to the partnership shall be kept at the place of business of the partnership and each partner shall at all times have free access to and the right to inspect and copy the same:

23. As soon as practicable after the thirtieth day of June in each and every year during the continuance of the partnership a general statement of account including Trading Account Profit and Loss Account and Balance Sheet shall be prepared so as to show the true condition of the partnership's accounts and transactions for the twelve monthly period immediately preceding such thirtieth day of June. Every such statement of account shall be balanced agreed to and signed by all the partners and when so signed shall be binding on all the partners except that if any manifest error therein be detected and pointed out by any partner to the others of them within six calendar months of such signature thereof such error shall be forthwith rectified. Immediately after the signing and settling of every such statement of account each

partner shall be entitled to draw out and receive his share of the net profits of the business for the then past year:

24. The accounts referred to in clause 23 of these presents shall as soon as reasonably may be after the same have been prepared and signed by the partners be submitted for audit by the Auditor General and when the same have been audited by him the Treasurer shall cause copies thereof together with a copy of the report of Auditor General to be laid on the tables of both Houses of Parliament:

25. Upon the determination of the partnership a full and general account shall be taken of the assets credits debts and liabilities of the partnership and of the transaction and dealings thereof and with all convenient speed such assets and credits shall be sold realised and got in and the proceeds applied in paying and discharging such debts and liabilities and the expenses of and incidental to the premises and the winding up of the partnership affairs. In settling final accounts between the partners on the determination of the partnership the following rules shall unless herein modified or negated be observed:—

(a) Losses including losses and deficiency of capital shall be paid first out of the profits and then out of the capital but no personal liability shall devolve upon the parties of the second third fourth and fifth parts for any liabilities whatsoever during the carrying on or on completion of the partnership business:

(b) The assets of the partnership shall be applied in the following order:—

(1) In paying the debts and liabilities of the partnership to persons who are not partners therein.

(2) In paying to each partner rateably what is due from the partnership to him for advances as distinguished from capital.

(3) In paying to each partner rateably what is due from the partnership to him in respect of capital standing to the credit to his account in the books of the partnership.

(4) The ultimate residue if any shall be divided among the partners in the proportion in which profits are divisible.

(5) In the event of the proceeds from the sale of the assets remaining after the payments provided for in subparagraphs (1) and (2) of paragraph (b) hereof being insufficient to return to the partners the whole of the capital with which they have been credited, the proceeds available when being distributed between the partners as provided for in subparagraph (3) of paragraph (b) hereof shall be so distributed on the basis of the capital of the partnership being valued at no more than the actual moneys contributed by the partners respectively to the said capital and for this purpose only the amount to capital deemed to be contri-

buted by the parties of the 2nd 3rd 4th and 5th parts shall be deemed to be in the aggregate eight thousand pounds (£8,000) :

26. If any partner other than the Treasurer shall die during the continuance of the partnership the surviving partners shall have first option to purchase such deceased partner's share as from the date of such death in the proportions in which they were at such date entitled to share in the net profits of the partnership and in exercising such option as aforesaid shall pay to the representative of the deceased partner the net value of such share as at the date of the deceased partner's death after providing for the then debts and liabilities of the partnership such value in case of dispute to be determined by arbitration under the provisions in that behalf hereinafter contained provided that such option shall be exercised within three months after the date of the death of the deceased partner:

27. If any partner shall assign charge or encumber his share in the partnership or any part thereof or shall suffer the same to be charged for his separate debt or shall become bankrupt or a lunatic or otherwise permanently incapable of attending to partnership business or shall act in manner inconsistent with the good faith observable between partners or shall be guilty of any conduct which would be a ground for dissolution of the partnership by the Court pursuant to the provisions of section 46 of the Partnership Act 1895 then in any such case it shall be lawful for the other partners by notice in writing to the offending or incapacitated partner to determine the partnership so far as concerns such partner thereupon the partnership shall determine accordingly and the provisions of clause 26 of these presents shall with the substitution of the offending or incapacitated partner or his trustee or committee and other consequential modifications as if the offending or incapacitated partner had died:

28. All disputes and questions whatsoever which shall either during the partnership or afterwards arise between the partners or between any partners or partner touching these presents or the construction or application thereof or any clause herein contained or any account valuation or division of assets debts or liabilities to be made hereunder or as to any act deed or omission of any partner or as to any other matter in any way relating to the partnership business or the affairs thereof or the right duties or liabilities of any person under these presents shall be referred to a single arbitrator in case the parties agree upon one otherwise to two arbitrators one to be appointed by each party to the difference in accordance with and subject to the provisions of the Arbitration Act 1895 or any statutory modification thereof for the time being in force:

29. The provisions of the Partnership Act 1895 shall apply to these presents unless hereby modified or negatived:

30. No partner whilst a member of the partnership or for a period of three years after he ceases to be a member shall without the consent of the other partners engage directly or indirectly

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within the State of Western Australia in any other business of a like nature (except the production of alumina) to that carried on by the partnership:

IN WITNESS whereof the parties hereto have hereunto set their hands and seals the day and year first hereinbefore written.

SIGNED SEALED AND DELIVERED }
by the HONOURABLE JOHN COL- }
LINGS WILLCOCK M.L.A. in the }
presence of— } J. WILLCOCK.
J. L. Walker } [L.s.]
Solicitor General, Perth }

SIGNED SEALED AND DELIVERED }
by the said EDMUND JOHN MARTIN } EDMUND J. MARTIN.
in the presence of— } [L.s.]
J. L. Walker. }

SIGNED SEALED AND DELIVERED }
by the said WILLIAM MATTHEW } MATT MARTIN.
MARTIN in the presence of— } [L.s.]
J. L. Walker. }

SIGNED SEALED AND DELIVERED }
by the said ALEXANDER HARDY } A. HARDY.
in the presence of— } [L.s.]
J. L. Walker. }

SIGNED SEALED AND DELIVERED }
by the said ARTHUR FREDERICK } A. F. B. NORWOOD.
BERNARD NORWOOD in the pre- } [L.s.]
sence of— }
J. L. Walker. }